

1 NAHASDA REAUTHORIZATION ACT OF 2008:

2 NEGOTIATED RULEMAKING MEETING

3 Scottsdale, Arizona

4 April 1, 2010

5 8:06 a.m.

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17 REPORTED BY:

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1 NAHASDA REAUTHORIZATION ACT OF 2008: NEGOTIATED
2 RULEMAKING MEETING, taken on April 1, 2010, commencing
3 at 8:06 a.m. at DOUBLETREE PARADISE VALLEY RESORT, 5401
4 North Scottsdale Road, Conference Center, Scottsdale,
5 Arizona, before CINDY BACHMAN and DEBORA MITCHELL,
6 Arizona Certified Reporters, in and for the County of
7 Maricopa, State of Arizona.

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9 COMMITTEE MEMBERS PRESENT:

10 Steven Angasan

 King Salmon Tribe

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 Carol Gore, President/CEO

12 Cook Inlet Housing Authority

13 Blake Kazama, President

 Tlingit-Haida Regional Housing Authority

14
 Retha Herne, Executive Director

15 Akwesasne Housing Authority

16 Ray DePerry, Housing Director

 Red Cliff Chippewa Housing Authority

17
 Robert Durant, Executive Director

18 White Earth Reservation Housing Authority

 Represented by Mark Butterfield, Alternate

19
 Leon Jacobs

20 Lumbee Tribe of North Carolina

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1 Susan Wicker, Executive Housing Director
Poarch Band of Creek Indians

2 Jason Adams, Executive Director
3 Salish Kootenai Housing Authority
4 Lafe Haugen, Executive Director
Northern Cheyenne Tribal Housing Authority

5 Rebecca Phelps, Development Specialist
6 Turtle Mountain Housing Authority
7 S. Jack Sawyers
Paiute Indian Tribe of Utah

8 Marguarite Becenti, Member, Board of Commissioners
9 Umatilla Reservation Housing Authority
10 The Honorable Henry Cagey, Chairman
Lummi Nation

11 Represented by Diane Phair
12 Larry Coyle, Executive Director
Cowlitz Indian Tribal Housing

13 Karin Foster, Legal Counsel
14 Yakama Nation Housing Authority
15 Marvin Jones, Manager, Housing Oversight
Cherokee Nation

16 Thomas McGeisey, Executive Director
17 Seminole Nation Housing Authority
18 Shawna Pickup, Housing Director/Secretary
19 Eastern Shawnee Tribe of Oklahoma

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1 Russell Sossamon, Executive Director
Choctaw Nation Housing Authority

2 Ervin Keeswood, Member

3 Navajo Housing Authority Board of Commissioners
Represented by Leonard Teller, Alternate

4 Judith Marasco, Executive Director

5 Yurok Indian Housing Authority

6 Alvin Moyle, The Honorable Chairman

Fallon Paiute-Shoshone Tribe

7 Represented by Sharol McDade, Alternate

8 Darlene Tooley, Executive Director

Northern Circle Indian Housing Authority

9 Sandra B. Henriquez

10 Assistant Secretary for Public and Indian Housing

11 Rodger J. Boyd

Deputy Assistant Secretary for Native American Programs

1 (Commencement of meeting at 8:06 a.m.)

2 * * * * *

3 MR. COYLE: In the way of announcements,
4 Marvin Jones was elected as the regional rep for his
5 district. (Laughter.) That was an April Fool's joke.
6 And I think that Rodger Boyd will have an April Fool's
7 joke later.

8 But to get started this morning, we've asked
9 Mr. Ray DePerry to give the invocation. Could we
10 stand, please.

11 (Opening prayer was given by Mr. DePerry.)

12 MR. COYLE: When we adjourned last night, we
13 had a large group on the drafting committee diligently
14 at work, and I think we should give them a round of
15 applause for their hard work. (Applause.)

16 Karin, who is the spokesperson for the drafting
17 committee?

18 MS. FOSTER: I believe that would be
19 Mr. Heisterkamp.

20 MR. COYLE: Okay. Dave, are you ready to give
21 a report?

22 MR. HEISTERKAMP: Yeah. Well, everybody got to
23 find out just how exciting it is to be on this famous
24 drafting committee last night. I think about 12:30 in
25 the morning we finished e-mailing each other all the

1 various documents we prepared for the committee's
2 consideration.

3 I'd like to especially thank Gabe Layman, who
4 pretty much worked from the time you guys got up from
5 the table until about midnight, getting a large portion
6 of the work done after the committee had organized it.

7 Gabe has prepared -- and the committee is going
8 to review this morning and add a few more things to a
9 revised matrix, based on the NAIHC document that now
10 includes columns that cross-references with the PIH
11 issue numbers, the subparts of the regulations, and
12 potentially other affected pieces of the regulation,
13 based on each issue from that chart.

14 We hope to have that ready -- depending on the
15 printing and when we can kind of consolidate the rest
16 of our notes, that should be ready, I'll say,
17 optimistically before lunchtime, we hope to have that
18 to the committee.

19 There's a draft version that includes
20 everything except potentially affected sections of the
21 regulation. If the committee would like to take that
22 first version this morning -- if they can figure out
23 how to get it printed -- if you think that would be
24 helpful, we can produce that right away.

25 The other thing -- the various members of the

1 committee, including Jad and Dan from HUD OGC
2 contributed -- is for all the issues that were reported
3 out yesterday by the various subcommittees as the easy
4 ones, the low-hanging fruit, I believe we now have
5 individual regulations drafted in red-line form for the
6 committee's consideration.

7 So if at some point today the committee is
8 ready to start looking at those on the big screen and
9 seeing what's been prepared, based on what the
10 subgroups reported out yesterday, that language has
11 also been prepared and is ready for the committee's
12 consideration.

13 MR. JACOBS: Does anyone on the committee have
14 a question or a comment?

15 MR. COYLE: Dave, do you have anything that we
16 could possibly bite into this morning so we don't have
17 any lost time for the committee?

18 MR. HEISTERKAMP: In terms of what, Larry? We
19 have documents. As soon as they can be printed, we
20 have documents that would assist the work groups, if
21 you want to reconvene the work groups, as you had
22 planned to do.

23 And then after that, we have actual regulatory
24 language, which I think we have at least a dozen
25 separate pieces drafted, maybe a few less than that,

1 that the committee could begin to consider after it
2 comes out of it's subgroup.

3 So whatever logistics we need to do to get the
4 document printed, we have stuff you can look at right
5 away.

6 MR. COYLE: Do you have a time frame?

7 MR. HEISTERKAMP: I haven't seen exactly how
8 many documents, so that will be a sub- -- just
9 depending on the number of pages. We can correlate it
10 and get it to the work groups as soon as it's available
11 for reproduction.

12 MALE SPEAKER: What's the total number of
13 pages, Dave?

14 MR. HEISTERKAMP: 33 pages on the two master
15 documents. Is that the matrix?

16 MALE SPEAKER: (Indiscernible -- speaker not
17 using microphone.)

18 MR. HEISTERKAMP: Okay. 35 and 17,
19 respectively, for the documents.

20 MR. COYLE: Good. Rodger, maybe we can get in
21 the future tribal -- or our next meetings. We could
22 get that over with this morning. That way we wouldn't
23 have to contend with it this afternoon.

24 THE FACILITATOR: Nelrod is telling us it
25 will take about an hour or so to get all that stuff

1 printed up.

2 MR. COYLE: Carol, you had a question?

3 MS. GORE: I've seen the draft of the document,
4 and coming out of the chaos from the work groups
5 yesterday, I think this is going to be immensely
6 helpful. It would make us a lot more efficient.
7 Taking an hour and a half to get the documents printed,
8 I think would be very helpful. I would encourage the
9 committee to authorize that.

10 MR. COYLE: Does anybody have any suggestions
11 on what we could do right now to kind of fill that gap?

12 Marvin?

13 MR. JONES: I think we were going to go back
14 into the work groups to finish some work for at least
15 an hour or so.

16 After that, I have a suggestion, a couple of
17 ways we can do something. This is following somewhat
18 along what Jason was asking yesterday. We've
19 identified some issues, and those are in process. What
20 we now need to do is work towards identifying the whole
21 universe of issues, that we will still have left from
22 the amendments, that aren't easy to discuss.

23 But along with that are the issues that my
24 friend from Alaska, Carol, calls "parking lot
25 issues --" I prefer to call them the 1996

1 issues "-- that need be resolved.

2 There may be a couple of ways to handle those.

3 One of them is in full committee, and people are
4 saying, "Here's an issue I have that's not the subject
5 of an amendment," et cetera.

6 Another way to do it, as I was thinking about
7 it, was somewhat like our drafting committee, where if
8 you have an issue, here's a board, go up and write it
9 up, over the next two hours or whatever it is, in
10 enough specificity that we can tell what it is. And if
11 at the end of that time, we have two or three issues,
12 then we think, well, that's not too difficult.

13 If we have all kinds of issues, then, you know,
14 of course, we'll have to sort those out. So that's a
15 suggestion as to, again, how we can start to define the
16 universe of what it is people want to discuss and maybe
17 match that up with some of the time that we have left
18 over the remaining committee meetings.

19 MR. COYLE: We've got a board back here. Why
20 don't we just go ahead and individually -- if you've
21 got a parking lot issue or the 19- -- how many, Marvin?
22 We'll go ahead and put those up.

23 Yes?

24 MR. TELLER: Leonard Teller with the Navajo
25 Nation. I have a suggestion maybe to address -- one

1 matter that's on the agenda for this morning, or
2 supposedly to be on the agenda, is taking care of the
3 upcoming meetings. I think that we can discuss that
4 while we're waiting for the documents to be brought in.

