

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF NATIVE AMERICAN PROGRAMS

NAHASDA Reauthorization Act of 2008
Negotiated Rulemaking Session
June 10, 2010, Day 3

Taken at 1635 Eighth Avenue
Seattle, Washington

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REPORTED BY: Kristin M. Vickery, CCR, 3125

A P P E A R A N C E S

Committee Members Present: JASON ADAMS
STEVEN ANGASAN
MARGUARITE BECENTI
RODGER BOYD
LARRY COYLE
RAY DEPERRY
MARK BUTTERFIELD
KARIN FOSTER
CAROL GORE
LAFE HAUGEN
SANDRA HENRIQUEZ
LEON JACOBS
MARVIN JONES
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LEONARD TELLER
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REBECCA PHELPS
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S. JACK SAWYERS
MARTY SHURAVLOFF
RUSSELL SOSSAMON
SUSAN WICKER

1 SEATTLE, WASHINGTON; THURSDAY, JUNE 10, 2010

2 8:14 A.M.

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4

5 MR. COYLE: Good morning, everybody. Ray, could
6 you say the prayer for us, please.

7 (Opening prayer.)

8 MR. COYLE: Thank you, Ray.

9 Anybody have any questions or announcements or
10 anything for the day?

11 We were just informed a while ago we might have to
12 back up our schedule a little bit right at the end so they
13 can be ready for a banquet tonight, so our community
14 response will be a little earlier and maybe we get out of
15 here a little bit earlier.

16 So, Jan, where are you?

17 FACILITATOR: Right here.

18 MR. COYLE: Turn it over to him, and I understand
19 we're going right into the IHP/APR. And just -- Jason says
20 he's ready to run.

21 And also, watch Jack. He might be a little bit
22 crabby today. He ate all the crab they had down at the
23 waterfront last night.

24 FACILITATOR: Thank you, Larry.

25 Morning, everybody. I just want to reiterate what

1 our chairman has mentioned to us,, that we have to leave
2 this room at the latest exactly by five so that means that
3 our schedule -- to keep in mind that our schedule would have
4 us do the public comment and finish our negotiations for
5 this session by four o'clock. So that's our timeline for
6 today and today's work. Just so everybody's mindful of
7 that.

8 Okay. So as Larry said, the Indian Housing Plan
9 Annual Performance Report, this is our topic.

10 And Workgroup C, Jason, we'll turn it over to you.

11 MR. ADAMS: Good morning, everyone. This
12 morning -- and, again, I want to thank you for the
13 opportunity to move into the discussion here on the IHP and
14 the APR in an attempt to -- okay -- is that me or -- sorry.

15 What I'd like to do is just to begin the
16 discussion -- or presentation on this with the introduction
17 and technical perspective on these items, and I'd like
18 Jennifer to lead that discussion for us. And then, once
19 that's done, I'm going through all of the items that we
20 believe to be not statutorily required. And then we will
21 open up the negotiation. And so that's how I'm hoping to
22 frame this.

23 I'm hoping that everyone had a chance last night
24 to go through the form and look at it, if you haven't seen
25 it before, so that if there are other areas in the hearing

1 negotiation time we can address those items also that we
2 feel that we might have missed something in our review.

3 But other than that, I would go ahead and ask
4 Jennifer if she can begin the session. I think the first
5 items that we address is Item No. 29 in the form. And so
6 Jennifer --

7 FACILITATOR: Excuse me. Marvin, you have a
8 question before we start?

9 MR. JONES: Marvin Jones. And could ask I Jason a
10 question?

11 FACILITATOR: Please.

12 MR. JONES: I think that, hopefully, the committee
13 will indulge us if we take as much time as we need, extra
14 time, if we need, in the technical issues because it is
15 complicated. It is important so it's -- we don't want to
16 rush through -- you know, rush through Jennifer in a five or
17 ten minute real summary, but if you could indulge us in
18 taking some extra time to go through that.

19 FACILITATOR: I think, you know, the way we have
20 been working the protocols, Marvin, is that there's no time
21 on the clock for introduction of these issues. So if people
22 don't understand what the issue is we can't negotiate, so
23 that will not be --

24 MR. ADAMS: And if I could respond. My hope is
25 that the questions and discussion with Jennifer are at the

1 technical level, you know, as to what the position is as far
2 as why that was there initially. That's not necessarily
3 negotiation at that point.

4 My hope is that when we do finish going through
5 all the items on the technical review, then at the
6 negotiation level, we start discussing if we want to have
7 those items in or not or what we do.

8 FACILITATOR: If the committee agrees, I think we
9 can just kind of go with that basic premise that as a group
10 introduces their material and their -- that we want to make
11 sure that everybody understands what it is before we start
12 negotiating so that we run the clock until everybody
13 understands what we're talking about.

14 Yes, Lafe?

15 MR. HAUGEN: I just want to get (Inaudible.) step
16 out yesterday do (Inaudible.)

17 FACILITATOR: Anybody not have a copy of the
18 materials we're talking about, the IHP?

19 MR. ADAMS: If you don't, even the gallery, we
20 have made copies of everything available so...

21 MR. COYLE: Also, I want to make one comment, the
22 reporter complained to me this morning that from me on down
23 we're having a bad time of giving our names out, and they
24 can't pick us up too well because they can't see our lips.
25 So if we make sure that on this side, especially, that we

1 give our names out so we can get it on the record.

2 FACILITATOR: I know this may be a little bit late
3 in the day too, but I do notice that technically some people
4 do have their mics up like this. You gotta have the mics
5 pointed down directly towards your mouth so that it really
6 is used well.

7 All right, Jason.

8 MS. BULLOUGH: I guess before we get into the meat
9 of the form, do -- do we need to explain the concept of the
10 new form so that everyone understands?

11 FACILITATOR: Yes.

12 MS. BULLOUGH: Currently, under the Indian Housing
13 Plan and the Annual Performance Report, the Indian Housing
14 Plan is developed each year for that year's specific grant.
15 So under your formula, say you're lucky enough to get a
16 million dollars, you would prepare an IHP for that million
17 dollars for the time that it takes to expend that million
18 dollars, no matter how long that takes.

19 So it could be that you're planning on building
20 some units, and we all know that building units can take
21 some time when you do the environmentals, et cetera, et
22 cetera. So it may be two or three or four years that you're
23 working under that particular IHP and that IHP remains open
24 during that entire time. So because we're a formula
25 program, the next year you get another dollar amount, and

1 you prepare another IHP for that dollar amount and that IHP
2 remains open for the life of that grant as long as you have
3 any money remaining from that year.

4 So what -- in effect, what happens is that most
5 grantees have two or three or four or five or six open IHPs
6 at any time. I think we have some that have 10 or 11 open.
7 So the -- that's one of the problems that we're trying to
8 resolve. So I think that -- does everyone understand that
9 concept that you can have more than one IHP open and every
10 single thing that you do under the housing -- when you're
11 working in the Indian Housing Block Grant program, you have
12 to track back to the correct IHP?

13 Okay. And then on the reporting side, the Annual
14 Performance Report is the document that's required to come
15 in after the end of the year that tells HUD and your
16 constituents and Congress what you've done with the money.

17 So for every single open IHP that you have, you
18 are required, after the end of the year, to prepare an
19 Annual Performance Report. So if you have -- if you have
20 five open Indian Housing Plans, then you prepare five Part
21 Ones for the Annual Performance Report.

22 Okay. So that's the current way; that's the old
23 way.

24 In 2005 -- well, actually in 2004 -- 2002 we heard
25 a lot of complaints about that process. And so in 2005 we

1 did -- we conducted eight tribal consultations and
2 selected -- I'm -- and received comments, suggestions,
3 recommendations around the country on how to improve the
4 Indian Housing Plan and the Annual Performance Report. And
5 from those suggestions, a tribal workgroup was put together
6 with representatives from every single region, selected by
7 the regional housing associations for the most part. And
8 that tribal workgroup developed the -- the basis for what
9 we're looking at today. I -- there have been some minor
10 changes from what the tribal workgroup put together.

11 The tribal workgroup worked mainly in 2006 and '7
12 and into '8. And, for the most part, most of those folks
13 are -- some of the folks are here today. I think Jason was
14 on the committee. Erna (phonetic) was on the committee.
15 Maria was on the committee. I don't know if I'm missing
16 someone -- Maria Tagliavento (phonetic) -- I don't know if
17 I'm missing someone, my apologies. But anyway a few minor
18 things have changed since then, but it's been very difficult
19 to keep that committee together for five, almost six, years
20 now. So anyway, but the basics of that form -- I think,
21 Jason, you'll agree -- are from that tribal workgroup.

22 So let me get thoughts on track. So let me
23 explain, the major concept that came out of those
24 consultations was going away from the grant-based program
25 that I just described. Every time you get a grant, you

1 create an Indian Housing Plan that lasts until you have
2 spent all those dollars. Going away from that to a fiscal
3 or program-year-based program, in which, you -- in your
4 Indian Housing Plan, you tell -- you -- you document what
5 you plan to establish for the 12 months of your program
6 year, and then after the year is over, you then document
7 what you accomplished. And each 12 months, you prepare an
8 Indian Housing Plan. And at the end, you submit your APR.
9 And it's just every 12 months you do that.

10 So instead of tracking two or three or ten open
11 Indian Housing Plans and reporting on them at the end of the
12 year, you do one 12-month IHP. You don't have to track your
13 money back to the -- the grant that funds came from. The
14 money becomes seamless. The -- the year that you got the
15 money doesn't really matter anymore. So one IHP, it runs
16 for 12 months. At the end of the year, one APR telling us
17 what you did.

18 A lot easier, a lot simpler. You won't have to
19 track every activity back to the appropriate grant. And I
20 think that 99.9 percent of the people that I have brought
21 this or described this process to really want to go to this
22 because it should simplify the management of the Indian
23 Housing Block program significantly. We know, of course,
24 transition is always hard, but once we transition, it should
25 be a lot easier.

1 I just had something in my head I wanted to say,
2 but I forget what it is. Does anyone have any questions
3 about that? Okay.

4 So we have the list. Yesterday, we went through
5 the form. You should have in your hands. At the bottom
6 left, it should say, Revised May --

7 FACILITATOR: Jennifer. Excuse me, Jennifer. One
8 question over here.

9 MR. JONES: Just want to make clear, if we didn't,
10 that the law has changed and that we're all required --

11 MS. BULLOUGH: Thank you. That's what I was going
12 mention. I knew it was a major concept.

13 So as part of what the tribal workgroup did, that
14 we identified a bunch of statutory provisions that we felt
15 were needed to make the Indian Housing Plan and the Annual
16 Performance Report as clean as possible. And we put those
17 provisions together, and they were pretty much fully
18 accomplished with the reauthorization of NAHASDA in 2008.

19 So the statutory changes that you see that the --
20 in the -- for the Indian Housing Plan in Section -- I think
21 it's 102 -- are the result of the recommendations of that
22 tribal workgroup which were based upon recommendations from
23 the Indian housing community. So I just wanted to make that
24 clear that these were the result of the tribal workgroup.

25 Marvin was that...? Okay.

1 So the other document you'll need is this very
2 brief page that lists about ten sections, ten items. So if
3 you look at the form, let's go to the first item. It's Item
4 29. So over on the left-hand side of the form -- and I'm
5 sorry --

6 FACILITATOR: Question here, Marvin?

7 MR. JONES: Marvin Jones. And could maybe you
8 go -- just real briefly, generally go over the form so that
9 we know that we're looking at the amendments right now. If,
10 anybody hasn't really looked at the form, the IHP amendment
11 and not the core original IHP, so that when we go look at
12 29 --

13 MS. BULLOUGH: Right. So the first page of the
14 form is really just some brief instructions. The intention
15 is when we issue this is that we will have some more
16 detailed instructions that will provide a little bit more
17 direction on how to complete the form, but the form itself
18 has some brief instructions in the beginning.

19 And then we go to a table of contents just so
20 that, as you I'm sure you all know, we have some grantees
21 who are very small, and their IHPs are probably pretty thin.
22 And we have some grantees who are very large and have a lot
23 of programs, and unfortunately, that makes their IHP much
24 larger because their describing each program. It adds
25 pages, so the pages change based upon the size of your

1 programs. So the table of contents allows you to identify
2 the page where things start. Makes it easier to use.

3 And then you have the cover page which is really a
4 collection of information. This is also where if you're an
5 umbrella TDHE, you identify those tribes that you're
6 submitting your IHP for. And this is also the page where if
7 you're actually amending that you would mark that it's an
8 initial IHP or it's an amendment.

9 Page 4 starts a two-page amendment document. So
10 currently there's -- I don't think there's a standard
11 amendment for the IHP, so this allows for -- we thought it
12 was a good idea to create a two-page amendment that would be
13 a very easy process for anyone to amend their existing IHP.
14 There's on two reasons why you would need to amended you
15 IHP, and that's if you're adding an activity or you're
16 reducing assistance to your Authority 37 Housing Act units.
17 I think that's statutory. So there should be no other
18 reason why you would be requested to submit an amended IHP.

19 I won't go over the details of the amendment
20 because it's -- there's -- it's consistent with how the IHP
21 is put together itself.

22 FACILITATOR: Marvin.

23 MR. JONES: Marvin Jones. There may be another
24 reason to possibly amend the IHP, probably not required to,
25 but since you get the grant during the latter part of the

1 year, you know, when you know precisely that amount it's
2 possible.

3 MS. BULLOUGH: Most likely true. You might be
4 asked to amend your budget if you have -- if you're
5 receiving more money, but it would be more likely if you
6 were adding a new activity because you received more money.

7 Okay. So now we're into -- you may have noticed,
8 anyone who's familiar with the current IHP, that includes a
9 five-year plan. One of the biggest changes to this IHP
10 other than the huge one that we talked about is the
11 five-year plan is completely gone. Based upon the
12 recommendations that we heard from you, it was felt that the
13 five-year plan really wasn't as useful as it should be for
14 the amount of work that it required, so it's been
15 eliminated. So we just -- this is just a one-year plan.

16 So the first thing that happens here is Item 29 --
17 and that's actually one of the items that's marked for our
18 attention -- and this item is for those recipients that only
19 received minimal needs funding. And the reason why that
20 item is in the IHP is, if you look at regulations at
21 1000.328, it says, What is the minimum amount that an Indian
22 tribe may receive under the need component of the formula?
23 And I do think this regulation was modified based upon the
24 formula negotiated rulemaking that happened in 2007, 2008.

25 Okay. And under Item B it stays, To be eligible

1 for the minimum allocation described in Paragraph A of this
2 section, and Indian tribe must receive less than 200,000
3 under the FCAS component and, two, demonstrate the presence
4 of any households at or below 80 of percent over median
5 income.

6 So this Item 29, while not require statutorily is
7 put into the IHP as a convenience and as a result of this
8 regulatory provision. As convenience so that if you are
9 minimum needs funding tribe, you don't have to submit a
10 separate document to HUD documenting this requirement.
11 Okay. And then the convenience for HUD in that we have it
12 included in the IHP instead of a separate document, this
13 requirement under the regulation.

14 Any questions on 1000.328? It's very basic
15 because the regulation is very basic so really all it does
16 is say, tell us the number of low income Indian households.
17 You put one number, you satisfy the regulatory requirement.

18 Okay. Item 30 -- should I go through all the
19 items? No? Just get the optional ones?

20 Marvin, you want to go through all the items.
21 Jason says no.

22 FACILITATOR: Yes, Marvin?

23 MR. JONES: Marvin Jones. I would suggest if
24 anyone wants to go through all the items, we probably should
25 go through all the items, just my opinion, you know, in

1 order to fully inform people.

2 MS. BULLOUGH: Let me point out, so maybe we don't
3 need to, is that if you look at Item 30 at the end of the
4 text there, you'll see -- right above the chart you see it
5 says, NAHASDA Section 102(b)2(B), that's the statutory
6 citation that goes with this section. So I think unless
7 it's noted on the chart -- unless it's noted on this chart,
8 then the workgroup agreed that the statutory citation that's
9 listed next to that item does, in fact, pretty much verbatim
10 match this statutory section, and so that's why the
11 provision's in the form. Okay.

12 FACILITATOR: Why don't we find out if everybody
13 wants to go through all the items or they only want to go
14 through the optional items there? We have several people
15 saying they would like to go through all the items.

16 Would that be okay with the committee, Jason?

17 MS. BULLOUGH: You guys want to hear me talk.
18 102(b)2(B).

19 FACILITATOR: Yes, Marvin.

20 MR. JONES: Marvin Jones. Just in case we miss
21 something and for other purposes, the citations to the law
22 are not necessarily citations saying that it has to be in
23 the Indian Housing Plan. It could be the citation to the
24 law saying a, you know, recipient is required to do this but
25 that doesn't necessarily mean it's required to be in the

1 Indian Housing Plan. Just want to make that clarification.

2 MS. BULLOUGH: Contrary to what Marvin is saying,
3 though, Item 30 is listed under the one-year plan in
4 requirement in the statute. So if you look at that and you
5 look at Item 2 which says "Required information" and then
6 you look at Item big B which says, "Statement of needs" that
7 text there describes this chart. Okay. Does -- do you want
8 me to read it? Okay.

9 So if you want to read this statutory language and
10 look at the chart, and we have -- and one thing to point
11 out, this statutory language says, in a couple places, "A
12 description." We have a legal opinion that says that this
13 chart is adequate to meet the minimum needs of a
14 description. Okay. So the grantee would simply check those
15 categories that apply for both low income Indian families
16 and all Indian families, and that's sufficient to meet the
17 statutory requirement.

18 And so any time we possibly could, the workgroup
19 tried to make the meeting the requirements of the statute as
20 simple as possible. So instead of description -- you having
21 to type a description of your needs, instead here's a chart.
22 You simply check the identified needs. And there's almost
23 always an "Other" category for those times that the
24 workgroup did not come up with a comprehensive list.

25 I think the list that you see under "Type of Need"

1 is a fairly comprehensive list, and you'll see that list
2 repeated throughout the form.

3 Okay. Item 31 is simply a box for -- for optional
4 information. If you want to describe some -- provide
5 additional information or if you identify an other need,
6 then you describe it in Box 31.

7 Box 32, the statutory citation is the same. If
8 you look at the statutory text that we were just looking at,
9 it does require that the IHP describe how the recipient's
10 plan program will meet the needs for various types of
11 housing assistance.

12 And Box -- Item 32, also, the statute requires
13 that the IHP describe how the recipient is going to
14 distribute assistance throughout the geographical area
15 consistent with the needs of low-income families.

16 Okay. Going onto Page 8, Section 4. The
17 statutory citation for this is 102(b)2(A). And, again, this
18 is a statutory requirement to be included in the plan. It's
19 under the one-year plan requirement. Section (b)2(A) says,
20 Description of planned activities. And it lists a multiple
21 of items there that are required to be included in your
22 plan.

23 So can you lower the -- the right-hand screen to
24 show the eligible activities chart? Is someone working?
25 Lower, yeah. Yep. Right there.

14 In some cases, there is a category that allows for
15 some flexibility. For example No. 9 says, "Other Rental
16 Housing," so if there's not a specific eligible activity
17 that fits your activity, you can -- you can use "other."
18 And "other" is there in a couple of different places.

24 Just a little above that, Item No. 34 is where you
25 actually put the name of your program and then you briefly

1 describe it.

2 FACILITATOR: Marvin?

3 MR. JONES: Marvin Jones. It's not necessarily
4 related. That just reminded me of just wanting to make sure
5 that the instructions also got handed out to the -- the
6 instructions to the form, were those handed out too as well
7 as the --

8 MS. BULLOUGH: I don't know. They may not have
9 been. The instructions are still in -- very much in draft.
10 We're still editing them and trying to make them as clear as
11 we possibly can.

12 MR. JONES: I just thought those might be useful.

13 MS. BULLOUGH: There was no instructions
14 available, and currently there was no request to make them
15 available.

16 FACILITATOR: Blake?

17 MR. KAZAMA: Yes. I have two questions. How does
18 this work with an umbrella organization where, for example,
19 you have 48 tribes? And I can see the form working well
20 with the single tribe.

21 So would you have to add 48 attachments to each of
22 these areas?

23 MS. BULLOUGH: Well, there's three ways that an
24 umbrella housing authority can work. You can have one IHP
25 for all your recipients, which would be this. Now, if you

1 want to have a particular program for a particular tribe,
2 then you would -- you could identify that under this program
3 section. Right? So you could have a program that's
4 applicable just for a particular village. The other way
5 that you -- umbrella housing authorities work is that they
6 can submit a separate IHP for each tribe. And so you could
7 submit --

8 MR. KAZAMA: 48?

9 MS. BULLOUGH: -- 48, if you so desire, or there
10 is the option to -- for the third option, which is -- it
11 used to be that you could submit a section -- what was the
12 section that they could submit for each one? -- I'm not sure
13 that we have.

14 Erna? Where did Erna go? Oh, there she is. Did
15 we -- that third option for umbrellas, did we have a
16 provision for that? You know what I'm talking about? Like,
17 you know, what is the third option?

18 Do you remember?

19 MR. KAZAMA: I don't remember.

20 MS. BULLOUGH: Does anybody remember the third
21 option? It's a hybrid of one IHP and multiple IHPs. And
22 I'm not sure that we have a provision for that except that
23 you can create as many programs as you want.

24 MR. KAZAMA: And you cite where it's located in
25 terms of the tribal?

1 MS. BULLOUGH: You can cite as much information as
2 you want, or you know, you just want to have enough
3 description to meet the statutory requirement, but you can
4 put as much information as you want. And if we go down
5 further through this program description process, which goes
6 through Item -- they're repeated -- Item 34 through Item 41
7 repeat as many times you wish them to, so as many programs
8 as you wish.

9 Okay. And so in this description of a program,
10 you identify who will be assisted, so you could identify a
11 specific village or a specific tribe, the types and levels
12 of assistance. You could -- who will be assisted, you could
13 indicate geographical, whatever you want, so...

14 MR. KAZAMA: My second question, Jennifer, is in
15 the eligible activities may include your -- I guess, reserve
16 account is included in that, yet it's in the statute.

17 MS. BULLOUGH: Reserve is planning and -- right?
18 Reserve is admin.

19 MR. KAZAMA: Okay. So included under admin?

20 MS. BULLOUGH: Right. Planning and admin is
21 reserve account.

22 FACILITATOR: Excuse me. Susan, you had a
23 question?

24 MS. WICKER: Susan Wicker. Jennifer, on Item 34
25 and 35 that would relate to the same activity. In 34 you

1 put the name of the activity, the program, the description
2 of that activity, say, it's modernization of rental units,
3 and then on 35 you put "one" and "modernization"; is that
4 correct?

5 MS. BULLOUGH: Correct.

6 MS. WICKER: Thank you.

7 MS. BULLOUGH: Or you could actually -- you know,
8 your program name or your program description could be more
9 specific if you wanted it to.

10 FACILITATOR: Marvin?

11 MS. WICKER: And 35 would be the --

12 MS. BULLOUGH: The eligible activity from that
13 list.

14 MR. JONES: And going along with that, what you're
15 saying, since I haven't seen an electronic version, if you
16 put -- you're saying that you put under 35, you -- let's say
17 you put "one," it will automatically put the wording out
18 beside of it; is that right?

19 MS. BULLOUGH: Yes.

20 Marvin brings up a good point. It was the
21 intention of the workgroup, and it is HUD's intention to
22 automate this form and once it's automated it will
23 self-populate, so if you make a selection on one page and
24 that selection is then carried forward to your budget page
25 and your data -- your outcomes and outputs page, it should

1 all be automated.

2 When we would have that automation -- I don't want
3 go into the particulars of the difficulty of contracting and
4 developing a form particularly when you're still changing
5 the form, so -- and also we found when we first started
6 working with the form that the automated version and how it
7 worked made understanding the concept difficult. So not
8 only was it going to be difficult to have an automated form
9 ready for the first use of this new form, but also it would
10 make it more difficult to understand the conceptual change.

11 So the plan was to have -- use the paper form for
12 the first year so that it's easier to understand the
13 concepts. Also, it allows us to lock in the form so that
14 when we spend the money to develop the automated form, we're
15 not respending and respending it as we change it to tweak
16 things. Because it's amazing, when we were trying to do
17 this a couple of years ago and we had a contractor, we
18 thought we made a minor change of switching the order of
19 things and he had to start all over. Anyway, just some
20 interesting tidbits.

21 Okay. So we're on item thirty -- we already
22 talked about 35. Item 36 is intended outcome. So if we can
23 go back up to the chart section, the -- you see on the lower
24 portion of the screen 11, "Intended Outcomes," that chart
25 should look familiar because I think it's pretty much

1 duplicative of the housing needs chart. You'll see that
2 again. So in -- the workgroup intended all you would need
3 to do is when you're describing your intended outcome is to
4 pick from this list.

5 Okay. So you select your intended outcome, and
6 you move onto Item 37, "Who Will Be Assisted." This is
7 statutorily required for you to describe.

8 FACILITATOR: Marvin?

9 MR. JONES: Marvin Jones. The term "outcome" is
10 new, correct?

11 MS. BULLOUGH: Correct. But it is in the statute,
12 correct, Marvin?

13 MR. JONES: That's correct. Is it defined in
14 the --

15 MS. BULLOUGH: It is not defined. I don't know
16 whether it needs to be. The list that we put together is
17 what the workgroup felt was a comprehensive list of
18 outcomes, but there is a category for other outcomes. And
19 as we've discussed in our workgroup that the thought is when
20 you define something you -- you sometimes limit your options
21 rather than expand them.

22 FACILITATOR: Marvin?

23 MR. JONES: Marvin Jones. I guess, the -- what
24 will -- if you use that "other" item, what would HUD be
25 using in absence of a definition to judge whether that is,

1 in fact, an acceptable outcome or not?

2 MS. BULLOUGH: I'm not sure that -- I'm not sure
3 I'd make that judgment call. I don't know -- you know, if
4 you -- certainly if you select from the list, there should
5 be no reason why it should be questioned. If you have
6 "other," you know unless it's something completely off the
7 wall, I don't know why it should be -- it's -- as long as it
8 meets the requirements of the statute.

9 MR. JONES: Marvin Jones. I'm being a bit
10 facetious this time. Is it a "trust me" standard?

11 MS. HENRIQUEZ: No. From our perspective, it's a
12 "trust you" standard.

13 MS. BULLOUGH: Thank you.

14 MR. JONES: Can we put that in a regulation?

15 MS. HENRIQUEZ: No. I want to maintain maximum
16 flexibility, thank you.

17 MS. BULLOUGH: Okay. So Item 37 would be
18 perhaps --

19 FACILITATOR: Blake.

20 MR. KAZAMA: Actually, this is good point
21 especially when it comes to GE's coming out in terms of
22 outcome and how to measure that. So that's why it's
23 important that we really understand outcome means because
24 what may be an outcome to a tribe may not necessarily be an
25 outcome to a monitoring entity, from HUD, coming out

1 measuring outcomes. So I just want to clarify that.

