

IHBG Formula Negotiated Rulemaking Recommendations and Proposals

<p>TAB 4: [Former #12]</p>	<p>Averaging 1992 – 97 CIAP funding as provided in the 2000 amendment language formula</p>
	<p>The proposal was first introduced on 08/19/2003. The proposal was tabled. The date was then changed in the language to October 1, 1997. The language was determined to be unclear and may not align with intent. HUD will research and get an opinion. The issue is tribes not getting any funding, which was not the intent.</p>
<p>Language was proposed and revised on 08/19/2003.</p>	
<p>Reference Documents:</p> <p>TSB: Tab 12</p> <p>TR: #47, #51</p>	

Referenced Documents:

TR = Technical Request; TSB = Tab in September Binder

[Issue #4]
PROPOSED REGULATION
FOR
CIAP AVERAGING
by
HUD

This implements the statute by choosing October 1, 1997, as the date for counting whether an IHA had 250 or more units. This change will give tribes a modernization allocation of the higher of their 6-year average or the existing modernization calculation. Then it keeps the old provision to ensure that no tribe's total grant falls below its total 1996 allocation for operating subsidy and modernization.

§ 1000.316 How is the Formula Current Assisted Stock (FCAS) Component Developed?

[skip to following section]

(b) *Modernization allocation.*

(1) For tribes with an Indian Housing Authority that owned 250 or more public housing units on October 1, 1997, the modernization allocation consists of the number of Low Rent, Mutual Help, and Turnkey III FCAS units multiplied the national per unit amount of allocation for FY 1996 modernization multiplied by an adjustment factor for inflation.

(2) For tribes with an Indian Housing Authority that owned or operated fewer than 250 public housing units on October 1, 1997, the modernization allocation equals the average amount of funds received under the assistance program under Section 14 of the United States Housing Act of 1937 (other than funds provided as emergency assistance) for Fiscal Years 1992-1997.

§ 1000.340 What if an Indian tribe is allocated less funding under the block grant formula than it received in Fiscal Year 1996 for operating subsidy and modernization?

(a) If an Indian tribe is allocated less funding under the modernization allocation of the formula than the number of Low Rent, Mutual Help, and Turnkey III FCAS units multiplied the national per unit amount of allocation for FY 1996 modernization multiplied by an adjustment factor for inflation, its modernization allocation is increased to the amount received in Fiscal Year 1996 for operating subsidy and modernization. The remaining grants are adjusted to keep the allocation within available appropriations.

(b) If an Indian tribe is allocated less funding under the formula than an IHA received on its behalf in Fiscal Year 1996 for operating subsidy and modernization, its grant is increased to the amount received in Fiscal Year 1996 for operating subsidy and modernization. The remaining grants are adjusted to keep the allocation within available appropriations.

[Issue #4]

**COMMENTS BY DARLENE TOOLEY ON
PROPOSED REGULATIONS
FOR
CIAP AVERAGING
by
HUD**

HUD states that its proposed regulation “. . . implements the statute by choosing October 1, 1997, as the date for counting whether an IHA had 250 or more units. This change will give tribes a modernization allocation of the higher of their 6-year average or the existing modernization calculation. Then it keeps the old provision to ensure that no tribe’s total grant falls below its total 1996 allocation for operating subsidy and modernization.”

I support the goal, but I don’t think the regulation as drafted accomplishes it.

I find proposed Section 1000.340(a) somewhat ambiguous, because it refers to funding “under the modernization allocation of the formula,” when I believe the reference should be more specific to the modernization allocation as determined under Section 1000.316(b)(2).

Assuming that more specific reference was intended, I interpret proposed Section 1000. 340(a) as providing tribes with the greater of the modernization allocation computed under 1000.316(b)(2) (the six-year averaging method for tribes with IHAs owning less than 250 units) or the amount received on behalf of that Tribe in FY 1996 for operating subsidy and modernization, rather than the amount allocated under the modernization allocation formula in 1000.316(b)(1) (the method used for IHAs owning 250 units or more, multiplying number of units by average per unit modernization amount in FY 1996 by an inflation factor) .

To achieve the goal stated by HUD, I believe Section 1000.340(a) should be revised to read as set forth below. I include both regulations as proposed by HUD with my suggested revision.

§ 1000.316 How is the Formula Current Assisted Stock (FCAS) Component Developed?

[skip to following section]

(b) *Modernization allocation.*

(1) For tribes with an Indian Housing Authority that owned 250 or more public housing units on October 1, 1997, the modernization allocation consists of the number of Low Rent, Mutual Help, and Turnkey III FCAS units multiplied by the national per unit amount of allocation for FY 1996 modernization multiplied by an adjustment factor for inflation.

(2) For tribes with an Indian Housing Authority that owned or operated fewer than 250 public housing units on October 1, 1997, the modernization allocation equals the average amount of funds received under the assistance program under Section 14 of the United States Housing Act of 1937 (other than funds provided as emergency assistance) for Fiscal Years 1992-1997.

§ 1000.340 What if an Indian tribe is allocated less funding under the block grant formula than it received in Fiscal Year 1996 for operating subsidy and modernization?

(a) If an Indian tribe is allocated less funding under the modernization allocation formula as set forth in Section 1000.316(b)(2) than the amount it would receive under the modernization allocation formula set forth in Section 1000.316(b)(1), then its modernization allocation is increased to the amount calculated using the formula in Section 1000.316(b)(1).

The remaining grants are adjusted to keep the allocation within available appropriations.

(b) If an Indian tribe is allocated less funding under the formula than an IHA received on its behalf in Fiscal Year 1996 for operating subsidy and modernization, its grant is increased to the amount received in Fiscal Year 1996 for operating subsidy and modernization. The remaining grants are adjusted to keep the allocation within available appropriations.