

DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
AND
TRIBAL REPRESENTATIVES

NATIVE AMERICAN HOUSING ASSISTANCE & SELF-DETERMINATION NEGOTIATED
RULEMAKING COMMITTEE

COMMITTEE ENDORSED
ORGANIZATIONAL PROTOCOLS

PREAMBLE

The Native American Housing Assistance and Self-Determination Negotiated Rulemaking Committee has been established pursuant to P.L. 104-330 and is further detailed in a Committee Charter approved by the Secretary of Housing and Urban Development. The Committee is charged with the development of regulations to implement the Native American Housing Assistance and Self-Determination Act.

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 their designated alternate fail to attend three consecutive full negotiating sessions, the Secretary may remove the member from the Committee and designate a replacement member. Committee Members may be accompanied by such other individuals as that Member believes is appropriate to represent his/her interest.
- b. Designated Alternates. To the greatest extent possible, future Committee alternates (those not previously designated as of the date of enactment of these protocols) should be recommended in a timely manner by resolution from the tribal leaders from the geographic area represented by the committee member, or other methods acceptable to the area, so as to allow effective participation in Committee activities. Designated Alternates must present written designation, endorsed by the Committee Member they are replacing, of their appointment as an Alternate Member prior to participation in negotiating sessions with the rights of a Committee Member.

- c. Constituents' Interests. Committee Members are expected to represent the concerns and interests of their constituents.

2. MEETINGS

- a. Quorum. A quorum of the full committee shall consist of 2/3 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. FACA. The negotiations will be conducted under the Federal Advisory Committee ACT (FACA) 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. Negotiating sessions will be announced in the Federal Register prior to the meeting and, consistent with FACA requirements, will be open to the public. Members of the public will be given opportunities at various times throughout each meeting to make comments, raise questions, or submit materials for the record.
- d. Minutes. The Committee shall observe the requirement of the Charter regarding minutes, records, and documents. In addition, approved minutes will be maintained and distributed to the Committee and Tribes by the representatives of Housing and Urban Development (HUD).
- e. Agenda. Meeting agendas will be developed by the Designated Federal Official (DFO) and Tribal Committee Co-Chairs.
- f. Caucus. A break can be declared at any time by any party. Parties will be asked for an estimate of the time needed for the caucus. Internal procedures will be determined by each respective caucus.

3. **DECISION MAKING**

- a. Consensus. Consensus means general agreement as shown by an absence of expressed disagreement by a committee member in regards to a particular issue.
- b. Work Groups. Smaller Work Groups may be formed by the Committee to address specific issues and to make recommendations to the Committee. Work Groups are open to any Committee Member or the Member's Designee, plus such other individuals as the Committee believes would enhance the functioning of the Work Groups. 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 DFO.

4. **AGREEMENT**

- a. Product of Negotiations. The intended product of the negotiations is a preliminary report and proposed regulations in the form of a written statement developed by the Committee Members on behalf of the Secretary of Housing and Urban Development and Tribal Committee representatives. The Secretary agrees to use the Committee's preliminary report and proposed regulations as the basis of his Notice of Proposed Rulemaking (NPRM). Prior to the publication of the NPRM, the DFO will provide the Committee with notice and an opportunity to comment on any changes in the proposed regulations.
- b. Final Rule. The Committee will review all comments received in response to the NPRM and will submit a final report with recommendations to the Secretary of Housing and Urban Development for promulgation of a final 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. Specific offers, positions, or statements made during the negotiations, (except those made by the DFO), may

not be used by other members outside the negotiations without approval of the Committee. 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 paragraph (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 five 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.

6. SCHEDULE

Negotiating sessions will be held monthly for three consecutive days and as determined by the Committee.

7. FACILITATORS

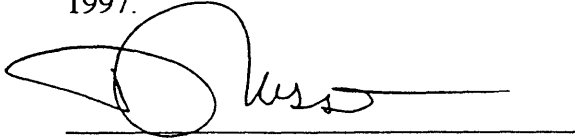
The Committee will select a facilitator. The role of the facilitator usually includes impartially chairing and facilitating Committee and certain Work Group discussions, developing draft agendas, working to resolve any impasses that may arise, preparing meeting records, assisting in the location and circulation of background materials and materials the Committee develops, and other functions the Committee requests. The facilitators will take no position on the issues before the Committee and serve at the will of the Committee.

8. CO-CHAIRS

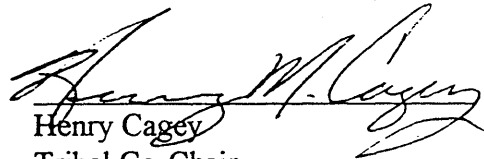
The four Tribal Co-Chairs shall be selected by the Tribal representatives of the Committee. The DFO is the Assistant Secretary for Public and Indian Housing or his/her designee. The role of the Co-Chairs usually includes developing draft agendas with the DFO and facilitators, chairing Committee and Work Group discussions, working to resolve any impasses that may arise, reviewing meeting summaries, assisting in the location and circulation of background materials and materials the Committee develops, and other functions the Committee requests. The Co-Chairs will represent positions of the full Committee and serve at the will of the Tribal caucus. The Tribal Co-Chairs and/or other Tribal representatives of the Committee may be authorized to negotiate the Tribal positions with the DFO and shall report the results of any negotiations to the full Committee for further action. Meetings of the Co-Chairs shall be open to Committee members.

CERTIFICATION

We certify that these protocols were considered and endorsed as a result of a meeting conducted in Denver, Colorado at the Warwick International Hotel by the Negotiated Rulemaking Committee formed to develop regulations to implement the Native American Housing Assistance and Self-Determination Act on February 27, 1997.



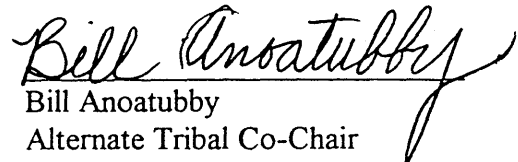
Dominic A. Nessi,
Designated Federal Official, Designee
Housing and Urban Development



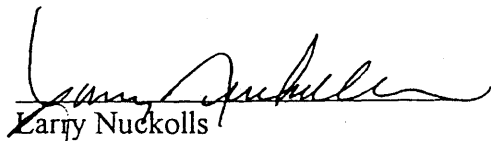
Henry Cagey
Tribal Co-Chair



Chester Carl
Tribal Co-Chair



Bill Anoatubby
Alternate Tribal Co-Chair



Larry Nuckolls
Tribal Co-Chair