2 You have to, either way, then, based on what you
3 guys are saying, you have to believe the tribe that this is
4 our outcome. It could be it didn't happen.

5 MS. BULLOUGH: Absolutely. I think the bottom
6 line here is that what we're talking about are the
7 activities that are eligible under the statute. As long as
8 it's an activity that's eligible under the statute, then it
9 shouldn't be an issue.

10 Now, if we're talking about your outcome is that
11 you -- you provided stables for 25 horses, that might be,
12 you know, something that we might want to question because
13 I'm not sure that ties to eligible activity. But, you know,
14 if we're talking about some form of housing and some form of
15 eligible family, then I'm not sure that there should be any
16 issues.

17 MR. KAZAMA: Right.

18 MS. BULLOUGH: Okay. "Who Will Be Assisted," so
19 here, you know, who are you going to assist? What category
20 of people? Elders? Students? You know, whatever your
21 program is. You briefly describe it here. And it is
22 statutory.

23 "Types and Levels of Assistance," again,
24 statutory. So perhaps you might have one level of
25 assistance for families in very low income, and you might

1 have a level of assistance for a family that's low income.
2 So you have very low and then you have low. So that -- you
3 would describe that here.

4 FACILITATOR: Marvin.

5 MR. JONES: Marvin Jones. Is there a list of --
6 I noticed that on this, there doesn't appear to be a list of
7 the types of households we can check.

8 Is there a reason for that?

9 MS. BULLOUGH: Because we didn't think of it, but
10 if someone can come up with a comprehensive list of
11 households, we'd be happy -- we could put that in the form
12 just like we have outcomes, and it could be a pick list. I
13 mean, any way we can make this form easier, we're happier to
14 do.

15 FACILITATOR: Marvin?

16 MR. JONES: Marvin Jones. And not necessarily to
17 jump ahead but just to make a point.

18 In some sense isn't when we -- well, I'll put it
19 this way, when we get to Item 76 later, and there's this big
20 table, it appears like there's a list of sort of households,
21 and it just --

22 MS. BULLOUGH: Yes. Not to jump ahead, Marvin.

23 Okay. Now, so we're Item No. 39 which is the
24 second item on the short list that was provided to you. And
25 as Marvin pointed out to us yesterday -- I think that HUD

13 So you'll see, in many cases, the IHP side is on
14 the left, unshaded; and the APR side is on the right,
15 shaded. And that way you enter the information once, and
16 then you simply have to put your data in under the
17 appropriate column, the IHP column or the APR column. So it
18 should assist in completing your APR.

20 MR. JONES: And I know this was brought up by --
21 earlier so other people may be looking at the same thing,
22 when you talk about a shaded version, this particular copy,
23 you can't hardly see it.

24 MS. BULLOUGH: Yeah. The shade washes out I
25 think. Mine is too. And there should be text that says

1 "APR" also. You see, on the right-hand side in the shaded
2 section there it shows up better on the chart. It says,
3 APR, colon. So that might -- if you can't see the shade.

4 FACILITATOR: Jason?

5 MR. ADAMS: Jennifer, I don't know if -- I had to
6 step out. I don't know in your introduction or in your
7 discussion so far you made a point that the whole idea
8 behind the development of the form in its current format is
9 that it would be electronic.

10 MS. BULLOUGH: Yes. We went over that about ten
11 minutes ago.

12 MR. ADAMS: Okay. Perfect. Thank you.

13 MS. BULLOUGH: Okay. So Item 39, the intention
14 is, for example, if you're doing construction, that's your
15 eligible activity. You're constructing houses. Then here
16 you might want to tell HUD, or plan for your own tribe, tell
17 your tribal members, what tasks in that -- in that larger,
18 longer time frame you're going to be completing in this
19 year.

20 So, for example, in the early stages of
21 construction, you would be doing planning, environmental,
22 site preparation, that kind of thing. Potentially the
23 subsequent year you would be doing -- you know, putting in
24 your infrastructure, maybe foundations. Third year you
25 might be completing the houses. So that's the type of

1 information that's intended to be collected here.

2 And then -- here we'll start talking about both
3 the IHP and the APR. When you submit the APR, there would
4 be a drop down box that would simply provide you with the
5 options that says, "Fully Accomplished," "No Activity," or
6 "Partially Complete." And if you select "Partially
7 Complete," you would be asked to explain what's completed
8 and what's not.

9 FACILITATOR: Marvin?

10 MR. JONES: Marvin Jones. Is this somewhat
11 analogous to the -- I guess it would be the objective
12 portion the current Indian Housing Plan where you list all
13 this stuff, where early on we had to do books and volumes --

14 MS. BULLOUGH: Yes. The intention here, though,
15 is high-level tasks. We're not talking about -- Marvin,
16 what are some examples of some low-level tasks? Can you --
17 in your e-mail you sent me some.

18 MR. JONES: Marvin Jones. I think originally
19 some -- I don't know all regions but some were being
20 required to say when they were starting a procurement
21 process. And they were being told, You have to put what
22 date you're going to solicit it for contracts.

23 MS. BULLOUGH: That's not the intention.

24 MR. JONES: Who did you select? How? And all
25 those kinds of things.

1 MS. BULLOUGH: And this is -- the intention here
2 is to capture high-level tasks, like I said. You know,
3 particularly in longer period types of activities where
4 you're going through stages, you may want to identify the
5 stages that you're going through or things like that.

6 FACILITATOR: Marvin?

7 MR. JONES: Marvin Jones. Probably a better
8 example would be on the construction of a house. You had to
9 say when are you going to put the plumbing in, when are you
10 going to do the electrical, when are you going to put the
11 front doors in, when are you going to do the back doors.

12 MS. BULLOUGH: Are you finished complaining,
13 Marvin?

14 MR. JONES: I'm exaggerating a little bit.

15 MS. BULLOUGH: Okay. Box 40, this outcome --
16 Planned and Actual Outputs. Outputs, we're describing as
17 things you can easily count, units -- and in this case,
18 units and households. So how many units do you plan to
19 complete this year? How many households do you plan to
20 serve?

21 On the APR side you then tell us how many units
22 you actually completed, how many households you actually
23 served.

24 FACILITATOR: Marvin?

25 MR. JONES: Marvin Jones. You know, when I was

1 filling out this form originally a couple weeks ago, this
2 was a little bit -- wasn't sure, you know -- let's just say
3 you're going to construct a house. Are you expected to fill
4 out both of those, or do you choose one depending on what
5 kind of activity that you do?

6 Some of those are conducive, you know, you can
7 easily say we're going to construct five houses, and we're
8 going to also serve five households. And some of them are
9 not. You're not doing necessarily a number of a units,
10 depending on how you defined by units. You're doing
11 resident services or things like that, law enforcement or
12 something like that, you know. It's kind of trying to
13 figure out, you know --

14 MS. BULLOUGH: Yeah. And in this case this is
15 where the more detailed instructions come in handy -- and I
16 just looked at them because I couldn't remember -- the
17 intention here specifically for when you're constructing
18 units is to count both the units that you completed and the
19 had the households you serve. So if you are building ten,
20 you completed ten units, you would put ten in under the
21 actual number of units completed, and then you would put ten
22 families in under the actual number of households served.

23 FACILITATOR: Excuse me. Susan?

24 MS. WICKER: Susan Wicker. Jennifer, on No. 40
25 when you're talking -- is it just construction, or is it any

1 planned activity units? I'm talking about, do you include
2 construction inspections, modernization of units, is that
3 all going to be in that one block?

4 MS. BULLOUGH: If you're acquiring units, yes. If
5 you're rehabbing units, I would say yes. Again, this is
6 where the instructions become important.

7 Box 41, "Explain Any Reason For Delay," this you
8 have to go back to the --

9 FACILITATOR: Sorry. Carol?

10 MS. GORE: Excuse me, Jennifer. May I ask what is
11 the difference between an outcome and an output. I hate to
12 get hung up on what seemed to be simple terms.

13 MS. BULLOUGH: No. That's okay. We developed
14 this form under the previous administration when PART, the
15 Program Assessment and Rating Tool, was being used and very
16 important. And we utilized the terminology that the PART
17 used. Outputs are items that are fairly easily counted.
18 Outcomes are more the consequences of your action that are
19 more nebulous, that more benefit a community -- that have a
20 more esoteric benefit to a community, I think, might be a
21 way to put it.

22 So, for example, moving a family from a crowded
23 situation into a uncrowded situation would be an outcome.
24 Improving the safety of your community would be a outcome, a
25 little bit hard to count, you know, but we try in the --

1 because that's what the PART required us to do. Okay.

2 FACILITATOR: Marvin.

3 MR. JONES: Marvin Jones. I may not have
4 referred -- you may have went over this, but outputs is --
5 that word is not in the law, right?

6 MS. BULLOUGH: Correct.

7 MR. JONES: What is in the law -- and I don't know
8 if we're putting the law up there or keeping up with that.
9 Anyway, isn't what is in the law the number of units to be
10 completed? I think that wording is in there, but not --

11 MS. BULLOUGH: I think that's correct.

12 FACILITATOR: Judith?

13 MS. BULLOUGH: It's 102(b)(2)(A)(iii), the number of
14 units planned to be produced. And then another point,
15 statutorily, the shaded sections we reference 404(b). So if
16 you look on the APR side of things 404(b) is the statutory
17 requirements for the APR.

18 And you'll notice when you look at it, the -- the
19 statutory requirements for the IHP are much more detailed,
20 much more specific than the statutory requirements for the
21 APR. So 404(b) says, That in your performance report, the
22 content of each report under this section for a fiscal year
23 shall describe the use of grant amounts provided to the
24 recipient for such fiscal year, assess such the relationship
25 of such use to the planned activities identified in the

1 Indian Housing Plan of the grant beneficiary, and indicate
2 the programmatic accomplishments of the recipient.

3 Okay. So there's -- that's the statutory language
4 for the APR. Much, much, much broader than the IHP
5 statutory requirements.

6 Item 41, is actually a regulatory requirement at
7 51, which says, almost verbatim --

8 FACILITATOR: Jennifer, Judy had a question.

9 MS. MARASCO: Jennifer, I know you're to 41, but
10 on 39 when you talk about high-level tasks my concern is
11 being a housing authority director and kind of linking with
12 other directors what we have found is that in oversight and
13 implementation through regional agencies is not consistent.

14 So I'm wondering if you're going to define what a
15 high-level task is because what we find as housing
16 authorities and directors is it really depends on the person
17 who is the head of our regional agency. There's no
18 consistency across the board. So that's of a concern to me
19 if you're saying we're only listing high-level tasks.

20 So if HUD could provide us some sort of insight as
21 to what they consider a high-level task, then we have a
22 little more earth to stand on, basically.

23 MS. BULLOUGH: Conversely to that, maybe the work
24 of this committee would be to define that and put it in
25 regulation --

1 MS. MARASCO: I think that we, as housing
2 authorities and tribes, would like to see a little more
3 consistent implementation of what you're asking us to do.
4 We're not objecting to do it. But we what we find is each
5 region is run a little different than the other regions, and
6 I think we'd like to see a little fairer --

7 MS. BULLOUGH: We try to reduce inconsistencies
8 across regions. That's one of the reasons why we have
9 headquarters, directors, so to develop policy across, but
10 it's in over all people. It's -- you know, we're all
11 individuals --

12 MS. MARASCO: I can understand why you make Marvin
13 write down when he's putting in his doors. I can support
14 that. Yeah. If the work group would just look at giving us
15 kind of a thumbnail view of what high-level tasks are, that
16 would give us a little more foundation.

17 FACILITATOR: Jason, you have a comment.

18 MR. ADAMS: Judith, and I apologize, that we
19 didn't -- I understand we didn't get the instructions out,
20 the draft instructions that come with this, but the
21 instructions do take a shot at that, even to the extent of
22 giving an example. And so hopefully that will help us all
23 to -- even region to region through the regional offices to
24 come to some consensus as to what you're defining as high
25 level and high-level task as compared to the rest of the

1 country.

2 MS. BULLOUGH: And another intention when we
3 provide training on the form throughout the country, the
4 trainings will be given in the locations of the area office,
5 not necessarily to inconvenience any of you or make you go
6 to the regional location, but to allow us to also train our
7 staff on the new forms.

8 FACILITATOR: Marvin?

9 MR. JONES: Marvin Jones. And so I'm careful not
10 to actually shift over into negotiations, I want -- the
11 reason that we went through this particular process is to
12 identify those things not in the statute. They don't have
13 to be in here at all. And so the whole purpose was to let
14 everybody know so that, you know, if you don't want them in
15 there, if you want them in there with definitions, the whole
16 thing is open as far as if it's not statutorily required.

17 So when we get to a negotiation status, you can
18 look at that and say, okay, that's not statutorily required.
19 Do we really want it even though it's not required? It
20 would be a benefit to the program, so let's go ahead and
21 include it. That's was the purpose of this particular
22 process.

23 MS. BULLOUGH: And if it's a benefit to the
24 program and we want to include it, then perhaps this
25 committee would develop a regulation that would then make it

1 a requirement -- a regulatory requirement.

2 Back to 41, regulation 512(b)(2) says --

3 FACILITATOR: Excuse me, Jennifer. Karin had a
4 comment.

5 MS. FOSTER: I'm sorry, Jen. I didn't mean to
6 interrupt. It sounds to me like it might be helpful to take
7 a look at the instructions even though they're in draft form
8 particularly if they respond to some of the same concerns
9 that are being raised at the table.

10 So I guess I'd like to request that maybe while
11 we're talking here, we can have the instructions be copied
12 so that we can take a look at those too. Thank you. Karin
13 Foster, Yakama.

14 FACILITATOR: Thank you, Karin. We'll take care
15 of that. It will take about a half hour, 45 minutes, Karin.

16 MS. BULLOUGH: They are about -- they are 40 pages
17 so more trees.

18 Okay. 512(b)(2) brief on the following reasons
19 for slippage if established objectives were not met. So
20 that's 41. So the intention -- and that's basically, those
21 are the fields that you would complete to describe a
22 program. And you would just repeat that process until you
23 have described all of your programs.

24 FACILITATOR: Yes, Marvin?

25 MR. JONES: Marvin Jones. It appears like what

1 this is doing, it's taking former goals and performance
2 objectives and all that stuff and really breaking them into
3 these different categories. So in the descriptions, you
4 don't necessarily say how many houses you're going to
5 modernize, let's say. Instead, you can put that number over
6 into the -- you know, the types and levels of assistance or
7 the -- down into planned and actual outputs.

8 Is that kind of the way it works?

9 MS. BULLOUGH: Correct.

10 FACILITATOR: Judy wants to add to Marvin's
11 comment.

12 MS. MARASCO: Marvin's comments. Okay. So I'm
13 still looking at No. 39, and I can see that it's not
14 statutorily required. What is HUD's reasoning for putting
15 it in this IHP?

16 What are you -- what do you need this information
17 for?

18 MS. BULLOUGH: Well, as I explained before, it
19 allows for a little bit better idea of what the grantee is
20 actually going to be doing that year particularly when
21 you're talking about an activity that spans multiple years
22 like, construction.

23 MS. MARASCO: I could see it used for multiple
24 years, but that's not how it's structured. I mean, if
25 that's your reason for putting it in, then clearly you

1 should define it's there for phased activities. That would
2 make sense to me. But for annual activities, it doesn't
3 make sense to me.

4 MS. BULLOUGH: The other reason why the tasks are
5 included is that on the APR side of things, if you look at
6 the -- I'm not sure. I can't remember whether it's the
7 statute or the reg -- 404 indicating the programmatic
8 accomplishments of the recipient. So that's the -- that's
9 the -- one of the pieces of that process of indicating the
10 programmatic accomplishments of the recipient.

11 So if you don't -- if you don't identify the
12 activity that you're going to do on the IHP side, then it's
13 difficult to then identify the accomplishments on the APR
14 side.

15 So, again, you just repeat these until you've
16 described all your programs. It's recommended that if
17 you're -- well -- never mind.

18 So now we go to -- the form itself, I think,
19 repeats that process four times, but you can make as many
20 copies as you want. And when it's automated, you just keep
21 selecting whatever button you push until you're finished.

22 Okay. At a minimum, that's okay. If you're lucky
23 enough to be Navajo, you might be having even more -- or
24 Cherokee.

25 Marvin, how many did you come up with? Marvin

1 actually completed the form.

2 MR. JONES: I think we have about 19. I wouldn't
3 call it being lucky, though.

4 FACILITATOR: Blake?

5 MR. KAZAMA: This is really -- coming from Alaska
6 or for Alaska or umbrella organizations, it is a daunting
7 task especially when you look at the individual tribes, the
8 remoteness of your communities and having to go out and do
9 what you're talking about here, for 48 times.

10 MS. BULLOUGH: How is it more daunting than the
11 current IHP?

12 MR. KAZAMA: Basically, we gather the information,
13 submit it as -- not as specific per entity, but we lump them
14 together --

15 MS. BULLOUGH: Well, you could do that here too.
16 I mean, there's no prohibition of doing that.

17 MR. KAZAMA: That's why I was concerned about
18 that, you know and 1000.50 -- in terms of monitoring, I'm
19 concerned about the correlation between what this is doing
20 and monitoring.

21 You know, I guess I'm a little concerned about the
22 role of the GE and GM and how I can see this finally coming
23 together maybe if, you know, they'll be talking because it's
24 one form.

25 MS. BULLOUGH: I'm not sure we can allow that.

1 MR. KAZAMA: Yeah, yeah. In the past, you know --
2 it makes it better overall. I can see that possibility.

3 MS. BULLOUGH: If you think about this, the first
4 time or maybe even the second or third time you prepare this
5 form, it's going to take some thought. And I think the
6 first time you'll do it, and then the next time you say, I
7 can see how I can better describe these programs, make it
8 little easier, make it a little bit more consistent. And
9 then after that, unless you're changing your programs a lot,
10 you're really just, you know, sort of tweaking it. And so
11 once it's developed, it's going to be really easy to
12 resubmit every year.

13 FACILITATOR: Marvin?

14 MR. JONES: Marvin Jones. It does, I think, solve
15 the problem that we've had in the past that -- that the --
16 whichever is which -- the GM won't give the GE the IHP, so
17 they ask us, Could you send it to us because we can't get it
18 from the other side of the building?

19 MS. BULLOUGH: I can't believe that happens,
20 Marvin. Jeez.

21 MR. KAZAMA: Just a comment. That doesn't happen
22 in Alaska. That happens in your region because Bill
23 Zachares is sitting there so -- we're really good in Alaska,
24 you know.

25 MS. BULLOUGH: Where's Wayne? Okay. Section 5,

1 maintaining '37 Act Units, Demolition, and Disposition.

2 Item 42, this statutory citation 102(b)(2)(A)(v),
3 if you look at that statutory citation, I think it's almost
4 verbatim. Describe how you're going to protect and maintain
5 the viability of your '37 Housing Act units.

6 43, demo and dispo, is 102(b)(2)(A)(iv), Roman
7 Numerals I through III. And you can see it right there on
8 the screen. And I think the box is -- is almost verbatim
9 from the statutory language.

10 FACILITATOR: Yes, Mark?

11 MR. BUTTERFIELD: Mark Butterfield, Ho-Chunk
12 Housing. On that demolition and dispo, it says, Any other
13 information required by the Secretary.

14 That's -- is that statutory?

15 MS. BULLOUGH: No. 3. That's verbatim.

16 MR. BUTTERFIELD: Well, that's pretty vague. I
17 mean, I guess, how do you anticipate that?

18 MS. BULLOUGH: Does -- does --

19 FACILITATOR: Madame Secretary?

20 MS. HENRIQUEZ: Sandra Henriquez. That's a good
21 question. I will just say flat out that this -- language is
22 like this in virtually everything that HUD files or tries to
23 do in legislation to preserve the flexibility of the
24 Secretary.

25 As we've been going through this, I've been

1 thinking sort of when to pipe in. I think this is probably
2 as good a time as any.

3 We are oftentimes called to tell the story. When
4 one gets overly proscriptive and doesn't afford the
5 Secretary some flexibility around data collection, we can't,
6 then, can't tell the story in a timely way. We're always
7 asked for data from Congress, individual members,
8 committees, et cetera, and we see the need for flexibility
9 around reporting as integral as to be able to respond to
10 HUD -- respond to Congress -- I'm sorry -- in a timely way.
11 And that's our request to you to be able to help us do that.

12 The more proscriptive you get around limiting the
13 Secretary's discretion to ask for data, the more you then
14 will restrict your own ability and our own ability on your
15 behalf to tell that story and to really begin to document
16 what's going on in Indian Country, the kind of work you're
17 doing, the differences you're making. And so that's why
18 that's in there. You'll probably see it throughout. It
19 will probably come up again. It will come up in other
20 different ways, not just tied to NAHASDA. You will see it
21 throughout the HUD landscape.

22 MS. BULLOUGH: Okay. Thank you.

23 FACILITATOR: Blake?

24 MR. KAZAMA: Are we also talking about conveyance
25 of units?

1 MS. BULLOUGH: I don't think so.

2 MR. KAZAMA: That's what the Secretary really
3 wants to show Congress, is the amount of units that have
4 been conveyed to homeownership. I mean, that's a success
5 story, not whether or not we destroyed something.

6 MS. HENRIQUEZ: I think the success story is -- is
7 that's the issue around outcomes. It's the issue around
8 spending your money, what your vision is in your community,
9 and how you are moving the pieces toward that vision and
10 those outcomes.

11 I think the issue is just if you're spending your
12 money as well because we get a lot of push back on what's
13 sitting out there, is it still out there, what year is it
14 tied to. We're trying to thread that needle in a way that
15 allows smaller tribes to amass enough money over successive
16 years to do the kind of work they need to do but also to say
17 to Congress and others who are looking at this, GAO, OMB,
18 Congress, appropriators, you name it, that there are real,
19 concrete, honest to goodness reasons why it is the way it is
20 tribe by tribe.

21 And we just need -- that's part of what this
22 report gets at: What are you planning to do? Did you do
23 it, or do you need successive years to do it? How does it
24 all line up? And how do you all bring it back in to say,
25 We've met this goal, we're moving on the next goal, or

1 whatever that is?

2 FACILITATOR: Jennifer?

3 MS. BULLOUGH: Thank you. Section 6. This is
4 going to be fun. Item 44, this is an item that's on your
5 list, but there's also statutory requirement here.

6 The budget is made up of two parts. The
7 first part that's on the screen here is the sources of
8 funding, and then the second part is the uses of funding.
9 So let's talk about the source first.

10 The statutory citation 102(b)(2)(C)(i).
11 102(b)(2)(C) says, Financial resources and operating budget
12 for the recipient in such form as the Secretary may
13 prescribe that includes an identification and description of
14 the financial resources reasonably available to the
15 recipient to carry out the purposes of this Act including an
16 explanation of the manner in which amounts made available
17 will leverage additional resources and the uses. So the
18 "uses" is the other side of the budget.

19 Okay. So the sources, you'll see, are listed
20 in the rows going across. The first, the one that we're
21 most familiar with is, the IHBG funds. The second is IHBG
22 program income. The third is Title VI. I think we'll
23 remove the word "IHBG" so that Marvin won't be confused.
24 Then we have some '37 Act funds. If they're going to be
25 used in conjunction with NAHASDA, then they're included on

1 the budget here. And then we -- below that we have
2 nonNAHASDA-type funds: ICDBG, other federal funds, low
3 income housing tax credits, non-federal funds. These are
4 all in response to that piece that I read in the statute
5 that talks about leveraging. Right there.

6 So one through three are required if you have
7 any, no matter what, if you're using them, if they're a
8 source of funds. The rest are required if they're used in
9 conjunction with the NAHASDA. Okay. If they're not used in
10 conjunction NAHASDA then you're not required to report it
11 here.

12 FACILITATOR: Excuse me. Judith has a question.
13 Judy?

14 MS. MARASCO: Judith Marasco with Yurok. I see
15 that you've listed Title VI, which is a loan program, but
16 you've not listed 184 where it is -- why have you decided to
17 omit that?

18 MS. BULLOUGH: Well, Title VI -- as a loan program
19 if you get a Title VI loan, then you use those funds under
20 the provisions of NAHASDA.

21 But if you get a 184 loan guarantee, those are not
22 necessarily loans under NAHASDA.

23 Tom, do you want to maybe address this a little
24 bit more?

25 MS. MARASCO: But almost 100 percent of the time

1 you tie with those 184 loans with NAHASDA funds, is that
2 once you touch it with NAHASDA, it takes on a different
3 face.

4 MR. WHITE: At that point you would be reporting
5 the debt service on the next page of the schedule.

6 MS. MARASCO: Okay. We're not there yet. Thank
7 you.

8 MS. BULLOUGH: Sorry. I didn't know you were
9 talking about the debt service.

10 So the right-hand side is the IHP side. You
11 estimate the amount of funds you have at the beginning. You
12 add in any funds received during the year. Column C is just
13 math. Column D is just how much of those funds you expect
14 to expend. And Column E is math, which is your carryover
15 for your subsequent year.

16 The APR side is the actual amount that you began
17 the year with; the actual amount you received during the
18 year; Column -- my -- H is math. And then Column I is how
19 much you actually expended during the year. And Column J is
20 math, which is your carryover for next year.

21 FACILITATOR: Marvin?

22 MR. JONES: Marvin Jones. And you know, in our
23 current regulations, we get an estimate August 1. My
24 understanding is that you're going to change that
25 regulation, I think, so that we can get a more -- an

1 estimate based on information from HUD; is that correct?

2 MS. BULLOUGH: Yes. Thanks, Marvin. When we go
3 to the new due date, which is 75 days prior to the beginning
4 of your fiscal year, for those first grantees under the
5 first two quarters, the October 1 and the January 1
6 grantees, the October one most particularly would -- their
7 IHP will be due July 18, I think it is. The estimates under
8 the formula for that federal fiscal year don't come out
9 currently until August 1. So you're actually preparing and
10 required to submit your IHP July 18 which is before
11 August 1. So those estimates would be not be available.
12 You would base your plan on your previously -- your previous
13 year's amount.

14 There's some thought that we could modify the date
15 that the estimates are issued so that you'll have estimates
16 in hand for that first quarter instead of having to base it
17 on the previous year's amount.

18 FACILITATOR: Marvin?

19 MR. JONES: Marvin Jones. Should we formally here
20 at neg reg adopt that change in the regulation? Would that
21 probably do it that we go ahead and --

22 MS. BULLOUGH: There's a couple of things. That
23 regulation is in the formulation section. And we said we're
24 not going to negotiate formula. The other thing that -- and
25 something affects this year -- we have a contractor who

1 manages formula, and our statement of work says what the
2 regulation says which is August 1.