5 MR. COYLE: They're working on it now back
6 here.

7 MR. TELLER: Why don't we take care of the next
8 upcoming meetings now. Then I think the documents that
9 are forthcoming can greatly enhance the discussion in
10 the working groups.

11 MR. COYLE: Let's go ahead and break then and
12 go back to your breakout sessions. Why don't we make
13 it until 9:30. Would that be okay?

14 Yes, Jason?

15 MR. ADAMS: Larry, I just heard Mr. Teller
16 mention that we could do some other things before that.
17 I know from my work group, it would very much be
18 helpful to have the documents that we're going to wait
19 on before we go back.

20 MR. COYLE: Yes, I realize that. Do we want to
21 sit around an hour and a half, two hours getting some
22 material in there? That's what I was just trying to --

23 MR. ADAMS: I think we have some things on the
24 agenda we could look at. I mean, I know the next
25 meetings -- lay out the next meeting dates and firm

1 that up. That'd be nice.

2 MR. SAWYERS: In fact, we should schedule -- if
3 we can, schedule all our meetings and where we're going
4 to go. We truly need to know if this is the schedule
5 and the times and so on and then go do them all. That
6 will take some time.

7 Larry, I really believe that you need to wait.
8 Whatever we do in this hour, I think we need to wait
9 until we get this draft. I think it's going to speed
10 things along, so let's do that.

11 MR. JACOBS: Okay. Is it possible to put on
12 the screen the meeting dates so everybody will be
13 aware? I think the next meeting is May 11th; is that
14 correct? All right.

15 If you want to discuss this at this time, is
16 there a location already chosen by anyone?

17 FEMALE SPEAKER: I think we talked about Denver
18 in May.

19 MR. JACOBS: Yeah. There was a discussion at
20 the last meeting about Denver and also Albuquerque.

21 Yes, Rodger?

22 MR. BOYD: Well, what we have to do is plan
23 ahead, of course, and our contractor is looking at the
24 following locations: Denver, May 11th and 13th;
25 Albuquerque, June 8th and 10th; Seattle, July 20th and

1 22nd. That's about as far as we've got.

2 MR. JACOBS: Okay. Any comment?

3 MR. BOYD: May 11th and 13th, Denver. June 8th
4 through the 10th, Albuquerque. July 20th and 22nd,
5 Seattle. And what's open right now is August 17th and
6 19th. We don't have any proposals for this.

7 We considered Hawaii, and we thought that was a
8 great idea, but that's as close as I can get to an
9 April Fool's joke.

10 (Laughter.)

11 MR. COYLE: I thought it was going to be
12 Nome, Alaska.

13 MR. KAZAMA: Mr. Chair, I had also brought up
14 before that the August date might be a little bit tight
15 if we're looking at public comment -- for the committee
16 to gather the public comment. I guess it would have to
17 be published in Federal Register, and then for us, as a
18 committee, to come back and review it?

19 So I was going to recommend -- well, I did
20 recommend maybe moving it to September instead of
21 having it in August, just to give that one month --
22 because the July date and the August date are pretty
23 tight there.

24 MR. COYLE: Jason?

25 MR. ADAMS: Blake, I've got a question then.

1 Are you proposing that we have things ready for public
2 comment at the end of the July meeting and then save
3 that last meeting to review public comment?

4 MR. KAZAMA: Yes, I was thinking about that
5 because if not, I don't want to come back again after
6 August, if we can help it.

7 Hopefully, with the Chairs that we have, we can
8 finish up all these issues in July, send the
9 information out for public comment, and so forth. I
10 know it's really ambitious. And then come back in
11 September and finalize everything, instead of trying to
12 push everything by August and not be able to meet that
13 deadline and then have to have another meeting in
14 September or something.

15 MR. JACOBS: Any other comments?

16 MS. PICKUP: My question is: Why is everything
17 going towards the West coast? We have tribes on the
18 East coast also. And to be fair to them, we need to
19 have a meeting out that way.

20 MR. JACOBS: Rodger, do you want to answer this
21 question?

22 MR. BOYD: Certainly, we could go east.
23 I think first of all we have to decide, are we going to
24 do an August meeting or a September meeting? Because
25 if we do an East coast meeting, we'll just need to

1 decide on the dates so we can start planning ahead.

2 MR. KAZAMA: The other thought I had was that
3 October 14th deadline, is that a deadline that things
4 need to be promulgated? And if that's the case, then
5 even September is kind of tight for all that, if it's
6 going through OMB and back and forth, those kinds of
7 things.

8 I mean, that's a hard question, I guess, in
9 terms of your procedural things.

10 MALE SPEAKER: I think it's difficult for us to
11 predict exactly what the procedure would be. But I
12 think what we had envisioned before was that these
13 meetings would be for agreeing on the substance and, I
14 guess, even the form of the proposed rule, up until the
15 stage that it gets to OMB.

16 They could clear it in a week. They could take
17 three months. It's hard for us to know that. But I
18 think that -- I would personally suggest that, just
19 given how much work there is to be done on substantive
20 issues, that we leave these meetings for the purpose of
21 negotiating substance, and that if there are issues of
22 dealing with comments, minor tweaks from departmental
23 clearance or from OMB, that there may be some ways to
24 deal with those over e-mail or something like that.

25 I mean, we're certainly going to do our best

1 not to have any substantive changes from OMB, so that's
2 probably a good working assumption. And then if
3 something changes beyond our control, then we'll have
4 to deal with that.

5 MS. HENRIQUEZ: So, Blake, let me just
6 understand your question. Are you suggesting that we
7 have May, June, and July as working sessions of the
8 committee and that we would have finalized language as
9 we come out of July 22nd?

10 MR. KAZAMA: Yes.

11 MS. HENRIQUEZ: Whoa. And then use the month
12 of August for any back and forth? And then the
13 September meeting as a "tie it up, put a bow on it,"
14 put it all together, and off it goes to OMB or we send
15 it to -- I'm just trying to figure out where the OMB
16 piece is in that. Is it at the end of July? In July?

17 MALE SPEAKER: (Indiscernible -- speaker not
18 using microphone.)

19 MS. HENRIQUEZ: It's in the September OMB?

20 MALE SPEAKER: Instead of August, we'd have it
21 in September.

22 MS. HENRIQUEZ: Correct. We wouldn't have an
23 August meeting; we'd have a September meeting.

24 MALE SPEAKER: I think that's entirely up to
25 the committee. So that just means that we're losing

1 one of our six meetings for the purpose of negotiating
2 substance, if I understand correctly, and that just
3 makes the goal even more ambitious.

4 MR. COYLE: Jack?

5 MR. SAWYERS: That's pretty ambitious. You
6 folks up there are pretty optimistic on that isolated
7 area up there. I just don't think we're going to get
8 that all done. I suggest we do work through the
9 August. If we need another meeting in October,
10 November or whatever to finalize it, we ought to do
11 that. But I think we need to have our work done
12 altogether in August -- well, I don't care if it's
13 September or not.

14 But I'm saying, we get our work done, and then
15 we come back at the final -- after OMB has looked at
16 it, whenever that happens, and get one final -- even if
17 it's a two-day or whatever, come back and look at
18 everything again.

19 I think that would serve us a lot better,
20 because I don't think we're going to get done by July.

21 MR. COYLE: Karin?

22 MS. FOSTER: I think we should think real hard
23 about -- it was suggested that perhaps we could
24 evaluate comments by e-mail. I think we should think
25 real hard before we give up a meeting to do that.

1 Because I think we should have a meeting to be talking
2 about the comments. I don't think we can do that by
3 e-mail, so that needs to be built into this process,
4 just to be responsible, I think, to our public.

5 MR. COYLE: Marvin?

6 MR. JONES: If I remember correctly, at our
7 first meeting, the HUD opinion was that the October
8 so-called deadline, the definition that they were going
9 by for promulgation was, it goes to OMB.

10 MR. COYLE: Jason?

11 MR. ADAMS: I don't know if I heard the answer
12 that Marvin just gave from HUD the first day or if HUD
13 gave a different answer just a few minutes ago. Or if
14 they gave an answer, I didn't -- I wasn't sure.

15 But my hope is that we would have work done.
16 And then if we can't get another meeting set into this
17 schedule for the comments, then we have another meeting
18 sometime after October, after the OMB clearance process
19 has happened.

20 I don't know if that helps HUD by being in a
21 new fiscal year for you then to budget for that new
22 meeting. Because that's something, I know, that you
23 had mentioned earlier on with this year, you only have
24 the money budgeted for these six meetings.

25 MS. HENRIQUEZ: We'll be having another

1 meeting, whatever we've got to do. Based on our
2 schedule, moving it past October 1 or into the new
3 federal fiscal year is helpful. But we'd figure out
4 how to do it one way or the other anyway.

5 So I wouldn't let the financing dictate meeting
6 schedule and all that stuff. Let's figure out the
7 right process we all want, and then we'll figure out
8 the money. Of course my staff will just go, oh, in the
9 back, right?

10 MR. COYLE: Darlene?

11 MS. TOOLEY: At the risk of agreeing with
12 Jack, I also think that probably it's pretty optimistic
13 to think we're going to be done with everything by the
14 end of July. And it seems like we have a door opened
15 to have another meeting at the end of the process,
16 sometime after October 1, to review comments and all
17 the things that we all know we need to do and what to
18 do.

