

STUDY / SUBGROUP:

Need

TOPIC: Overlapping Area Definition

1000.326 What if a Formula Area is served by more than one Tribe?

See attached draft language dated 8/8/03.

See attached draft language dated 8/19/03.

CONSENSUS:

ACTIONS NEEDED:

Produce final draft Regulation.

STILL TO DO:

1. Request redline version of 8/8/03 draft from HUD (Ariel).
2. Request redline version of 8/19/03 draft from Bob Carlile.
3. Discuss both drafts
4. Produce combined draft

RATIONALE:

Because current rules relating to overlapping area are not well codified.

OTHER AFFECTED PARTS:

Regulation on substantial housing services (see separate report).

OTHER:

August 8, 2003
NEEDS WORKGROUP
Proposed Re-Write of § 1000.326

§ 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 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 involved cannot agree on the allocation of formula funds in the overlapping area, HUD shall divide the formula funds proportionally among the tribes:

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

(2) Proportional share of the AI/AN persons in the overlapping geographic area; **[and/or]**

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

(4) 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 HUD is unable to make a determination in favor of any one or more affected tribes based on 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.