3 Now, if I remember correctly, the regulation
4 doesn't -- it says it has to be out by August 1. So in
5 reality, we probably don't need a modification to the reg to
6 issue the estimate sooner, but we do -- but we're also bound
7 by a contract this year that we don't have to time to
8 change. We could modify our contract for next year and
9 require the contractor to issue the estimates earlier.

10 FACILITATOR: Marvin?

11 MR. JONES: Marvin Jones. I was really referring
12 to in the future, we could adopt the regulation here for,
13 you know, to change it to whatever date to be effective, you
14 know, two years from now or whenever.

15 MS. BULLOUGH: Whenever we need to.

16 MR. JONES: And I don't know -- and you brought up
17 a good issue about whether or not that's formula or whether
18 or not we can adopt it. So I guess it would be to the
19 committee as to whether in that exception -- they want to
20 make that one exception to change that one thing.

21 MS. BULLOUGH: I don't have the regulation in
22 front of me, but I'm pretty sure it says, No later than.
23 You know, going earlier than that should not be a problem
24 and would not necessarily require a change.

25 MR. ADAMS: If I could, I think that's a

1 discussion that should happen during the negotiation time,
2 not necessarily during this presentation time, Jennifer, so
3 if we could move ahead with the form. Thank you.

4 MS. BULLOUGH: That's fine.

5 The form you have handed out has some notions on
6 the right-hand side. And as the workgroup pointed out,
7 there's really not a requirement to have, like, as many
8 columns as are on the form. But for one, we find this type
9 of the presentation helpful so that it's easier to
10 understand rather than just providing a bulk number. So
11 that's -- I mean, just for human processing, the --
12 having -- showing the pieces that go into a sum, make it
13 easier to understand the process. But in reality, you know,
14 for those who are hard line, there's probably not a
15 requirement to have all those columns.

16 MR. TELLER: Jennifer, this is Leonard Teller,
17 with the Navajo Nation. On the sources of fund, No. 5,
18 carryover 1937 moneys you're talking about, could you
19 elaborate a little more on it or is it contained in the
20 instructions?

21 MS. BULLOUGH: I'm not sure what the instructions
22 say. But, for example, if you have old traditional Indian
23 housing development funds that are unspent, and you plan to
24 use them in conjunction with your IHBG program, then you
25 would notate them here.

1 MR. TELLER: You're talking about program funds?

2 MS. BULLOUGH: With your Indian Housing Bulk Grant
3 program. So if you have old development funds, and you
4 decide to expend them in conjunction with your IHBG program,
5 add them to your Indian Housing Block Grant funds then you
6 would you would notate them here as a source.

7 Okay. On to uses.

8 MR. BUSH: Phil Bush. I have a quick question,
9 Jennifer. These -- and I stepped out for a second. I had
10 to answer a call -- you may have already answered the
11 question.

12 On the IHP portion, it has estimated amounts. And
13 currently the process, if we submit our Indian Housing Plan
14 prior to appropriations, they hang onto the Indian -- the
15 IHP, and HUD doesn't find it in compliance until
16 appropriations in the budget is released.

17 Is that still the intention, or it appears with
18 the -- having an estimated amount that the IHP can be found
19 in compliance even prior to having appropriations or even
20 the budget released?

21 MS. BULLOUGH: You're right. And that's exactly
22 the intent. It would sort of negate the process if we held
23 onto the IHP and didn't approve it.

24 The thought or the rationale is that you submit
25 your IHP 75 days prior to the beginning of your fiscal year.

1 And the reason for that is so there is time for HUD to
2 review it and get it back to you, found in compliance before
3 the first day of your fiscal year. And then you operate for
4 12 months under an approved IHP.

5 Under the new process, the granting of funds
6 becomes separate from the Indian Housing Plan process. So
7 your IHP is going to come in. It will get reviewed and
8 found in compliance without any consideration of whether the
9 appropriation is ready. And those grant funds are ready for
10 you to be awarded.

11 MR. BUSH: I have one more question. Wouldn't
12 that create a preaward condition?

13 MS. BULLOUGH: I don't -- I don't think it does
14 under a formula block grant program. I don't think so.

15 MR. BUSH: Even though we wouldn't have a grant
16 agreement, we would be eligible to be expending funds,
17 correct?

18 MS. BULLOUGH: Correct. Because if you don't have
19 your new funds, you're working off your old funds which you
20 already have grant agreement for. Right?

21 So let's talk about if you're an October 1
22 grantee, FY 2011 your IHP comes in July 18; your fiscal year
23 starts October 1. Knowing how the government works, we're
24 not going to have the funding for that fiscal year until
25 January, February, or March. What are you operating on?

1 The intention is you're operating on any carryover funds
2 that you have from 2010, 2009 on and on which you already
3 have a grant agreement in hand for.

4 MR. BUSH: But for the smaller tribes, they don't
5 have a lot of carry over. If they're doing a multiple
6 year -- it's no longer multiple year -- but if they've tried
7 to save money in previous years -- and this is just
8 hypothetical -- and they want to award a construction
9 contract and they're still waiting for 2011 funds to come
10 in, I don't know see how that's going to work.

11 MS. BULLOUGH: Well, remember we're not making any
12 change to the appropriation process, so it's a conceptual
13 change about having a plan in before you have your money.
14 So that's just a conceptual change. There's -- we're not
15 affecting when those appropriations come in.

16 We do know that there are potentially some tribes
17 that will, each year, be running short of money because they
18 have a tendency to use up all of their funds during their
19 fiscal year. And I think pretty much every year, we issue a
20 notice which allows those tribes, based upon the provisions
21 in the notice, to come in and get advanced funds, if we have
22 carryover funds.

23 There's nothing that we can do about the
24 appropriation process. We're not changing it. There's no
25 change. It's really a conceptual change.

1 MS. FOSTER: Jennifer, Rusty has a comment.

2 MR. SOSSAMON: I would just ask the committee to
3 take these things into consideration when they're looking at
4 this because if you're like us, for instance, our fiscal
5 year starts October 1. Sometimes we don't receive our
6 funding until late in the third quarter of our fiscal year.
7 Now, we plan on that. We actually plan a lag in expending
8 our funds anticipating that the cycle that we've
9 experienced.

10 A concern we have with that and with having
11 projects that go for multiple years is when you look at this
12 information and you see this projected carryover, it would
13 be real easy to conclude, Wow. Look at all of this money.
14 They don't need any more money appropriated, when there's no
15 way to indicate on here how much of that carryover money is
16 actually planned to be expended and for what purpose.

17 One may be just to operate until the next
18 appropriation is available, and the other may be you planned
19 to spend it in future years to complete projects you've
20 already started. And if you don't have any way to indicate
21 this, it could send the wrong -- communicate the wrong
22 message to Congress. They could look at it and conclude,
23 Wow, we don't need to appropriate that much this year
24 because look at all that carryover.

25 So I'll just ask that the committee, when you look

1 at this, keep that in mind because, again, it's going to
2 tell a story. All right. Well, when they look at the data,
3 what story are they going to tell themselves that it's
4 telling?

5 We need to make sure we're real accurate and
6 factual about what this data means because it could really
7 be misinterpreted or used out of context.

8 MS. BULLOUGH: And, Rusty, just to make it clear,
9 that information we are asked to provide to Congress pretty
10 much all the time it comes out of LOCCs information, so I
11 don't think there's going to be any difference with having
12 an IHP that shows it and what we already have in our LOCCs
13 accounts that we are required time and again to report to
14 Congress.

15 MR. SOSSAMON: Yeah. And I totally agree with
16 you. And that's one of the problems with it now is you see
17 the money on the LOCCs, and the conclusion is drawn that,
18 Wow, they didn't need any more money. Look at all that
19 money just laying around that no one is using.

20 There's no way to indicate how much of that money
21 is already part of a project or planned to be spent by a
22 tribe or a TDHE. So it gives the false impression that
23 there's just money laying out there that we can't figure out
24 what to do with it and causes them to conclude no more money
25 is needed to be appropriated.

1 And I really think if we want to show what's going
2 on and what's really -- these funds are intended to be used
3 for and the need for continued and increased appropriation,
4 somehow that information has to be captured so that it can
5 be presented to the appropriators accurately.

6 MS. BULLOUGH: Two points on that. One of the
7 transition processes and one of the concepts of this is --
8 and I mentioned it earlier -- is that your grant funds, one,
9 as soon -- once they're awarded will go into LOCCs. They
10 will lose to you their year's association.

11 So for example, currently there are a few tribes
12 that may have some remaining funds from 2000 because they
13 might have some activities that they haven't completed from
14 that 2000 plan. Those 2000 dollar funds are still sitting
15 in LOCCs and still sitting in treasury. And when we report
16 to Congress they see that those funds were appropriated in
17 2000, and they're still sitting there.

18 Under the new process, the funds lose there year
19 identity in LOCCs and what will happen is they will all go
20 into one LOCCs account, and when you draw funds down, LOCCs
21 will automatically draw the oldest funds first.

22 So once we're into this process a couple years
23 what should happen is those old fund that have been sitting
24 around from 2000, 2001 they're the first ones that are going
25 to get expended out of LOCCs. And they will disappear. So

1 we will be working on much more current money, and we will
2 look better to Congress because we won't have funds that
3 have been sitting around since 2000 still unused.

4 The dollar amounts aren't going to change, but
5 what will happen is you'll have -- the older money will get
6 dispersed first, and you will have more of the newer money
7 still undispersed, will look better.

8 The second thing, Rusty, that -- that you're
9 talking about which is really reporting obligations. If you
10 have a long-term project and you maybe have executed a
11 contract to build 20 or 30 houses, you've actually obligated
12 \$5-, \$10-, \$15 million. But until you disburse that money
13 it might show that you're not really using it. Under public
14 housing, public housing is required to report their
15 obligations, when they execute contracts, that kind of thing.
16 That's one thing if we wanted to show more activity from
17 our -- from your recipients, that's something that we could
18 potentially capture that would show intended use of funds.

19 MR. SOSSAMON: Well, as far as spending the old
20 money first, yeah, I agree that's what this will accomplish,
21 so you don't have that old, stale money laying around. But
22 as far as the amount of money that appears to be available
23 that is not being utilized, it does nothing to answer that
24 problem.

25 And perhaps, showing obligations as defined

1 currently that you have a contract for, may account for
2 planned expenditure of some of it. But if I've got a
3 50-unit project and I'm not really going to bid it out and
4 get a significant amount of it under contract until that
5 third year, how do I show, over the first two years, that
6 the money in the third year really isn't money just sitting
7 around out there that I'm not utilizing and give the wrong
8 impression that, wow, you've got all this money, so you
9 don't need any more, when I know 30 months from now, I will
10 have a contract on it, and I plan to have a contract on it?
11 But because I don't have it right now, I can't show it as
12 obligated and it gives the wrong impression that, wow, look
13 at that. You've just got all the money laying there.

14 So that's what I'm saying is perhaps there needs
15 to be something other than a contract or the current
16 acceptable obligated amount to indicate that we really have
17 plans to utilize those funds. I mean, if we begin a
18 project, we know it's going to take \$5 million for this
19 project, yet we're only going to spend a million in the
20 first year, how do I show that other four million, even if I
21 don't have it under contract, really is dedicated to a
22 project, and it's not just money laying around that I can't
23 figure out something to do with it and give that impression
24 that, wow, until you can figure out what you're going to do
25 with that, we're not going to give you any more? That's my

1 concern.

2 And there's nothing now that indicates that now or
3 that I see in this that would address this concern, and
4 that's what I'm asking the committee to look at when -- when
5 they're looking at this budget projection.

6 MS. BULLOUGH: There's nothing as far as I know in
7 the current budget form where we collect that information
8 either. It is a potential problem.

9 Did we want --

10 MR. TELLER: Jennifer, Leonard Teller from Navajo.
11 I think that issue that Rusty is bringing out is a major
12 issue, and it does, as perception goes, give a very negative
13 perception of how Indians aren't spending their money kind
14 of thing.

15 So if there's such a project or initiative under
16 the public housing side of it, HUD maybe something similar
17 can be crafted that does indicate and capture the
18 obligations or encumbrances as they are made. That's a key
19 issue. It's a key issue because it impacts everybody.

20 We talk about not having enough money, yet if we
21 don't show an accurate picture, then it still paints us
22 Indians not spending their money. And it also goes to the
23 advocacy side if when we hit the Hill to lobby for greater
24 appropriations, then this is slapped in our face. So well,
25 why are you asking for more moneys when you haven't spent

1 it, kind of thing. So it's a major issue. We should treat
2 this seriously and make some inroads on capturing this data
3 as accurately.

4 And first and foremost, is that the current year
5 funding is already counted in the LOCC system when it
6 shouldn't be. Well, it should be counted, but it should be
7 taken off, that it has a two-year obligation period as well
8 and to better capture obligations and encumbrances to
9 portray an accurate picture I think is in the best interest
10 of this group. And that's what we're advocating out here.

11 FACILITATOR: Rusty?

12 MR. SOSSAMON: And to me that's what really the
13 intent of the five-year plan was in the beginning is that
14 that five-year plan would roll forward each year as you
15 closed out, and it would give that future picture of, hey,
16 here's our one-year plan, which it will close out and
17 there's going to be carryover. But over the next four
18 years, that carryover is already targeted during that time.
19 And that's really what I believe the five-year plan was
20 intended to be was just a projection to show, hey, from one
21 year the carryover the accumulated amount available is going
22 to be obligated or planned to be utilized in this manner.
23 And therefore, it gives a clearer picture of hey, hm,
24 they've got plans for this money to accomplish some things
25 with it and they do need more money. And it doesn't mean

1 they've got all this money laying around.

2 FACILITATOR: Thank you. One more comment.
3 Marvin?

4 MR. JONES: Real quickly, is there anything in the
5 statute that is saying that the old funds have to be
6 expended first?

7 MS. BULLOUGH: No.

8 FACILITATOR: I'm getting a lot of cues out there
9 for a break. It's little after 10. 10:15 come back and
10 we'll reconvene. Thank you.

11 (Recess taken.)

12 FACILITATOR: The facilitators received a few
13 comments during the break from some of the committee to
14 remind us that is what currently occurring right now is
15 simply the presentation and that we -- questions of -- of
16 understanding only are the types that should be asked at
17 this point. We're not in negotiation. So really opinions
18 about -- or criticisms or, you know, comments about
19 different types of aspects of this, we should only be asking
20 questions of clarification until we get to the negotiation
21 part. And at that point the committee, Jason, will lead us
22 through the different points that they want the -- asking
23 for the committee to give some feedback on.

24 So at this point can I ask everybody to please be
25 very careful that when you ask questions of Jennifer as she

1 goes through the rest of this document that they're
2 questions of understanding only. Thank you.

3 Leon?

4 MR. JACOBS: Jan, I'm wondering if we should a
5 time limit on the balance of the presentations so that we
6 can get into negotiations? And also there's concern about
7 if we are going to be in negotiations for the rest of the
8 day, my understanding is that we're here to negotiate until
9 four or five o'clock today rather than leaving early, so I
10 want to make sure that we are following what HUD has
11 intended and so forth.

12 So should we have a time period for the rest of
13 this presentation or not?

14 FACILITATOR: What would you suggest?

15 MR. JACOBS: I would suggest 15 minutes to let her
16 finish and then we move on so that we can negotiate this.

17 FACILITATOR: Let me ask the chair of that
18 workgroup.

19 Jason?

20 MR. ADAMS: Mr. Chairman and member of the
21 committee, I just want to apologize that we are, I think,
22 getting kind of bogged down here on this issue. It was the
23 original intent in coming out of the workgroup that the
24 presentation would be on those sections that you asked us as
25 a workgroup to go and evaluate the form and find those

13 So, again, it was my hope that we could just focus
14 on those, have the technical presentation on those items,
15 and then move into negotiations following that.

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1 FACILITATOR: I see. So are you suggesting, then,
2 that maybe we go back to the original suggestion of just
3 going through the items that are numbered here?

4 MR. ADAMS: That's a committee decision. That's
5 not my decision. Again, the workgroup's was that we go just
6 over the items that were not statutorily required.

7 FACILITATOR: Yes, Jennifer?

8 MS. BULLOUGH: I think if we stay away from the
9 negotiation part of things, it shouldn't take that much
10 longer to go through each line.

11 FACILITATOR: Karin.

12 MS. FOSTER: Karin Foster, Yakama. May I suggest
13 we hold the questions on the technical part until the end of
14 the technical presentation, and then, perhaps, maybe we
15 won't getting into crossing the line between technical
16 questions and negotiating issues.

17 FACILITATOR: Russell?

18 MR. SOSSAMON: Yeah. I mean, I'm fine with let's
19 go through the presentation, but I would ask that because --
20 well, I would ask that this -- that the workgroup take a
21 closer look at this other than just, Is it statutorily
22 required or not. I'm going to ask that you look at what is
23 the impact of this going to be and do we have an opportunity
24 to enhance the impact for the tribes in this because this
25 data is what's going to be used to tell stories about

1 housing in Indian Country. So I would ask that the
2 workgroup really go back and look at this with a little
3 different intent than just narrowly determining is it
4 statutorily required or not.

5 FACILITATOR: Okay. Thank you. Carol?

6 MS. GORE: Jason, I would like to ask for
7 clarification on the task at hand. Is the workgroup asking
8 the broad question: Does the committee want to consider
9 items that are not statutorily required, or are you asking
10 for our input on an item-by-item basis? And if it's
11 item-by-item, does the workgroup have an opinion about those
12 that they can share with the committee so we can give you
13 valid feedback? Thank you.

14 FACILITATOR: Jason?

15 MR. ADAMS: Yeah. I think the idea, initially,
16 again, was to present all of them together and then go back,
17 start the clock and negotiate it all as one, all of these
18 items under one negotiation time period of two hours.

19 And then just go through, Item 29, What do you
20 want to do with it? Do you want it in the form? Do you
21 want it backed up by a regulation? Do you want it marked as
22 optional in the form? Or do you want it out? That's
23 essentially the three -- three things that I could see
24 happening with any one of these that aren't statutorily
25 required.

1 FACILITATOR: Carol?

2 MS. GORE: Does the workgroup have a
3 recommendation with each of those items, or are you bringing
4 that to us blank slate and asking? I'm concerned about
5 using up potentially what would be two hours of the
6 workgroup's time for negotiation when maybe it's not
7 negotiation. I just want to make sure that you as a
8 workgroup are protected.

9 MR. ADAMS: The workgroup, I don't believe we had
10 enough time yesterday in our work in reviewing the document
11 of putting together a position of -- on each one whether it
12 should be there or not.

13 We were hoping that by bringing it to the
14 committee, we would get a broader perspective from the
15 committee as to, you know, if that's good information, that
16 should be required, then we can go put it on one regulation
17 to cover those things.

18 I think and I -- I think the committee would
19 agree -- or the workgroup would agree that that was the
20 hope, was that discussion is a committee-level discussion.

21 FACILITATOR: Yes, Marvin?

22 MR. JONES: Marvin Jones. A question not on that
23 point, but what else are we having to get to today? And I
24 know we've had some discussions, and is there anything
25 pressing that we need to get to that we have to wrap

1 something up in 15 minutes or whatever? I would just like
2 to see what else we have on the agenda.

3 FACILITATOR: We have -- I think Carol's group has
4 one item left. Carol?

5 MS. GORE: We just -- report from Workgroup A. We
6 have one item -- one issue that is ready to present. It
7 would be presented, we would hope, with work that's coming
8 out of Workgroup F. As I understand it, their technical
9 advisory will not be here after noon. So if we don't get to
10 our remaining issue, it will go to the next meeting in
11 Seattle. I think the workgroup is prepared to do that, if
12 that's the wish of the committee.

13 FACILITATOR: Lafe?

14 MR. HAUGEN: We have three different versions of a
15 real tough issue and what we discussed -- excuse me --
16 preponderance -- Jan, can you give me a few minutes?

17 FACILITATOR: Yeah. Jason?

18 MR. ADAMS: I just wanted to mention that
19 Workgroup C does have three items with language that was
20 distributed to the committee that should be in your packets
21 available to you that we negotiate on also besides this
22 issue. So...

23 FACILITATOR: Let me ask you this, Jason, is your
24 expectation that as we go through these items that they will
25 be resolved, or are you going to take them back into

1 workgroup later?

2 MR. ADAMS: That would, again, be the result of
3 the committee's decision whether they want us to go back and
4 then formulate regulation to back up the inclusion of that
5 item into the plan or if they just want to mark it as an
6 optional item or if the committee chooses to drop that off
7 the plan completely.

8 FACILITATOR: I see. Okay. So you're seeking
9 guideline from committee on further action on these items
10 here.

11 MR. ADAMS: Exactly. Jan, if I could, with the
12 hope -- again, the hope was from the workgroup is that we
13 would come out of this today with a form that could then be
14 utilized in some form or fashion with a notice issued and
15 some opportunity to actually utilize this plan in some form
16 this year because if we don't finish this here, then it gets
17 bumped out another year, and it won't be until fiscal year
18 2012 before we actually start using this thing. That's why
19 we prefaced our discussion with asking the Secretary if we
20 could implement this fall and utilize it for the second
21 quarter, third quarter, fourth quarter folks.

22 FACILITATOR: Thank you. I see the urgency there.
23 Lafe, can you make your --

24 MR. SOSSAMON: Wait a minute -- Lafe, can I? -- I
25 need some clarification. So we're right in the middle of

1 this one presentation, and you've decided now we're just
2 going to switch to another area?

3 FACILITATOR: No, no.

4 MR. SOSSAMON: Where are we at? I need
5 clarification. What are we doing with this issue?

6 FACILITATOR: We're going to continue in just a
7 second, Russell, but just we need to find what their
8 situation is in terms of participation for the rest of the
9 day. It will just take a second.

10 Go ahead, Lafe.

11 MR. HAUGEN: As noted, Jan, we do have a section
12 that Carol needs to proceed and we can present that as well.
13 But in regards to some of the other issues we're working on,
14 we wanted to pass that information out at this meeting and
15 hold off until the next meeting.

16 FACILITATOR: I see. Okay. Do you want to add
17 something, John?

18 MR. TILLINGHAST: Mr. Chairman, this relates to
19 Issues 26, 29, and 30 which has to do with program income.
20 There was one minor element of program income that was
21 assigned to Workgroup F and needs to be approved and/or
22 disproved as part of the package. The majority of which
23 Carol is presenting.

24 So to fill in that blank, the proposal was to take
25 up our small part of it now and get it out of the way. This

1 is not the beginning of workgroup's larger presentation.
2 That's going to be done at the next meeting in Seattle.
3 It's very discrete, minor issue. (Inaudible.)

4 FACILITATOR: Carol?

5 MS. GORE: I offer to the committee that we defer
6 the remaining negotiated items that are ready until next
7 trip, unless there's time at the end of the day so we can
8 finish up with Jason's group.

9 FACILITATOR: Okay. Everybody in agreement with
10 that? Okay.

11 All right. Jason?

12 MR. ADAMS: Jennifer, if we want to go ahead and
13 continue, and I'm assuming that -- Jason Adams. Sorry. I'm
14 assuming that we're going to continue along the track that
15 we started this morning, line item by line item. Now, if
16 the committee wants to do something different, they better
17 chime in now but that was the request this morning, is we go
18 line item by line item and that's what we're going to do.

19 MS. BULLOUGH: And a lot of line items are now
20 identified in the chart, so it wouldn't be that much more, I
21 don't think.

22 Are we ready? Okay. Item 45 is Uses of Funding.
23 And you see up there on the board, financial resources, the
24 uses to which those resources will be committed including
25 eligible and required affordable housing activities under

1 Title II and administrative expenses. So that's statutory
2 authority for this chart.

3 What will happen is, each program that you create
4 under the one-year plan will be a line on this uses chart,
5 so you will have your program, the eligible activity, and
6 then you will document the funds that you're going to use to
7 fund that activity both on the IHP and on the APR side.

8 The planning and admin is shown under program
9 administration and then loan repayment, Title VI, Section
10 184-type loan repayments are the second to last line right
11 above the total.

12 Okay. The workgroup made the point that the
13 columns that we see that have the prior year funds, current
14 year funds, other funds, and total are not specifically
15 required to be identified. A strict reading of the statute
16 would probably say that only Column N is statutorily
17 required. Any technical questions?

18 Okay. Item 46, statutory citation 102(b)(2)(C),
19 this is where you enter any additional information and
20 provide relevant information on loan repayments, leveraging,
21 that kind of thing. So this is a textbox to further
22 describe your activity.

23 We have a note here about some Title VI
24 clarifications which we're working on that have to do with,
25 I think, receipts, that kind of thing.

14 Yes, Shawna?

21 MS. BULLOUGH: All right. Item No. 49 is Model
22 Activities. And regulatory citation of 108. And I think,
23 again, this is one of those situations where for convenience
24 we're providing the ability to describe model activities
25 here.

1 FACILITATOR: Marvin?

2 MR. JONES: Marvin Jones. Just to make a note,
3 the 48, I guess, that Phil brought that up yesterday and the
4 reference to the useful life, wasn't it, that it's normally
5 in the Indian Housing Plan. Just wanted to note this is
6 what was being talked about yesterday.

7 MS. BULLOUGH: Okay. So 1-0 -- the model
8 activities is -- again, like I said, it's not required by
9 statute to be here, but it is included as a convenience to
10 allow you to describe your model activities here and to
11 allow you to describe your over-income activities.

12 50, this is Tribal and Indian Preference. And we
13 have a regular -- statutory and regulatory citation 201. I
14 think that simply refers to the requirement. Again, I think
15 this may be a place where we're -- we are, again, for
16 convenience purposes, providing the ability to give this
17 information here.

18 51, is Administrative, 102(b)(2)(C). And again, I
19 think that's the -- not necessarily, as Marvin pointed out
20 earlier, some things there's a statutory citation because
21 it's required to be in the plan. Other times there's a
22 statutory citation because it just references the issue.

23 201 -- I'm sorry. 102(b) -- sorry.

24 MR. ADAMS: Jennifer, if I could, I just want to
25 point out there might be a change of language on this line

1 item due to a item that we have to follow up on from our
2 workgroup on those percentages.

3 MS. BULLOUGH: Yeah. It's the uses to which the
4 resources will be committed including eligible and
5 affordable activities under Title II and administrative
6 expenses.

7 So the specifics here about exceeding 20 percent
8 are, again, a convenience.

9 Item 52 is based upon the results of formula
10 negotiated rule making. And if a grantee is expanding their
11 formula area, then the items in 52 are required in
12 accordance with the regulation, so again, a convenience to
13 well -- to you're required to describe these services you're
14 going to provide in that expanded service area, so again,
15 not statutorily required, required to be submitted, and
16 included here as a convenience.

