

Formula Negotiated Rulemaking Committee
Meeting Minutes
July 14 – 17, 2003
Denver, Colorado

FORMULA NEGOTIATED RULEMAKING COMMITTEE
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These minutes are a record of discussions held during meetings of the full committee only, and do not reflect discussions held during caucuses or working group sessions.

The fourth meeting of the Formula Negotiated Rulemaking Committee was held on July 14 - 17, 2003, at the Westin Hotel in Denver, Colorado.

Committee Members in Attendance

Governor Bill Anschutz (Wayne Scribner, alt.)	Mr. Marvin Jones
Mr. Rodger Boyd	Dr. Blake Kazama
Ms. Virginia Brings Yellow (Eugenia Hobucket, alt.)	Mr. Bruce LaPointe
Mr. Robert Carlile	Mr. Michael Liu (Michael Gerber, alt.)
Mr. Larry Coyle	Ms. Judith Marasco
Vice Chief Beasley Denson	Mr. Johnny Naize
Mr. Wayne Ducheneaux	Mr. Michael Reed
Mr. Joel Frank	Mr. Jack Sawyers
Mr. Robert Gauthier (Jason Adams, alt.)	Mr. Marty Shuravloff
Ms. Carol Gore	Mr. Russell Sossamon
Mr. Ray Gorynski	Ms. Darlene Tooley
Mr. Ron Hoffman	Chairman Eddie Tullis (Susan Wicker, alt.)
Mr. Terry Hudson	Chairman Brian Wallace (Phil Bush, alt.)

[Ms. Barbara Baker, designated alternate for Mr. Sawyers also attended, although due to Mr. Sawyer's presence, was not required to perform any Committee duties.]

Over the course of the four-day meeting, approximately 70 observers attended the public sessions. An attendee list is included (Attachment 1).

MONDAY MORNING, JULY 14, 2003
FULL COMMITTEE

Mr. Sossamon called the meeting to order at 9:25 am and welcomed all. Mr. Mark Charlie gave the invocation. Mr. Sossamon called roll and established that there was a quorum (Attachment 2). Prior to turning to the agenda, Mr. Sossamon indicated that there were a few housekeeping items. He announced that the Full committee would be meeting in this room (A) for the morning session only. When the Full Committee comes back together this afternoon, it will meet in room C. He added that staff would move committee members' materials left on the table. He also stated that the Full Committee would be meeting in room C for remainder of the week. Mr. Sossamon then reported that the Needs workgroup would be meeting in the Lawrence room, on this level; and, the CAS workgroup would be meeting in the Molly Brown room, one level down. He mentioned that the rooms have been set up as one large room, but can be broken into 2 smaller rooms if necessary. Mr. Sossamon then distributed an information sheet on

reservations for the upcoming meeting scheduled for Washington, DC, and at the request of staff, urged all committee members to finalize their hotel arrangements sometime during the week. He added that staff would be available to help. Lastly, Mr. Sossamon reported that the revised meeting minutes from the April meeting were available, and that the committee can consider approval of the revised minutes at end of the meeting or at beginning of next meeting.

Mr. Sossamon stated that the next order of business on the agenda (Attachment 3) is review and discussion of the minutes from the June meeting. He opened up the floor for comments, and noted that a draft of the minutes was sent out last week

Mr. Boyd noted that his name was not on the minutes as having attended the meeting. Ms. Hobucket noted that Ms. Brings Yellow's name was also missing. Both items were so noted. Mr. Sossamon asked if there were any further comments or questions? Hearing none, he called for consensus on approval of the minutes. There was no disagreement. Mr., Sossamon announced that there was consensus on approval of the minutes.

Mr. Sossamon directed the group's attention to the revised request for technical information form and the accompanying 'instruction sheet' outlining the procedure for submitting requests (Attachment 4). He stated that each request would be dated and timed and numbered.

Mr. Sawyers commented that he would like to discuss procedures for workgroup consensus. Mr. Sossamon stated that the issue could be brought up now or later. He then opened the floor for public comments and questions. There were no comments.

Mr. Sossamon then reported that the co-chairs and regional representatives met earlier this morning for a discussion on setting up procedures for moving the work of the workgroups forward. He stated that they discussed strategies and it was agreed that the committee would break into workgroups this morning. The workgroups would then determine what they could and could not agree on, and then present both sets of issues to the full committee at the end of the day. Mr. Sossamon added that the next step is to look into the areas where there isn't agreement and try to generate proposals. He stated that the co-chairs and regional representatives hoped to have at least one proposal to the full committee by Tuesday afternoon and perhaps more. Mr. Sossamon shared the hope of the co-chairs and regional representatives that on Wednesday, the full committee would be able to take up the items we agree on and begin to consider other items. He added that the regional representatives and co- chairs agreed to meet on Wednesday morning to discuss procedures further.

Mr. Sossamon then reported that the group affirmed that the workgroups are to be open to all participants, but added that when controversial items come up, the co-chairs and regional representatives ask that the consensus follow the protocols that state that consensus is by committee members:

Sec.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.

Mr. Sossamon pointed out that the committee is bound to follow this protocol. But added that this doesn't limit comments and participation, but only consensus.

