

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT AND TRIBAL REPRESENTATIVES**

**NATIVE AMERICAN HOUSING ASSISTANCE & SELF-DETERMINATION  
NEGOTIATED RULEMAKING COMMITTEE ON FORMULA ALLOCATION**

**COMMITTEE-ENDORSED  
ORGANIZATIONAL PROTOCOLS**

**Preamble**

The Native American Housing Assistance & Self-Determination Negotiated Rulemaking Committee on Formula Allocation has been established pursuant to Public Law 104-330, Public Law 101-648 and Public Law 107-292, and is further detailed in a Committee Charter approved by HUD. The Committee is charged with review of the Indian Housing Block Grant (IHBG) allocation formula established in 24 C.F.R. Part 1000, subpart D and related sections and other regulatory issues that arise out of the allocation or reallocation of IHBG funds, including actions related to data errors, under the IHBG Program.

**1. PARTICIPATION**

- a. **Attendance at Meetings.** Committee Members for each party must make a good faith effort to attend all full negotiating sessions. In the event a Committee Member or his/her designated alternate fails to attend three consecutive full negotiating sessions, HUD may remove the member from the Committee and designate a replacement member. A Committee Member may be accompanied by such other individuals as the Member believes appropriate.
- b. **Designated Alternates.** In the absence of a Committee Member, the Alternate shall have the same rights, responsibilities, duties and functions as a Committee Member during Committee and Work Group participation. Each Committee Member has the discretion to decide who will best represent them in their absence. A committee member unable to attend any session shall inform the Committee Co-chairs in writing with an original signature as to whom they have selected to represent them and will specify the term.
- c. **Constituents' Interests.** Committee Members or their Alternates are expected to represent the concerns and interests of their constituents.
- d. **Public Participation.** Comments from the public will be taken during the designated opportunity for public comment provided in Article 2(c) of these Protocols.

**2. MEETINGS**

- a. **Quorum.** A quorum of the full Committee shall consist of two-thirds of the members (or properly designated Alternates) of the Committee consisting of tribal and

Departmental representatives who are present during a call of the roll taken at the start of a negotiated rulemaking committee meeting.

- b. **Structure.** The negotiations will be conducted consistent with the Committee Charter and the Negotiated Rulemaking Act of 1990 ("NRA") as adapted to the unique relationship between the Government of the United States and the governments of Indian tribes.
- c. **Open Meetings.** Committee meetings will be announced in the *Federal Register* prior to the meeting and will be open to the public. Members of the public and persons other than Committee Members will be given opportunities at times designated in the agenda for each meeting to make comments, raise questions or submit materials for the record. Such comment must be concise and, in the absence of agreement by the Committee co-chairs, limited to not more than five (5) minutes per speaker per comment period. Comments from members of the public will be permitted when yielded to by recognized Committee member or recognized by the Chair.
- d. **Minutes.** The Committee shall observe the requirements of the Charter regarding minutes, records and documents. In addition, draft minutes will be prepared and distributed to Committee Members by the representatives of Housing and Urban Development ("HUD") ten (10) calendar days prior to the next meeting. HUD will maintain a record of all minutes and will distribute approved minutes to Committee Members and Tribes.
- e. **Agenda.** Draft meeting agendas will be developed by the Principal Federal Government Officer ("PFO") and Regional Representatives for approval by the Committee. A draft agenda for each meeting shall be distributed to all members such that receipt by the Member will be had not later than 10 calendar days in advance of such meeting.
- f. **Caucus.** Any Committee member can call a caucus at any time, which may be a non-public meeting. Parties will be asked for an estimate of the time needed for the caucus. Internal procedures will be determined by each respective caucus.

### 3. **DECISIONMAKING**

- a. **Consensus.** All decisions of the Committee shall be made by Consensus. Consensus means unanimous agreement as shown by an absence of expressed objection by any Committee Member present at the Committee or Work Group meeting with regard to a particular issue.
- b. **Work Groups.** Smaller Work Groups may be formed by the Committee from Committee Members or their designees to address specific issues and to make recommendations to the Committee. Work Groups are open to any Committee Member or the Member's designee. Interested persons and members of the public are permitted and encouraged to participate in Work Group proceedings. Work Groups are not authorized to make decisions for the Committee as a whole. All Committee Members will be notified of all Work Group meetings by the PFO.