17 FACILITATOR: Mark?

18 MR. BUTTERFIELD: Question: From when is that
19 measured?

20 MS. BULLOUGH: When is what measured?

21 MR. BUTTERFIELD: The expanded formula area?

22 MS. BULLOUGH: That happens through your -- the
23 process that you go through with the formula when you
24 request an expanded formula area. But if you are an
25 expanded formula area, then one of your responsibilities in

1 accordance with the citation here, which is under the
2 definition of formula area is to 302(3) -- 302 -- formula
3 area 3 -- does anybody -- it's in the definitions and, of
4 course, this is nice long area, but it -- Deb, do you
5 remember where this specifically is in this regulation, the
6 expanded formula area and what they're required to submit?

7 MR. BUTTERFIELD: Well, it says fiscal year 2003
8 in three.

9 MS. BULLOUGH: I'm sorry.

10 MR. BUTTERFIELD: It says, subject to a challenge
11 by an Indian tribe in the formula area described Paragraph
12 1, Sub-Roman Numeral I of this definition, any federally
13 recognized Indian tribe assigned a formula area
14 geographically in fiscal year 2003 nonidentified in
15 blahdy-blah-blah. I basically am wondering. If you had an
16 earlier successful formula challenge, do you always have to
17 fill this out, or is it if you were successful before 2003,
18 does it not apply?

19 MS. BULLOUGH: I think those details are probably
20 explained more in the instructions. I'm not sure if we --
21 do we need to -- for the matter of time, do we need to go --
22 do you want to go into the technicalities of this?

23 MR. BUTTERFIELD: No. I just -- I would like the
24 answer eventually, but I don't want to bog down everybody.

25 MS. BULLOUGH: Yeah.

1 FACILITATOR: Judy?

2 MS. MARASCO: Judith Marasco with Yurok. This is
3 particularly important to me since I come from an area where
4 currently we have ten tribes overlapping this year, and we
5 will have 13 next year. And what I've seen happen in the
6 past is tribes who expand their formula area based on
7 services, not necessarily expending those dollars in the
8 area that they're including the expansion.

9 So my question to you is: How is HUD going to use
10 this information to make sure that the tribes who are
11 expanding their area and impacting other grants are actually
12 doing what they say they're doing?

13 MS. BULLOUGH: I have found the citation. It's
14 under the definition of formula area, and it's at the -- if
15 you're dealing with this little book, it's at the bottom of
16 the first page under formula allocation.

17 And it says, For geographic area not identified
18 and for expansion or redefinition of a geographic area from
19 the prior year, including those identified in Paragraph 1 of
20 this definition, the Indian tribe must submit on a form
21 agreed to by HUD information about the geographic area it
22 wishes to include in its formula area including proof that
23 the Indian tribe, where applicable, has agreed to provide
24 housing services pursuant to an MOA and the tribal and
25 public governing entity or entities of the area have

1 attempted to -- then it goes on.

2 But it's the submission of -- that's where this
3 piece comes in. Additional tweaking of that, I can't
4 answer. I'm not the formula expert. Okay.

5 FACILITATOR: Karin? No. Continue, Jennifer.

6 MS. BULLOUGH: Okay. Section 8, Environmental
7 Review. Item 54, again, this is identified. It's -- it's a
8 convenience. It's the environmental expression of intent of
9 whether you're going to do Part 58 or whether you're going
10 to ask HUD to do the Part 50. And it allows us to do
11 resource planning so that we can do the Part 50 review.

12 Section 9, Item 55, is statutorily required. The
13 statutory citation 102(b)(2)(D) should pretty much be
14 verbatim out of the statute.

15 Section 10, Tribal Certification, Item 56,
16 statutory citation 102(C). Okay.

17 FACILITATOR: Keep going.

18 MS. BULLOUGH: Any questions? Okay.

19 Section 11, Item 57, this is, again, a
20 convenience. If you're going to be using
21 tribally-determined wage rates, then I think you're required
22 to send us that information, so this is a convenience to
23 allow you to do that.

24 Section 12, Self-monitoring. Regulatorily
25 required under Section 502 to describe in your -- to report

1 in your plan to HUD the results of your self-monitoring.

2 MR. ADAMS: Also, Jennifer, we are going to add
3 there it's statutorily required under 403(b).

4 MS. BULLOUGH: Statutorily, required, yeah. Yes.
5 Thank you. Yes. There was some -- yes. Thank you.

6 So if you look at statute -- the statute 403(b),
7 there should be a requirement to report to HUD on the -- I
8 don't think it's called "self-monitoring," but that's what
9 we call it, Periodic monitoring, not less frequently than
10 annual, each recipient shall review the activities conducted
11 and included in the -- I'm summarizing -- included in the
12 performance report other recipients submitted to the
13 Secretary under Section 404.

14 Okay. Section 13, Item 62, Inspections. This is
15 403(b). Periodic monitoring, not less than frequently than
16 annually -- I just read that. Required. Such review shall
17 include an appropriate level of on-site inspections of
18 housing to determine compliance. Results of the review
19 shall be included the performance reports of the same.
20 Basically the same provision. You're required to inspect,
21 and you're required to report to the Secretary on the
22 results of that inspection.

23 Section 14 is Audits. Item 65, this is, again, a
24 convenience.

25 FACILITATOR: Marvin?

1 MR. JONES: Marvin Jones. Susan just pointed out
2 on Page 23 that -- just a grammatical thing on the Title of
3 the B Column, total number of units at recipient, Page 23.

4 MS. BULLOUGH: We'll make a note of that and try
5 to get that fixed.

6 FACILITATOR: Mark?

7 MR. BUTTERFIELD: I have a question. On Section
8 13 -- this is Mark Butterfield. Ho-Chunk Housing Committee
9 Development -- where did these terminologies come up with --
10 I mean, we've always inspected. I guess, I didn't know that
11 they were necessarily supposed to be in this format. And
12 now that we have to report them in a particular format, it
13 makes us change our practices to conform to the format.
14 That's what I -- so I'm whether these were...

15 MS. BULLOUGH: The format is not statutorily
16 prescribed. It's required that the inspections be reported.
17 It's required that they be required that they included in
18 the performance report. And the performance report is
19 required to be in a format prescribed by the Secretary.

20 MR. BUTTERFIELD: So where did you get the term
21 "units in standard condition," "needing rehabilitation"?

22 MS. BULLOUGH: The workgroup developed this chart,
23 the tribal workgroup developed the chart.

24 MR. BUTTERFIELD: What does standard condition
25 mean and why rehabilitation rather than maintenance?

1 MR. ADAMS: Again, I just refer -- and I
2 apologize, and we have before you the instructions but those
3 details are in the -- you do have them?

4 FACILITATOR: We do have them.

5 MR. ADAMS: Those line items are further addressed
6 given with some examples given also on -- in the
7 instructions. This particular section, 62, is covered on
8 Page 33 of the instructions.

9 FACILITATOR: Does anybody need a copy of the
10 instructions? Anybody else need a copy?

11 MS. BULLOUGH: If I remember correctly, if you
12 look at the instructions, I think it says that the
13 definition of those terms are to be determined by the tribe.
14 So it's whatever you determine a unit would -- how these
15 units fit.

16 Okay. Section 14, Audits. Again, this is a
17 convenience. It allows HUD to know if we need to look for
18 an audit from you. As I think all of you know, the
19 threshold for A-133 is \$500,000. So there are times when
20 recipients go back and forth across the threshold line, and
21 so it helps us to know whether we're looking for an audit
22 from you.

23 Item 15, Public Accountability. It's -- public
24 accountability is required by statute. And documenting it
25 here -- in the APR is required at 1000.518.

1 Any questions?

2 FACILITATOR: Keep rolling.

3 MS. BULLOUGH: Jobs. We absolutely agree that
4 there are no specific requirements to report jobs. Item 72
5 under boarder definition, under Section 404(b) describing
6 the use of grant funds and the programmatic accomplishments
7 of the recipient, this would fall -- we feel this falls
8 under a broad definition but not a specific definition.

9 Section 17, again, Units Constructed and Acquired.
10 Item 73 falls under the broad definition, and -- and it
11 documents the cost of building units.

12 The reason why we're doing square foot, for your
13 information, is we wanted to be able to collect the
14 information consistently. I think that probably throughout
15 Indian Country we have grantees who are building
16 zero-bedroom units all the way up to, I think, six-bedroom
17 units. And if we either -- to get accurate information, we
18 would have required you to report on each type size unit
19 you're constructing and the cost, or we collect information
20 just in general that's of much less use.

21 It was a recommendation that we include it by
22 square foot so that we capture a better and more accurate
23 information on the cost of building units.

24 And then section --

25 FACILITATOR: Excuse me. Marvin?

1 MR. JONES: Marvin Jones. You might have said it,
2 but part of that is not statutorily required regarding, I
3 guess, the square footage and things like that. But the
4 number of units, I think, completed was?

5 MS. BULLOUGH: Yes. I didn't go to that
6 specificity. And, in fact, units completed you could say
7 would be captured elsewhere. This is, again, under the
8 broad definition of 404(b).

9 And the same thing with Section 18 -- I'm sorry,
10 Judy.

11 FACILITATOR: Judy?

12 MS. MARASCO: Judith Marasco with Yurok. That
13 section for square foot for completed units is a concern to
14 me, and I'd like the committee to, at least, hear my
15 concerns. And that would be the quality of the home that's
16 being built. That -- the activities won't necessarily
17 reflect if you're putting in a FEMA trailer or if you're
18 building a stick house or putting a mobile home on there.
19 It -- it might be more detrimental to us than a positive
20 process.

21 If we were all building nice three-bedroom,
22 two-bath stick homes that would be a valuable piece of
23 information. But a lot of tribes, you know, dealt with
24 those FEMA trailers, and we don't always get the best
25 product out here. That it might lower the cost of TDCs and

1 not raise them, so I just want the workgroup to know that
2 that may impact those overall development costs. And I
3 wouldn't want to see that happen.

4 FACILITATOR: Okay. Judith, can you hold those
5 kinds of discussions until we get to the negotiation part?

6 MS. MARASCO: I just wanted to get that out there.

7 FACILITATOR: I know.

8 MS. BULLOUGH: Section 18, again, generally
9 required by 404(b) to capture what is being performed and
10 accomplished by the grantee. The -- this chart looks a
11 little daunting, but if you look at it closely, you'll see
12 that you've seen all these things before.

13 On the Column A is simply the same list from when
14 you described your programs. That's all the eligible
15 activities. If you are -- if, in your programs, all of your
16 programs only identify six or seven eligible activities,
17 then you would only have six or seven rows. You wouldn't be
18 completing all 23 or 20, however many rows there are. And
19 with the automated form, only those rows would show up.

20 All right. Then if you look across, you see
21 outputs and outcomes. The outputs -- well, let's talk about
22 the outcomes first. Again, you should see a lot of
23 consistency with the outcomes chart, the housing needs
24 chart.

25 And then on the outputs, you see units and

1 families or households assisted. There is an additional
2 output here that the tribal workgroup specifically wanted to
3 capture. It's not that there are not other types and
4 populations that are not important to be counted, but
5 traditionally, the assistance to the elderly is of primary
6 importance to our grantees, and they wanted to capture this
7 specifically. So this information is where we really get to
8 the heart of the accomplishments based upon the activities
9 that you're doing and your outputs and outcomes in order to
10 report out to Congress and anyone who asks or needs this
11 information.

12 FACILITATOR: Marvin.

13 MR. JONES: Marvin Jones. I think when earlier,
14 four hours ago -- I'm just teasing -- when I said that to
15 jump ahead this is that table that I was referring to, kind
16 of tieing who will be assisted, Item No. 37, as there is
17 sort of a table of people who will be assisted.

18 MS. BULLOUGH: Right. So a potential dropdown of
19 households served is what you're talking about, Marvin,
20 right?

21 And then the very last page is, again, provided
22 here as a convenience. It's a page that can be used to
23 request waivers.

24 FACILITATOR: Thank you, Jennifer.

25 Jason, it's yours.

1 MR. ADAMS: Excuse me? Back to me?

2 FACILITATOR: Back to you.

3 MR. ADAMS: Okay. Thank you all for the
4 opportunity to go through that drill and get that before the
5 committee.

6 I just had a couple notes here. I wanted to point
7 out -- Jennifer pointed out some of the committee members
8 that were part of the tribal workgroup that worked on this.
9 There was one person forgotten, and I actually don't see her
10 in the room right now. It was Shebnum (phonetic). She's
11 now with HUD, but she was on our workgroup too. I wanted to
12 not forget her.

13 And then I also, before I call for negotiation on
14 this issue, I wanted to ask the committee if we could
15 acknowledge a person and give him a few minutes to speak
16 because this issue is very relevant to him. We have him
17 here with us today, and it's an honor for us, I think, to
18 have him here with us.

19 He works with the Senate Indian Affairs Committee.
20 It's Xavier. And I would like to give Xavier a minute or
21 two of time, if we could, just to speak to the need for some
22 of this additional information and how that would help him
23 in his job.

24 MR. BARRAZA: Thank you very much, Jason.

25 Before you guys start to, I guess, conduct your

1 negotiations, just a couple of things I want to say. It's
2 been addressed by Marvin, Blake, and Rusty on some things
3 that -- some stuff needs to be reported to Congress and in
4 certain ways. There's not necessarily statutory language
5 that requires it be reported, but, in my opinion, it's my
6 hope that you report it anyway.

7 One of the reasons for this is -- I've spoken to
8 some of you on an individual basis -- is that going back --
9 and this is probably reiterating some information -- that
10 when NAHASDA was used in the past, our country was in -- we
11 had a surplus. We weren't fighting for money. There was no
12 fighting over moneys that -- they were there, I guess.

13 But since then we've gone to war of 9/11 and a
14 bunch of other things. And the information that we have
15 mostly is we're using off 2000 census, and it's very hard
16 for me in any job to argue the fact we need more money.

17 And the reasoning behind that is we're using
18 information from over a decade ago. And the information
19 then is there's 200,000 homes. But as far as Congress is
20 concerned, they've thrown billions of dollars at this.
21 There's no information to say that it's either helped or has
22 not helped the Indian Country. And as far as they can tell,
23 if you know in federal government or in Congress that if you
24 throw monetary money at certain issues, it's suppose to
25 help. But it doesn't always.

15 And the other thing is that we really do need
16 success stories. There isn't a whole lot out there that I
17 can say it's very hard for us to argue, me in my job, to
18 argue against other programs -- I wouldn't say within HUD --
19 but who are fighting for appropriations. And what they want
20 is numbers, but I don't have any numbers to give them. The
21 numbers I can give them are from 2000. Like I said, again,
22 they see \$5 billion thrown at something, and they think it
23 should be fixed. Well, it's not.

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1 not necessarily be convenient to do it every year, do it
2 once a year and then adjust for inflation in your region.
3 The reason why I say "your region" is, in Alaska your
4 inflation is a lot higher than somebody who is in Arizona,
5 and we can adjust for that separately. And we can make the
6 argument of certain issues where -- certain areas -- I don't
7 say areas need -- well, they need more money, but I'm not
8 saying to get us to the areas that are, say, Arizona, or I
9 guess I wouldn't say Texas but Oklahoma where it's a lot
10 easier access. But it gives us the information that we
11 need.

12 But going back to square footage, I would suggest
13 doing it once. Do it once your first time, and then adjust
14 for inflation for the next five years. And the reason I say
15 that -- and then report again -- is because we just had a
16 census. And the only problem is we'll get numbers from the
17 census, but we're not going to get them for a couple years.
18 And the numbers that we're going to get aren't going to
19 reflect very much because there was only 10 questions on it
20 as opposed to the one in 2000 that was a lot more
21 burdensome, but it gave us the information we needed. This
22 isn't going to happen. All we're going get is there's
23 tribal members, and some are overcrowded and some are not.

24 And another subject to that is the definition of
25 overcrowded and homelessness. If you completely suggest

1 that, as far as the government is concerned, if you have a
2 roof over your head, you're not homeless. Well, if you have
3 five or six families that are in a certain house, are you
4 considered homeless? I would consider that homeless. But
5 unless that's reported from tribes individually to Congress,
6 it's hard for me to convey that to members of Congress and
7 give that argument unless they have some sort of backing.

8 So I would suggest, or take into account, in my
9 personal opinion, to voluntarily give the information. So
10 it helps us, in my job, on a daily basis in our committee to
11 help our fight, basically.

12 If next year all of a sudden I come up and instead
13 of 200,000 homeless or underhoused Native Americans there's
14 four hundred, it immensely gives more justification that
15 five billion isn't enough. I can argue for 20, and that
16 would be great. And we wouldn't have these issues where I'd
17 say an administration comes in -- whether this one or
18 previous ones -- where they flat line median housing and
19 because they know that committees like mine exist that will
20 fight to get flat funding or previous, and they hope -- the
21 hope is from administrations that oh, well, they're poor
22 Indians. You know, we're not going to flat them out. We'll
23 fight for it in appropriations inside Congress where -- but
24 that the public knows that the administration is within
25 budget.

8 There's no way that we're going to continue.
9 There's no way the appropriations or the budget proposers
10 are going to help Native Country if you're only giving us 5
11 percent of what we need. And the reason why they're doing
12 that is because they have numbers from 2000. As far as
13 they're concerned, again, reiterating that if they throw
14 billions of dollars at it, their assumption is something is
15 done.

16 Well, we have a not very good economy, I guess I
17 would say right now. Inflation numbers are high; people are
18 not lending; building costs go up. But they don't hear from
19 tribes. They hear from everybody else but Joe the Plumber.
20 I hear from -- they hear from him. They don't hear from
21 tribes. And what they do hear from you guys comes through
22 us or you talk to us individual members, but there's no
23 numbers to back it up.

24 But I know it's a big reiteration coming from me.
25 It's also the same thing from our committee. We would love

1 to have the numbers. It gives us justification for our
2 fight. It would help us a lot.

3 I would just ask that you take into consideration
4 that it's not statutory, and we don't want to make it
5 statutory. I don't think anybody in our committee would
6 attempt to. It would be our hope that the tribe would give
7 us the information because -- I mean, I understand it's
8 burdensome for you. It's also burdensome for us to argue
9 for something that we can't necessarily prove. I mean we
10 can do it. I can take Congress members to your house and go
11 to reservations and show them dry-rotted houses or the lack
12 of infrastructure and the reasons why Indian houses -- IHS
13 sanitation funds should be used in conjunction with housing.
14 But until they have some sort of backing to prove that, it's
15 not going to help.

16 I ask that you take that into consideration when
17 you provide us information. And although it is burdensome,
18 it will help us help you get more money. I think that's it.

19 If you -- if anybody had any questions, if you
20 don't know me, I do work for the Senate Committee on Indian
21 Affairs. I was specifically hired to handle housing issues
22 for the committee. Any housing bills that basically have
23 the word "Indian" in it will come through my desk.

24 Does anybody have any questions?

25 FACILITATOR: Blake?

1 MR. KAZAMA: I guess what you're reporting is
2 somewhat bothersome or problematic in the way that the
3 numbers that you're requesting I see in this report or this
4 form that it has statutory numbers attached to it, meaning
5 HUD is requesting that informing of us. Is there a
6 disconnect, then, between HUD and Congress? And if so, we
7 need to do something about that because we are giving HUD
8 information. We have been doing it. It's not getting to
9 the appropriate source and that's problematic to me.

10 I have heard that on the Hill: Where's the
11 numbers? Where's the numbers? And I said, Well, either HUD
12 has to have a data collection system that is far better than
13 what we have, because the numbers are being given to HUD.
14 They're required of us. But it's not getting to you,
15 apparently.

16 MR. BARRAZA: I would -- I'd have to assume there
17 would be a disconnect somewhere. I know the number --
18 previous to this, it was voluntarily going to HUD, and I
19 would say there wasn't much that was come across my desk
20 unless GAO or somebody has a housing report, and they would
21 go get the numbers.

22 I can't speak too much on HUD's point, but I think
23 the point of this is to make it -- I wouldn't say start over
24 but to begin a new process where it comes along on a yearly
25 basis, that it's a consistent basis.

1 FACILITATOR: Marvin?

2 MR. JONES: I have a -- I think it's not
3 necessarily a question but a comment. One of the things
4 that I see is that a lot of times the information -- and I'm
5 going to talk not necessarily about the needs but the
6 accomplishment side, which I think is also important. It
7 appears like there's lots of people who are involved in the
8 issues, and including Congress, apparently, that have never
9 even read the law and aren't aware of the law, such as
10 Section 201, where the national objectives of NAHASDA are
11 put in there. And there's, you know, five national
12 objectives.

13 And so when there's an emphasis, for example --
14 and in some cases almost a sole emphasis -- on how many
15 houses did you construct? You know, what is their square
16 footage? What is their cost? That is certainly one aspect,
17 you know, what the national objective is. But it's
18 certainly not the only way.

19 You know, for us -- just to give you an example of
20 an accomplishment where -- when GAO come around, they didn't
21 ask the question. And when all the other people come
22 around, they want to know how many houses you constructed.
23 Where, instead, where we're sitting there trying to tell
24 them, We put 3.5 million to mortgage assistance. We could
25 have built 35 houses with that. Instead, we provided

9 MR. BARRAZA: That's great. That's the first time
10 I've heard of it. No. I understand how GAO -- I would say
11 that some people in the positions just write down
12 information that they want the public to hear.

22 All right. With that information, if there's more
23 region stuff that we could get appropriations for more money
24 for that. I would suggest if you have that, don't bother
25 asking me, just send it, just send it to our chairman or

1 send it to me. I'll put in the form.

2 One of the ways that we use this information is
3 when I was at the NIHC conference about two weeks ago, they
4 made a common reporting on a -- the ARRA funds how -- I
5 don't have the exact numbers in front of me now -- but the
6 number of houses that went up, infrastructure that was
7 rebuilt, repairing of houses. I wrote that in my report,
8 and my report got sent to my senator, Chairman Dorgan.
9 Other offices questioned that and asked me where that came
10 from. And it's come from NHIC. And that's only
11 self-reporting from you guys. And that's -- I understand
12 that ARRA was basically a one-time thing, but information
13 like that is something we can use. That's to justify ARRA.
14 If I get information like you just said, I can justify IHBG
15 block funds and the need for more assistance every year.

16 FACILITATOR: Marvin?

17 MR. JONES: Marvin Jones. And just to follow-up,
18 a couple of the primary national objectives that Congress
19 put in was -- and I know our circumstances is unique from,
20 you know, remote areas that have to do new construction so
21 we are different in ways, just like other areas are
22 different and couldn't do this or -- and they had their own,
23 you know, accomplishments. But a couple of the primary
24 objectives that Congress put in NAHASDA is No. 2, To ensure
25 better access to access private mortgage markets to Indian

1 tribes; No. 5 is, To promote the development of private
2 capital markets in Indian Country.

3 And that's why our particular accomplishments tie
4 back directly to the national objectives that Congress put
5 for NAHASDA.

6 FACILITATOR: Carol?

7 MS. GORE: I want to thank you for being here. I
8 have a request and comment.

9 First of all, we would love to communicate with
10 you. If you would leave your contact information for the
11 members here, that would be really helpful.

12 But I also think there is a second disconnect and
13 that's with census. Our formula relies on census and the
14 data that many of us use to report back to HUD to reflect
15 changes in demographics, i.e., the data, how many are still
16 living in overcrowded. We rely on census to provide that
17 information to us.

18 I've attended two census committee meetings -- and
19 I don't know if anyone has attended those meetings -- but
20 they are huge. They are maybe six times the membership of
21 this actual committee. That committee has a very small
22 group of Indians to give feedback to the census committee,
23 and none of them are housers. So there is no one on the
24 census committee that I could find that actually has some
25 connection to Indian housing.

9 So I wanted to offer that idea as well. I've
10 tried several times to submit an application just because I
11 thought someone from a NAHASDA program needed to be
12 represented on that committee, and I have not been
13 successful in even getting a response to an application.
14 And thank you.

15 FACILITATOR: Rodger?

16 MR. BOYD: Thank you. I'd like to make a couple
17 of comments about the current kinds of data we do collect.

18 And Blake is right. I mean, through the Annual
19 Performance Report, we do collect data. But, one of the
20 reasons we're revising the IHP and the APR is to try to
21 drill down more accurately to ask you to either directly by
22 statute or by voluntarily giving us the information that we
23 really need that would be a lot more comprehensive.

24 You know, right now, I mean we can tell you, just
25 on a production level how many units are rehabbed and new or

11 So we know that there -- and the other point is,
12 on the cost, we only require right now how you have expended
13 money out of the Indian Housing Block Grant. But -- and the
14 importance, I think, of leveraging and showing other
15 examples of where other funds come from is also extremely
16 important because I think it sends a couple of different
17 signals. One, it sends a signal that what you are able to
18 do with the funds that we give you and how -- and what you
19 have to do to build a capacity and to provide more housing
20 in your respective communities, be it new construction,
21 rehab, or a acquired units. So this consistency in the
22 identification, more specifically of the kind of information
23 we -- we need would be extremely, extremely helpful.

24 And I just want to note that a lot of times we
25 talk about overcrowding, and there's no really good

1 definition of, What is overcrowded? I mean, I think we all
2 know individually, you know, when there's two or the three
3 families living in a house, there's no question to me that
4 that's not overcrowded. But to record that data, we just --
5 there's no real strong requirement to record that data. And
6 there may be -- and I think this is also extremely
7 important -- in Minnesota there's an organization that has
8 worked with the tribes -- and those of you here from
9 Minnesota may have experienced this -- a foundation was
10 involved and worked with the tribes in Minnesota, and they
11 actually provided funds to the tribes to do the surveys
12 themselves.

13 They created a survey to go out. And they covered
14 the whole state. And this report is available, and we'll
15 try to maybe post that on our Web page. I think it's a
16 really great platform and a really good experiment, if you
17 will, to really show how this actually can be done.

18 And we are looking at that very seriously because
19 PDNR and HUD is going to be the doing needs assessment
20 starting later this year. We will be doing workshops. We,
21 being ONAP, will be doing workshops, six workshops, maybe
22 seven, starting later this year to go out and gain more
23 information from you as to what the needs are.

24 And the needs are more than just counting housing
25 units. The needs are looking at, what does it take to

1 create these units? We're talking about transportation;
2 we're talking about infrastructure. You know, there's a
3 variety of things we're going to be looking at and will be
4 asking your input to help identify these in your respective
5 regions. And then we'll look at these. We'll look at the
6 common threads.

7 But also, I think this information is going to be
8 very valuable, not only to -- to us in our formatting and
9 beginning to formalize the actual needs assessment that PDNR
10 will be conducting but it also, I think, puts on notice the
11 Department of Transportation, Bureau of Indian Affairs, IHS,
12 you know, what their respective roles should be in
13 coordinating some of our activities among agencies to help
14 you address the issues in your respective communities to
15 overcome some of these barriers or to improve what you're
16 already doing to produce better housing for our respective
17 communities.