Mr. Ducheneaux disagreed, adding that it is impossible to be in two places at once. Mr. Sossamon commented that he would have the opportunity in full committee to disagree. Mr. Ducheneaux stated that he still doesn't agree, and Mr. Sossamon reiterated that the committee is bound by the protocols. He clarified that the people in the workgroups will continue to have input and open discussion, but when consensus is called, it is only the committee members who vote. Mr. Ducheneaux asked if he could delegate someone to provide his vote. Mr. Sossamon stated that would require a change to the protocols.

Ms. Marasco asked for a clarification that a member's ability to vote at the committee level isn't affected. Mr. Sossamon stated that was correct, and every committee member will have the opportunity to withhold consensus at the full committee level. Ms. Tooley added that it is possible to agree to consensus at the workgroup level to move items forward. Mr. Sossamon responded that would indicate that you agree to the item. However, if you don't agree, you should make it known. He added that items do not need to be recommended to the full committee if the workgroup doesn't agree. He reiterated that the full committee would address the items not agreed upon.

Mr. Ducheneaux again noted that he respectfully disagreed with the interpretation. He commented that the protocols state that any committee member can select a representative, and therefore felt that he could designate someone to represent him in the workgroup. He referenced the protocols:

Sec 3. DECISIONMAKING, ¶ 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.

Mr. Sawyers raised the issue that consensus in a workgroup does not bind anyone in the full committee. The full committee is the only official consensus group. He added that one would hope that you would give consensus consistently. But, he reiterated that consensus at the workgroup level is nonbinding. Mr. Sawyers commented that sooner or later items would be brought to the full committee without consensus. However, consensus at the workgroup level is primarily to get things moving. He restated that he didn't think that it matters if you're represented at all meetings at the workgroup level.

Mr. Sossamon commented that his interpretation of the intent of ¶ 1B refers to the entire session. He added that he would question whether the committee members delegated for voting purposes at the workgroup level at the last Neg-Reg. Mr. Ducheneaux commented that last time, in his workshop, all participants, not just committee members, reached consensus.

Mr. Sawyers suggested that in the interests of moving forward, the group move on in spite of the objection. Mr. Ducheneaux reiterated that he has the right to object at any time. Mr. Sossamon responded by asking Mr. Ducheneaux if he would limit to one representative if delegated. Mr. Ducheneaux stated that would be ok with him, and that he would delegate a representative in writing.

Mr. Hoffman thanked the co-chairs for trying to get the processes organized and trying to come to consensus on the process. He stated that it was important to have an organizational structure, and that everyone has the opportunity to express concerns at each workgroup. Ms. Tooley commented that she wanted to be really clear that participation is valued and everyone's help is needed. She added that in her opinion, if we impose committee member consensus, we would have to work hard to make certain that everyone continues to participate. Ms. Tooley noted that she wants to make certain that the intent is not to limit participation. Mr. Sossamon clarified that the intent is to force the committee to do its job and not allow a non-committee member to hold it down. He added that ultimately, it's the committee members who will have to reach consensus. The process simply moves us to a point that requires the committee members to take a position and be prepared to vote.

Mr. Hudson stated that there doesn't appear to be anything in the protocols regarding alternates for regional representatives. He then commented that Mr. Naize wasn't present at the regional representatives' meeting this morning. Mr. Hudson queried if there was a process wherein someone can be appointed to take place of a regional representative. Mr. Sossamon suggested looking in the protocols for how regional reps were selected initially and if the procedure doesn't prevent another from being selected, Mr. Sossamon suggested that the Southwest region select an alternate.

Mr. Gerber gave floor to Mr. Pereira, referring to Sec 8 of the protocols, stated that the protocols do not prohibit an alternate from being selected by the regional delegates. Mr. Sossamon added that it's up to each region.

Mr. Ducheneaux, referring to Sec. 3, ¶b: "...member or designee can attend workgroup and is permitted and encouraged to participate." There fore, he still thinks that members can designate a consensus person in the workgroups. Mr. Sossamon disagreed and that according to Sec. 1, ¶b, consensus is reached by committee members. Mr. Ducheneaux mentioned that he tried to put in a proposal about objecting and putting forth a proposal. He reiterated that he objects. Mr. Sossamon responded that when it comes to a call for consensus, the committee member votes. Mr. Ducheneaux objected to his interpretation. Mr. Sossamon stated that he doesn't object to a committee member designating a

committee member. However, he again voiced his concern regarding non-members being allowed to hold up the process and moving the responsibility away from the committee members

Mr. Bush stated that he appreciates taking the time to discuss this issue and he recommends proceeding the way we have been working. He commented that he thinks it should be up to the workgroups as to how to handle consensus. Therefore, he stated that it is his recommendation to let the workgroups handle it. Moreover, he stated that he agreed with Mr. Ducheneaux that it just takes one objection to stop.

Mr. Sawyers commented that the group needs to move on. He suggested working out the details in the workgroups and if it becomes a problem, the full committee can revisit the issue at the end of the day. He also suggested that the workgroups meet and determine what we can get consensus on and what not. Mr. Sawyers clarified that we are looking for items that we can reach consensus on to bring to the full group. If it's not going to work, we'll know by the end of today. Ms. Hobucket stated that she agrees with Mr. Ducheneaux that the workgroups need to be inclusive. Moreover, she commented that she couldn't see tribes spending money to send folks here and not be able to participate.