19 So I'm going to take the position that we need
20 to keep these four meetings, for the actual negotiation
21 work, in. My recommendation is we just select a site
22 for August. And if we're done early, Dr. Kazama can
23 have dinner on me.

24 MR. JACOBS: Jason?

25 MR. ADAMS: To answer Shawna's question, in the

1 corner there, she talked about having a meeting
2 somewhere further east. In just looking at the three
3 meetings that are being proposed now, I think the
4 Denver one -- I'm hearing that's set.

5 We're in the southwest again for two meetings
6 now. Maybe we can -- I don't know how far HUD's gotten
7 on the Albuquerque date or location. I saw you had a
8 thing on the board there that had some options for the
9 rest of those dates, and I saw that the time of the
10 Albuquerque meeting was -- there were some other
11 options there.

12 Is Chicago something that -- I know that's
13 further east for you. See, the thing I was looking at
14 is right there.

15 MS. HENRIQUEZ: Albuquerque's a
16 (indiscernible -- speaker not using microphone.)

17 MR. ADAMS: Albuquerque is that? What was the
18 comment? I didn't hear.

19 MS. HENRIQUEZ: Well, we could do -- we were
20 just saying that Africa is good for the June date. I
21 also just got a real good deal -- I just got a call
22 that said, if you guys wanted to go to Bermuda, we
23 could get Bermuda in June. Is anyone interested in
24 that? April Fool's.

25 (Laughter.)

1 MR. SHURAVLOFF: I think one of the reasons
2 we're rethinking Albuquerque is it's a difficult place
3 to try and get into. You know, when you try to fly
4 into Albuquerque, it's difficult to get in and out of
5 that place.

6 MR. COYLE: I've had a lot of comments saying
7 that Albuquerque is hard to get in and out of.

8 Mark?

9 MR. BUTTERFIELD: As I recall, the last time
10 there was a suggestion that Minneapolis be considered
11 as a site, and I don't see it on there. I would also
12 like to suggest possibly Milwaukee. Both have major
13 airports that are easy to get in and out of, and
14 they're convenient for the Great Lakes Tribe.

15 MR. COYLE: Any other suggestions?
16 Palm Springs?

17 MR. HAUGEN: Shawna's talking about going back
18 East. What's wrong with Atlanta? Atlanta might be an
19 area. It's got a good airport. Easy to get into; easy
20 to get out of. Thoughts?

21 MR. COYLE: Marvin?

22 MR. JONES: I don't want to speak for Shawna,
23 but when she means East, she's usually referring to
24 Arkansas.

25 (Laughter.)

1 MR. JACOBS: Susan?

2 MS. PICKUP: With --

3 MR. CAGEY: Larry, what happened to
4 Washington, DC? I mean, that's probably the better
5 place. If we're going to go on the East coast, let's
6 go to DC, that way we can be with OMB.

7 And, again, one of the things that we need to
8 discuss is that OMB plays a critical role. I mean,
9 there's ways we can set up a tribal meeting without
10 Rodger and without Sandra and have OMB come to our
11 committee.

12 So, again, there's going to have to be some
13 groundwork layed to do this. And when and how is that
14 going to happen? Because, again, when we were doing
15 this the first time, we were meeting with the
16 White House OMB folks. We were meeting with the
17 Agency's OMB folks. So, again, all this stuff was
18 layed out ahead of time.

19 So, again, the things that we're doing with
20 this rulemaking, it's not just figuring out where we're
21 going to go, it's what we're going to do.

22 MR. COYLE: That's for sure.

23 Rodger, do you have any comments on that OMB?

24 MR. BOYD: I mean, I think anything's possible.
25 It just depends on the desire of the committee.

1 MR. COYLE: That would be an interest of HUD's
2 to kind of push that a little bit?

3 MR. BOYD: Yeah. I mean, certainly we could
4 set up a meeting if the committee wanted to meet with
5 OMB in this process, but I just want to remind
6 everybody that I think our real goal here and the
7 mandate that we have from Congress is to finish the
8 amendments that they have put on the table for us.

9 And whatever it takes to finish those
10 amendments first, then I think we're really doing our
11 job as a committee. I realize there are a lot of other
12 things that people want to talk about, and I think that
13 that's fine. But I think really to meet these
14 deadlines and to meet the mandate of this committee, we
15 really need to concentrate on those amendments that
16 they did through the authorization.

17 So whatever it takes to do that and help the
18 committee do that in a timely way, we'll certainly
19 accommodate that.

20 MR. CAGEY: So, again, Larry, what I'm
21 recommending is that the final meeting be held in DC,
22 where the last meeting we do is going to be in DC,
23 where we can roll out the final draft and the preamble,
24 and everything gets rolled out to OMB, and we explain
25 it, what we've done.

1 MR. COYLE: Is the group in consensus on that?
2 Do you have any other feelings? Anybody against it?
3 Let's go ahead and --

4 MR. SAWYERS: Are you talking about the last
5 meeting only?

6 MR. COYLE: Yes, Jack. That would probably
7 be -- what -- September.

8 MR. JACOBS: Susan's got a comment next.

9 MR. SAWYERS: If we have one in October or
10 November, that would be the one in DC; is that right?

11 MR. COYLE: Uh-huh.

12 MR. SAWYERS: And then Atlanta would be the one
13 in June instead of -- or someplace else that's back
14 east instead of Albuquerque, right?

15 MR. JACOBS: Susan?

16 MS. WICKER: I know Lafe had mentioned Atlanta.
17 I'm definitely against Atlanta. We're going to have
18 our AMERIND meeting there, and I've been against that
19 from the beginning, because of the area.

20 We went and visited a couple of the hotels for
21 the AMERIND meeting and one, you know, you walked
22 outside and all you seen was security and cameras on
23 the corner, so I don't feel like it's really a safe
24 place.

25 But I would like to suggest maybe

1 Hollywood, Florida, as one of those meetings, due to
2 the time of year. So if we could put that on the list,
3 I would appreciate it. Thank you.

4 MR. COYLE: And that also is owned by an Indian
5 tribe, the Seminoles in Florida.

6 Jack?

7 MR. SAWYERS: With that in mind, why don't we
8 schedule Denver in May and Hollywood in June. And then
9 in July, we would go back to Seattle, right, and go
10 that far. That would be my suggestion, if I could
11 bring that to a vote.

12 MR. ADAMS: I agree with Jack.

13 MR. COYLE: Is that a second?

14 Marvin?

15 MR. JONES: I think we just need to make sure
16 HUD can do the logistics of that, you know.

17 FEMALE SPEAKER: We haven't set the August.
18 Jack skipped August.

19 MR. COYLE: They brought it up that we'll work
20 on that. Do you want to work on it a little later,
21 Jack?

22 MR. SAWYERS: I didn't skip it. They said
23 that's all we were scheduled, up through July. I
24 wasn't skipping it. Maybe we can do that now. I just
25 thought that perhaps you folks were going to wait.

1 Or, like Blake said, maybe it'll be September
2 instead of August. I was just trying to get up to that
3 point. Kodiak is very nice at that time of year.

4 MR. JACOBS: Okay. Do you want to vote on the
5 two upcoming meetings that Jack has proposed? And we
6 have a second?

7 MR. SAWYERS: Actually there would be three
8 meetings. That would be the June, July, and then the
9 one in October in DC -- or whenever that occurs. It
10 would be the last one in DC.

11 Hollywood is June. We changed it. August was
12 the 17th, 18th, and 19th, wasn't it?

13 MR. JACOBS: Okay. Let's look at these dates
14 again. We're talking about May in Denver; June in
15 Hollywood, Florida; July, Seattle; and the August
16 meeting possibly in Washington, DC. No? The last one
17 would be in Washington, so we don't know yet whether
18 that would be the last one yet.

19 MR. SAWYERS: It surely won't be in August
20 because they'll never get that together, so it would be
21 after October. The only one that's open is August.

22 MR. JACOBS: Do you want to try to get back
23 into Albuquerque in August?

24 MR. SAWYERS: Absolutely not. You can't even
25 get to Albuquerque from here.

1 Do you want to try for Chicago or the
2 Twin Cities or Milwaukee in August?

3 MR. JACOBS: By the way, for all the folks that
4 are here from New Mexico, I apologize for Jack's
5 comment.

6 Jason?

7 MR. ADAMS: Well, maybe we should consider
8 Minneapolis, as Mark had suggested, for August?

9 MR. COYLE: Minneapolis is where we'll have our
10 nationals.

11 MR. ADAMS: Is what?

12 MR. COYLE: Do you want to try for that then?

13 MR. JACOBS: Minneapolis? Chicago?

14 MR. COYLE: Minneapolis, if we can't get in
15 there, we can go to Chicago. We've got a consensus on
16 Minneapolis.

17 MR. SAWYERS: How about Foxwoods or
18 Mohican Suns, back in there, in August?

19 MS. McDADE: New Orleans. New Orleans is a
20 good spot, because if you're trying to move it
21 around --

22 MR. SAWYERS: In August?

23 MS. McDADE: We're not there to socialize.
24 We're there to work.

25 MR. JACOBS: I heard some comments yesterday

1 about trying to get into Foxwoods or Mohican because of
2 flying into Providence, but I don't have any problem
3 with it. But if someone else does, that's fine.

4 MR. BOYD: I do want to remind you that we
5 won't be able to pay for car rentals. So if you fly
6 into a city that doesn't accommodate that situation,
7 then -- just a reminder.

8 MR. JACOBS: That's a good point.

9 Marvin?

10 MR. JONES: I don't care about the time or the
11 place. But I do care about the substance of the
12 particular meetings, going back to Dr. Kazama's point,
13 and keeping in mind the October time frame and what the
14 Assistant Secretary said earlier about making sure that
15 we get the process right.