18 And one of the goals, again, is that that link
19 between you and HUD and Congress is extremely important.
20 And we're hoping that this eventually will be improved, but
21 it's got to be improved based on the kind of data that we
22 get. That's really the foundation of all of this, and that
23 really, then, opens up communications, I think. And there
24 won't be -- there shouldn't be any huge questions as to, you
25 know, the justification internally when we begin to

1 formulate our budgets because we'll have the data, because
2 it's also -- it's just not -- Congress obviously plays an
3 important role, but we also have to -- internally have to
4 justify the number we provide to the assistant secretary and
5 in turn to the Secretary and to OMB in formulating the
6 President's budget for coming fiscal years. Thank you.

7 FACILITATOR: Sandra?

8 MS. HENRIQUEZ: Xavier, we have not met
9 formally -- well, we sort of did but not fully formally.
10 And the conversation about the reporting and the disconnect,
11 for me is very troubling.

12 So I checked with staff. We've not done a formal
13 briefing with you. I'm going to say right now we will do
14 that. Staff will set that up. We do provide an annual
15 report to Congress. We'll make sure that you are CC'd and
16 your senator is CC'd. But we will figure out where those
17 disconnects have been, and we'll just now move forward and
18 make sure that all of these things begin to lock the way
19 they're supposed to.

20 And I do want to, sort of -- really, we take it
21 seriously -- we've heard me say as well -- and so it was
22 good to have someone representing, you know, sort of,
23 senator -- a senator's office and a committee that -- I
24 understand the spirit and intent of NAHASDA, of the law.
25 And we take it seriously. We take consultation seriously.

1 But it is also the nature of the beast of federal
2 government that in providing federal dollars, if you talk to
3 folks in public housing authorities, we get all up in
4 people's business, as it is said. We're hoping to do less
5 of that in the public housing side. But again, whether it's
6 statutory or regulatory, we don't want to use it as a
7 hammer. If staff is using it as a hammer, Rodger and I
8 would like to know that. We don't see it used as a hammer.
9 We see it as an ability to tell the common story, and why is
10 it different in Oklahoma than it is in Alaska. What are
11 those differences? We know they exist, but how do we tell
12 that and what -- as he said, what's the money doing? How is
13 it being used? How effectively? How timely?

14 So we would like you to be as forthcoming as
15 possible in telling that so we can take all that information
16 and tell the best possible story to leverage the best
17 possible amounts of money to do the best possible work
18 because that's what we're here to do.

19 FACILITATOR: Xavier?

20 MR. BARRAZA: Thank you, Sandra and Rodger. I
21 probably should have clarified that I understand those
22 reports are there and I have them and I've read them.

23 One of the other disconnects, not necessarily is
24 HUD's fault or anybody's fault, is the way it is reported
25 doesn't necessarily say the housing assistance or the

1 infrastructure. So there is those three big things. But
2 when in Congress, it says -- you know, as they see it, there
3 is these three things that are reported, but there's a big
4 amount of money that's missing. We know that it goes to
5 infrastructure and housing assistance and loan down
6 payments; they don't.

7 MS. HENRIQUEZ: So we need to tell the story
8 better in our report --

9 MR. BARRAZA: Yeah. Yeah. That's what I meant
10 when -- the reporting and disconnect. And to Carol, for
11 census, you will be hearing. You'll get a call back. They
12 may not have to answer you, they have to answer us.

13 MS. GORE: Thank you very much.

14 MS. HENRIQUEZ: We all have to answer them.

15 FACILITATOR: Rodger?

16 MR. BOYD: Thank you. Just one last comment on
17 this and to follow-up on what Madame Secretary was talking
18 about.

19 I also wanted to point out that this data
20 collection and the information that is given to us and
21 eventually to Congress is not just a one way street because
22 what we're collecting goes also in the opposite direction.
23 It should be and will be shared with all of you so that you
24 can by region, by tribe, nationally, you also have the
25 information that we're compiling and we're developing,

1 whether it be in reports or whatever. I just think it's
2 really important to have that data shared with you as well.

3 So you know, please, keep that in mind because my
4 thought has always been -- I've talked to my staff about
5 this several different times and the administrators and,
6 that is, you know, when we go out and we're looking at data,
7 it really tells a story. It's not a matter of numbers.

8 And sometimes the story it tells will also raise
9 some flags, perhaps, so that we see an issue out there, and
10 we wonder, Well, why -- why is this an issue for you and
11 your community and not for another region somewhere else in
12 the country? And then that also helps us come in and take a
13 look at being able to maybe do better technical assistance,
14 maybe training is what it may be, or looking specifically at
15 different items to help you, as an example, build capacity,
16 maybe there's a capacity issue.

17 So it helps us then cite some of the issues and
18 hopefully -- and working with you to overcome those.

19 FACILITATOR: Leonard?

20 MR. TELLER: Good morning, again, committee
21 members and Xavier as well. Thank you for being here. And
22 Ms. Henriquez and Mr. Boyd and all the HUD staff.

23 This matter that we're dealing with and talking to
24 whether or not how little or inaccurate information is not
25 making its way to Congress has been a long-standing issue.

1 It has really been brought to the forefront a few years
2 back, if you all remember, when the PART matter programs
3 assessment reviews were happening, it clearly identified HUD
4 as not providing sufficient or accurate information. While
5 all the same time, all TDHDs and programs were submitting
6 their annual report.

7 And this really came before GAO and OMB and this
8 is where a lot of this information started to surface more
9 and more. And it's continued to brew, and it needs to be
10 addressed in some fashion to where the information is --
11 there's a continuous flow of information being fed to
12 everybody on the Hill. It needs to happen, and I believe
13 that we have people around the table that can at least begin
14 to create some sort of a coordination effort to ensure that
15 the vital information is being gathered and it is accurate
16 and is continually being submitted to members of Congress.

17 This is not a new issue. And I understand that in
18 housing -- Senate Housing Committee is really taking a
19 serious look at this matter. And I agree we should have
20 involvement in it because it's in the vital interest, but --
21 not currently but for the future of Indian housing as well.
22 And in the same vein, that was an issue that was brought up
23 regarding funding level status encumbrances, all of this has
24 to play a key role. That's why we take this matter very,
25 very serious. Thank you.

1 MR. ADAMS: I don't want to cut off anyone else if
2 they want to make comments. I think this was good
3 discussion, appropriate discussion.

4 If we're ready to move on, I just want to thank
5 you, Xavier, for being here with us today. Go ahead.

6 MR. BARRAZA: Yeah. I would like to thank
7 everybody for having me. I'm pretty accessible. You can
8 call me any time. I'll give my information. The gentlemen
9 to your left your and to your right, I'm pretty sure, have
10 my information now and you can ask for it. Rodger has it.
11 I know Jason has it. So if you need it, just let me know,
12 the card, just call me.

13 I'm not a -- as you know, in Congress we have
14 these black things that we all hate, so if you e-mail us, we
15 always have this thing called -- so yeah. It's called 24/7.
16 Don't necessarily love it, but it's our job. I respect it
17 like my job I'm sure -- but thank you.

18 MR. ADAMS: Thank you, Xavier.

19 I wanted to have a follow-up comment to the point
20 Leonard made. Just to let the committee know that -- and I
21 don't know if Jennifer touched on that. I apologize for
22 being in and out this morning -- but as part of the
23 workgroup, tribal workgroup that worked on the form, the
24 PART issue was very front and center to us when we started
25 our work five, six, years ago. And so that was something

1 that was -- and on your form, if you'll notice, the
2 one-pager that had all the items listed that should be where
3 we titled as "Optional," Items 73 and 76, it says "PARTS"
4 after that and that's what that's referencing to. We tried
5 to formulate those forms based on requirements of
6 information for the PART assessment. And that was really an
7 issue that we tried to address as part of that workgroup
8 too, was driving those documents to be -- to be included.

9 With that, Mr. Chairman, I think we talked
10 yesterday about an appropriate time to break. Maybe this is
11 one of those times to, then, break for lunch and then come
12 and then start the negotiation on this issue.

13 MR. COYLE: Sounds like a good idea, Jason. Why
14 don't we break for lunch and come back at one o'clock.

15 Would that give everybody time?

16 (A luncheon recess was taken at
17 11:47 a.m.)

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1 SEATTLE, WASHINGTON; THURSDAY, JUNE 10, 2010

2 1:13 P.M.

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5 MR. COYLE: Jason, are you ready to proceed?

6 MR. ADAMS: Yes, sir. As ready as we'll ever be.
7 Jack?

8 MR. SAWYERS: One thing, you've got a lot of
9 issues. We're not going to hold you to two hours, are we?

10 MR. ADAMS: Well, that was going to be my first
11 suggestion here.

12 MR. SAWYERS: I think that you need to have, at
13 least, the rest of day.

14 MR. COYLE: That will be two hours, Jack --

15 MR. SAWYERS: Well, then we need to extend it
16 because you're not going to get through it in two hours and
17 it's important.

18 So I'm making the suggestion that we give at least
19 four hours and then evaluate it from there. And I'd like
20 consensus on that.

21 MR. ADAMS: If you want to hold on that, Jack, I
22 was going to maybe propose something that might -- since we
23 took the time this morning to go through every item, item by
24 item, even the items that are listed as optional on our
25 sheet -- and I don't want to short circuit anything that

1 anyone would have concern on those, if they held back -- but
2 if we want to in a spirit of getting this out there so
3 we can use it, is these 15 items that we've listed --
4 there's 14 listed here and then I understand there was
5 comments on No. 48, so I put it on the list -- those 15
6 items would be stamped as optional if that's something that
7 the group would consent to, then our work would be done.

8 But if people want to take the time to go back and
9 revisit all 15, then you're probably right. We don't --
10 that the two-hour limit wouldn't be enough time so that
11 would be eight minutes an item.

12 So I throw that out there as an option.

13 FACILITATOR: Okay. Let's hear some reaction to
14 that.

15 Marvin?

16 MR. JONES: Marvin Jones. Jason, would the
17 proposal also include we continue negotiating those items
18 for, you know, the -- it would be a temporary fix in order
19 to keep the process going, and then we could have some
20 further discussions about negotiating whether or not some of
21 the things would actually become a regulation?

22 MR. ADAMS: Again, that would be up to the
23 committee, if you wanted to do that, at least for this --
24 what I'm proposing is we stamp these optional to get the
25 form out the door and get it used, and then the committee

1 could still talk about those things, and ask us as a
2 workgroup even, to come back and look at those pieces and
3 decide whether they should then become regulatory or not and
4 that would be a workgroup project. That's the proposal.

5 FACILITATOR: Larry?

6 MR. COYLE: Madame Secretary, do you think that's
7 a possible solution so we get this boat out in the middle of
8 the stream, and -- so we don't hold it up for two years?

9 MS. HENRIQUEZ: For a total of seven? No, sorry.

10 I think that that's fine. I -- I'm looking at
11 my -- some legal counsel for a moment as well. I think it
12 probably would work, but I guess the real question I have,
13 which we talked about a little bit earlier before lunch
14 was -- I guess I should ask this question this way to the
15 committee: If those issues -- those issues are optional, I
16 would ask that the committee consider keeping them --
17 keeping this report as is, this form, and letting that get
18 posted and going through the notice and comment period.

19 And I guess, the suggestion then is to do whatever
20 is outstanding on this list -- become regulation to comport
21 with what the report looks like now, is that my
22 understanding?

23 Am I correct or incorrect?

24 MR. ADAMS: I think you're correct in the sense
25 that we would then continue looking at those pieces and, as

1 a workgroup, decide whether they should be included in
2 regulation or not.

3 MS. HENRIQUEZ: Just one moment.

4 FACILITATOR: Madame Secretary?

5 MS. HENRIQUEZ: May I? Here's the struggle: What
6 you proposed seems appropriate, but -- but leaving these
7 optional, waiting for regulatory or some type of regulatory
8 notice to buttress them and make them, therefore, not
9 optional, means that while they are optional, however long
10 it takes to get the regs out and all that stuff, because
11 they are optional means that the tribes will have the
12 ability not to report, which means we don't have a full
13 set -- a full data set of what we're trying to report both
14 to Congress and beyond.

15 And so I guess I should ask: Are people willing
16 to fill in all the optional stuff anyway, as if it were
17 under regulation? But I think that people not at this table
18 would not feel so constrained by that request. So I'm
19 trying to figure out how we get the data that you and we are
20 interested in getting, that Congress is interested in
21 getting, while the discussion plays out.

22 And I don't have an answer. I'm looking for
23 suggestions.

24 MR. ADAMS: If I could, Jan?

25 I just made that proposal for the simple fact that

1 I thought it would, then, help us get the form out. I'm
2 trying every way possible to try to get this form out
3 because I've heard from so many people that we're ready for
4 this. It sounds like we just need to begin negotiating and
5 try to finish the pieces, each piece individually.

6 FACILITATOR: Sandy?

7 MS. HENRIQUEZ: So I really am sensitive to where
8 Jason wants to go, and that's where we would like to get to
9 as well. So I think we should continue to work on these
10 pieces, but I would like to have the committee bless this so
11 we can go ahead and get it published, get notice and
12 comment.

13 We will figure out some of the structure. It just
14 means that we're going to be lacking some critical
15 information that we think it may take a while to get in, or
16 we might think about what regulations and notices and
17 guidance we could put out in the interim.

18 MR. ADAMS: So does what you're asking for now, is
19 that then asking we put it out, and these things not be
20 marked optional, that they're required, and then we continue
21 our work to look at these 15 pieces and put regulation
22 behind them? Because I, personally as a committee member,
23 am fine with that.

24 MS. HENRIQUEZ: The suggestion would be that
25 everything that's marked optional in this document remain

1 indicated that way as it gets published with the exception
2 of -- there are three: Sections 16, 17, and 18. And the
3 intent is really to use that information to support
4 congressional appropriations, responses to Congress, et
5 cetera.

6 FACILITATOR: Just as a matter of protocol, it
7 sounds like we're entering negotiations --

8 MS. HENRIQUEZ: And by caveat, we be would
9 willing, then, to still discuss it, but we would like to get
10 people using it and reporting against it.

11 FACILITATOR: Okay. I've got a bunch of hands
12 here. Carol, Marvin, and then Karin.

13 MS. GORE: I'm trying to figure out how to start
14 my conversation. I want to be respectful to the workgroup
15 and those that are eager to get a new reporting format on
16 the ground.

17 But it's a very important process, and I
18 personally think it's important to get it right. I'm
19 uncomfortable sending a form out for public comment that we
20 will then potentially adjust and have to send back out for
21 public comment.

22 It feels like blind faith, and it feels a little
23 like there's some presumed view of how the committee might
24 respond. I'm not necessarily comfortable, as a committee
25 member, thinking we would send out a form that had

1 "optional" boxes for tribes to complete. Somehow that
2 doesn't feel right to me either and maybe that's just
3 because I haven't been in your workgroup, Jason, so I
4 apologize for that.

5 But I also think there were some conversations
6 during the technical presentation today that caused me
7 concern. I -- especially, Judith, you raised the issue on
8 square footage. And I think -- I was sitting here listening
9 and thinking about what is the filter for looking at the
10 items, and I was thinking that, first of all, are they
11 voluntary or not, would be one step.

12 Second, is it duplicative? Are we already giving
13 that to HUD? Do we need to do it again?

14 Third, does it help to tell the story?

15 And, four, does it help to tell the right story?

16 And I think those are very important discussion
17 items for this committee. And it's been brought to this
18 committee as a decision. If it's not the intent to engage
19 the committee in those decisions, then it should go out for
20 public comment, and we can all feel free to comment on that
21 public comment.

22 I don't think we can do both. I guess that's
23 where I'm comfortable saying, We're going to send for it
24 public comment and ask HUD to respond to that. And there's
25 been, I recognize, engagement across the country in that.

1 But, at the same, we, as a smaller committee, are also going
2 to negotiate. So that doesn't feel balanced to me. It
3 seems to me it's either this group or not this group.

4 If the public comments but we intend to develop
5 new regulations that will also impact their comments, maybe
6 I'm not following this properly, but that just doesn't feel
7 right to me.

8 So thank you for letting me comment.

9 FACILITATOR: Okay. Can we stay on this subject?
10 Marvin, did you want to respond?

11 MR. JONES: Marvin Jones. The assistant secretary
12 made reference to 16, 17, 18. What was -- are we sections
13 or pages?

14 MS. HENRIQUEZ: Sections, I'm sorry.

15 MR. JONES: Sections.

16 MS. HENRIQUEZ: Section 16 begins (Inaudible.)

17 MR. ADAMS: On our list, Marvin, it's Items 72,
18 73, and 76 that would not be optional.

19 MR. JONES: 72?

20 MR. ADAMS: 72, 73, 76 would not be optional. The
21 last three items on our list would not be optional.

22 MR. JONES: Thank you.

23 FACILITATOR: Karin?

24 MS. FOSTER: I think a lot of what Carol says has
25 merit, and I agree with a lot of it. I don't see the public

1 comment, though, end our dealing with these issues as
2 necessarily being mutually exclusive because I think this is
3 a good opportunity to have input on some very important
4 matters. And I think that we should just get into it and
5 talk about it. I don't think we should be afraid of how
6 we're going to get bogged down if somebody has a comment.

7 And I think we should all be mindful of the fact
8 that, I mean, it's a laudable goal to get this done. If we
9 could get through it today, I think we should try to do it.
10 I will try to do it, I'll try not to give long speeches.
11 But I wasn't comfortable speaking to what was being
12 discussed from HUD's -- you know, what Jen was going through
13 today because I didn't feel we were in negotiations so I was
14 holding back comments. And I think others were too.

15 And so I just think this is a really great
16 opportunity to talk about those things. I think we should
17 just do it and be brave. And I think we'll come out with a
18 good product in the end. Karin Foster, Yakama.

19 FACILITATOR: Jason?

20 MR. ADAMS: Are we ready to start then? We can go
21 there, and we'll go.

22 FACILITATOR: I think we're ready to negotiate.
23 Marvin?

24 MR. JONES: Marvin Jones. Before we do that,
25 I've -- I'm trying to figure -- you know, in all the other

1 presentations, we brought language, you know, and then we
2 discussed that. We're not -- we don't have any language.
3 So I've, throughout the last few weeks, been asking about
4 that. And, in fact, I asked HUD earlier, a couple of days
5 ago, about, okay, do you have, you know, the suggested
6 language? And I'm still not sure as, you know, how we got a
7 form here, but -- an example would be, you know, if we were
8 going to adopt that form, then we have a regulation maybe
9 saying, how is it do you -- how does a recipient get an
10 Indian Housing Plan adopted? Answer is: You know, they
11 must fill out and complete such-and-such form, you know.

12 And so I'm still not clear yet as to, you know,
13 what are we working -- what are we working towards, and what
14 are we going to end up with.

15 FACILITATOR: Marty, you wanted to say something?

16 MR. SHURAVLOFF: When we start negotiating this,
17 the instructions are going to be a part of those discussions
18 as part of the Indian housing as part of this, right? Okay.

19 FACILITATOR: I'm sorry, Phil?

20 MR. BUSH: Okay. I'm really confused now. Here's
21 two different comments. The first comment, Jack did ask for
22 additional time. I mean, I don't want that to go by the
23 wayside.

24 The second one, to my understanding that we're
25 looking at a form, an Indian Housing Plan format, and we're

1 going to consider the format with the instructions so HUD
2 can release a public notice, solicit public comment, and
3 then write conforming regs afterwards, negotiate conforming
4 regs afterward.

5 Is that what I just heard?

6 MR. ADAMS: Jennifer, go ahead.

7 MS. BULLOUGH: Thanks. What we've been hearing
8 around the country is that people want to move to this form
9 because it will alleviate a lot of burden, and so HUD was
10 moving towards that. And -- but at the same time this
11 negotiation was also happening. And so in respect to the
12 committee, we stopped moving towards implementation so -- to
13 allow input from the committee for this immediate
14 implementation.

15 It was always our intention, because there are
16 statutory changes and this committee is here to address and
17 address those statutory changes, to -- to accommodate any
18 regulatory changes that came out of this committee at the
19 time that those regulations come into effect.

20 For example -- a good example would be think back
21 to the de minimis notice that was -- that PIH put out last
22 year about this time, this was an item that was regular --
23 was statutory change. We knew that it would greatly relieve
24 the burden of our recipients. We wanted to get it out as
25 fast as possible. We issued a notice, but we also, as you

1 well know, intend to honor any regulatory changes that the
2 committee comes up with that will be in place in 2013,
3 somewhere around there by the time we go through the
4 propose, comment, OMB approval, final rule, effectiveness
5 process.

6 So it's similar to that process. We, HUD, want to
7 move forward to relieve the burden of the recipients and,
8 also, eventually will honor, of course, any product that
9 comes out of the committee, but the time frames will -- you
10 know, any regulatory change will take a while to implement,
11 we're talking 2013, 2014, into these forms.

12 In the meantime what we're asking for right here
13 is that committee give us their approval to move forward
14 with the -- with the form. And if there are some changes
15 that we can make to the form as it exists right now to make
16 it -- make the committee happier with the implementation of
17 this form now, we will try to accommodate them.

18 Now, remember we also -- we are required, as a
19 government entity issuing a form, to go through the
20 Paperwork Reduction Act process, OMB's Paperwork Reduction
21 Act process, which requires that there be a public comment
22 period. So that's part of the process.

23 If we do an emergency Paperwork Reduction Act
24 approval request, that's only good for six months, and then
25 we have to do a formal -- the longer comment period for the

1 Paperwork Reduction Act.

2 So that's -- I think what we're looking for right
3 now is the committee's blessing on the form and format and
4 the implementation of this as quickly as we can do it, to
5 relieve the burden on the grantees, and then we will
6 subsequently, through this negotiation process, implement
7 any regulatory changes that take place.

8 FACILITATOR: Sandra?

9 MS. HENRIQUEZ: I just have a question for
10 Workgroup C. I'm referring to this chart. And there are
11 things on the chart for Workgroup C -- maybe I've got one
12 that needs to be updated -- things that you did talk about,
13 but you wanted the steering committee to work on, like
14 tribal program year, performance objectives, things that
15 maybe -- would there be more comfort reporting that stuff
16 out which then informs this report? I just don't know.

17 We did talk about taking it out of order because
18 we wanted to get this rolling, but I don't know if it's more
19 confusing or not. I'm sort of stuck. I don't know if that
20 helps the process or does not help the process.

21 MR. ADAMS: Well, again, the hope was that we
22 would get to a point where we could approve this form in
23 some fashion that would then allow you to issue your notice
24 and allow this to be utilized. I don't think that's going
25 to happen today realistically and, thereby, happen this

1 meeting and so, thereby, pushing this back a month.

2 So maybe in the essence of getting things moving,
3 we just table this issue and move onto those other issues
4 that Workgroup C has, and then our workgroup can reconvene
5 next month here and take another run at these pieces and
6 come up with some language for those items that are
7 regulatory and go from there.

8 I mean, we've spent 20 minutes talking about this,
9 and we could have been negotiating so...

10 FACILITATOR: Marty?

11 MR. SHURAVLOFF: Thanks, Jan. Marty Shuravloff.
12 I was actually going to bring up what Jason has just brought
13 up. And I guess my question is: Does it have to be done at
14 this meeting, or what are the consequences of bringing it
15 back next month and having it done?

16 MS. HENRIQUEZ: The workgroup was really trying to
17 accommodate HUD on a timetable to try and get this report
18 through a public process in time for as many tribes to begin
19 to use it as soon as possible.

20 We sort of missed the -- because of the recession,
21 based on process, we missed the October 1 start dates, but
22 we're trying to pick up the January, the March, and the --
23 or January, April, and Julys or whatever. You know what I
24 mean. Anyway --

25 MR. SHURAVLOFF: And so I guess my question was if

1 we did it next month, could you still meet those time frame
2 requirements, though?

3 MS. HENRIQUEZ: We would forego October, unless
4 people want to do it voluntarily and so that they catch up
5 when it came through the process. We would lose -- and we
6 have to make the same comments for January. We'd lose each
7 quarter. So we would lose another quarter in January.

8 But I think in terms of preserving the process and
9 making sure people are comfortable, I -- I guess I would
10 rather honor the process and people are comfortable as
11 opposed to try jam something -- you know, because it
12 feels -- so I do appreciate the committee -- the workgroup
13 trying to accommodate HUD's request. It just didn't flow as
14 we thought it might.

15 MR. SHURAVLOFF: I just agree with Jason. I don't
16 think we're going to get it done today.

17 FACILITATOR: Jack?

18 MR. SAWYERS: Why don't we open for negotiation
19 and talk about what -- you know, where the heartburn is, and
20 we may be closer than we think. And we played around with
21 it for 20 minutes. Let's play around for another hour and a
22 half and see if we have -- those items that are really big,
23 you've talked about in your meeting for a long time. And
24 I'm just saying that let's go, and if it doesn't work, you
25 know, it's like vaccinations. Sometimes they take and

1 sometimes they don't. Let's start it and try it.

2 FACILITATOR: So I think we have to make a
3 decision as a committee. What's the committee's pleasure?
4 Would you like to postpone until the next meeting or do you
5 want to start the clock and see where we go with this.

6 COMMITTEE MEMBER: Jan? Marvin.

7 FACILITATOR: Marvin?

8 MR. JONES: Marvin Jones. It would be fine with
9 me to do as Jack suggested. But before that, I'm -- I would
10 still like somebody to say, okay, what is -- what are we
11 going to produce, you know, because unlike, you know, all
12 the rest of the presentations, we have a regulation in front
13 of us. You know, and so -- and, you know, we can start
14 negotiating, or are we suggesting that, okay, let's open
15 negotiation and then we'll figure that out?

16 If that's what we're going to do, I'm fine with
17 it. Otherwise, you know, I'd still like to say, are we
18 going to produce a -- some -- a regulation adopting this
19 form or is that what some people are going to propose or
20 what exactly are we going to end up with, with a successful
21 negotiation?

22 FACILITATOR: If -- let me follow up with that.
23 If -- procedurally, if we were to put this off until next
24 meeting and your workgroup, then, would actually be working
25 on these items to come up with consensus on what you would

1 do with each of these items, is that what would happen,
2 Jason?

3 MR. ADAMS: I would assume so, if that's what the
4 workgroup -- I mean, it would be, what I would see is the
5 workgroup would go back and look at each of these pieces.
6 And in those areas we wanted to keep and that aren't backed
7 by statute, then it would get backed by regulation and we
8 also produce language that would accept the form in
9 regulation, even though HUD clearly makes the argument every
10 time we touch on this issue that statute says that the IHP
11 is a format prescribed by the Secretary.