Mr. Hoffman commented that he would like to persuade people who have proposals to present them, put everything on the table, and not to wait for the last minute. Mr. Sossamon reiterated that the chairs and regional representatives discussed the issue of consensus within the workgroups. He pointed out that as committee chair it was his job to bring forward the strategy for moving on. He added that this was a strategy was agreed upon by that group. However, seeing an objection to it, we have agreed to continue the workgroups as before, and to allow for all input and agreement in the workgroups.

Mr. Hoffman asked for a clarification regarding having reports back from the workgroups on specific items of concern by the end of the day. Mr. Sossamon confirmed that the workgroups were to make recommendations on the items that they agree as well as report on items that they do not agree on, and put forth any proposals on how to address those items.

Mr. Sossamon asked for any further comments or questions.

Dr. Kazama requested a regional caucus before breaking into workgroups. Mr. Sawyers also requested a regional caucus. All regions requested caucus. Mr. Sossamon announced that each region would caucus, with a ten-minute time limit. Mr. Sawyers requested one hour.

Mr. Sossamon put forth the question of a one-hour time limit. It was agreed that there would be a one-hour regional caucus and then meet in workgroups. Mr. Sossamon then recessed the meeting.

MONDAY AFTERNOON, JULY 14, 2003
FULL COMMITTEE

Mr. Sossamon reconvened the meeting at 5:15 pm. He stated that he would like to turn the floor over to the workgroup chairs to first present items out of the workgroups that there is agreement on, and then to provide a list of items that there is no agreement on along with a plan for action. Mr. Sossamon gave the floor to Mr. Sawyers.

Mr. Sawyers reported that the Needs workgroup had come to consensus on several factors, as follows:

- Number of AIAN persons
- Number of AIAN persons with income <30%
- Number of AIAN persons with income 30 – 50%
- Number of AIAN persons with income 50-80%
- Number of hh overcrowded
- Number of hh without complete kitchens or plumbing
- Number of AIAN persons with >50% income for housing cost

Mr. Sawyers reported that was all they have consensus on at this time. He added that he anticipated that the subgroups working on both minimum funding and formula area would have presentations to the full committee by Wednesday morning. He also reported that the workgroup would be working on the issue of NAHASDA units (NAS) tomorrow. Mr. Sawyers then turned the floor over to Phil Bush for a report on minimum funding

Mr. Bush reported that the sub-group was looking at minimum funding and other items, and that so far, they have agreed to disagree. He commented that time was spent time on reviewing the Small Tribes Task Force proposals and that they had agreed not to use any of the proposals as written. However, he added that there were some good ideas, such as not setting aside competitive grants. Mr. Bush reported that the sub-group has 6 new proposals and would be meeting tonight at 7 pm to continue working. He then asked Rebecca Kidder to provide details on the proposals.

Ms. Kidder outlined the proposals, which she characterized as being in the conceptual stages:

1. Minimum funding as a % of annual appropriation for Need, demonstrating Need as having HH below 80% median income.
2. Capture repaid IHBG grant funds plus unclaimed grant funds as a pot, and create a formula for tribes whose administrative need is not met through the current formula.
3. Remove the 20% administrative cap for small tribes, keeping the minimum funding at \$25k.
4. Combine #2 and #3, keeping a minimum grant of \$25k, removing the 20% administrative cap, and creating a pot of money for supplemental grants.
5. Set minimum funding level at the TDC to build one unit.

6. Set minimum funding level at the TDC to build two units.
7. Set minimum funding level at the TDC to build two units, with Need demonstrated by HH below 80% median income.

Ms Kidder reiterated that the sub-group planned to meet this evening in the hopes of fleshing out the proposals and getting something on paper. Mr. Bush added that the sub-group is open to suggestions or ideas, and invited others to join the meeting this evening to offer proposals or ideas.

Mr. Sawyers turned the floor over to Mr. Carlile.

Mr. Carlile reported on the sub-group on formula area. He stated that there had been discussions on the definitions applicable for formula areas, and that there was consensus on reservation defined by census, and trust land (Attachment 5). He added that Alaska would caucus to come to a decision on issues related to Alaska.

Mr. Sawyers asked if there were any questions at this time. Hearing none, he concluded his report.

Mr. Sossamon turned the floor over to Dr. Kazama.

Dr. Kazama reported that the CAS workgroup worked as one group today and that there were four areas of consensus and one area, over-reporting and under-reporting of units, which the workgroup would be discussing tomorrow. He added that the workgroup had decided to meet at 8:00 am tomorrow. He then listed the items where there was consensus:

Formula:

Step one: for formula retain AEL, provide for individual tribal challenge, make HUD response more consistent across regions, any funding for AEL stuffy should come from non NAHASDA sources

Step 2 & 3: update inflation figure (change term of reference to 2003 from 1996).

NAS: Conceptual agreement to move to Needs and coordinate runs with need group, but reserved the right to take it back

Section 1200.340: Regulation language to update section 340 and appendices a & b regarding averaging 1992 – 1997. Needs to be referred to the drafting committee.

Mr. Wagenlander clarified that changes to statute allow small programs that received CEAP funding could average 1992 – 1997 funds to establish baseline. He added that this is a technical adjustment to reflect statutory change.