16 So my question then is: The May, June, July,
17 and August are all committed to negotiating the rule?

18 MR. COYLE: Yes, definitely.

19 MS. McDADE: And producing the report.

20 MR. JONES: And producing the report.

21 And then if the goal is to promulgate a rule to
22 OMB by October, then this DC meeting, is it anticipated
23 to be before this October or after October?

24 MR. COYLE: Wasn't it brought up before that by
25 the first of October, we'd have our comment? And we

1 could still be under the gun that way, couldn't we?

2 MR. CAGEY: Larry, I don't really think if it's
3 October 1 or October 2.

4 MR. COYLE: I think that's kind of a D-day for
5 getting it to the OMB and everything. So we can get
6 back and get --

7 MR. JONES: My point being, what was the
8 anticipation about trying to meet with OMB? Is that
9 before it's promulgated to OMB or after OMB gets it and
10 makes comments? So it's important then as to whether
11 it's before it's sent to OMB or whether the meeting
12 takes places after it's sent to OMB. That was my
13 point.

14 MR. COYLE: Well taken, Marvin.

15 MR. CAGEY: Larry, let me try to explain it
16 more. We meet with OMB all the time, meeting the
17 tribes that understand the federal process on budgeting
18 and authority. OMB has a lot of authority over
19 everything we do. It's important OMB understands the
20 process that we went through in getting to where we're
21 at.

22 It's no different from the budgeting that they
23 do in deciding our funding. It's no different in
24 deciding what they do in what's good for the Indians.
25 So, again, OMB is a critical part to the government and

1 understanding Indian Country.

2 Any opportunity you get to meet with OMB is
3 very important. So, again, OMB decides our future.
4 It's not Rodger, and it's not Sandra; it's OMB.
5 They're the ones we can blame for the budget cut. This
6 \$1.2 million cut that you're battling right now was
7 decided by OMB.

8 So, again, it's important that you get an
9 opportunity to get in front of OMB any chance you get.

10 MR. JACOBS: Okay. Any other comments?

11 Marvin?

12 MR. JONES: I know all of that. What I asked
13 was, when were we planning to do the DC meeting with
14 OMB? Is it before the promulgation of sending that to
15 OMB or was it afterwards?

16 I fully agree. You know, I wish OMB was here
17 right now. But my question was, if we're having a
18 DC meeting, when is that timing going to take place?
19 Is it, again, before we're trying to meet in DC with
20 OMB, before HUD sends the document to OMB, or do we
21 want to try to meet in DC with OMB after the document
22 is sent to OMB? That was my question.

23 MR. JACOBS: Judith?

24 MS. MARASCO: Marvin, to answer your question,
25 Henry said it doesn't matter. It could be either one.

1 MR. COYLE: Karin?

2 MS. FOSTER: Henry, is there some thought that
3 we might be able to have some influence on OMB if we
4 meet with them before we actually give them our rule?
5 I mean, if there's any possibility we might have some
6 influence, that would be one reason to meet with them
7 before they actually act.

8 MR. CAGEY: I'm going to picture what we --
9 you've got small tribes. You have large tribes. You
10 have Alaska tribes. You have Oklahoma tribes. All
11 here at the table. All here at the table, and there's
12 very few opportunities you have to show them that.

13 Have you ever met with OMB?

14 Okay. So, again, this is your chance to do
15 this. It's a chance to educate OMB about your issues.
16 It's a chance to educate OMB what it's like to be a
17 small tribe or a large tribe and what we go through
18 every day in dealing with our financing for our cause.

19 So, again, I don't know why the tribes are so
20 afraid to decide things. I'm really concerned on our
21 future here and what we're doing here. Either you're
22 tribal leaders or you're housing authorities. But,
23 again, you really have to decide what you are.

24 So, again, if you're going to be a tribal
25 leader sitting at the table, lead. But if you're going

1 to be a housing authority, be a housing authority.

2 This is about government to government. This is about
3 tribal leadership. I'm urging you to consider what we
4 do as leaders.

5 MR. COYLE: Rodger, I'm sorry I passed you up
6 before. Your turn.

7 MR. BOYD: Oh, that's okay.

8 I think after the committee's work is done --
9 and I was just talking with our counsel and thinking of
10 the process that we have to go through to eventually
11 publish the rule. After the committee approves
12 everything, then it has to go to HUD for clearance.
13 And then from HUD, it goes to OMB.

14 It seems to me that the most advantageous time
15 for this committee to meet with OMB is right in between
16 the HUD -- after the HUD clearance and before the
17 document is submitted to OMB. We'd probably have an
18 opportunity for OMB to certainly listen, and then the
19 rule is passed on to OMB for their clearance.

20 So we were speaking of timing. Our sense of it
21 is, if the committee does want to meet -- and it seems
22 like the committee does want to meet with OMB -- that
23 that would be the best time to do it, is before
24 anything is submitted to them.

25 Because once it's submitted to them, then they

1 go through their process.

2 MR. COYLE: Marvin?

3 MR. JONES: So that sounds like before

4 October 1 then? Would that be --

5 MR. COYLE: Yeah.

6 MR. JONES: Okay. All right.

7 MR. COYLE: Marvin, does that satisfy your
8 question?

9 MR. JONES: That answers my question, yes.

10 Thank you.

11 MR. COYLE: How would it be if we kind of shoot
12 for August, coming up with a halfway decent finalized
13 draft in August -- the end of August, and go from
14 there?

15 MR. KAZAMA: Just to keep in mind for all of
16 us. I think that if you look at two hours per issue --
17 there's about 40 issues. If we are slow in our moving,
18 maybe about 45, 44 -- you know, interpreting delays in
19 getting our groups together.

20 So I was trying to look at the number of issues
21 that we can handle, given the period of time. I just
22 kind of did an analysis of that, just to see where we
23 were at.

24 I looked at the PIH Notice, saw how many that I
25 thought were significant things that -- you know, there

1 was ample time for us to cover those if we are strict
2 with the two hour blocks of time, to cover the
3 PIH Notice, which is, I think, HUD's major concern, as
4 Congress is indicating. And then we have additional
5 time -- at least two sessions or two of the block
6 sessions -- that we could do other kinds of things
7 with, other issues.

8 So I was looking at this from a statistical
9 analysis and just trying to figure out how much time we
10 had. So keep in mind, there's enough room here for
11 about 45 to 48 issues. I just wanted to share that.
12 Thanks.

13 MR. COYLE: I honestly think that's a realistic
14 time frame. And with Jack as chairman from here on
15 out, I think he'll push it hard enough to make it
16 realistic. Any comments on that?

17 MR. SAWYERS: Well, I only think that my father
18 does a lot better job than I do.

19 MR. JACOBS: All right. Any other comments?

20 We have the meetings somewhat set. The
21 contractor will try to accommodate these locations and
22 will get back with us.

23 Yes, sir?

24 MR. TELLER: Before we take a vote, the only
25 issue that I want to bring to the table for your

1 consideration, and I beg for your indulgence, is that
2 the July meeting of the 20th, the 21st, and 22nd falls
3 right on the Navajo Nation Council session, and that's
4 usually a full week for us.

5 I ask the committee to maybe move it back by
6 one week because Mr. Keeswood and I are pretty much
7 involved and fully engaged in the council goings on
8 there. And, typically, we usually have one or two
9 legislation pending before council for actions.

10 MR. HAUGEN: With all due respect to your
11 comment, Mr. Teller, we spent the last meeting
12 hammering these dates out. They've been set. We came
13 to consensus with them. I think we need to move
14 forward.

15 But more than that, let's look at these meet
16 dates and times by consensus, and let's approve them
17 right now. We've spent an hour, and it's reminding me
18 of these last two meetings. Let's get them finalized
19 so we can get going.

20 Blake, I appreciate what you've been doing
21 because that's reality. We've got a lot of work to do
22 and a short time to get it done.

23 MR. COYLE: Okay. We've got May 11th to the
24 13th in Denver, Colorado. Do we have a consensus on
25 that? No negatives?

1 Jack?

2 MR. SAWYERS: On that July meeting, one of our
3 members asked for a change, and at least, you should go
4 around and see if that conflicts with something else.
5 If it doesn't, we could do it. I want to rush on, too,
6 but I want to make sure that everybody's accommodated,
7 if we can.

8 MR. COYLE: Right. And I was going to hit that
9 when we got down there. I was going to consensus down
10 to them.

11 Okay. June 9th through the 10th?

12 MR. HAUGEN: Chairman?

13 Mr. COYLE: And we've got a --

14 MR. HAUGEN: Chairman?

15 MR. COYLE: Yes?

16 MR. HAUGEN: Mr. Chairman, again, I want to
17 reiterate. We've talked about it. It's the committee
18 members' responsibility to ensure that their alternate
19 knows what we're talking about. We've already talked
20 about this.

21 And I want to reiterate that, Jack. You know
22 this. Let's get moving.

23 MR. SAWYERS: I'm old, and I forget.

24 MR. HAUGEN: Stop by later and I'll remind you.

25 MR. COYLE: Three of those dates are my tribal

1 council at home, and this is more important to me,
2 really.

3 June 9th and 10th, we've got either
4 Hollywood, Florida or Tampa, Florida. Those are both
5 Indian-owned casinos. Any comment on either one of
6 those? Are either one of them good? Okay. Consensus
7 on that.