12 And so I think, in my own opinion, HUD allowed
13 this workgroup to visit the Indian Housing Plan in its
14 current form as a courtesy to us. They could have let the
15 notice stand. They could have proceeded. This could have
16 been put out there for us without having to come to this
17 committee. They did this as a courtesy to us to give us a
18 chance to review it, and we're not getting to a place to
19 where we give a thumbs up or thumbs down to it. But again,
20 I believe that was courtesy to us because the Secretary has
21 stated that the statutory language says, In a format
22 prescribed by the Secretary.

23 FACILITATOR: Karin and then Marvin.

24 MS. FOSTER: Just a quick follow-up to Jason's
25 comments.

14 But I wouldn't be comfortable giving a blessing
15 until we'd actually gone through it.

17 MR. JONES: Okay. I guess I'll repeat what I said
18 in Denver. I'm going to read this time. Section 102,
19 Indian Housing Plans from the NAHASDA. 102(e) Regulation
20 pertaining to the one-year plan requirement, and I believe,
21 if I'm not mistaken, HUD agrees with this:

25 I don't think I need to read 106 regulations,

3 MR. BUTTERFIELD: Mark Butterfield, Ho-Chunk
4 Housing and Community Development Agency. I respectfully
5 disagree with Mr. Adams, and I do agree with Marvin on this.

15 Yes, there are many things that I heard that this
16 data set may, in fact, persuade some members of Congress,
17 perhaps not Mr. Coburn of Oklahoma, but some members of
18 Congress that Indian housing is needed. And so that would
19 be useful.

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1 doesn't TDHEs.

2 I think these are reasons why we should have
3 everyone look at it, circulate their comments prior to the
4 next meeting in Seattle, and let's move on to those items
5 which are prepared and ready for more concrete action in
6 regulation, so we can accomplish something today in this
7 remaining hour to two hours that we have left. Thank you.

8 FACILITATOR: Okay. Is that in response to
9 Mark's...?

10 MS. HENRIQUEZ: Yes.

11 I just want to say, I want to just be very clear
12 from a HUD perspective. One, the plan clearly says, in
13 102(a) that the Secretary shall provide the plan and its
14 contents and tribes have to submit. That is separate and
15 apart of the context of Section E that talks about
16 regulations. Under the -- that should be established
17 pursuant to Section 106.

18 I just want -- and the negotiating the plan -- the
19 report, does not mean, from our perspective, negotiating
20 either the Secretary's authority or that we're negotiating
21 the language of the instructions.

22 If we negotiate and look at the questions you have
23 around the form, that's one thing. But instructions are not
24 regulatory and instruction -- and statutory. They are
25 simply guidance, you know, sort of a road map of how to fill

12 FACILITATOR: I think, Jason, a comment?

23 FACILITATOR: Marvin?

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1 what Jason originally proposed at the beginning of this, I'm
2 fine with it. I'm fine with proceeding and making these
3 optional and starting to -- utilizing the form. We've
4 already -- already completed the form. I think that we
5 should continue negotiating. Maybe all of these items end
6 up in regulation. I think the law clearly says that we're
7 supposed to negotiate the content.

8 And so I'm ready and willing and able, I think, to
9 proceed with it and continue negotiating, continue even to
10 consider and advocate for the inclusion of information
11 beyond what is required by the law because I do think it
12 would be good for the program to establish some of those
13 information requirements.

14 FACILITATOR: Carol?

15 MS. GORE: Maybe if I gave two examples it would
16 be easier to share why I'm uncomfortable.

17 If you look at section -- or I guess they're
18 referred to as lines -- Line 72, which in the form refers to
19 jobs supported by NAHASDA. The sidebar in the actual form,
20 Line 72 -- I think I can just talk it out whether you're
21 with me or not -- there's a sidebar that says, Not required
22 by statute to be in the IHP. Yet the instructions state,
23 Unlike in the past, this information is no longer optional.

24 I think there's some conflicts, and I recognize
25 that we're not negotiating. I want to give one more example

1 because the next example is more in line with Judith's
2 comment, and it really, for me, is about telling the right
3 story. And I can tell you for Alaska we have a very
4 specific example.

5 Line 73, in the last column, refers to total cost
6 per square foot. When I read the instructions to that,
7 there is nothing that defines what costs go in. And let me
8 explain why that's important.

9 In some cases, tribes are purchasing land; in some
10 cases they're not. In some cases there's volunteer labor;
11 in some cases there's not. It's not just a number of rooms
12 or number of bedrooms. It might include landscaping; it
13 might not include landscaping.

14 And so if we're going to tell a story, I want to
15 be very careful that we're not setting a precedent without a
16 definition. When we're talking a cost per square foot, that
17 will absolutely impact our story. I'm not afraid to tell
18 the story. I just want it to be the right story, and I want
19 folks to understand what elements are considered in that
20 cost.

21 To me, I think item -- or Line 73 is the biggest
22 issue for me in the list. And I could probably get over the
23 rest of them, but No. 73 is important to Alaska, in
24 particular. We've had recent challenges on that very story.

25 FACILITATOR: Thank you.

1 Jason? So what's the pleasure of the committee?

2 Marvin?

3 MR. JONES: Marvin Jones. I think, just as Jack
4 suggested, at least let's start negotiating and maybe we
5 only do it five minutes and throw our hands up and say let's
6 pass it on to next time.

7 FACILITATOR: Okay. Larry?

8 MR. COYLE: There, again, I'm with Marvin on that.
9 I think there's an answerable solution to your dilemma, too,
10 on the square footage, Carol, and I think it can be brought
11 out real easy, so...

12 MS. GORE: I'm ready for that.

13 FACILITATOR: So is the committee in agreement,
14 we'll start negotiation on this? Any opposed?

15 Jason, can you -- would you recommend that we
16 start with the items that are optional?

17 MR. ADAMS: I recommend --

18 FACILITATOR: I'm sorry. Mark?

19 MR. BUTTERFIELD: I voted "no" because I think
20 this is to going take too long. I think, basic, from a
21 time-management point of view that rushing to judgment to
22 get the form out, we already know it's going to be a tight
23 constraint. I was fine with -- so -- with the optional
24 stuff, you know. There's such a thing as an interim rule.

25 But I just don't think we're going to get this

1 done in the rapidly decreasing amount of time that we have.
2 And I was handed these instructions, which give me some
3 pause, because I haven't had a chance to thoroughly examine
4 them. So I think it would be better to take the time, as
5 Carol suggested, to review them because maybe some of these
6 things will drop out once I've had a chance to look at them
7 in some depth. But if you -- otherwise, I would be willing
8 to go forward with the optional stuff as Jason suggested
9 originally.

10 FACILITATOR: Yes. Okay. Marvin?

11 MR. JONES: Marvin Jones. So can we negotiate the
12 optional, and if somebody raises an option even, again, if
13 it's five minutes and see how far that might take us?

14 FACILITATOR: Any objection to that?

15 MR. ADAMS: Again, I thought that was the
16 proposal?

17 FACILITATOR: That was the proposal. Is that all
18 right, Mark? Can we just move forward through the
19 optionals?

20 MR. BUTTERFIELD: As long as we include No. 62 as
21 well.

22 FACILITATOR: Okay. We have 48 and 62 to add to
23 the optional list.

24 MR. ADAMS: The first optional on the list is Item
25 No. 26. It's under Section 3 it -- or 29 -- excuse me -- it

1 reads:

2 For recipients eligible to receive minimum
3 funds -- minimum funds, funding only, estimate the total
4 number of low-income Indian households, parentheses, any
5 Indian household at or below 80 percent of median income.
6 Enter number of low-income Indian households there.

7 FACILITATOR: Okay. Any comment on that one?

8 MR. ADAMS: And for the record, this is Jason
9 Adams, and I want to begin negotiations on these
10 optional items for the Indian Housing Plan.

11 FACILITATOR: So we have to decide whether we want
12 the leave that in as an optional thing -- or what are the
13 choices again, Jason?

14 MR. ADAMS: The options here, essentially, are you
15 can mark it as an optional item and leave it in the form,
16 you can remove it from the form, or we can leave as optional
17 and ask for regulation to back it up in the form.

18 At least that's my opinion.

19 FACILITATOR: Phil?

20 MR. BUSH: I just had a quick question. What's
21 the difference between the total in 29 and the total in 30?

22 MR. ADAMS: 30, Phil, is just checks. You're not
23 putting numbers in there. You're just checking those boxes
24 in B and C. If you have overcrowded households with
25 low-income --

1 MR. BUSH: So it's just a check?

2 MR. ADAMS: Yeah, you're just checking that box.

3 MR. BUSH: Okay. Thanks.

4 FACILITATOR: Marvin?

5 MR. JONES: Marvin Jones. Jason, just to --
6 again, to clarify, ultimately, I would assume you're going
7 to say call for consensus on all of the non -- what are we
8 calling them? -- optional items because those are required
9 by statute, and then whatever we decide on item by item on
10 the optional?

11 MR. ADAMS: We could handle it that way at the
12 end. I think that would be at the end once we get through
13 this.

14 MR. JONES: All right. Fine.

15 MR. ADAMS: Yeah. I think that would be an
16 appropriate way to handle it. Thank you.

17 FACILITATOR: Blake?

18 MR. KAZAMA: Yeah. With No. 29, I guess, first of
19 all what strikes me as minimum funding needs -- minimum
20 needs funding and, secondly, for example, in Alaska these
21 smaller tribes that are minimally funded are scattered in
22 many communities, so this is asking -- why is this here?

23 What are we asking for here, for especially
24 focusing on minimum tribes?

25 MR. BUSH: Formula (Inaudible.)

1 MR. KAZAMA: Yeah. Because it makes it really
2 hard on a small tribe to go out and gather this information
3 and to say, Okay, now we are a minimum tribe. You know what
4 I'm saying? To -- to, I guess, I'm trying to advocate for
5 the small tribe set up.

6 What's the purpose for this? Do they lose it, or
7 what is this?

8 FACILITATOR: Judy and then Marvin.

9 MS. MARASCO: It was my understanding, Blake, that
10 it was a regulatory requirement, and it's a regulation
11 through the funding workgroup that will be established in a
12 couple of years. So I'm not sure that there's much that we
13 can do about it until that committee is formed, and we
14 address it at that level.

15 I agree with you. I don't know why it's there. I
16 think it's cumbersome on tribes that barely survive. And,
17 you know, I would like to see it even moved as far to the
18 preamble from this workgroup saying that we find it
19 cumbersome and unrealistic for small tribes. But I'm not
20 sure, since it is a regularity requirement, that we can do
21 much about it.

22 MR. ADAMS: Judith, you are correct. I just
23 wanted to point that out in the regulation, what you're
24 referring back to is Regulation 328. And this specifically
25 is answering the issue on -- under (b)(2) which states,

1 Demonstrate the presence of any households at or below
2 80 percent of median income.

3 That's what this is there to answer or give HUD
4 the information for.

5 FACILITATOR: Marvin.

6 MR. JONES: Marvin Jones. Two things. First,
7 Blake, were you asking a technical question so -- or...?

8 MR. KAZAMA: Correct. Because it's listed as an
9 optional and we're talking about it as optional but it's
10 appearing not to be an optional issue. It seems to be a
11 statute or regulatory issue.

12 MS. MARASCO: It's optional under the statute but
13 not under the regulation.

14 FACILITATOR: Marvin then Jason.

15 MR. JONES: Again, the ideal is that it's optional
16 as to whether it has to be included in the Indian Housing
17 Plan. It -- you know, if it's in the regulation as a
18 requirement, it's stays in there. It's a matter of whether
19 or not it's -- the information is provided in the Indian
20 Housing Plan or APR form or not.

21 FACILITATOR: Okay. Steven?

22 MR. ANGASAN: It says "estimate," so I was
23 wondering if there's any penalty for mistakes, noncompliance
24 issues, or whatever.

25 FACILITATOR: Are there any penalties for

1 noncompliance with that?

2 MR. ANGASAN: It says "estimate." Who's going to
3 check it?

4 FACILITATOR: Phil?

5 MR. BUSH: Well, the way I read the rule, any
6 minimum funded tribe can just enter one as long as they have
7 one low-income family. You can estimate there's always one.

8 MR. ANGASAN: Sounds good to me.

9 FACILITATOR: Marvin?

10 MR. JONES: Marvin Jones. In the real question
11 we're not debating the original regulation and whether it's
12 good or not or how you comply with it or all of that stuff.
13 I think really the debate is: Do we want it in Indian
14 Housing Plan, IHP, format? Not whether it's a good
15 regulation, not whether we comply with it and all of that
16 sort of thing.

17 FACILITATOR: Shawna?

18 MS. PICKUP: Shawna Pickup. As a small tribe, I
19 would prefer it removed out of this, and I don't have a
20 problem going with it.

21 MS. HENRIQUEZ: So I just to -- for my own
22 edification, why?

23 MS. PICKUP: If it's not required to be in this
24 report, then why I should have to submit it? If you need
25 that information, then you need to provide other

1 documentation, and I answer it. If it's extra stuff for my
2 report, then why do I need to put it in?

3 Like Blake said, if you've got a small village,
4 you got to go out and count numbers. Now that's costing my
5 staff and my time.

6 MS. HENRIQUEZ: Sort of gets back to the census
7 issue, then. But wouldn't you want to know? Wouldn't it be
8 helpful to know? Isn't there something -- doesn't it help
9 you provide direction or out -- a series of outcomes or...?

10 I'm just really -- I'm stuck. Really, I can't --
11 I'm trying to wrap my head around -- it's here because we
12 thought it would be a convenience for people to put it in a
13 spot. It all comes in we can tally it and whatever.

14 I guess part of what I'm struggling with is,
15 whether it's optional or not, is it a helpful business
16 practice to help you think about your operation?

17 And that's I -- so I'm struggling with whether it
18 should be in or out. I'm really personally having a really
19 hard time with the notion. "Unless you tell me it's in, I'm
20 not going to do it." I just don't get that, just in
21 general.

22 FACILITATOR: Leon?

23 MR. JACOBS: Leon Jacobs. We just heard a
24 representative from Congress talk about needs and so forth,
25 maybe we need to think about it in those terms.

6 MS. PICKUP: In response to that, Leon, if the
7 Indian Senate is needing that information, then they need to
8 provide some type of survey to the housing authorities and
9 not make it any type of regulatory or anything like that.
10 If they're wanting that information, then they need to
11 provide their own forms, submit it out to the housing
12 authorities and ask for what numbers they would like, is the
13 way I perceive that.

21 FACILITATOR: Jason and then Leon.

22 MR. ADAMS: If I could, I just want to bring us
23 back to what I understand is the reason that this No. 29 is
24 in the form is because Regulation 328 says, What is the
25 minimum amount that an Indian tribe may receive under the

1 need component of the formula. (b) says to be eligible for
2 the minimum allocation described in Paragraph A -- Paragraph
3 A is the calculation of the section, An Indian tribe must,
4 one, receive less than 200,000 under the FCS component of
5 IHBG formula for the fiscal year and, two, demonstrate the
6 presence of any households at or below 80 percent of median
7 income.

8 So Phil's statement that if he just puts one in
9 there, answers the question. That you've demonstrated it.

10 FACILITATOR: Leon --

11 MR. ADAMS: But it's answering that question.
12 It's not gathering data essential to that or in any other
13 report. It's just answering that question.

14 MR. JACOBS: I would like to ask the
15 representative from Congress to make a comment.

16 MR. BARRAZA: If you're asking me whether you
17 should do it, I would say "yes."

18 And when you ask us about forms, if anybody has
19 ever visited us, there's only nine of us. We run all the
20 Indian affairs for the entire country on the Senate side.
21 That's why the agencies exist to help assist us so we can
22 help assist you.

23 I would even put in a place, under 30, and ask --
24 recommend that you include a number besides the checkmark so
25 we know how many overcrowded houses. And that would go

1 further to help define and give us background on how we
2 should change the definition of overcrowded or homelessness,
3 because if it's in two different sections, I can define it.
4 If it's just a checkmark, I can't.

5 FACILITATOR: Russell?

6 MR. SOSSAMON: Yeah. And, you know, this
7 information is already in existence. It's utilized in the
8 formula calculation. And, basically, this is just -- so
9 there's a number out there in which we're receiving funding
10 on already. That number can be entered here or if the
11 tribe, and many tribes do have better data than the census
12 provides in these areas, and this is an opportunity -- a
13 place where they can actually submit the data and have it
14 mean something, someone collected and utilize it.

15 So I don't have an issue with collecting any of
16 this data. My issue is wanting to make sure that the data
17 that's collected is put in its proper context and
18 interpreted as it was intended by the tribe that put it down
19 and can -- has some basis so that it can be utilized by the
20 tribes when we advocate individually or collectively by the
21 agency and be the appropriators.

22 So earlier, you know, my concerns was just with
23 looking at the impact that data will have and making sure
24 that it has the intended impact not unintentional
25 consequence. But I agree that this information needs to be

1 collected. And it probably needs to be codified and
2 required or not everyone is going to do it, and it won't
3 have the impact that we really hope this data collection
4 will have.

5 So with that, I just encourage everyone, let's
6 work through these and look for solutions to the challenges
7 that -- that these request for data present to us.

8 FACILITATOR: Blake?

9 MR. KAZAMA: Yeah. I'm -- I agree in part with
10 what Rusty is saying. You know, we currently have a
11 formula. These numbers -- there are -- there's numbers that
12 exist to help because of allocation.

13 What I see in this, it penalizes a small tribe, a
14 minimum funded tribe, who already has minimum funds, to go
15 out and exercise -- if we can do what Phil suggests, put the
16 number one, then it's no sense. You'd say, what's the point
17 of this, first of all, because we all going to put one and
18 we check the box.

19 My concern is some of our tribes, in order for us
20 to get this number, will have to travel over 2,000 miles per
21 tribe. And when you consider the numbers of tribes and the
22 distance and the cost, to penalize that small tribe I think
23 is unfair. It's not as simple as getting in a car and
24 driving a half a block and counting heads on a reservation.
25 It is literally getting on jets, small planes, and commuting

1 in remote distances to come up with this number.

2 If you want one, we can do it in our office. But
3 what is the point? That's my statement.

4 FACILITATOR: Sandra?

5 MS. HENRIQUEZ: So let me just ask a question,
6 because let's say you don't have to answer 29, you don't
7 have to put it in this -- on this report in this space, but
8 you still have the regulation. So how do people now answer
9 that question, which is statutorily required, in some other
10 way?

11 What do you do?

12 MR. BUSH: It's in the current Indian Housing
13 Plan.

14 MS. HENRIQUEZ: Okay. So understand --

15 MR. BUSH: I'm sorry, Madame Secretary.

16 MS. HENRIQUEZ: That's fine.

17 MR. BUSH: Under the current Indian Housing Plan,
18 you don't enter a number. The tribe signs a certification
19 that they have a need. That they have at least one family.
20 They sign the certification -- a minimum funded tribe signs
21 a certification that that they have a need.

22 MS. HENRIQUEZ: So you could -- you put one in
23 here and then do all the checks and sign a certification
24 that you have the need?

25 MR. BUSH: Well, no. Under the current -- your

1 question was, how is it currently done?

2 MS. HENRIQUEZ: Right.

3 MR. BUSH: There isn't a box in the current Indian
4 Housing Plan format. There's just a certification that they
5 check and say, We have a need.

6 MS. HENRIQUEZ: And, therefore, you get the
7 minimum amount?

8 MR. BUSH: Correct.

9 MS. HENRIQUEZ: With no numbers.

10 MR. BUSH: No numbers inserted.

11 MS. HENRIQUEZ: So if you left it blank and cited
12 the (Inaudible.) you accomplish the same thing, right?

13 I -- we saw this as a matter of convenience, of
14 administrative convenience for all of you and for us. A
15 repository in one document that we could then key in, tally
16 up, do a report, make the count, issue it all, and wouldn't
17 life be sweet.

18 I understand the dilemma, the distances, et
19 cetera. But does that mean you that -- that says to me that
20 there are lots of tribal members in the United States who
21 really are never counted. I understand the cost; I
22 understand all of the implications. But I think that's a
23 huge disservice. I just -- you know, I don't know how to
24 come at it. I just think that that's -- I see that as a
25 problem. I don't know how yet to address it and resolve it,

1 but I see as a problem.

2 And that we've got -- it's not just the small
3 tribes. Yeah. So I'm just struggling with this. But the
4 issue is somehow it has to be reported because it's
5 statutorily required. And the issue -- we were just -- if
6 you want us to take it out of the box, take the box out, or
7 ignore the box, or make it optional -- I don't know -- but
8 we still need the data one way or the other. And we were
9 hoping to get the data and the correct data.

10 FACILITATOR: We have a number of hands. Marvin,
11 yours was up longest, hopefully it's related to this issue.
12 Somebody shut off his mic, unintentionally. Something is
13 going on with his mic.

14 Marvin is yielding his time until we get to a
15 different issue. Does anybody else have a comment on this
16 particular discussion that Blake and Sandra are having about
17 the discussion of counting? Who had their hand up?

18 Yeah, Jason?

19 MR. ADAMS: This is a sign. My comment is -- you
20 know, it's again, the underlying statement is for receiving
21 eligible -- for recipients eligible to receive minimum needs
22 funding only. So this line item -- this item applies to
23 maybe 50 tribes in the country that are minimally funded,
24 correct? Yes.

25 FACILITATOR: Phil and then Karin.

1 MR. BUSH: Could I possibly just suggest that we
2 go make it similar to what we have now and just check the
3 box and certify that they have the need. And the other
4 parts of the Indian Housing Plan is already is going to
5 contain the data that HUD's looking for and Congress is
6 looking for. If it just goes to currently what we have, is
7 a certification from that tribe that they have the need,
8 when you read the rest of Indian Housing Plan, it shows
9 that -- the other required data that will be there.

10 FACILITATOR: Karin, Steve, and then Carol.

11 MS. FOSTER: I just wanted to echo one of the
12 points that Blake made about putting a one or a zero or some
13 number that don't actually have any relationship to reality
14 in that form.

15 If what we're doing is we're trying to setup
16 something that provides information to support Indian
17 housing, and what we're creating is something that says,
18 Small tribes only serve one person with all of the money,
19 you know, that's not a good story. So I don't think we can
20 do that.

21 FACILITATOR: Steve.

22 MR. ANGASAN: I think I'm probably the only one in
23 here that represents a small tribe, gets minimum funding,
24 maybe you too. There's no way we'll know how many people
25 are below -- I mean -- it's just -- we don't know.

1 FACILITATOR: It's unanswerable?

2 MR. ANGASAN: Yes. We would have to guess. It's
3 a very small tribe. There -- if -- and we're not going to
4 give you accurate information anyway, so why would we have
5 to do it? It just doesn't make sense for me.

6 FACILITATOR: Jack?

7 MR. SAWYERS: I don't understand. Don't you
8 certify your folks? Don't you know what their incomes are
9 without going 55,000 miles?

10 I mean, if they're on the waiting list you've
11 certified them some way. I just can't understand that you
12 wouldn't have a count somewhere in your -- even in your
13 archives that would tell you how many folks qualify because,
14 I mean, we know how many folks are -- and we're a small
15 tribe. We're not a minimum tribe, but -- you're trying to
16 make us that -- we're just -- I'm just saying that we have a
17 certification of folks that we do yearly or -- well,
18 periodically, let's say -- we know how many folks fit in
19 those categories. I don't see that's a problem. I don't
20 think you have to have a head count. I think you have to
21 have certifications.

22 There are places in -- that you can find that out.
23 All it is is drawing it from one area to other. I think
24 it's a bigger deal than you're making, unless you feel like
25 you're going to be penalized because you don't have enough

1 folks. And I don't think that's the intent at all.

2 MR. ANGASAN: What is the intent? What is the
3 reason for it? Give me a good answer for that one.

4 FACILITATOR: Carol and Judy?

5 MS. GORE: I don't think the effort here is to be
6 difficult and make a mountain out of a mole hill. We have
7 relied on census to collect data. And the tribes, whether
8 they're small, medium, or large count on census to collect
9 the data. There are some tribes that dispute census
10 collection and don't agree with those numbers, in which
11 case, they may decide to take their IHBG money, do a
12 recount, which costs them money, and resolve that with
13 census by disputing the number. But it is a process, and it
14 does cost money.

15 I would also suggest that even census has a
16 difficult time getting people to disclose financial
17 information. I think, you know, whether you're a tribal
18 member in Alaska or Oklahoma or California, and we are all
19 human beings and not everyone will willingly share that
20 information, and they may not be on a waiting list, Jack.

21 So I think -- I'm trying to think through the goal
22 here. The goal here is to provide information that is
23 helpful to the small tribes without creating a burden on
24 those small tribes. And when you think about a tribe that's
25 getting \$50,000, they really don't have enough money to

1 count -- to hire someone to help them count.

2 We already have census data. I mean, is that the
3 data? I mean, is that the data, and if so, do we -- does
4 HUD already have that data? I guess, I'm just trying to
5 figure out an easy solution here. But if they're just
6 certifying it, then, I'm with Phil. I think his suggestion
7 is an easy solution for now.

8 FACILITATOR: Judy and then Sandra.

9 MS. MARASCO: Judith Marasco with Yurok. My issue
10 still is that this is a regulatory requirement. And whether
11 it's put in this form or another form, this activity has to
12 happen, based on regulation. And I think that being able to
13 estimate these numbers is a kindness. Although, it may not
14 work for us in the long run.

15 We had a conversation out front where we, as
16 housing authorities and tribes, have depended on the census
17 for income information for the current IHP. This last
18 census did not include income information in it, so that
19 means we, as tribes and housing authorities, are going to
20 have to gear up and make sure we have that information at
21 hand to support what our needs are.

22 But, again, this is a regulatory requirement. If
23 it were or if it's not on this form, you still have to do
24 it. And it may or may not be right, and I think we need to
25 address the issue. I'm just not sure this is the time and

1 place to address it. I think it really comes under the neg
2 reg committee for formula.

3 FACILITATOR: Sandra and then Leon.

4 MS. HENRIQUEZ: She's right. It's obvious --

5 MS. MARASCO: I'm giving you that one, Sandra.

6 MS. HENRIQUEZ: Back at you Judy.

7 -- this has been on -- in the this form -- or it's
8 been a requirement for a number of years. So whatever
9 you've been saying already to report to honor that
10 requirement, and I'm -- I'm sure it's not one or zero, but
11 you've got to do something -- I think that estimate number
12 is probably just fine in that box.

13 Again, you're already required to give it to us in
14 some shape or form anyway. And until -- and it's in
15 existence until it's not a regulation anymore, not part of
16 the statute.

17 FACILITATOR: Leon and Karin.

18 MR. JACOBS: Leon Jacobs. I think everybody's
19 correct, the last two speakers. It's required.

20 But my concern is that -- it's not a concern, but
21 I would recommend that you think of it in this term: It is
22 when I was the tribal administrator for my tribe, it was my
23 responsibility to make sure that I tell our tribal story
24 effectively and so forth. And I think that's what this is
25 helping you do, is to tell your story as to what your needs

1 are on your reservation, in your service area.

