

August 20, 2003

Proposed Re-Write of Section 1000.326

Redline draft highlighting proposed changes to the current regulatory text

Sec 1000.326 What if a formula area is served by more than one Indian tribe?

(a) If an Indian tribe's formula area overlaps with the formula area of one or more other Indian tribes, the funds allocated to that Indian tribe for the geographic area in which the formula areas overlap will be divided based on a formal agreement between affected tribes in the overlapping geography;

(b) In the event the tribes cannot agree on the allocation of formula funds in the overlapping area, HUD shall divide the formula funds proportionally among the tribes based on:

(1) The percentage of substantial housing services over the greater period of time;
[and/or]

(2) The Indian tribe's proportional share of the AI/AN persons population in the overlapping geographic area; **[and/or]**

(3) Substantial planned commitment to the overlapping geographic area; **[and/or]**

(2) The Indian tribe's commitment to serve the proportional share of the population in such geographic area.

(3) In cases where a State recognized Indian tribe's formula area overlaps with a Federally recognized Indian tribe, the Federally recognized Indian tribe receives the allocation of the overlapping area.

(b4) Tribal membership in the geographic area (not to include dually enrolled tribal members) will be based on data that all Indian tribes involved agree to use.

Suggested data sources include tribal enrollment lists, Indian Health Service User Data, and Bureau of Indian Affairs data.

(c) In the event that HUD is unable to make a determination in favor of any one or more affected tribes based on the requirements of paragraph (b) above, HUD shall equally distribute the overlapping formula area funds to all affected tribes in the affected geography; except that Federally recognized tribes shall receive the allocations for the overlapping area where a State recognized tribe's formula area overlaps with the formula area of a Federally recognized Indian tribe in the expansion or re-definition of new or additional formula area.

~~(c) If the Indian tribe involved cannot agree on what data source to use, HUD will make the decision on what data will be used to divide the funds between the tribes by August 1.~~