8 July 20th to the 22nd in Seattle. Is that
9 good? Consensus on that.

10 MR. JACOBS: Excuse me. Do we need to respond
11 to your request?

12 Yes, Jason?

13 MR. ADAMS: Again, with all due respect, I
14 thought the dates were set. We agreed to the dates.
15 At the last meeting, we pulled out our planners, and we
16 looked at dates. Not every date hits everybody just
17 right. I mean, we all have to give and take in this
18 process.

19 I mean, I have things scheduled that I'm
20 missing out on, too. I mean, I think we all do. But I
21 thought the dates were set. It's just the locations
22 we're talking about.

23 MR. DePERRY: Mr. Chairman, you know, no
24 offense to our distinguished colleagues from Navajo,
25 but it'll be moments like this that's going to test our

1 resolve. It has been decided. It has been decided.

2 And correct me if I'm wrong, but I believe the
3 Navajo rep was sitting in the corner table on the day
4 that the dates were picked. So I believe there's no
5 issue here, and for us to deliberate it, just takes up
6 more time from our task at hand. Thank you.

7 MR. COYLE: Okay. Marvin?

8 MR. JONES: I'm reading the minutes, and the
9 meeting towards that, but that doesn't prevent someone
10 from saying, "I'd like to change a meeting." Someone
11 will object, and it's done, right, instead of
12 discussing it.

13 So if somebody wants to change a meeting date
14 that has been set, they have that opportunity. And
15 then somebody just objects, and we move on, right?

16 MR. COYLE: Okay. And moving on.

17 July 20th to the 22nd in Seattle. We've
18 already consensus on that.

19 August 17th to the 19th in Minneapolis/St. Paul
20 or Chicago. Comments?

21 MR. SAWYERS: Let me suggest Chicago. I've
22 been there.

23 MR. COYLE: Me either, Jack.

24 MR. SAWYERS: Let's go. You've got to take me
25 out for supper.

1 MR. COYLE: Okay. Do we have a consensus on
2 Chicago? Any against it?

3 Chicago shouldn't be any problem, should it,
4 Rodger?

5 MR. BOYD: Well, again, I just want to remind
6 you -- and I have nothing against Chicago, but that's
7 probably one of the most popular places in the country
8 to have a conference, so we may not be able to find
9 anything in Chicago. But there are facilities out near
10 the airport that would be easy to get to. So I just
11 want to let you know that we'll have to work with our
12 contractor, and we'll advise the committee accordingly.
13 But please keep in mind the locations.

14 As a matter of fact, like Denver, we wanted to
15 be downtown Denver because we thought that was going to
16 be more convenient for the committee. And now we had
17 to move it out to one of the suburbs, which is
18 accessible and does have a lot of good facilities
19 around. There's at least one 7-11. I think there is a
20 Chinese restaurant on the corner. (Laughter.) But I
21 think we'll be happy with it.

22 It's still easy to get to. But I just wanted
23 to let you know what our contractor has to go through
24 to accommodate you, but we will do our best, and they
25 will do their best to accommodate us.

1 MR. SAWYERS: Did I see somebody that was
2 against Chicago?

3 MR. JACOBS: Yeah, two.

4 MR. BUTTERFIELD: I believe the reason why I
5 suggested Minneapolis/St. Paul or Milwaukee is, not
6 only are they temperate and near lakes, they have major
7 airports. They have a lot of facilities to choose
8 from. They're easy to get in and out. Where Chicago,
9 as much as it's a nice city, it is also a devil to get
10 in and around that city because of it's population
11 base.

12 I just think it's -- even though it has good
13 mass transportation, it is a tough location to get
14 around and very popular during the summer, because
15 about that time is Chicago Fest, and it brings millions
16 of tourists into the city.

17 MR. COYLE: Okay. Unofficially, let's have a
18 raise of hands of who wants Chicago. Could we bypass
19 protocol on that, on our locations? Is that okay with
20 everybody, that consensus? No comment.

21 Who wants Chicago? Who wants Minneapolis?
22 Okay. One, two, three, four.

23 MR. SAWYERS: Dinner's off.

24 MR. COYLE: I guess that's it. Okay.
25 Minneapolis it is, if they can get it.

1 In September, that will be Washington, DC.
2 Everybody consensus on that? We haven't set a date on
3 September. First? Middle? Last?

4 MR. SAWYERS: We can't set it right now, can
5 we, because we want to know when HUD gets their
6 clearance.

7 MR. COYLE: Yeah, that's kind of hard to --

8 MR. SAWYERS: We're waiting for HUD clearance,
9 not for OMB, right? As soon as HUD has their
10 clearance, we'll meet, and then we'll try to meet with
11 OMB. Is that -- okay. So I don't see how you can do
12 that unless you folks know how soon you can do it.

13 MR. COYLE: Why don't we tentatively set the
14 date in July for -- get the date set for September in
15 July? Would that give enough time to make arrangements
16 there?

17 MR. JACOBS: Or earlier, if we know.

18 MR. COYLE: Yes, Karin?

19 MR. FOSTER: I'd like to suggest we defer the
20 decision on September until our next meeting.

21 MR. COYLE: All right. Is everybody on
22 consensus on everything up there now?

23 Yes, sir?

24 MALE SPEAKER: Is that a consensus that we park
25 it?

1 MR. COYLE: Yeah, in the cripple zone.

2 Okay. Do we have any draft material done yet?

3 MR. JACOBS: Let me ask you this. Can the
4 working groups go ahead and assemble into your meeting
5 area and start to address until we get the handouts to
6 you. Do you have some work that you can do that could
7 get started in the work groups?

8 MS. GORE: I think it was key to have the
9 documents before we go into work groups. Do we have
10 those?

11 THE FACILITATOR: The documents are still being
12 processed. There's a lot of pages, and we're trying to
13 make enough for the whole audience as well.

14 MR. COYLE: If we broke out in the work groups,
15 I think you still had some of the short ones that you
16 can work on and get those out of the way. Is that what
17 I was hearing yesterday? Jason? Doctor?

18 MS. GORE: No, I think we said it would take an
19 hour if we had these documents to guide us through it.
20 In the absence of that, it's not an hour. Thank you.

21 MR. COYLE: Yes, Marvin?

22 MR. JONES: If we need some more time and need
23 another issue, can we talk about the co-chair issue for
24 the next meeting.

25 MR. COYLE: The kosher?

1 FEMALE SPEAKER: Co-chairs.

2 MR. COYLE: Co-chairs, I'm hard of hearing.

3 MR. SAWYERS: I suggest that we've done fairly
4 well with the two we have. I'd like my father and Leon
5 to do that.

6 MR. ADAMS: I second that nomination.

7 MR. COYLE: You're out of order, Jack.
8 Jason?

9 MR. ADAMS: Well, you didn't buy me dinner last
10 night, so I'm going with Jack here on this one.

11 MR. COYLE: You're out of order, Jason.
12 Young lady in the corner?

13 MS. MARASCO: I agree.

14 MR. COYLE: You're out of order, too.

15 MALE SPEAKER: Don't try to get out of it,
16 Larry, there's a consensus here.

17 MR. COYLE: I honestly don't want to.

18 MALE SPEAKER: Who cares?

19 MR. COYLE: My blood pressure pills, I've run
20 out of them.

21 MR. JACOBS: I also think that we should
22 rotate, so everybody has an opportunity.

23 MR. SAWYERS: And I think we should take that
24 into consideration maybe the next time. Thank you very
25 much. I think it's already passed; is it not?

1 MS. GORE: I think as a committee we agreed.
2 When we took action, we took action. It's a done deal.

3 Thank you, gentleman.

4 MR. COYLE: I've heard a lot of snowballing.
5 Thank you for the confidence anyway. We'll talk about
6 it at the next meeting. Okay?

7 MR. JACOBS: Marvin, did you have a comment?

8 MR. JONES: Well, I thought that was going to
9 be an issue that we'd at least take two instead of one.

10 If we need another issue then, we wrote parking
11 lot issues up there. Could we define what procedure we
12 want to use and what kind of instruction we want to
13 give people now as to how we might like to get those
14 issues and what kind of time frames and those kinds of
15 things?

16 MR. JACOBS: That's a good point. What does
17 the protocol address? Nothing, right?

18 MR. COYLE: Nothing.

19 Your parking lot, that's Carol's idea and
20 Darlene's idea. I'm going to turn the mic over to both
21 of them right now and get some comments on what they
22 want in their parking lot and if it's feasible or not.
23 Then we'll put this to bed.

24 MS. TOOLEY: I think the suggestion is to just
25 write on the board any topics that people may think are

1 lingering or have been brought up.

2 I believe as we have these different meetings
3 and we have the opportunity for other areas to have the
4 public represented and other tribes to have
5 representation sitting in the audience, that there may
6 be issues that arise that are legitimate things for the
7 committee to at least consider or to know about.

8 As cumbersome as it may be, I would like to see
9 that opportunity remain open at least through the July
10 meeting for people to place things on that list. We
11 may not be able to deal with them. But at least from
12 my perspective, in the different forums where we've had
13 an opportunity to discuss issues regarding the
14 regulations, there seems like there's a lot of concerns
15 that people feel aren't being heard by anybody. And I
16 just think we're the forum to hear that.

17 So I would like to suggest that if we're going
18 to use the format of having people write down their
19 issue, and then we have some mechanism where we look at
20 our drafting committee or our resource people and they
21 can bring back the statute section or the regulation
22 that would be affected, maybe there's a subwork group
23 that can then look at those at each session.