#### 4. AGREEMENT

- a. **Product of Negotiations.** The intended product of the negotiations is a preliminary report stating whether a need exists for changes as set forth in Section II of the Charter and, if so, stating recommendations for such change as is required. The report shall be in the form of a written statement developed by the Committee Members on behalf of the Secretary of HUD and Tribal Committee representatives. The Secretary agrees to use the Committee's preliminary report and any proposed regulations as the basis for any proposed rule concerning the regulations as set forth in Section II of the Charter. Prior to the publication of any proposed rule, the PFO will provide the Committee with notice and an opportunity to negotiate any changes in the proposed regulations.
- b. **Final Report.** The Committee will review all comments and any clearance issues, including those of HUD and the OMB, received in response to any proposed rule and will submit a final report with recommendations to the Secretary of HUD concerning any proposal for change to the proposed rule.

#### 5. SAFEGUARDS FOR THE COMMITTEE MEMBERS

- a. **Good Faith.** All Members agree to act in a good faith effort to reach consensus in all aspects of these negotiations by encouraging the free and open exchange of ideas, views and information. Personal attacks and prejudiced statements will not be tolerated.
- b. **Information.**
  - 1) The Members of the Committee agree to exchange information in good faith.
  - 2) Members of the Committee will provide information called for by subparagraph (1) above in advance of the meeting where such information is necessary.
  - 3) All Members of the Committee agree not to divulge information shared by others in confidence.
  - 4) The media release spokespersons, comprised of the two Co-Chairs, will provide Committee communications with the media. The media is welcome to attend Committee meetings, but must identify and display their media credentials.
- c. **HUD Assistance to Committee Members.** HUD will provide requested information and technical assistance needed for the work of the Committee.

#### 6. SCHEDULE

The number of Committee meetings shall be at least six (6), unless the Committee completes its work in fewer sessions. Meetings shall be scheduled no less frequently than

monthly, if feasible. Each meeting shall last for three (3) consecutive days or as determined by the Committee.

## 7. FACILITATORS


The Committee may utilize a facilitator. The role of the facilitator includes impartially facilitating Committee and certain Work Group discussions, assisting in the development of draft agendas, working to resolve any impasses that may arise, resolving points of order and issues of relevance, preparing meeting records, assisting in the location and circulation of background materials and materials the Committee develops, and other functions the Committee requests. The facilitator will take no position on the issues before the Committee and serves at the will of the Committee.


## 8. CO-CHAIRS AND REGIONAL AND HUD REPRESENTATIVES


- a. **Regional Representatives And Co-Chairs.** Six (6) regional representatives, one each from the Eastern/Woodlands, Northern Plains, Southern Plains, Southwest, Northwest and Alaska Regions shall be selected, respectively, by Committee Members from each such region. The role of the regional representatives includes developing draft agendas with the PFO and facilitator, chairing Work Group discussions, working to resolve any impasses that may arise, reviewing meeting summaries, assisting in the location and circulation of the background materials and materials the Committee develops, and other functions the Committee requests. The regional representatives will represent positions of the full Committee and serve at the will of the Committee members from the region that the regional representatives represent. The regional representatives shall designate two tribal co- chairs to chair committee meetings. The regional representatives and/or other representatives of the Committee may be authorized by the committee to negotiate Tribal positions with the PFO and shall report the results of any negotiations to the full Committee for further action and/or ratification. Meetings of the regional representatives shall be open to the Committee
- b. **PFO and HUD Representative.** The PFO is the Assistant Secretary for Public and Indian Housing or his/her designee. The role of the PFO and the HUD Representative includes developing draft agendas, chairing Work Group discussions, working to resolve any impasses that may arise, reviewing meeting summaries, and other functions the Committee requests.

**CERTIFICATION**

We certify that these Organizational Protocols were considered and endorsed as a result of a meeting conducted in Denver, Colorado by the Negotiated Rulemaking Committee formed to review regulations concerning the allocation formula under the Native American Housing Assistance and Self-Determination Act on May 1, 2003.

  
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[Name]  
Principal Federal Government Officer  
Housing and Urban Development

  
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[Name]  
Tribal Co-Chair

  
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[Name]  
Tribal Co-Chair