Dr. Kazama reported that there had been lengthy discussions related to FCAS issues (MH, LR, TK3, and Section 8) and that the consensus was that the workgroup did not have a recommendation or decision on this. Dr. Kazama reiterated that the workgroup would be taking up under- and over- reporting at 8 am tomorrow.

Mr. Sossamon queried the group regarding scheduling full group meetings on Tuesday. He pointed out that the agenda had proposed a full committee meeting at noon and at the end of the day. Mr. Sawyers suggested meeting at the end of the day since there is a lot of work to do at the workgroups. Dr. Kazama agreed and added that if the CAS workgroup is finished early, it will go to Needs.

Mr. Sawyers clarified that the full committee would meet at end of the day. He added that he would like the full Needs workgroup to meet together at noon.

Mr. Sossamon reiterated that the full committee would meet at 5 pm Tuesday.

Ms. Marasco requested that regional representative meetings be placed on the agenda. Mr. Sossamon responded by stating that we don't always know ahead of time when they will be held. He added that since any regional representative can call the meetings it is impossible to put the meetings on the agenda. However, Mr. Sossamon stated that everyone would be notified when they meet. In any case he added that any decisions are brought back to the full committee. He also added that the committee would be notified if they know of a meeting in advance.

Mr. Bush asked if the regional representatives meet at the beginning of every meeting. Mr. Sossamon responded no, that had not been the case. Mr. Sawyers added that the regional representatives try to meet at some point during every session. Mr. Bush commented that the protocols state that any committee member can attend and so we'd like to know when they are. He added that the Southwest region had chosen Terry Hudson as the alternate.

Mr. Sossamon stated that it is the responsibility of the regional representatives to notify committee members. He added that in future, regional representatives and alternates would be notified regarding meetings. Ms. Tooley suggested that announcements of regional representatives' meetings could be posted on the message board. Mr. Sossamon agreed.

Mr. Gerber stated that the drafting committee would be meeting during lunch break on Tuesday.

Mr. Sossamon reiterated that the Needs minimum funding sub-group would be meeting at 7 pm to 9 pm this evening. He then asked for any further questions or comments

Mr. Sceeles asked for a clarification on a technical request that had been submitted, as well as on document control, in general. Staff provided the response that all technical

requests previously submitted had been included in the binder located in the ‘office’ and that documents from previous meetings could also be found in a separate binder.

Mr. Sossamon asked for any additional comments. Hearing none, he recessed the committee for the day.

TUESDAY AFTERNOON, JULY 15, 2003
FULL COMMITTEE

Mr. Sossamon reconvened the full committee at 5:25 pm. He stated that he would like to start with workgroup reports, and turned the floor over to Dr. Kazama.

Dr. Kazama reported that the CAS workgroup brought AEL back to the table again in that there was an additional run requested on the impact of a minimum AEL as a national average. He added that the workgroup expected to discuss this issue further on Wednesday morning, and would meet 8 am Wednesday, and then break for full committee meeting, per the agenda. He added that the workgroup could use more time, but will defer. Dr. Kazama set forth several issues. The first was that A/S Liu coming in this evening and the CAS workgroup has invited him to participate. The second was that the workgroup has had lengthy discussions on over under reporting and will continue the discussion tomorrow. Lastly, the workgroup discussed the inflation factor as it pertains to Section 8, as well as the overall inflation factors. He reported that this has been sent back to regional caucuses. Dr. Kazama then stated that the CAS workgroup agreed to send the NAS issues to the Needs workgroup to discuss, and was there a progress report on it.

Mr. Sossamon asked if the Needs workgroup had responded to the request. Mr. Sawyers: responded that the workgroup would be addressing NAS but has not done so as yet. Mr. Sossamon clarified that NAS will be addressed under Needs.

Dr. Kazama continued that the workgroup was getting down to the final issues to be discussed, and that on Wednesday would be discussing over- and under-reporting of units, the final AEL impact run, and an appeal or hearing process with HUD.

Mr. Sossamon thanked Dr. Kazama and clarified that the CAS workgroup did not have anything to present to the full committee for consensus at this time. Dr. Kazama responded that was correct. Mr. Sossamon turned the floor over to Mr. Sawyers.

Mr. Sawyers stated that the Needs workgroup had several factors on which they have consensus (Attachment 6), and quite a few items that still must be addressed. He added that the workgroup was not ready to ask the full committee for consensus on anything at this time because there are other items that still need to be discussed. For example, the group agreed to continue to use TDC, but still must explore whether it will be adjusted, as well as putting in place a challenge process. Mr. Sawyers reported that the sub-groups are still working on formula areas, minimum funding, NAS, housing shortage variables, and an appeals process. He stated that two groups that will report tonight, but neither is

ready to present for consensus. Mr. Sawyers turned the floor over to Mr. Carlile, who asked Dave Heisterkamp to present on formula area.

Mr. Heisterkamp presented a draft regulation on formula area (Attachment 7). He pointed out the new section on Alaska issues recognizing that the nested areas in Alaska relate to each other. Mr. Heisterkamp stated that the sub-group will continue to meet on this issue this evening, in this room, and will focus on defining substantial housing services. He added that there were no changes at this time have been made to HUD cap effect, which continues to be included.