24 I don't think there's going to be 1,000 of
25 them, maybe I'm wrong. I don't know. I really believe

1 that we have the obligation to allow -- to provide
2 people that opportunity because this is the only forum
3 in which regulations govern a very important service in
4 all of our committees. This is the only forum we have
5 to really look at addressing any issues with the
6 regulations. So that's my speech.

7 MR. COYLE: Yes, Sandra?

8 MS. HENRIQUE: Good morning. I really do
9 appreciate that, Darlene, and for people around this
10 table and for people who will be in the audiences. I
11 do want to just remind us that we have a full agenda,
12 so we want to make sure that we really get to the
13 pieces we are required to get to before we start trying
14 to meld the other stuff in.

15 And if we can think about there really are
16 parking lot -- how we can appropriately respect them
17 and deal with them but not lose sight of the bulk of
18 the work that we have to get done first. Maybe knowing
19 that they're sitting there will help us more concretely
20 think and more quickly form the bulk of the work that
21 we've got to get done in these time frames --
22 discussion on those other items.

23 MR. COYLE: Yes, Jack?

24 MR. SAWYERS: If we take our guidelines, we
25 would leave that board open until the third meeting,

1 and everybody would put on their -- and write it up so
2 it can be displayed. If we're through with the things
3 we need to do, then we should be able to take care of
4 that. But we should really not do that after the third
5 meeting.

6 In other words, we should know by the third
7 meeting what the parking lot issues are and have them
8 ready to go. And then you'll have to decide how many,
9 you know, five, four, whatever it takes. But I think
10 we need to get this work done first, but we may have
11 time to do some parking lot issues as we go. But I do
12 believe that we need to have them on the board and have
13 them all taken care of by the third meeting. Then we
14 will meet on that and talk. That's kind of the way I
15 look at it.

16 MR. COYLE: Okay. Karin?

17 MS. FOSTER: I remember attending the
18 negotiated rulemaking committee meetings when the term
19 "parking lot" was coined, and that was after the issue
20 had come up and the committee decided to put the issue
21 in the parking lot because it wouldn't be dealt with
22 during that session.

23 So if there are issues that were parked
24 already, that need to be brought up and considered,
25 that's the parking lot. I think it's a little bit

1 premature to be calling these parking lot issues. We
2 have a charter and protocols that allows us to consider
3 other things besides just the amendments.

4 We had language that did restrict us to the
5 amendments, and the committee, by consensus, rejected
6 that language. I think that it's too restrictive to
7 require that everything be brought up by the third
8 meeting; although, I do appreciate the fact that we
9 need to be working on the amendments first and getting
10 those done. But I think that we can.

11 I would rather leave it a little bit more open
12 than that and figure out where we are. I mean, if we
13 find that we can't consider very many of those things,
14 then that's the way it's going to have to be. But
15 right now, I'm not sure we're there yet, so I'd rather
16 not cut off the opportunity.

17 MR. COYLE: Marvin?

18 MR. JONES: As I said earlier, I don't like to
19 call them parking lot issues. They're 1996 issues.
20 When NAHASDA was passed, there were some issues where
21 we had the law, and we had the regulations. And then
22 we have something, apparently, above the law and the
23 regulations, which are requirements HUD has put upon
24 us, that aren't, in our opinion, found in the law under
25 regulations. They're not subject to an amendment.

1 They're actually interpreted in the original law.

2 I realize that Congress has put a deadline on
3 the 2008 amendments, but we are and we will get some
4 regulations on those. But we're just, perhaps, adding
5 to the pile of things that will be here -- not me, but
6 some of you will be here in 2018 and talking about, we
7 really ought to go back to those 2008 amendment
8 regulations because they are not implementing those.

9 I hope that's not what happens, but these are
10 things that are out there. It would be great if we had
11 another forum and that other forum -- I'm not including
12 litigation and I'm not including going to Congress --
13 but another federal agency process by which we,
14 perhaps, could address a bunch of these issues, perhaps
15 doesn't need regulatory language, that perhaps we can
16 withdraw that PIH Notice that doesn't have any basis or
17 law or regulation, kind of consultation. So those are
18 important issues.

19 I do realize what the law says in regard to the
20 2008 amendments. But these other things cause us to
21 have not as good a program as we otherwise could, too.
22 And they've been lingering out there. They're taking
23 up time, and they're taking up money, and we're dealing
24 with those things. Tribes all across the land are
25 dealing with those every day. And we'd like the forum

1 to address those.

2 I do appreciate all the other comments about
3 keeping the time open, those sorts of things. What I
4 would like to see by at least the end of today is
5 whether those issues that people have already defined
6 and tried to get -- including from our audience. If
7 you can clearly define an issue right now, I'd like to
8 get it up there today, if we can.

9 And, again, that's not taking away the
10 continuing time frame for other things to come up. So
11 that's my suggestion.

12 MR. COYLE: Jack?

13 MR. SAWYERS: I don't disagree with either of
14 you folks, but I think we need to do the work first.
15 And then those other issues will come after that time,
16 and not take up the time as we go along because we have
17 47 items. And I think we would be open to most any of
18 those kinds of things as long as we get our work done
19 first.

20 MR. COYLE: Marguarite?

21 MS. BENCENTI: I was just agreeing with Karin
22 and Marvin. But is there an avenue that maybe we can
23 look back at the last Neg-Reg meetings and pull out
24 those issues? Is there a recording of that?

25 MR. COYLE: Dr. Kazama?

1 MR. KAZAMA: One of my thoughts, I guess, when
2 we broke out into the work groups yesterday, it seemed
3 to me that we need a venue by which people can bring
4 issues forward. People have the idea -- you know, they
5 feel something is broken. And it may be broken and
6 they want to have a fix on it, so they're bringing it
7 to us. But it's really something we might not be able
8 to fix because it's statutory in nature.

9 We need a group -- maybe another work group
10 that deals with HUD, that has HUD people there and
11 people who are knowledgeable about the regulations
12 statute to say, you know what, that is covered under
13 subpart A, B, C, and here's the language. Giving what
14 you're telling me is the issue of the problem, it can
15 be fixed with -- you know, so we have in a sense an
16 advisory thing.

17 That might eliminate a lot of the people that
18 are bringing a ton of these issues that they want
19 resolved here. At least they can then understand that
20 there is a method to bringing it to the table with
21 language and possibilities of changing -- or to say,
22 no, you know what, that is not an issue that we can
23 deal with.

24 For example, some of things maybe under
25 subpart D. It gives people opportunity to voice their

1 opinion instead of walking away frustrated and saying,
2 "These guys never talk about my issue."

3 MR. COYLE: Somebody told me that you went and
4 joined the Toastmaster's Club after the last Neg-Reg.
5 Is that right, Marvin?

6 MR. JONES: I agree with Dr. Kazama, which is
7 why I took the trouble -- and I'm sure I can do it
8 again -- of saying the word "specificity." But isn't
9 the issue up there for that very reason, to see -- you
10 know, make sure we understand that. And if that's one
11 that cannot be fixed, then we have enough information
12 to then call someone aside and talk to them, and that's
13 not one of those things. That's what I was trying to
14 convey by asking for that.

15 MR. COYLE: I'd also like to -- if anybody's
16 got any suggestions on how to get out of the job of
17 chairmanship, put that on the board, too, and also
18 anything to help us facilitate the facilitators more.
19 Anything that could improve our group here, I'd really
20 love to have that put on the board, too.

21 MR. JACOBS: And until we come up with
22 something else, we've agreed to put it on the parking
23 lot for the time being. And if anything does appear on
24 this, then we'll discuss it and see how you want to
25 privatize it. Is that sufficient?

1 Marvin?

2 MR. JONES: I would like to add one thing. If
3 we can put parenthesis "1996 issues and others."

4 MR. COYLE: No problem.

5 Doc?

6 MR. KAZAMA: I guess my only concern is, there
7 are some individuals -- let me just say this. To me,
8 it's an important issue because there are tribal people
9 that have come great distances to hear stuff. I feel
10 strongly enough about it.

11 I mean, I'd be willing to chair a work group to
12 take on the parking lot issues. People can come and
13 give them to me, and we can talk about whether or not
14 they fit under statute regulations. I think I know
15 enough about that to advise people.

16 That way, hopefully, their concerns are at
17 least being met. They're not feeling like it's thrown
18 on a board, and they go, "Oh, we ran out of time. We
19 didn't even get to my issue."

20 Maybe we need an advocate who can support that
21 aspect of building issues that are non-PIH so that the
22 committee can focus it's attention on the task at hand,
23 doing the PIH Notice. But yet someone is taking care
24 of the public and other issues that are on this table
25 that we know are going to be addressed. That's my

1 thoughts. So we're not dealing with hundreds of
2 issues.

3 MR. JONES: Dr. Kazama, I'm willing to come
4 before you and state my case on a particular issue, and
5 hopefully you can help me where nobody else has been
6 able to, and they will take your judgment.

7 MR. COYLE: I think we've already got two on
8 that board.

9 Karin?

10 MS. FOSTER: I think some of those issues can
11 be identified through the working group participation,
12 too. And rather than to have to say to people, "Well,
13 gee, this just really isn't on our list of things that
14 we can talk about here." I mean, sometimes -- you
15 know, if it truly is far from our field, then it could
16 be referred to your working group, and there would be a
17 place for it. But I think a lot of those issues can be
18 identified through the working group participation.

19 MR. COYLE: Everybody ready for a break? Then
20 we'll come back in here and hopefully have our
21 paperwork in front of us. Consensus?

22 MR. SAWYERS: That is why we wanted that in the
23 preamble here, to stop some of the things that we're
24 talking about right now.