2 And it's not HUD's responsibility to come out and
3 collect that data, so here's a mechanism that we can -- and
4 you can tell your story as to your needs and so forth,
5 whether it's in this format or another format. Personally,
6 I like this format because it's tied in with other
7 information that you can share about your needs and so forth
8 on the reservation or in your area.

9 So my recommendation is that we go forward with
10 this.

11 FACILITATOR: Yes, Karin?

12 MS. FOSTER: I would just like to speak briefly to
13 the language in 1000.328(b)(2) which says that to be
14 eligible for the minimum allocation an Indian tribe must
15 demonstrate the presence of any households at or below
16 80 percent of median income.

17 It doesn't say provide a total, the number of
18 households, at or below 80 percent of median income. It
19 says demonstrate the presence of any households. And I
20 wasn't here when that regulation was written, but what that
21 kind of says, I think, is if you can demonstrate that there
22 are any, that's all you need to show, which would be the
23 certification.

24 So I don't think that we do have a current
25 requirement in the regulation that there be a count.

1 FACILITATOR: Marty?

2 MR. SHURAVLOFF: Marty Shuravloff. Yeah, Jan. I
3 agree. I guess my only -- I'm not saying that this is a
4 good -- wouldn't be a good tool, but if it's going to be
5 used for data collection, which I would be concerned that it
6 would be, that those numbers just wouldn't reflect the right
7 number because a lot of people are going to do exactly what
8 Phil and them have said. They're going to put a low number
9 that is required just to meet that requirement. And they're
10 not going to spend the money or the time to get out and to
11 get the appropriate count.

12 FACILITATOR: Jason?

13 MR. ADAMS: I believe Phil had a suggestion
14 earlier, and I don't know if we -- if there was any rebuttal
15 from HUD on that.

16 His question, if I remember it right, was
17 currently all's you do is check the box and sign. Is that
18 not correct?

19 I know. But under the current form, before this
20 revision, the idea that the requirement is, you check, yes,
21 you have the presence of low income folks that -- and you're
22 minimally funded and you sign.

23 MS. HENRIQUEZ: Let me see if I can get this
24 right.

25 Please, correct me if I screw up, and I will screw

1 up.

2 As I understand, the current form has a
3 certification as to minimum funding, but the -- I'm sorry.
4 Go ahead. I've got to be the parrot. I'm sorry -- because
5 I don't know this well enough.

6 Okay. Is why this is required? Right. Okay.
7 I've got it.

8 So there is a certification that simply says, I'm
9 a small housing authority. I'll get minimal funding. And
10 that you sign and off you go.

11 What got negotiated under the formula rule making
12 was this inclusion of this new piece, which you find at 328
13 as well. I don't know what people have been doing in the
14 interim, to tell you the truth.

15 MR. ADAMS: But I guess the point is that by
16 saying that, yes, I'm minimally funded, and yes, I have
17 (Inaudible) presence, I think is the language, the presence
18 of any households, you're signing off on that certification
19 to that effect.

20 MS. HENRIQUEZ: That's in 328.

21 MR. ADAMS: What I'm saying is, the current form,
22 what Phil suggest we continue to use instead of putting a
23 number in, you just check the box and say, Yeah, I have it.
24 And sign.

25 MS. HENRIQUEZ: (Inaudible.)

1 FACILITATOR: Sandra, please turn your mic on when
2 you speak.

3 MS. HENRIQUEZ: Can you toll -- can you toll the
4 clock for a sec? No, no. Talk into the mic. You just do
5 it.

6 MS. BULLOUGH: Okay. The old certification is
7 only for minimum funding. The new requirement, based upon
8 the regulations that were negotiated during formula
9 negotiation, says that you demonstrate the presence of any
10 households at or below 80 percent of median income.

11 The minimum funding certification does not meet
12 that requirement. This piece here, 29, would meet this
13 requirement. I think that I speak for the assistant
14 secretary when I say we are willing to mark it as optional
15 but that means the recipient who receives minimum needs
16 funding will need to submit this demonstration of the
17 presence of any household at or below 80 percent of median
18 income in some other fashion.

19 MR. ADAMS: Can I have follow-up?

20 FACILITATOR: Yes.

21 MR. ADAMS: Then what are you certifying to? That
22 you're minimally funded?

23 MS. HENRIQUEZ: He's asking what the certification
24 applies to then, right?

25 MR. ADAMS: No. What are you certifying to?

1 Because if you're certifying to that you have -- you're
2 minimally funded, then by that act, you have the presence of
3 households at or below 80 percent, don't you?

4 MS. BULLOUGH: In the current form, it's a
5 certification for just minimum funding. It's different than
6 this. And the thing is that this was negotiated so it's our
7 responsibility as HUD to provide the ability for you guys
8 to, then, comply with this, the regulatory requirement.

9 MR. ADAMS: Okay. I -- I don't agree, but...

10 FACILITATOR: So where are we at with this
11 particular issue now?

12 MR. ADAMS: I guess, Jan, just as a check of this
13 situation here and where we're at, maybe I would, then, like
14 to call for a consensus to leave this in, so that I can find
15 who's against this and what they propose, leave it in as
16 optional.

17 FACILITATOR: Leave it in as optional?

18 MR. ADAMS: Yes. And then call for consensus on
19 that.

20 FACILITATOR: Okay. The proposal is to call for
21 consensus to leave this in as optional. All those who are
22 in agreement with that, can you indicate that with a thumbs
23 up? Any opposed?

24 MR. KAZAMA: I would like to call a caucus for our
25 region because this is really serious to Alaska, and we

1 penalize a large of majority of the people -- thank you --
2 we would penalize a lot of the small tribes and if I vote in
3 favor of this, I've got to go home and face those guys.

4 In the past, certifying, hey, we can work with
5 that. But what we're asking is a lot more detail from the
6 tribes. I think, based on that, the census worked for us,
7 that gave them the -- HUD the information they needed. They
8 determined the minimum funding. We certified, yes, that's
9 correct. This is a minimum funded tribe. And it was good
10 to go.

11 Now we're asking to sort of verify that. And the
12 expense of the smaller tribe, it's going to be very spendy.
13 If it's optional, where we don't have to do that, I can go
14 along with that. In terms of --

15 FACILITATOR: The proposal was "optional."

16 MR. KAZAMA: But the statute, although we've
17 been -- that's what my argument in the beginning -- if it's
18 optional, I can go with that. But when people are saying
19 it's a statute, it's a requirement. My argument was: Is it
20 really optional? Because a statute now saying we are
21 required to do that. It's -- okay.

22 FACILITATOR: Marvin, you waited a long time.

23 MR. JONES: Marvin Jones. Is that cleared up --

24 MR. KAZAMA: Yes.

25 MR. JONES: -- or are you still asking -- my --

1 and I know that -- are you still going to call for a caucus?

2 FACILITATOR: I'd like to know, are you still in
3 objection to this being an optional item on the form? Do
4 you want to caucus on that? We're going to have a break in
5 ten minutes.

6 MS. HENRIQUEZ: So, Blake, are you just -- what
7 you're -- what we've just talked about is this is optional
8 on the form.

9 But it sounds like you're really going to the reg,
10 instead, which is not on the table for discussion, so I'm a
11 little confused.

12 MS. GORE: But folks keeping referring to the reg
13 as the reason for it being in the form. And what I'm --
14 I -- just my -- as a committee member, my concern is if it's
15 not required in the form, and we don't define it here, then
16 how will HUD require the small tribes to demonstrate the
17 need?

18 And so whether it's in the form or it's done
19 outside the form, the question remains -- and I feel a duty
20 to talk to those that have small tribes to make sure that we
21 have properly represented them here.

22 MR. KAZAMA: You say there is a ten-minute break.
23 We need at least ten minutes, so...

24 FACILITATOR: We could take a 15-minute break
25 right now, unless somebody has another comment they want to

1 make before the break.

2 Marvin?

3 MR. JONES: It's not specific to this, but it
4 involves this so I can wait. But I want to make it, you
5 know. But I was waiting until this finished so I can wait,
6 if you want.

7 FACILITATOR: We can make it the first comment
8 when we come back. Let's stop the clock. Let's take a
9 15-minute break now.

10 (Recess taken.)

11 FACILITATOR: We took our break. Blake and Carol,
12 I hope you appreciate that we saved you one of your
13 caucuses. Maybe if you had any chance to talk with each
14 other during a break, maybe we can see where we're at with
15 this issue here, since you were the lone objector to the
16 last proposal.

17 MR. KAZAMA: We -- as we met, we realized that it
18 is complex in especially the uniqueness of Alaska to not
19 having the reservation and just the whole thing in terms of
20 weather, conditions, distances. So our recommendation would
21 be if we care enough about it, we'd be willing to work with
22 Workgroup C in terms of helping maybe further understand
23 this.

24 We recognize that it is optional, and I see that.
25 And if it is, why -- again the question is, why is it in

1 here, is the question people have asked.

2 Also we're concerned about the ramifications of
3 not checking or not dealing with this because it's an
4 option. We don't want to, in a sense, in the future,
5 penalize small tribes again. So there are a lot of
6 complicated issues that go into this, especially coming from
7 Alaska that's why I was feeling uncomfortable about it,
8 because we do have small tribes and the entities and the
9 umbrella organizations that have to try to work with these
10 remote areas. So we decided -- we thought it would be best
11 if we could work with Workgroup C in helping with that
12 aspect.

13 FACILITATOR: Okay. Jason?

14 MR. ADAMS: You could come and chair Workgroup C,
15 if you want to. I'll turn it over to you. Aren't you a
16 workgroup that's done?

17 FACILITATOR: Yes, Judy?

18 MS. MARASCO: I just have an alternate proposal.
19 And I understand what everybody is saying, and it's clear to
20 me by the discussion that these numbers, accurate numbers,
21 aren't possible. That's where the problem lies.

22 In taking into account Phil's comments -- and I
23 rarely do that -- I think if we change the answer to a
24 yes-or-no answer and just say that for recipient eligibility
25 to receive minimal needs funding only, I certify that I have

1 a need, yes-or-no.

2 And because you're going to get accurate numbers,
3 they can't afford to give you accurate numbers, that would
4 meet the requirement of the regulation. And then I ask that
5 we then forward this into the preamble and ask the next
6 committee that's going to deal with formula to deal with the
7 issue because we can't deal with that regulation. But HUD
8 still needs a way to meet its need. And if we just certify
9 that we have a need, yes or no, that would alleviate the
10 small tribes from having to go out and count.

11 FACILITATOR: Thank you.

12 Blake?

13 MR. KAZAMA: Again, speaking for Alaska, we would
14 agree with that if HUD would agree with that. But certainly
15 from Alaska, to do what Judith is recommending, we would
16 support that.

17 FACILITATOR: HUD? Should we give HUD a few
18 moments to consult with that?

19 MS. MARASCO: Would you support that for now?
20 You're not going to get what you want out of it, so I'm
21 trying to give you a something.

22 MS. HENRIQUEZ: So you're paraphrasing the Rolling
23 Stones, right, "You can't always get what you want."

24 MS. MARASCO: I was a product of the '60s.

25 MS. HENRIQUEZ: But if you find some time, you

1 just might find you get what you need.

2 So I should tell you what I need, right?

3 We could agree to -- so that certification, as you
4 suggested, however, but tribes getting minimum funding still
5 have to comply with giving information in some form based on
6 1000.328.

7 The other issue for us is that -- and I don't want
8 to be in the business designing, yet, another form for
9 tribes to report on that area as well. So I'm a little
10 stuck, so I'm going the yield to Jason.

11 FACILITATOR: Marvin and then Jason.

12 MR. JONES: Well, again, I had a more -- Marvin
13 Jones -- I had a more general point, so I'm going to reserve
14 it.

15 Somebody outside a while ago said, you probably --
16 you need -- in order to get through something, you have to
17 repeat it seven times.

18 I said, I guess six hasn't been enough so...

19 Here's really the -- here's really the options on
20 this: Do we want to require it in the form, do we want to
21 take it out of the form, or do we want it include it in the
22 form and have it an optional? It's not about the base
23 regulation and whether it's good or not, it's whether or not
24 we're going to include it in the form or not.

25 And so all -- most of the other discussion, I'm

1 not even sure if it's really pertaining to the issue. It's
2 whether or not it's going to be included in the form.

3 And I'll reserve my more general point that I want
4 to make pretty soon.

5 FACILITATOR: Jason?

6 MR. ADAMS: I have a question, first, for Judith
7 and then a comment.

8 Judith, first of all your proposal is making it a
9 checkbox, yes or no, is that, then, not -- is that then
10 removing the option and making required? Okay. Okay.

11 Then maybe -- thank you -- then maybe the -- the
12 way the question is asked is the issue because I think,
13 again, this issue is answering the question that you have to
14 demonstrate the presence of any households. That's the
15 question.

16 FACILITATOR: Sandra?

17 MS. HENRIQUEZ: So then if you were then -- in
18 asking the question certifying that --

19 MR. ADAMS: Do you --

20 MS. HENRIQUEZ: -- can demonstrate the presence of
21 any household at or below 80 percent of any median income?
22 So you check the box question and say, Yes, I can
23 demonstrate the presence of, and certify that.

24 So that in our monitoring, we could come and say,
25 You checked the box, you certified, okay -- yep, you got it,

1 or you were able to demonstrate this way or there's nobody
2 home, one or the other. Let's hope somebody's home.

3 FACILITATOR: Phil, is that to this question here?

4 MR. BUSH: It's more of a follow-up comment, that
5 with the check and a certification, the rest of the plan
6 demonstrates that there is low income and what the planned
7 activities are and how they're going address it.

8 The data is already contained within the body of
9 the actual plan when it's completed by the tribe. Needing
10 additional information or something separate is where it
11 keeps throwing me. Like, for example, I'm reading No. 40,
12 and this is a just an example, it says, Planned and actual
13 outputs for the 12-month period of time. And it
14 specifically talks about low-income households.

15 So when you're trying to look to comply with 328,
16 I agree with Judith, which she's right. We very rarely
17 agree. It's like me and Jim. We never agree but for some
18 reason we've been agreeing all week, until now. I should
19 have been quiet. But I think when part of Alaska's issue --
20 and I wanted to briefly just comment on that -- when the
21 formula committee looked at this and felt that there needed
22 to be a demonstrated need, it's my philosophy that every
23 tribe should have a demonstrated need to be able to obtain
24 the funds, not just the small ones.

25 But more importantly, I think when we're looking

1 at trying to uniformly collect data, this arbitrarily skews
2 the smaller tribe and picks them out, rather than everyone
3 receiving more than the \$200,000 in the current-assisted
4 stock, they don't even have to comply with that particular
5 regulatory requirement and just the body of the Indian
6 Housing Plan itself is sufficient. But for some reason now
7 we're saying we need an estimated number from the smaller
8 tribes. That's where I get confused, but, again...

9 MS. HENRIQUEZ: I would certainly be willing to
10 make it apply across the board for every tribe no matter
11 what size.

12 MR. BUSH: What was that? I'm sorry.

13 MS. HENRIQUEZ: I would certainly be willing to
14 make it apply no matter what size.

15 MS. MARASCO: You need to be quiet, Phil.

16 MR. BUSH: No, no, no. I actually think me and
17 Sandra are hitting, kind -- I agree with you when you're
18 looking at collecting data. It needs to be uniformly across
19 the board on how that data is collected. I would agree with
20 you 100 percent.

21 MS. HENRIQUEZ: Except what I'm hearing, in part,
22 is that for smaller tribes, particularly with the geographic
23 challenges that -- that census data to that the numbers are
24 still going to be somewhat out of whack because of the
25 reporting and how reporting census has been handled and

1 whether enough people report back and so on.

2 I'm all for, you know, once in a bad -- in a good
3 way consistency, one-size-fits-all, in terms of what gets --
4 what's reported, how it's defined, et cetera.

5 FACILITATOR: Steven and then Marvin.

6 MR. ANGASAN: I was just trying to think why I
7 always ask why, you know, because I don't know. Big tribes
8 get the millions, and the little guys the minimum amount,
9 yet they have to answer the question. It just doesn't seem
10 fair. And it's just a question of fairness, it doesn't seem
11 right to me. It doesn't seem right.

12 FACILITATOR: Marvin?

13 MR. JONES: Can we start a different clock or
14 negotiate on some other issue other than the Indian Housing
15 Plan because that's what we're doing.

16 FACILITATOR: Carol?

17 MS. GORE: I was just going to say I think we're
18 hung up on the word "demonstrate," which I realize is in
19 regulation. And if census is an adequate demonstration of
20 need for other tribes, why is not for small tribes? And if
21 that's the case, that is third-party data collection rather
22 than independently-collected data. I think there is some
23 concern -- and I'm speaking in favor of Judith's and Phil's
24 recommendation to just do the certification, but I want to
25 be clear that we don't want data collected that's not

1 accurate or -- let me put it this way: If you collect data
2 a variety of ways, you will not have integrity in the data.

3 So we've relied on census because it has integrity
4 to all of us. So I guess I'm suggesting that just in
5 response to the small tribes and the next step for them,
6 assuming we move forward with the this idea of
7 certification. Thank you.

8 FACILITATOR: Jason?

9 MR. ADAMS: Judith put a proposal out there, and I
10 thought we were trying to work towards a resolution
11 between -- on that issue, and is HUD okay with the -- asking
12 the yes/no question, as long as the question is asked in
13 appropriate wording?

14 MS. MARASCO: And Sandra did answer.

15 MS. HENRIQUEZ: Yes. I'll answer question again,
16 yes.

17 MR. ADAMS: Okay. I think that was the proposal
18 we should be voting on to get past that issue. I would call
19 for consensus on Judith's proposals.

20 FACILITATOR: Any questions on Judy's proposal?
21 You all understand? Call for consensus on that. All
22 opposed? All right.

23 MS. HENRIQUEZ: We have an hour and eight minutes
24 to go.

25 MR. ADAMS: Now, the clock will start over for the

1 next issue?

2 FACILITATOR: No.

3 MR. ADAMS: Just as long as we're still operating
4 under Jack's suggestion earlier that we're not bound by
5 these two hours for the whole 16, 17 issues.

6 The next item, then, is Item 39, Page 9.

7 FACILITATOR: Jason, excuse me. I skipped Marvin
8 here.

9 MR. JONES: Marvin Jones. The first comment since
10 the break, as I was promised -- no.

11 FACILITATOR: Making a liar out of me.

12 MR. JONES: We're not going to object to
13 practically anything in the form just to get that out of the
14 way. Although, there's a lot of stuff in there we wish --
15 we wish the form was different. But I want to make a more
16 general point, and it's directly to the assistant secretary.

17 One of the -- we're leaving out something. We're
18 leaving out one consideration. We're taking care of tribal
19 bureaucratic needs and the federal agency bureaucratic needs
20 and trying to respond to congressional needs. All very
21 important things. But one of the core things of NAHASDA was
22 that it took some responsibility away from the federal
23 agency, gave it not to the tribes, but it gave it to tribal
24 citizens. And part of that was their ability to comment
25 upon the Indian Housing Plan in the APR.

14 But I'm just concerned that we get a form that we
15 have a format and a process in place that we don't get as
16 much tribal citizen participation as it was intended in
17 NAHASDA. So that's one of general overall arguments that
18 maybe we should keep this streamlined, keep extraneous
19 things out, perhaps, cue in closer to the legal
20 requirements, and that sort of thing.

21 But, again, as a tribe, we can fill it out. We
22 don't have a problem filling it out, if this is what it ends
23 up, we'll do that and we're planning to do that.

24 But I just wanted to make sure that that view got
25 out there. Thanks.

1 FACILITATOR: Thank you.

2 MS. HENRIQUEZ: If I might?

3 FACILITATOR: Sandra?

4 MS. HENRIQUEZ: Marvin, I couldn't agree with you
5 more about continuing the participatory process. I think
6 it's absolutely critical. Let me just say a little bit of
7 the parallel program that runs in public housing
8 authorities.

9 They, too, have a annual plan and five-year plan.
10 It is on a template. It's a report to be filled out, and it
11 has a requirement to be submitted 75 days before the
12 beginning of the their upcoming fiscal year so lots of
13 parallels. However, what housing authorities also have to
14 do is count ahead of that 75-day submission, a process of 45
15 days where they must put the plan out, up on their Web
16 sites. They post it in libraries and management offices all
17 around town for public review.

18 And within that 45-day period before they submit
19 to HUD, they have to have a public hearing of residents who
20 then can come, on the record, comment on the plan, ask
21 questions; it gets explained. And then housing authorities
22 have to take those oral comments, and can solicit written
23 comments as well, but then must respond to all of those in
24 writing and submit them with their annual plan into HUD for
25 approval.

1 Not sure we want to be sort of that -- all of
2 that, but in recognition of a participatory process, I do
3 think that there is an opportunity. We're not foreclosing
4 an opportunity for any tribe or any tribal housing authority
5 to actually do the same thing, to really get it out in the
6 community, talk about it before it's submitted.

7 FACILITATOR: Marvin?

8 MR. JONES: Marvin Jones. And that's similar to
9 the old Comp Grant Program and, you know, CAC (phonetic) and
10 all those kinds of things back -- and the '37 Act.

11 But my -- my real point is that the perception of,
12 you hand somebody off of the streets, you know, 30 pages
13 that compared to, you know, three or four pages, if we could
14 get it down to that. That was my real point: The
15 perception that it might be difficult if -- you know, most
16 of us -- well, not me. If you give me 50 pages of
17 regulations, I'll read it but --

18 MS. HENRIQUEZ: Marvin doesn't read it; he
19 memorizes it.

20 MR. JONES: How come it's not 75 pages, is what I
21 would say.

22 But for most people that is a concern that we...

23 FACILITATOR: Okay. Jason?

24 MR. ADAMS: Are we okay, then, to move ahead?

25 FACILITATOR: Yes.

1 MR. ADAMS: Then the next item -- was the clock
2 running that whole time?

3 FACILITATOR: No.

4 MR. ADAMS: Thank you.

5 Then the next item is Item No. 39 in the template.
6 It's on Page 9. Item 39 is, we have it in the current draft
7 form that -- format, stamped as optional because that's what
8 our workgroup thought appropriate. This goes back to a
9 couple of pieces that are in the statute under 102(b)(2)(A),
10 (iii), (iv), (v), (vi). I think we were saying any of those
11 things there could be part of tasks, if you wanted to look
12 at it this way.

13 The comment that was made in the workgroup the
14 outcomes up above on No. 36 are essentially what is required
15 under the statute. So that's why this should be optional.
16 And the APR piece of that 404(b).

17 So I just want to point those out. The
18 workgroup's recommendation is that it be optional. And I
19 don't think we had any disagreement, even from HUD coming
20 out of the workgroup that this should be optional.

21 We would ask for consensus that this section be
22 optional.

23 FACILITATOR: Any comment or questions before ask
24 for consensus?

25 Yes, Sandra?

1 MS. HENRIQUEZ: HUD did say it is optional. We
2 agree. I just want to point out the reason we put them
3 together is because while the planned tasks are optional,
4 the reporting on the APR side is not, as you mentioned, so
5 it's just to give balance to the document, what we are
6 looking at to look at tasks accomplished and how they have
7 been done against some measure that you put up front in the
8 IHP side.

9 FACILITATOR: Marvin?

10 MR. JONES: Marvin Jones. What you just said,
11 could you, maybe, restate what you just said?

12 MS. HENRIQUEZ: We agree that 38 -- or 39 rather,
13 Planned 12 month tasks, is optional. We do agree. I just
14 wanted to say that the reason we put it here is because on
15 the APR side reporting out of tasks accomplished is
16 required. Programmatic accomplishments is required;
17 therefore, we put this 39 in as way to balance to say this
18 is what you said you were going to undertake. This is what
19 you reported in the APR that you did undertake, and do they
20 match up? Did you accomplish them fully, partially, and so
21 on. It's just an issue of balance, but we can come at it a
22 different way, if need be, which is why it's optional.

23 MR. ADAMS: And I think, again, if I could,
24 Marvin, just answer.

25 From the workgroup we talked that that No. 40

1 would answer that statutory requirement for the APR piece.
2 That's the piece that then gives HUD the required data for
3 the APR so that helped make this section optional.

4 FACILITATOR: Marvin?

5 MR. JONES: Marvin Jones. Okay. I'm clear know.
6 That's what I was getting ready to say. I was thinking that
7 we were going to keep the APR task accomplished in there,
8 but just what Jason said, 40 replaces that and on the APR,
9 the accomplishments.

10 FACILITATOR: So call for the question, No. 39
11 being optional? All in favor? Any opposed. Okay. Pass.

12 MR. ADAMS: See I knew once we got past that first
13 one...

14 Next item is -- yeah? Sorry, Karin.

15 FACILITATOR: I'm sorry. Karin?

16 MS. FOSTER: I just wanted to mention something
17 when we were on the other issue.

18 I was taking a look at the instructions, and I was
19 trying to track the statute, as I usually do, and found out
20 from talking with Jen that we're looking at a prior version
21 of the instructions. I think everybody should know that.

22 I don't know what changes there have been to the
23 document, but this a prior version that actually has had
24 statutory references updated. I don't know what other
25 changes may have been made to it, so I think probably at the

1 end of this, assuming if we don't get all the way through,
2 maybe we'll get through today, but if we don't, it might be
3 nice to have the new instructions. Karin Foster, Yakama.

4 FACILITATOR: Thank you.

5 MR. ADAMS: Ready. The next item is under Section
6 6. It is No. 44 on Page 13. And there is some statutory
7 requirements, what the comment was back in our workgroup was
8 that there is statutorily required pieces of information in
9 this chart but not necessarily all of the chart.

10 And so that's what we have to decipher here in our
11 efforts here, what do we want to keep as far as those pieces
12 that are statutorily required and what pieces could become
13 optional or removed, so...

14 FACILITATOR: Did you have any recommendations on
15 that.

16 MR. ADAMS: I don't recall specifically what line
17 items that we had -- I think it was, in going down the
18 sources list, one, two, and three, funds, program income,
19 Title VI are required. And the remainder, four and five, if
20 you're using them in conjunction with NAHASDA funds are
21 required.

22 And then the issue becomes nonIHBG funds Items 6,
23 7, 8, and 9, to what degree or if you have to -- because the
24 statute, again, talks about leveraging your funds, and there
25 was a lot of discussion on that point in the workgroup. If

1 you're leveraging, let's say, the example I used in the
2 workgroup was under low-income housing tax credits, Line
3 No. 8, if you estimate a use of NAHASDA funds leveraging
4 \$200,000 of NAHASDA funds to get \$2 million of tax credits,
5 what do you put in the line Item A? Do you put the 200,000
6 that you're leveraging, or do you put all \$2 million. HUD's
7 opinion is that it's all \$2 million. That really becomes
8 the basis of the discussion under those line items.