Ms. Marasco referred to ¶ 2i, additional geographic, and asked if a, b, and c apply. Mr. Heisterkamp responded that 'a' always applies, and either 'b' or 'c.'

Mr. Sawyers thanked Mr. Heisterkamp and turned the floor over to Mr. Bush for a report on minimum funding.

Mr. Bush reported that the sub-group spent a good deal of time looking at minimum funding and had narrowed down to 6 proposals. He added that the group had looked at evaluating each proposal, knowing that there may not be agreement, and left a lot of blanks for percentages, etc. He added that the sub-group would be meeting again this evening. He reiterated that none of the proposals (see Attachment 8) has consensus and that the proposals are for discussion purposes. He then turned the floor over to Ms. Kidder.

Ms. Kidder stated that in FY 2002 there were approximately \$7 million that were unclaimed. She added that repaid funds are from tribes with repayment agreement based on over-counting units. She pointed out that the number fluctuates annually, but that there has been an average of \$3 million per year. Ms. Kidder stated that Proposal #2 looks at §238 (administrative cap) and that there was consensus in the sub-group to add language to the regulation. She mentioned that the handout includes 4 justifications included in the proposal. Regarding Proposal 3, Ms. Kidder pointed out that there are two alternates (a and b): a refers to % of need allocation, and they have requested a data run on this; b is based on % of total IHBG allocation, and data runs have been requested on this also. Ms. Kidder pointed out that the difference is between need grant and total grant. Proposal 4 is similar to Proposal 3, but includes a maximum grant. Proposal 5 is for a minimum based on TDC with two different approaches: A for one unit and two; and B guarantees TDC for x units, and demonstrated need based on HH. Proposal 6 provides for a set-aside similar to Prop 1, but includes establishing a floor or baseline below which the pot of money will not go.

Ms. Kidder reiterated that these proposals are still in discussion phase and are not ready for consensus. The plan is for the sub-group to look at data and evaluate impact.

Ms. Marasco asked for a clarification regarding unclaimed and repaid funds. She asked if 'unclaimed' refers to tribes that don't submit an IHP, and does that include Alaska?

Regarding repaid funds, are these funds limited to over/under reporting or are the funds recaptured through unobligation penalties? Ms. Marasco also asked if the sub-group had considered a cap for what will go into this special fund, since the amount could be quite large. Ms. Kidder responded that the data does not include pipeline and Alaska, and does not refer to funds defaulted. She clarified that the unclaimed funds include only those for which the tribe or regional corporation does not apply. However, she added that there is a continuing discussion on this point. Regarding repaid funds, Ms. Kidder stated that this is repayment.

Ms. Marasco asked if this proposal might include unobligated funds. Ms. Kidder responded that the sub-group had not considered unobligated funds, but it might be something to look at. Ms. Marasco, referring to a cap, commented that there could be \$40 million in repaid funds for under- and over-reporting and if unobligated funds are included, the amount could be larger. Ms. Kidder stated that the sub-group had not discussed a cap, but will do so.

Mr. Sawyers indicated that the reports were complete.

Mr. Sossamon thanked those who provided reports. He then stated that he would like to talk for a few minutes about the agenda, specifically if the committee finds the daily reports useful and if so, recommends continuing to meet every evening. There was general agreement that the reports were useful. Mr. Sossamon announced that the full committee would continue to meet at 5 pm daily for reports. He added that if the reports raised questions for anyone, they should bring those questions back to the workgroups to make certain that any questions are answered. Mr. Sossamon also stated that he would like to meet with the chairs of workgroups and the facilitators this evening to talk about the issue of structuring reports and data so that there is a consistent format. He stressed the importance of recording the workgroup decision-making process, so that when the time comes, items are presented to the full committee in the same format, including how proposal were evaluated, and what work needs to still be done. He added that he would like to improve the process. Regarding the agenda, Mr. Sossamon suggested that the workgroups need more time, so tomorrow, we will go back to workgroups, and will meet again in full committee at 5 pm for reports or recommendations for consensus.

Mr. Sawyers asked for clarification on time. Mr. Bush stated that his sub-group would begin at 8:30 am on Wednesday, and would also meet immediately after the full committee recessed. Mr. Coyle stated that the NAS sub-group would meet tonight and would also begin at 8:30 am on Wednesday. Mr. Carlile stated that the formula area sub-group would meet in this room at 7 pm this evening and would begin tomorrow morning at 8:30 am. Dr. Kazama stated that the CAS workgroup would be meeting on Wednesday morning at 8:30 am.

Mr. Ducheneaux asked for a definition of 'reservation' according to the census. Mr. Heisterkamp responded by stating that could provide a copy of the definitions.

Mr. Sawyers and Dr. Kazama agreed that each workgroup would decide throughout the day whether and when they would meet at the workgroup level or sub-group level.

Ms. Marasco mentioned that A/S Liu would be attending on Wednesday and was there an expectation that he would participate at the workgroups or should we make some other accommodation in the agenda. Mr. Gerber responded that A/S Liu would be here all day Wednesday, and until about 1:30 pm on Thursday. He added that A/S Liu would be available for workgroups, if that's what is scheduled.