25 MR. COYLE: Be back here ten till.

1 (Recess taken from 9:29 a.m. to 9:56 a.m.)

2 THE CHAIR: We need to get started. We are a
3 little late. I have an announcement that I would like
4 to share with you at this time. The two HUD attorneys
5 are willing to lead a workout session for anyone who
6 wants to get involved in the workout session. April
7 fools.

8 They are passing out the paperwork now. This
9 is going to everybody in the room, even the galley back
10 there. And then we've asked Dave to come up and
11 explain what they did last night.

12 THE FACILITATOR: I just wanted to share this
13 with the committee. Right now you're getting two
14 documents. One is the NAHASDA amendments combining
15 everything, including the regulatory subparts and where
16 the PIH notice corresponds to the HUD position notice
17 and relevant regulations.

18 And you are also getting the work group
19 committee reports. These are the reports that were
20 handed to us last night that show all of the areas from
21 Workgroups A, B, C, and F, all of your reports. That
22 is contained in this document here.

23 There is one additional document that you
24 will be receiving that is in the process of being
25 manufactured. This is for each of the work groups,

1 A, B, C, and F. The relevant regulations that pertain
2 to your work group are also being duplicated, and we
3 will have those for you soon. So I think that will be
4 giving you enough information, then, to continue to
5 work, and I really thank all of the people who put that
6 together. It's very helpful.

7 THE CHAIR: All right, Dave, you go.

8 MR. HEISTERKAMP: Maybe it would help to put
9 this up electronically. Everybody's got a copy in
10 front of them also, but clarity is always better. This
11 is the document, and we've been asked to give a quick
12 orientation here for the whole group, but also to come
13 to each subgroup, so that what you hand us do becomes
14 useful for the whole committee as a product.

15 We have taken what you had yesterday as the
16 NAIHC matrix, which had the first three columns.
17 Reading from left to right, the first column is the
18 statutory amendment.

19 Then the second column is the NAIHC legislative
20 committee recommendation on whether it is an easy issue
21 to handle or a harder issue to handle. Easier issues
22 are 1s, and harder issues are 2s and 3s.

23 The third column is a summary of HUD's position
24 expressed in PIH Notice 2009-50. And then we've added
25 three more columns.

1 The fourth column is which issue number on the
2 PIH notice corresponds, if any, to the amendments.

3 The next item -- the next column number --
4 we're five columns over now -- is the regulatory
5 subpart, either A, B, C, or F, because we are not
6 dealing with E's in this committee.

7 And so in terms of how we've split out the work
8 groups, that tells you where your work group might have
9 something to do.

10 And then you don't have anything yet, but there
11 is a fifth column -- or a sixth column there called
12 relevant regulations. And the attorneys have all been
13 working. We have that all handwritten out. And later
14 in the day, we may be able to provide an updated copy,
15 or later on. But what that is, is an attempt to
16 identify any potentially affected regulations which may
17 relate to the issue.

18 Let me say upfront, just so you understand, not
19 every amendment is going to have something in every
20 column of this document. Not every amendment requires
21 a regulation. Not every issue has an existing
22 regulation.

23 When we fill in the sixth column, the attorneys
24 made some attempt to give you an idea whether there's
25 an existing regulation, whether it will require a new

1 regulation, whether the regulation has to be removed.

2 So when you -- hopefully this is a piece that works
3 together. It is helpful to know also, there is some
4 organization to the original statute and the original
5 regulations.

6 I know most of you have a red-line copy of the
7 statute. The statute is organized into sections, 1
8 through 100, the 100s, the 200s, the 300s, the 400s,
9 and the 500s. Roughly corresponding to that is each
10 subpart of the regulations.

11 So, for instance, if you are working on
12 Group A, that is all the regulations numbered
13 1 through 99, 1000.1 through 1000.99. So if you are
14 in Work Group A, those are the regulations that you can
15 be looking at in terms of what already applies under
16 the existing law and regulations.

17 Similarly, Subgroup B deals with all
18 regulations from 100 through 199; Subgroup C is all
19 the regulations from 200 through 299; E is 400
20 through 499; and F is 500 to 599. So there is some
21 organization to how the regulations and the statutes
22 work together.

23 It is helpful, and one thing we will try to do
24 is come to each of the subgroups also and identify --
25 whoever comes from the drafting committee will help you

1 identify, again, what the regulation numbers are for
2 your particular subpart, but also the sections of the
3 statute that might apply. So instead of flipping back
4 and forth between the whole document, you will know
5 what you have to focus on in your individual work
6 groups.

7 That's an overview of this. What we're going
8 to do when the drafting committee members come around,
9 we will pick an issue specific to each one of your
10 subgroups and show you how to look it up on this
11 document. We will read through, and we'll go across.
12 We'll actually pick out a column and show you how it
13 works.

14 Just be aware that there are some things that
15 do not have regulations attached and don't have PIH
16 number issues attached. The NAIHC document started
17 with the whole universe of amendments that have
18 happened between 1998 and 2008. Not all of those
19 issues are dealt with in the PIH notice, and there are
20 not necessarily regulations for each one of those
21 issues.

22 So for some of this, you will see an amendment,
23 and the rest of the columns might say, none, not
24 applicable, blank, no regulation to look at. And the
25 reasons for that are many. It may have been they were

1 rearranging some numbers. They may have been pulling
2 some language around that doesn't affect the
3 regulations. It will be a case-by-case basis. So
4 not every issue is going to have something in every
5 column that corresponds.

6 Are there questions now? The drafting
7 committee is going to organize itself and make sure
8 somebody from the committee can go to each session once
9 you break up. So there will be time for more specific
10 questions on the document if you're still not sure.

11 And then also, as Jan said, for the items that
12 you referred to us yesterday, we have specific language
13 drafted up. That can either come back to the work
14 groups, or it can come to the whole committee. But
15 since this document has been printed, it's our
16 understanding that they're working on printing those
17 documents up for you right now.

18 Dave or John, do you have anything to add?

19 MALE SPEAKER: (Indiscernible -- speaker not
20 using microphone.)

21 MR. HEISTERKAMP: Okay. We're going to try to
22 add the relevant regulatory language to the electronic
23 copy now during the work sections, so you can come back
24 and fill that in. Eventually we will have added that
25 to the hard copy, and you will have a hard copy with

1 that as well.

2 Okay. It's up on the screen now. Are there
3 other questions from the committee?

4 Let's look at Section 2 as an example. The
5 amendment was made in the year 2000. It amended
6 Section 2 of the statute. The second column says that
7 the NAIHC group thought there were some negotiations
8 needed. It wasn't an easy one. It was a 2 or a 3.
9 The HUD PIH notice agreed that it needs to have a
10 conforming regulation redrafted, and that would affect
11 Section 24 CFR 1002.

12 On the PIH notice, it is Issue No. 1. It
13 belongs in regulatory Subpart A, and the potentially
14 affected relevant regulations are 1000.2. So this is
15 an example of one where there is information in every
16 column. And that is not necessarily going to be true,
17 but that's how it corresponds.

18 If you want to have the statute or the PIH
19 notice or both open next to this to see more specifics,
20 this should give you some guidance. And you can go
21 to the statute at Section 2 or the PIH notice at
22 Issue No. 1, or the existing regulations at 1000.2, and
23 you can see how all of the language reads together if
24 you want to.

25 THE CHAIR: Carol, do you have a question?

1 MR. TILLINGHAST: I have a different
2 recollection, and Dave can tell me if I'm wrong or not,
3 on the NAIHC rankings. That 1 was for those statutory
4 changes for which no rule at all was necessary,
5 conforming or otherwise. And, therefore, that didn't
6 even need to be on the negotiating agenda.

7 2 was for what HUD calls conforming rules. A
8 rule has to be changed, but it is obvious what the
9 answer is. It should not be controversial. It should
10 just be referred to the drafting committee to get
11 fixed.

12 And 3 are the ones that do involve some
13 controversy and are going to require negotiations.

14 MR. HEISTERKAMP: Thank you for the
15 clarification, John. That's a good description.

16 THE CHAIR: Carol?

17 MS. GORE: I would like to pick a couple of
18 examples so that the work groups don't get caught up in
19 some of the things that are unclear. If you look at
20 page 9 --

21 Dave, I'm asking you to help me out here.

22 On page 9 you'll see at the top of the page,
23 there are five items in the column that designates the
24 Subpart A or F. I just want to make sure that we don't
25 have both work groups trying to deal with the same

1 issue and make sure that there is a proper assignment
2 here. F, right?

3 And then I have one more example to point out.
4 And they may not be the best examples, but if you go to
5 page 15, the last one on the page where typically the
6 subpart would be designated, it says simply, "No good
7 fit?"

8 I'm not suggesting that we address that. I'm
9 just saying maybe the work groups don't get hung up on
10 those things today, and they will float to the top if
11 they need to. I just want to make sure we don't
12 consume our conversation with those that have questions
13 today. Thank you.

14 THE CHAIR: Any other questions?

15 THE FACILITATOR: Just a comment to bring to
16 the committee's attention. This document is numbered
17 on the bottom. This document says C54. C stands for
18 committee, 54, and it's April 1, 2010. So all of the
19 documents that you submit to us will be notated in some
20 fashion like this. You'll always look at the bottom of
21 the page, and you'll know what document you are working
22 with. That is cataloged in the library as well.

23 MS. PICKUP: How come it's not on page 1?

24 THE FACILITATOR: It was an accident. It's a
25 technical little thing, and they're going to try to fix

1 it. But it's on all the other pages. Thank you.

