

**STUDY / SUBGROUP:**

**Need**

**TOPIC:** Formula Area Definitions

See attached draft language 1000.302 “Formula Area”.

Note: Section 3 is the subject of continuing discussions by the Alaska Caucus and is therefore not finalized.

**CONSENSUS:**

**ACTIONS NEEDED:**

Produce a final draft regulation.

**STILL TO DO:**

1. Produce definitions for Oklahoma areas
2. Produce definitions for Alaska areas
3. Request from HUD redline version comparing original Regulation.

**RATIONALE:**

1. The current definition of Formula Area relies on outdated Census terms and does not adequately describe Formula Areas or codify certain rules relied upon by HUD.

**OTHER AFFECTED PARTS:**

1. See definition of Overlapping Formula Area. (see separate report)
2. See definition of Substantial Housing Services. (see separate report)

**OTHER:**

August 8, 2003

NEEDS WORKGROUP

Proposed Re-Write of Formula Area Definition

**§ 1000.302 What are the definitions applicable for the IHBG formula?**

\* \* \* \* \*

Formula area. (1) Formula areas are:

(i) Reservations, as defined by the Census;

(ii) Trust Lands;

(iii) Department of the Interior Near Reservation Service Areas;

**(iv) Former Indian Reservation areas in Oklahoma Indian Areas, as defined by the Census as Oklahoma Tribal Statistical Areas (OTSA) [\* not approved by the workgroup yet \*];**

(v) Congressionally Mandated Service Areas;

(vi) State Tribal Areas, as defined by the Census as State Designated American Indian Statistical Areas (SDAISAs);

(vii) Tribal Designated Statistical Areas (TDSAs); and

(viii) California Tribal Jurisdictional Areas established or reestablished by federal court judgment.

(2)(i) For geographic area definitions not identified in paragraph (1) of this definition, and for expansion or re-definition of a geographic area from the prior year, the Indian tribe must submit on a form developed by HUD for this purpose, the geographic area it wishes to include in its Formula area, including proof that the Indian tribe:

(A) Where applicable, has agreed to provide housing services pursuant to a Memorandum of Agreement (MOA) with the tribal and public governing entity or entities of the area, or have attempted to establish such an MOA; and

(B) Could exercise court jurisdiction; or

(C) Is providing substantial housing services and will continue to expend or obligate funds for substantial housing services as reflected in the form developed by HUD for this purpose.

(ii) HUD shall notify all tribes within the proposed Formula Area that are potentially affected by the request and give them the opportunity to submit information and comments that the tribes may deem relevant to the determination. HUD shall provide written notice of its basis for the determination and its effects on each tribe to all tribes/TDHES within the Formula Area.

(3) Notwithstanding paragraphs (1) and (2) of this definition, all Alaska data on population and housing not on a reservation shall be credited as set forth in § 1000.327 to the Alaska Native Village, the regional Indian tribe, or to the regional corporation established pursuant to the Alaska Native Claims Settlement Act. For purposes of § 1000.327 and this definition:

(i) The geographic area of the Alaska Native Village is delineated by its associated Alaska Native Village Statistical Area (ANVSA) or Tribal Designated Statistical Area (TDSA) to the extent the area encompassed by such statistical designation does not substantially exceed the township or townships in which the village is located for purposes of the Alaska Claims Settlement Act. If an ANVSA or the TDSA

substantially exceeds the township or townships in which a village is located, then the geographic area of the village shall be such census designation as most closely approximates the township or townships in which the village is located.

(ii) The geographic area of the regional corporation shall be the area established for the corporation by the Alaska Native Claims Settlement Act.

(4) In some cases, the population data for an Indian tribe within its Formula Area is greater than its tribal enrollment. In general, for those cases to maintain fairness for all Indian tribes, the population data will not be allowed to exceed twice an Indian tribe's enrolled population. However, an Indian tribe subject to this cap may receive an allocation based on more than twice its total enrollment if it can show that it is providing affordable housing activities to substantially more non-member Indians and Alaska Natives who are members of another federally recognized Indian tribe than it is to members.

(5) In cases where an Indian tribe is seeking to receive an allocation more than twice its total enrollment, the tribal enrollment multiplier will be determined by the total number of Indians and Alaska Natives the Indian tribe is providing affordable housing activities (on July 30 of the year before funding is sought) divided by the number of members the Indian tribe is providing affordable housing activities. For example, an Indian tribe which provides housing to 300 Indians and Alaska Natives, of which 100 are members, would then be able to receive an allocation up to three times its tribal enrollment if the Indian and Alaska native population in the area is three or more times the tribal enrollment.

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