Mr. Sossamon commented that there appears to be a lot of work going on at sub-group level and we want to keep that work going forward. He suggested that time would be best spent refining what we are doing, not spending time in full committee when there's no action to be taken. He opined that A/S Liu would want us to do.

Mr. Sossamon asked if there were any further comments. Hearing none, he announced that the full committee stands in recess until 5 pm Wednesday.

WEDNESDAY, JULY 16, 2003
FULL COMMITTEE

Mr. Sossamon reconvened the full committee at 5:15 pm. Before beginning the work of the general session, he recognized A/S Mr. Liu, welcomed him, and expressed appreciation on the part of the committee for his attendance, and asked if A/S Liu would like to address the group at this time. It was decided that the committee would go directly to workgroup reports. Mr. Sossamon turned floor over to Mr. Sawyers.

Mr. Sawyers handed out an agenda for the Needs workgroup (Attachment 9). He reported that there was consensus on factors and multipliers, including the use of TDC as a multiplier. However, he added that other items still need work. Mr. Sawyers also reported that there had been a report from staff (Jim Anderson) on birth and death, which would be shared with the committee later. At this point, Mr. Sawyers commented that the report was helpful in making some decisions, but that it wasn't necessary to discuss it in full at this time. Mr. Sawyers stated that there were still items that the group did not agree on. He then said that Mr. Bush would report on minimum funding and housing shortage, then Mr. Carlile will report on formal area, Ms. Gore on appeals process, and Mr. Coyle on NAS.

Before the reports, Mr. Sossamon asked if there is anything that the sub-groups can do between now and the next meeting in Washington, DC, for example, submitting discussion factors, so that the time between meetings can be well utilized.

Mr. Sawyers responded that the group could look at the 1990 census factors. Mr. Sossamon commented that the 2000 census data is being used now and would be available between now and the DC meeting. He suggested requesting preliminary runs before the meeting. Mr. Sawyers responded that his group would try to do that.

Mr. Bush reported on minimum funding. He stated that the sub-group had revised proposals and had an additional proposal (#8) that they are reviewing. He added that the sub-group hoped to work on a housing shortage variable this evening. Mr. Bush then turned the floor over to Ms. Kidder.

Ms. Kidder began her report by stating that the sub-group did not bring new proposals to the full committee at this time. She went on to explain that one problem they were facing is that 2000 census data will be available at the August meeting but that it suppresses data needed for evaluation. However, she stated that there will be a report on what tribes have suppressed data, that the data is suppressed for 20 hh or less, and so they would have a report on which tribes and the number of hh with suppressed data. Ms. Kidder added that there is a way to extrapolate hh with income 80 % below median or less, and that there would be a way to tell the difference where there is suppression and where there is zero count. She closed by commenting that this information will affect the minimum funding proposals, and so the sub-group will have to wait until the next meeting to complete its work.

Mr. Bush reported that his sub-group through there was consensus on proposal #2, but it is still being worked on. He added that he thinks the sub-group will be able to work out some common language.

Mr. Carlile reported on the formula area sub-group by providing a proposed definition of substantial housing activities (Attachment 10). He stated that the definition is being taken to the drafting committee, and that the blanks spaces had been left intentionally. He added that the sub-group proposes presenting to the full committee. Mr. Carlile then moved to the next topic, which was overlapping areas. He stated that the sub-group was drafting new language for §1000.326, and that they had requested technical assistance on §1000.326c from census data. He stated that the third point the sub-group is addressing is state recognized tribes, and that they will have more discussion on that issue.

Mr. Coyle reported that the sub-group on NAS met this afternoon, there was great input, and Marty Shuravloff will be taking over as chair of the sub-group. Mr. Coyle added that there were initially three proposals, and they have been weeded down to two. He stated that the sub-group would be requesting additional data and might have a presentation tomorrow. He closed by commenting that the sub-group was moving in the right direction.

Mr. Sawyers stated that the Needs workgroup presentations were finished.

Mr. Sossamon reiterated that it would be good to get all requests for technical assistance submitted before the close of the meeting, so that data runs can be performed during the hiatus. He then turned the floor over to Dr. Kazama.

Dr. Kazama reported that the CAS workgroup had identified issues early on and had worked hard. He added that he thought that by tomorrow, the workgroup could bring forward the issues in a format that will be understandable and useful for the full committee. He stated that each of the issues will be presented in a format, and then described the reporting format, which will identify the topic area, whether or not it has reached consensus, items that still need to be done, the rationale, and other effected parts of the regulations. Dr. Kazama pointed out that the workgroup was completing preparations for the presentation, would be will be meeting at 8 am on Thursday morning to make certain that issues are understandable, and that hopefully by noon on Thursday, would be finished. He commented that there had been discussion this morning regarding over- and under-reporting. He added that this is a controversial issue, and there would be further discussions. Dr. Kazama stated that he would like to talk about the issues that reached consensus and the ones we did not have consensus on with the full group sometime on Thursday. He then spoke about the hearing/appeal process, adding that there needs to be study from HUD's perspective also, and the issue would need to be discussed at the full committee level. Dr. Kazama then raised another issue that still needs to be discussed, which is the AEL minimum study. He stated that the workgroup has not yet come back to discuss this as a group. He closed by stating that a small sub-group met this afternoon to put issues in the standard reporting format, and copies would be distributed to members of the CAS workgroup for review tonight.