9 As a strict read, again, of the regulations under
10 financial resources, under the statute 2 -- it's cited up
11 above -- 102(b)(2)(C)(i), An identification and description
12 of the financial resources reasonably available to the
13 recipient to carry out the purposes of this act, including
14 an explanation of the manner in which amounts made available
15 will leverage additional resources.

16 So that's one aspect going down the sources. And
17 across the columns there, there was discussion on which one
18 of those -- because some of them are probably not necessary.

19 And I don't remember, Jennifer, which one of those
20 we talked about we would mark as optional.

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21      Several of them are math columns, so they just
22      roll together a few columns of math.  I didn't have my notes
23      to remember which ones.

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24 FACILITATOR: Marvin?

25 MR. JONES: Jason, some of those columns in the

1 next table. I don't know there were specifically any on
2 this particular table it was the 45, yes.

3 MR. ADAMS: Okay. You're right. Okay. Yeah. I
4 just looked ahead, and on my notes the for the next item,
5 then we did have columns that were marked optional.

6 I think the main issue here was just those items
7 under "Sources" Items 6, 7, 8, and 9 as far as whether they
8 should report anything, what you're leveraging that's
9 NAHASDA, or the full amount.

10 FACILITATOR: Karin.

11 MS. FOSTER: The section stood out to me when I
12 went through this form the first time. And I want to get
13 back to the theme of story and what kind of story it tells.

14 On the one hand, it's good to leverage. It's good
15 that we're trying to bring more money into our respective
16 housing authorities, serve the people with leveraged funds.

17 On the other hand, you know, speaking for Yakama,
18 we have been reasonably successful in the last few years
19 with low-income housing tax credit. We have a greater need
20 than is probably reflected by the census, and we try to
21 supplement the fact that the Indian Housing Block Grant
22 doesn't provide enough funds to meet that need by going out
23 and leveraging our resources.

24 But I would be concerned that if the -- if one of
25 the purposes of this is to tell a story to Congress, it

1 might -- the story it might tell is, we get enough from
2 other places that we don't really need so much in our Indian
3 Housing Block Grant program. You know, I don't want that to
4 be the story this tells, so I'm not real comfortable with
5 reporting it from that standpoint. I think, again, I mean,
6 it could be useful, I suppose, for HUD to be able to know
7 where -- which regions, for example, where people are most
8 likely to be able to leverage through the tax credit
9 program. I know there are different states throughout our
10 country where it's very difficult to get into that program
11 for tribes.

12 And I think that's real important for HUD to be
13 able to get underneath and be able to assist tribes with
14 that, but I just don't know that this is the place to report
15 this information. Karin Foster, Yakama.

16 FACILITATOR: Carol?

17 MS. GORE: I agree with Karin, and I have a couple
18 other comments. Let me ask my question after.

19 I'm not sure I understand, if I read just the
20 columns from left to right for IHP, the first four columns
21 seem to suggest there is 12 months work of activity. Column
22 E, then, is titled, "Estimated Carryover Funds." And I'm
23 concerned, since -- if you're doing development and
24 construction, they are typically multiyear activity. That
25 the carryover might be interpreted as not being obligated

8 But I am, like Karin, concerned about reporting
9 other funds and that there's not an adequate way to tell
10 that story just by filling out a form. Thank you.

2 MR. ADAMS: Yeah, I had another issue to deal
3 with,, but yeah.

5 Marvin?

22 Now, somebody can certainly say, We need another
23 column that says, Of this amount not spent, we have
24 obligated it, or we have plans for it. And that would be
25 perfectly legitimate to try to get, you know, that it's not

1 just money that we didn't have a need for kind of thing.

2 And I think the response to the other question
3 regarding leverage and, of course, we can read the statute,
4 and it is required that we provide some information if we
5 are leveraging. And then I think that if we -- I believe a
6 narrative they may allow us to also -- yeah, I think on 46
7 allows you to also describe this leveraging, I believe,
8 so...

9 FACILITATOR: Judith.

10 MS. MARASCO: I agree with Marvin. I think if we
11 change the word "carryover," that's a troublesome term.
12 "Funds unexpended," as long as we put in, maybe, a new
13 Column F saying "Obligated of those nonexpended funds," I
14 wouldn't have any problem with this form.

15 Now, I say that and I want to follow it up with a
16 second statement saying that carryover really indicates that
17 those moneys are carrying certain markings. And when it all
18 gets rolled into one, it's supposed to lose its identity.
19 So carryover to me, that term itself, the intent of taking
20 away the markings from those prior grant years is not being
21 honored with that statement, basically, I guess. I don't
22 know how else to put it.

23 But other than that, I don't have any problem with
24 the leveraging as long as I can explain because I think, in
25 today's world in Indian housing, I think the story is that

1 we're using our money wisely. And I think that is a story
2 that needs to get to Congress.

3 And we're one of the states that don't get
4 low-income tax credits. You try and get it in California,
5 you can't do it.

6 But, anyway, that's just my suggestion that we add
7 an obligation column, and we change the term "carryover" to
8 unexpended funds. And I'm not -- I don't have an issue
9 with the leverage part of the form because I think that that
10 can -- like Marvin said, can be explained on the next page.
11 And I do think Congress needs to know that we're holding up
12 the intent of the law.

13 FACILITATOR: Judy has a proposal for it. I would
14 like maybe Karin or Carol, how do you feel about that one?

15 MS. GORE: I'm in favor of adding a column and
16 changing the title to "E." I concur with that.

17 FACILITATOR: Anybody else? Does anybody have any
18 objection to Judith's proposal? Okay. All in favor? Any
19 opposed?

20 Thank you, Judy.

21 MR. ADAMS: So that action was just what you said
22 title it "E" and add an a column? Okay.

23 MS. MARASCO: Well, I think it has to be changed
24 in J also. What was the old J will become I, J, K.
25 "Carryover" is the term that needs to be changed.

1 MR. ADAMS: Okay.

2 FACILITATOR: What do you recommend as wording for
3 carryover?

4 MS. MARASCO: Unexpended funds.

5 FACILITATOR: So change that word "carryover" in E
6 to "unexpended funds."

7 MR. ADAMS: E and J, Jan. And add a column that
8 says "obligated funds" after E.

9 FACILITATOR: And add a column after E that says
10 "obligated funds."

11 MR. ADAMS: Funds.

12 MS. HENRIQUEZ: So that F is really, then, the
13 cash that's not been encumbered in any way moving forward?

14 MS. MARASCO: Yes.

15 FACILITATOR: So do all of the rest of the columns
16 move over, then, and change one?

17 Carol?

18 MS. GORE: I'm not sure I agree with the assistant
19 secretary -- are we on the right page now? -- because the
20 actual cash on hand could actually be, yeah, you're expended
21 plus your new money that's come in. So I would hate for
22 someone to conclude that that was in addition to what you
23 hadn't expended. I mean, I was an accountant first. So I'm
24 used to the math adding up, and nobody gave me free money
25 anywhere in between, sadly enough.

1 MS. MARASCO: I knew there was something odd about
2 her.

3 FACILITATOR: Carol, does that mean, what, a
4 different terminology there for that last column?

5 MS. GORE: No. I was just responding to an
6 assumption, a comment, the assistant secretary made. I
7 think we're good.

8 MS. HENRIQUEZ: Can we just add -- because
9 Jennifer just wants to make sure, as she redoes this, that's
10 she's got the right...

11 MS. BULLOUGH: Yeah. Since I have to modify the
12 form, let me make sure I understand.

13 E and anywhere else on this form where it says
14 "carryover" will be changed to "unexpended," in addition
15 and -- but the definition remains the same.

16 And then in between E and F, we will add a column
17 that says, The amount of funds from column E that are
18 obligated by the grantee.

19 MS. MARASCO: And that would reduce the amount of
20 funds in the new K that were unexpended, correct?

21 MS. BULLOUGH: It doesn't reduce funds that are
22 unexpended as, you know, spent. But of the funds that are
23 unexpended, how much of those are tied to an obligation,
24 right?

25 MS. MCDADE: All right. So I have a quick

1 clarification on that.

2 If we have an obligated category and even at the
3 end of the 12-month period we show the obligation in there,
4 but at the end of 12 months it's not -- per se, it's still
5 there, how does it affect it? It's not obligated, so even
6 if we put it there, it goes away into the unexpended?

7 MS. BULLOUGH: Any time you have a contract, as
8 long as that contract is valid, those funds are obligated,
9 right?

10 MS. MCDADE: Okay. But I mean, in all the
11 discussions we've had, it's been pretty clear that 12 months
12 is 12 months. So what happens if it doesn't fall within the
13 12 months? That would be my concern. Because I know we've
14 hashed this over time and time again about that 12-month
15 time frame. Is it carryover? No, it's not carryover
16 technically because if we haven't spent it...

17 MS. BULLOUGH: The way I envision this column is a
18 snapshot at the end of your fiscal year of how much of those
19 unexpended funds are obligated. So it's a snapshot.

20 FACILITATOR: Marvin?

21 MS. HENRIQUEZ: Let me take a stab because Sharol
22 looks like she's still confused.

23 You've got a million dollars that comes in January
24 1, and by December 31, you have spent 750,000 of that, but
25 you also know that you've been setting aside \$250,000 which

1 you're going to use the next year towards your housing
2 development stuff and you've entered into a contract or
3 you've done something. So that money is tied up. It's like
4 you put it in a little savings account, but it can only be
5 used for a specific purpose.

6 MS. MCDADE: Okay. I understand that.

7 MS. HENRIQUEZ: So when you do this form, you're
8 going to say that in -- you've got \$250,000 unexpended at
9 year's end.

10 The next column you're going to say you've got
11 \$250,000 obligated, which says that -- which really says two
12 things. It says you've got \$250,000 that you haven't spent.
13 It also says that you're starting your new fiscal year with
14 really no available free cash.

15 MS. MCDADE: That's where I'm getting confused
16 then because that was never my understanding of it. My
17 understanding of it was that at the end of the fiscal year,
18 or the "tribal program year" is our new term, that at
19 December 31, even if we had the obligation of 250, if we
20 expended it or drawn it down, then that goes into our new
21 submission. Is that correct?

22 Because then if that's the case, then why we would
23 need another column for obligation? I'm missing it
24 somewhere. So if somebody can clarify that for me.

25 MS. HENRIQUEZ: So maybe we should take this

1 offline and try to clarify.

2 Do other people have that problem?

3 FACILITATOR: Marvin?

4 MS. MARASCO: Ask the bean counter.

5 MR. JONES: Marvin Jones. The -- as I understood
6 it, the column was to assist the tribes be able to show that
7 they don't have a bunch of just "free money," as it was
8 called, to show that, you know, we got this money, and it is
9 going to be carried over, still available, unexpended, you
10 know, for the next Indian Housing Plan, next fiscal year,
11 next program year, but that it's not just money that we
12 couldn't figure out a use for. It's to help tribes to show,
13 okay, we've got three million here, but we are -- it's going
14 to be shown -- it's not because we didn't have a use for it.
15 We have plans for it. It's what it is.

16 And what the column might be called is, you know,
17 maybe something other than obligated because people will
18 start getting hung up on the use of "obligated," as many
19 already are, and using the technical definition that we
20 currently use. But I think that was the idea.

21 FACILITATOR: Does that answer your question,
22 there, Sharol?

23 MS. MCDADE: Again, it's the clarification I think
24 I get confused on because I think in the committee we talked
25 about the investment side of it about, as committee members,

1 we talked a little bit about whether or not we could draw
2 down an obligated or do all this good stuff with it, but
3 then at the end of that 12 months then our obligation was to
4 longer honored. That's where I'm getting confused.

5 FACILITATOR: Rusty?

6 MR. SOSSAMON: You're touching on the point I was
7 making. If you look, previously, HUD's definition of
8 obligation is if it's under contract. Well, if you've got
9 an extended project, you may not actually bid it out and
10 have it under contract until the next fiscal year. So
11 technically, you can't call it obligated, but it is
12 committed to that project, to a planned project or planned
13 activity in the next fiscal year. And you need -- I think
14 what we're saying is somehow there needs to be a way to
15 demonstrate that.

16 That's why, a lot of this, I think there needs to
17 be some accompanying regulation language that explains that
18 so that in the future people who are not privy to all of
19 this don't pick it up and say, Well, that's not obligated.

20 FACILITATOR: Carol?

21 MS. GORE: May I try, Sharol?

22 MS. MCDADE: Please.

23 MS. GORE: Let me see if I can -- because I'm
24 trying to come back to the intent of this form, which is
25 really to follow the money.

11 By the end of the December when you have to report
12 to HUD that contractor is still diligently building, but you
13 haven't spent that \$750,000. Well, you don't want Congress
14 to think that you're not building homes, and you're not
15 doing what's intended. So you want to be able to say, I've
16 paid him 300,000. I still owe him 550- or \$450,000. That's
17 planned but not spent. So that you accurately show what
18 money is truly left over because you are really under
19 contract and obligated to spend it.

24 Marvin, you actually said that when you responded.
25 So that's just perhaps a friendly amendment if

1 that would be helpful.

2 FACILITATOR: Judy?

3 MS. MARASCO: I think that -- this is Judith
4 Marasco from Yurok. I think there's two separate issues.
5 Clearly I want to show obligated money, clearly, because
6 when you're talking about performance time frames, if you're
7 under obligation, you've hit your mark. So I'm -- I'm
8 fairly certain I want to see "obligation" in this format.

9 Now, under "planned activities" if you're doing a
10 phased plan, why can't that simply be expressed in Item 46?

11 FACILITATOR: Sharol?

12 MS. MCDADE: I understand everything you're
13 saying. It's not like I don't understand it. But I guess
14 what I'm getting caught up in our workgroup is what Jennifer
15 explained the 12-month period -- and I guess it could just
16 be the columns. But even if we obligated, at the end of,
17 you know, December 31, and we showed that we have it here,
18 it still rolls into our new IHP.

19 So why do we need the column? I mean, if you have
20 250,000 left at December 31, then why would we need the
21 column? We just include it the submission of our IHP. So
22 why do we need another column for something like that?

23 I guess I'm getting caught up on that because it
24 doesn't quite make sense for us to keep putting all these
25 reporting. At the of 12-month period, you still have to put

1 it in your new plan anyway.

2 FACILITATOR: Carol?

3 MS. MARASCO: Where does it say it has to go in
4 the new plan?

5 MS. GORE: So I have a, if this is optional, let's
6 not do it. If it's not going to provide data with integrity
7 and we're concerned about what those results really say,
8 let's not do it.

9 FACILITATOR: Jason?

10 MR. ADAMS: Correct me if I'm wrong, but didn't we
11 do a consensus on Judith's proposal, and didn't we get that
12 consensus?

13 FACILITATOR: We have consensus on some language
14 to the proposal, but we didn't have consensus on what are
15 the three options we want to with the language.

16 MR. ADAMS: Correct. I'm just pointing out that
17 we did get consensus on the one new column. That's in there
18 now.

19 So as far as consensus on what we do with the form
20 itself, I don't know if you want to tackle the issue or call
21 this a good place to stop for the day because I don't think
22 we're going to get consensus on leaving it in the form or an
23 optional piece or what pieces become optional. It gets to
24 that degree. We start picking out line items now.

25 FACILITATOR: I agree.

1 Marvin? Marvin, comment?

2 MR. JONES: Yeah. Marvin Jones. Just to clarify
3 that the law requires us to have budget information. Now, I
4 believe the question -- the exception was the certain
5 elements, as I recall, were the nonIHP funds leveraging, as
6 to whether or not to make those -- again, the language says
7 there -- requires leveraging of some sort.

8 And there was a question of how much information
9 regarding the leverage and that was the issue that was,
10 perhaps, optional and not optional, not the whole budget
11 information in and of itself.

12 FACILITATOR: Yeah.

13 MR. ADAMS: Marvin, that's why I said -- my
14 comment was that we're just picking out the line items now,
15 specifically six, seven, eight, nine, that group. Again,
16 part of the workgroup felt that those are not statutorily
17 required. HUD was not on a -- on that same opinion. So
18 coming out of our workgroup, that was the division on those
19 four line items. I just want the committee to know that.

20 FACILITATOR: Thank you.

21 MS. PICKUP: Shawna Pickup. I would like to yield
22 some time to Xavier. He would like to explain some of this
23 discussion.

24 MR. BARRAZA: Basically, what you just did is gave
25 me a way to convey to other people in Congress that when

1 somebody says, oh, well, they have \$2- or \$3- or \$4 million
2 in LOCCs, they say they don't. They're saving it so you can
3 finish your appropriations. And if you don't and you're
4 going to do a continuing resolution, that's what they need
5 to fix it.

6 So it -- what you basically did is gave me a
7 reason, another way to tell other Congress members that you
8 don't have money, that you're waiting for them to do their
9 jobs, appropriations. It works. It works well for me.
10 It's given me another -- more definition to help assist.

11 FACILITATOR: Thank you. Jason?

12 MR. ADAMS: I guess based on those positive
13 comments, then, I would suggest that we break and conclude.

14 FACILITATOR: Okay. Thank you.

15 And it looks like we still have a lot of work to
16 do still in Workgroup C.

17 And we'd like to take this opportunity now to ask
18 for public comments from all of our folks who have been
19 observing and working with us partially.

20 If anybody would like to make a public comment,
21 Erin has the microphone back there, please step forward and
22 share your thoughts and ideas with us.

23 NONCOMMITTEE MEMBER: Ron Qualls of Muscogee Creek
24 Nation. I would just like for Jennifer to explain to us
25 again that this is a lot easier than how we were doing it

1 before.

2 MS. BULLOUGH: Trust me. It's easier.

3 NONCOMMITTEE MEMBER: Brook Kristovich, the
4 Umitilla Housing Authority also the Native Village of
5 Napaimute up in Alaska. This discussion here, because I was
6 in Workgroup C, and especially along what Ron was saying, is
7 it easier? When it gets down to the six seven, eight, and
8 nine, as Carol and Karin had mentioned, reporting the
9 additional program dollars, to me I've always thought that
10 wasn't necessary as part of NAHASDA because what we're
11 required to do is really account for just the dollars we get
12 from HUD. And that's those top numbers.

13 When we start to tie in other program dollars into
14 overall budget to tell you the big picture, then we have to
15 start reporting to HUD what we already report elsewhere for
16 those same funds. And so we should be only accountable to
17 HUD just for the dollar amounts that we put in the top rows
18 and columns.

19 And it gets to be a way you're reading the statute
20 because it says to identify those funds you're going to
21 leverage. It doesn't say identify the ones at the bottom of
22 that table. It says identify out of NAHASDA dollars that
23 you're going to use to leverage.

24 And so -- and that kind of goes along with some of
25 the discussion. Because I'm under the feeling that when it

1 comes to this part of the whole program, the APR and the
2 IHP, I'm different than telling the story, because when
3 you -- as we discussed in our group over and over again --
4 and poor Jennifer got a lot of hits from us in the room --
5 and she did a great job standing up for HUD, by the way.
6 She didn't bend very much at all, just like what's happening
7 here, it seems like. There's not lot a lot of bending in
8 trying to tell the story -- but you require so much more of
9 us out in the field who work with this every day and the
10 timelines and limitations and it seemed like there was so
11 much giving by the tribes in all our discussions not much
12 giving from HUD around the table.

13 This is supposed to be negotiating. And we knew
14 it was going to come here. But around here, all of us who
15 were in those groups had a lot of say. But here we really
16 don't. We kind of listen and watch what's happening, so you
17 miss a lot of the discussion we had from our points as
18 participants in the workgroups.

19 And so I guess to use this opportunity to say, ask
20 for less but also be willing to bend a little more because
21 it seemed, at least in the workgroups, again, we were giving
22 and giving and giving, and then you kept wanting to take and
23 take and not give. And so I didn't feel, as part of the
24 workgroups anyway, that when we left there that we had
25 gotten much. We were trying to but realized when we got

1 here, we probably wouldn't be bending the other way. It
2 still seems like we're giving, we're giving, we're giving to
3 try to tell the picture.

4 And so -- but out in the field, we have to deal
5 with this on a day-to-day basis. Like you heard from the
6 small tribes in Alaska and elsewhere, it becomes burdensome.
7 And I worked for a tribe one time that one year decided not
8 to apply for the funds. It was so burdensome for the amount
9 of money they were getting.

10 And then the next year or so they realized, we
11 still have those families that need it. We'll jump back
12 into the pot and take the little bit of money that HUD gives
13 and then go through this whole process again. And they
14 still get, by the way.

15 But like you heard, the amount of work that they
16 have to do for that little pot of money, they're just as
17 needy as the large tribes. But it's a little pot of money.
18 You're making us do so much.

19 We need to be mindful of that through this
20 process. You spent a half a day talking about that one
21 point. That's just one point. When we're out in the field
22 doing this day-to-day, it is a lot that you're asking to try
23 to tell the picture. So kind of keep that in mind as you go
24 through this process.

25 I appreciate the discussion that Group C did

1 because we spent a lot of time on these -- this discussion,
2 and so -- I'll stop there for now. Thank you.

3 NONCOMMITTEE MEMBER: Good afternoon. Rebecca
4 Peck from Samish Indian Nation. I'm Health and Human
5 Services Director. I wanted to say thank you for all the
6 work everyone has done the last -- forever but the last
7 three days in particular. It's very impressive, the minds
8 that are in here.

9 For me my huge take home, and I really want to
10 encourage HUD to follow-up on building this relationship
11 with the Committee of Indian Affairs. I'm a little
12 shocked -- and I shouldn't be because this crosses lots of
13 other domains -- about the lack of communication. I'm
14 assuming when I fill out all these reports and turning this
15 in and my local people know what we're doing but that
16 communication breaks down at the highest levels. And I
17 don't mind doing reports if it's useful, but if it goes and
18 sits in HUD's offices and never gets to Congress, it never
19 gets anywhere, I don't see the point. And so when I was
20 hearing about the optional things, why add more data
21 collection when the data we are now providing is going
22 nowhere.

23 With this new relationship, I can see some light
24 at the end of that tunnel that the data will get there. So
25 it's just fortuitous he was here, and this is going to

3 NONCOMMITTEE MEMBER: Brook Kristovich, again.

14 But I did want to, before he left, but now, at
15 least, acknowledge to him that he stuck in there with us
16 because he believed in the process so much he was here for
17 all of us. So I want to thank Jason for that.

20 MR. JACOBS: Yeah. I would like to have all the
21 elected officials in the audience stand. We didn't do that
22 opening day, but I'm sure there's still elected officials
23 there.

25 NONCOMMITTEE MEMBER: Robert Nick, council member,

1 Natives of Nunapitchuck, first elected in 1963, still there.

2 NONCOMMITTEE MEMBER: Excuse me, Leon. I said
3 this maybe the first neg reg, but I am elected official for
4 the Native Village of Napaimute, my own tribe in Alaska.
5 And so I don't normally put that out there because I'm down
6 here and all our business happens back at home, but I stay
7 in touch regularly. In fact, I was doing council business
8 while I was here a little bit with texting too so, but thank
9 you.

10 MR. JACOBS: I would like to recognize a new
11 member Ms. Tammy Maynor, who is the government liaison -- I
12 can't even talk this afternoon -- with the Lumbee Tribe.
13 She's a graduate of Michigan Law School.

14 Stand -- Tammy, would you stand.

15 MR. JACOBS: Are there any other introductions
16 that the committee would like to make at this time?

17 Okay. The next meeting, as you know, will be here
18 in Seattle. It's not at this hotel.

19 Could you tell us where the hotel is located?

20 FACILITATOR: At the Crowne Plaza. It's kind of
21 up in the -- it's close by, about six blocks away from here.
22 And you'll all be getting notification of the address and
23 that kind of thing.

24 MR. JACOBS: Okay. Lafe?

25 MR. HAUGEN: I just wanted to note that we'll be

1 handing out some proposals for Group F for the next meeting,
2 and Ed will be handing those out to everyone to take back
3 and digest and be ready for the next meeting. Thank you.

4 MR. COYLE: Okay. Also, I would like to have
5 Marty stand up and give him a big hand of applause for his
6 excellent job he did for being chairman of the national --
7 for how many years now? Four? -- and I think he did a
8 wonderful job. I would like to give him a little applause
9 for that.

10 MR. JACOBS: Madame Secretary, anything that you
11 want to add before we dismiss?

12 MS. HENRIQUEZ: Just to say that I really did miss
13 you all. I was not in Denver. This was a remarkable
14 session again so thank you for all your hard work and the
15 work ahead of us.

16 And just safe travels, and I'll see you next
17 month.

18 MR. JACOBS: I would like to ask the working group
19 chairs and HUD to let's meet for about ten minutes. Some of
20 you, I know, have tight schedules and so forth, but we'd
21 like to set up a time when we should have our conference
22 call for the agenda for next session.

23 If nothing else at this time, I'm going to call --
24 sorry.

25 MR. HAUGEN: We've got some handouts from F, and

1 Ed Goodman is going to do that.

2 MR. GOODMAN: I just -- this is a homework
3 assignment that we're handing out, so I just wanted to make
4 sure everybody is here.

5 We were planning Workgroup F to get started this
6 afternoon, but obviously, we ran out of time. We had
7 prepared the handouts, and we understand that everyone wants
8 to review handouts before we have the opportunity to discuss
9 them.

10 So what's going to be handed to you -- I just
11 wanted to provide a quick explanation -- are all the
12 proposals that have come out of Workgroup F. And most of
13 the proposals we were not able to reach a consensus on, so
14 you will see that there are majority proposals and a
15 dissenting or minority proposal.

16 For the main proposal, which is a consolidation of
17 two regulations concerning monitoring enforcement into one,
18 there are, actually, three proposals. There's a majority
19 proposal and two alternatives.

20 The packet is in two parts because part of the
21 information we didn't get to Kiana until this afternoon.
22 And there's some repetition in the second hand out, because
23 the items that were first copied were not in the appropriate
24 format.

25 So I just wanted to give that explanation to you

1 and make sure everyone got it before they headed out the
2 door and headed back home.

3 Thank you, Mr. Chairman.

4 MR. JACOBS: Okay. Thank you.

5 I think all of you are getting your copies.

6 Anything else? If not, Marguarite is going to give us your
7 closing prayer. Could we all stand please.

8 (Closing prayer.)

9 (Proceeding adjourned at 4:10)

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C E R T I F I C A T E

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I, the undersigned officer of the Court, under my commission as a Notary Public in and for the State of Washington, hereby certify that the foregoing proceeding was taken stenographically before me and thereafter transcribed under my direction;

That I am neither attorney for nor a relative or employee of any of the parties to the action; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this day of , 2010.

Kristin M. Vickery
NOTARY PUBLIC in and for
the State of Washington,
residing at Renton.
Commission expires 7/29/2010.

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