Mr. Sossamon thanked Dr. Kazama and Mr. Sawyers for the reports. He then asked for clarification from Dr. Kazama on the work schedule for the CAS workgroup. Dr. Kazama indicated that it looked as though the work could be completed tomorrow morning. At that point, if charged to do so, the CAS workgroup could take on any additional issues, but he felt that the workgroup would be finished tomorrow.

Mr. Sossamon expressed the hope that this body could identify issues that may have to be addressed during the next meeting so that schedule could be planned for the Washington, DC meeting. He also requested that Mr. Sawyers speak with his sub-group chairs to set a tentative schedule for DC, so that the regional representatives can develop an agenda. He also commented that there has been some discussion about the time remaining and what needs to be accomplished.

Mr. Sossamon then asked if there were any additional comments. Mr. Bush announced that his sub-group would be meeting in the Lawrence room immediately following. Mr. Carlile announced that the formula area sub-group would be meeting in this room at 7 pm. Dr. Kazama announced that there would be an Alaska caucus immediately following this meeting.

Mr. Sossamon asked if there were any further comments from the committee or HUD. There were no further comments. Mr. Sossamon announced that the schedule for Thursday would be to meet in workgroups from 8:00 am to 12 noon, and then meet in full committee from 1:00 pm to 3:00 pm. Mr. Sawyers suggested that since there was so much work to do, it would be better to meet in full committee from 2:00 to 3:00, unless

there are items ready for consensus tomorrow. Dr. Kazama responded that he would like to present the reporting sheets from the CAS workgroup to the full committee tomorrow. Sayers caucus immediately following this meeting and that he thought that one hour might not be long enough. Mr. Bush recommended leaving the agenda as is. He commented that he would like to hear from the other workgroup and have information along with the handouts to review and think about during the time between this meeting and the DC meeting. Mr. Sawyers agreed that the full committee would meet from 1:00 to 3:00 pm.

Mr. Sossamon asked if there were any objections. There were none.

Mr. Carlile requested a caucus immediately after the meeting. Mr. Bush announced that the minimum funding sub-group would meet in 15-minutes after the caucuses.

Mr. Sossamon asked if there were any further comments. Hearing none, he recessed the full committee meeting.

THURSDAY AFTERNOON, JULY 17, 2003
FULL COMMITTEE

Sossamon reconvened the full committee at 1:15 pm. He began the meeting by turning the floor over to A/S Liu.

A/S Liu began by announcing that the ICDBG NOFA has been published. He then spoke about successful changes in the office of Public and Indian Housing regarding opportunities for small and minority owned businesses. He stated that when he became Assistant Secretary, only 17% of contracting dollars went to small and minority owned businesses. He reported that the number is now up to 79 % of contracting dollars. A/S Liu attributes this change to DAS Boyd's staff and others. He added that some of the firms are Native American firms, and he wanted to encourage AIAN firms that may be interested in doing work with HUD PIH to call Cedric Brown at HUD, and that the doors are open to working with small, minority owned, and disadvantaged businesses. A/S Liu then mentioned three Native American firms with PIH contracts. A/S Liu stated his appreciation from the HUD and ONAP perspective, for everyone's involvement as well as the leadership, mentioning Mr. Sossamon, by name, and the other group leaders. He commented that nothing is perfect, but that is part of the consensus process. He added that he has been part of many groups, including the body that rewrote the Hawaii constitution, and that this is tame by comparison. He closed by saying that the process does work, but it's hard work, and he again voiced his appreciation for everyone's commitment.

Mr. Sossamon thanked A/S Liu and added that the committee members appreciate A/S Liu, and his work on the committee. Mr. Sossamon then recognized the workshop chairs and co chairs, and expressed his appreciation for their work.

Mr. Ducheneaux stated that he had been informed that the hotel in Washington DC only has room for committee members and not staff. A/S Liu responded by stating that the staff will see what we can be done, and perhaps there are other nearby hotels.

Mr. Sossamon then turned the floor over to Dr. Kazama for workgroup reports

Dr. Kazama reported that yesterday he thought he would need most of this afternoon to report on CAS workgroup recommendations. However, this morning, certain issues came to the surface, and so at this time, he can only report that the CAS workgroup is finalizing all of its recommendations and will report out at the Washington, DC meeting.

Mr. Sossamon turned the floor over to Mr. Mr. Sawyers for his report.

Mr. Sawyers began his report by telling a story about a visit he once made with Chester Carl. While at Mr. Carl's home, Mr. Sawyers commented on some really great pigs that were there. Mr. Carl said that the pigs were fed very carefully. Then, as they were talking, Mr. Carl picked up the pigs, one by one, and fed the pigs at an apple tree. Mr. Sawyers commented: "that must take a long time," to which Mr. Carl said, "what's time to a pig!"

Mr. Sawyers then went on with his report by adding that time is important to us. He commented that the Needs workgroup is basically in the same situation as Dr. Kazama's group. They have statistical issues and census, but it seemed to him that in order to see the whole picture, it would take more time. He then asked Mr. Bush to give a brief report.

Mr. Bush turned the floor over to Ms. Kidder.

Ms. Kidder reported that the sub-group had a set of proposals, and that their goal for the next meeting is to have a set of proposals with language. She added that she would work with staff (Jim Anderson and Jennifer Stoloff) to obtain data. She added that the sub-group had begun to discuss housing shortage, which is a non-consensus issue right now, and that they needed some information on alternatives. Lastly, she stated that staff (Julie Falkner) would be filling out reporting forms, and that the format would be ready by the DC meeting.

Mr. Sawyers pointed out that staff (Ed Fagan) was taking the responsibility to be the go-to person for subgroups, and that anyone interested in being included should give Ed their e-mail address.

Mr. Bush explained that the plan is to schedule a conference call with Ms. Kidder, Ed, and Julie, (tentatively scheduled for July 31) to discuss the housing shortage issue. He reiterated that if anyone is interested in receiving notes from discussions, they should give their email address to Ed. Mr. Bush also thanked Julie for a fantastic job, as well as the technical assistance staff, Jim Anderson and Jennifer Stoloff, and added that he

appreciates the work being performed by Jim and Seongman. Mr. Bush concluded his report by stating that a lot was accomplished this morning and he is now confident that it's close. He thanked everyone in the workgroup.

Mr. Sawyers then gave the floor to Mr. Heisterkamp.

Mr. Heisterkamp reported that the sub-group had language on both the definition of substantial housing activity, and on formula areas. He added that this morning progress was made on overlapping areas, and that these will be presented to the full committee 'almost ready to go.' He stated that the drafting workgroup would be emailing with versions during the time between now and the next meeting. He also said that they might request a conference call, as well.

Ms. Gore stated that there is not yet a report on the appeal / challenge sub-group. However, it has identified areas subject for appeals, and plan to work via email and teleconference between now and the DC meeting in the hopes of being prepared when they get back together. She mentioned that a tracking form, including contact information, is being compiled for those who would like to be looped in, so please add your name and you will be included.

Mr. Sossamon commented that there is a group in the CAS workgroup that is addressing similar issues and perhaps the groups should be working together. Ms. Gore responded that a representative from the CAS workgroup has joined the sub-group for that specific purpose.

Mr. Sawyers reported that the housing shortage sub-group was on track and thinks it will be able to pull it together during the first days of the DC meeting. He also expressed his appreciation for the commitment of HUD staff. Mr. Shuravloff stated that the NAS sub-group would likely have something at the DC meeting.

Mr. Sossamon thanked and commended everyone for the rolls they are playing. He added that the groups were making progress, and that hopefully, the momentum and pace will increase. He commented on a discussion this morning in the CAS workgroup regarding the process of moving things from workgroups to full committee. He summarized the discussion on consensus, and reiterated that reaching consensus in workgroups doesn't necessarily mean that you are asking for a definitive up or down vote at that time. Further, when a recommendation or issue is introduced to the full committee, it will take same process as the workgroups. He stresses that at the full committee, all recommendations will be taken within the context of other items and in relation to one another. Mr. Sossamon then stated that he hopes to be at a point in DC that we can start moving work into the full committee. In regard to parking lot issues, he pointed out that those that are not necessary relevant to this formula Neg-Reg will be relevant to the upcoming Neg-Reg. He then requested that if anyone has an issue, bring it up in your workgroup or sub-group to make certain that it gets on a tracking form so that it will be reported.

APPROVED

Formula Negotiated Rulemaking Committee
Meeting Minutes
July 14 – 17, 2003
Denver, Colorado

Mr. Sossamon recognized Tim Humphreys as alternate for Terry Hudson for the remainder of the meeting.

Dr. Kazama asked if there were dates for the September meeting. Mr. Sossamon responded that the meeting is tentatively scheduled for the week of September 22. Mr. Ducheneaux asked for clarification on the first day of the upcoming Washington, DC meeting. Mr. Sossamon responded that the date was August 18. Mr. Ducheneaux asked for clarification on the location for the September meeting. It was clarified that the meeting was scheduled for DC. Mr. Ducheneaux requested that enough rooms are reserved for staff to stay at hotel also. Mr. Sossamon assured him that would be taken into consideration.

Mr. Sossamon stated that the goal is for next meeting to move at a swift pace, so that hopefully we can conclude our Neg Reg responsibilities in September. He reiterated that other scheduling deadlines that will be affected, for example, OMB. He added that this body will likely meet again in December, and perhaps one more time after the first of the year after OMB clearance, and publication. He stated that the final rule would likely be published in March or April. He cautioned the committee to work as quickly as possible, but not recklessly.

Mr. Sossamon asked if there were any other comments, questions, or concerns.

Dr. Kazama requested a 5-minute Alaska caucus at the conclusion of the meeting.

Mr. LaPointe stated that he had a printout for a minimum funding data run and that if interested, anyone could get copies from him.

Mr. Sossamon stated that if there were no other comments, the support staff had prepared a short slide show of photos from the Seattle Neg-Reg meeting in June.

At the conclusion of the slides, Mr. Sossamon announced birthdays of several of the committee members and HUD staff, including Deb Lalancette, Blake Kazama, and Randy Akers. Birthday cake was served.

Mr. Sossamon adjourned the meeting at 2 pm.

Submitted by
C. J. Gardstein
Steven Winter Associates, Inc.
August 6, 2003