2 THE CHAIR: You notice too that I had them
3 punch some holes in here so you can put it right in
4 your folder. So it will be more or less a permanent
5 part of your folder.

6 Any other questions? If not, why don't we
7 break for our work sections, and we will go through
8 until noon.

9 MR. HEISTERKAMP: If I can see the drafting
10 committee over here to make sure we have someone in
11 every room to cover.

12 THE CHAIR: Right. We're going to have
13 somebody from the drafting committee in each one of the
14 rooms, so if there are any questions on this format,
15 you will be able to answer them.

16 (Recess from 10:12 a.m. to 1:37 p.m.)

17 THE CHAIR: Okay. Can we have your attention,
18 please? I hope everybody had a good lunch, and you're
19 ready for the afternoon session. A couple of the
20 committee members have departed. Susan has left.
21 Henry with the alternate. Okay. Anyone else?

22 So how did the work groups' work progress
23 today? Was that -- when I went into each of the
24 groups, there was a lot of dialogue and a lot of work
25 being handled. So everyone said they were ready to

1 resume the full committee.

2 Did all of you get the Subpart A? We
3 distributed those in the work groups. Is there anyone
4 in the audience that did not get a copy? Okay.

5 I think that we are ready to address the
6 Subpart A. That's why we had you get your copy before
7 lunch. If the drafting committee and also the
8 chairperson from each of the work groups, if you are
9 ready, let's discuss this. We will move into this
10 right away.

11 Anything else, Larry? Okay.

12 Any questions? Or is this the consensus of the
13 group to let's move in this direction? All right.

14 MR. COYLE: One thing, when we go through these
15 different groups, do you want to bring them all down
16 working on the one? Do you want to bring any comments
17 out and then get consensus on them all at one time? Or
18 do you want to get individual consensus?

19 MS. FOSTER: I think individually.

20 THE CHAIR: Is that a consensus? Let's see the
21 thumbs up.

22 MS. GORE: Let me clarify. What you're asking
23 us to do is to first respond to this language, not go
24 into what other work the committees did this morning,
25 but just this for the first?

1 THE CHAIR: Yes.

2 MS. GORE: Thank you.

3 THE CHAIR: Is this -- all of the committee
4 want to do it this way? Okay.

5 Dave, are you speaking for the drafting
6 committee?

7 MR. HEISTERKAMP: I think the way it was
8 organized is that I believe there was a member of the
9 drafting committee or a spokesperson for each work
10 group that can address their particular issues.

11 THE CHAIR: Okay.

12 MR. HEISTERKAMP: If that's okay with the
13 Chair. I think there was at least one member of the
14 drafting committee inside each work group that can
15 speak to each subpart.

16 THE CHAIR: All right.

17 MS. GORE: I would be happy to lead off. I am
18 the Chair of Subpart A.

19 THE CHAIR: All right.

20 MS. GORE: And let me know if I'm not
21 consistent with the process that the committee expects.
22 We had two support people that I would like to
23 recognize, for not just this part, but the next part,
24 for the further work of the work group. Gabe Minun
25 (phonetic) from the drafting committee and also

1 Dan Brown from HUD, who I hope got lunch today. We
2 worked him pretty hard. We gave him about ten minutes
3 to have lunch. Thank you.

4 Anyway, what you have in front of you from our
5 work group, Subpart A, are, we think, perfect examples
6 of the low-hanging fruit that Karin described to us.
7 There are only two. The front page is a simple change
8 from the word "should" to the word "shall" in two
9 places, both line 11 and line 15. We would ask for
10 consensus on that from this committee.

11 THE CHAIR: Any objections?

12 MR. BUTTERFIELD: Could you repeat that? Is
13 that the first page?

14 MS. GORE: Yes. It's the first page, Mark.

15 The second page is another good example, which
16 is simply lifting a definition that exists in the
17 statute to put it into the regulation. So it is just a
18 conforming wording. And we would ask for consensus on
19 this as well.

20 THE CHAIR: Any objections? Passed.

21 MS. GORE: Thank you. That completes my report
22 on this section.

23 THE CHAIR: Okay. And how about Subpart B?

24 MR. KASAMA: Mr. Chairman, I'm the Chair for B.
25 I'm going to have a spokesperson address that. But

1 before they speak, I also want to recognize
2 Deb Lancette, the HUD resource person. She helped make
3 things a lot more simple. She kept me focused. I
4 appreciated that. She's a keeper.

5 MS. HENRIQUEZ: She's only on loan, just
6 remember that.

7 MR. HEISTERKAMP: We had a couple of minutes,
8 and I guess I will ask you. Our committee actually had
9 Subparts B and E. And we either take both B and E now
10 or come back to E in sequence, whatever the committee
11 wants to do.

12 We had one recommended change for Subpart B, if
13 we can get that on the screen. There was a change to
14 the law that's required. On your sheet, it's the one
15 proposed change. As far as availability of criminal
16 records information, previously that had been available
17 to housing authorities and to TDHEs only to screen
18 tenants and now, by statute, is also made available to
19 screen job applicants.

20 And so that required two fairly simple
21 amendments to add job applicants both to the title of
22 Regulation 1000.150, and then to the substantive
23 material in Regulation 1000.152. So the work group has
24 drafted one change, just the title of 1000.150 to read,
25 "How may Indian tribes and TDHE's receive criminal

1 conviction information on adult applicants for housing
2 assistance, tenants, and applicants for employment?"

3 And then to add similar language to the
4 substantive part of 1000.152 with regards to tenants
5 and applicants for housing assistance, and then it
6 describes what the information can be used for.

7 And then adding a second section with regards
8 to applicants for employment, "The recipient shall use
9 criminal conviction information described in 1000.150
10 only for applicant screening or employee discipline
11 actions."

12 And then we took language that had been the
13 second part of that paragraph and made it its own
14 paragraph (c). But it is existing language, just
15 rearranged.

16 THE CHAIR: Are you viewing these as one item?
17 Or are they two?

18 MR. HEISTERKAMP: Just one item is our
19 understanding. This is one statutory change that
20 affects two regulations.

21 THE CHAIR: Okay.
22 How does the committee feel about this?
23 Thumbs-up?

24 Karin.

25 MS. FOSTER: I would like to make a suggestion

1 or a request. It's not absolutely necessary with
2 these, because these are going to be pretty simple.
3 But I think I would like to be able to see the statute
4 up as well as the regulations. I'm working from mine,
5 and I can see that they were just very minor changes,
6 and I can kind of put them together.

7 But maybe next time when we go through more
8 substantive things, it would be nice to have that up
9 there as well. I think it helps.

10 THE CHAIR: Also, one other comment that was
11 given to me. They would like to have all of these runs
12 that we have made here today, if we could put a number
13 in front of each one of them, 1, 2, 3, so we can go
14 right to it from that. And also, some of them have
15 more items in them and maybe just break it down as
16 A, B, and C. Would that help? Does anybody have any
17 feelings on that?

18 MALE SPEAKER: (Indiscernible -- speaker not
19 using microphone.)

20 THE CHAIR: No. Unless you agree on each of
21 these items, that we could just number 1, 2 or 3
22 (indiscernible -- speaker not using microphone.)

23 MR. HEISTERKAMP: The committee has consensus
24 on Subpart B. You want me to do Subpart E also?

25 MS. FOSTER: I don't think we had consensus

1 quite yet on B. I actually do have a question while I
2 still have the floor on B.

3 I'm looking at the regulation, and it kind of
4 appears to make a distinction between applicants for
5 employment and adult applicants for or tenants of
6 housing. I'm kind of wondering if maybe that shouldn't
7 be reflected in the regulation.

8 It's not a major issue, but if one were to
9 reflect it in the regulation, maybe put information
10 on -- put it in the same order as we have it in the
11 statute, where it would read, "information on
12 applicants for employment and on adult applicants for
13 housing assistance."

14 Do you see what I'm looking at?

15 MR. HEISTERKAMP: Can you go over it again.

16 MS. FOSTER: Sure. The suggestion is -- and
17 again this is because I'm looking at the statute. If
18 anyone wants to look at it, you can see what I mean.
19 But the suggestion is that the title read, "How may
20 Indian tribes and TDHEs receive criminal conviction
21 information on" -- and then move applicants for
22 employment up after information. And then say, "and on
23 adult applicants for housing assistance or tenants".
24 Just list that first, because it is not limited to
25 adults in the statute.

1 And along with that, amend 24 CFR 1000.152 to
2 read "with regard to adult tenants." So I'd insert
3 adult tenant, just the word adult. That's all.

4 MR. SAWYERS: So if the tenant has a child that
5 is 15 years old or 17 years old, then you wouldn't have
6 to have a background check. In other words, I think
7 it's pretty unnecessary if you're an adult and you
8 only work with a certain amount of folks. And
9 we are grasping at things that just aren't that
10 important.

11 MS. FOSTER: I'm just looking at the statute,
12 and that's what the statute says. That's why I was
13 reading it that way, adult. If you look at it, it
14 makes that distinction.

15 THE CHAIR: Karin, is the main reason for
16 that -- Karin, isn't that because the juvenile laws
17 being so restrictive?

18 MS. FOSTER: I think so. There's also a
19 reference to that later on in the statute.

20 MR. HEISTERKAMP: I think those changes are now
21 reflected.

22 THE CHAIR: Do you want to read it again, Dave.

23 MR. HEISTERKAMP: So the title to 1000.150
24 would be changed to read, "How may Indian tribes and
25 TDHEs receive criminal conviction information on

1 applicants for employment?" If we could put the word
2 "on" in there, "information on applicants for
3 employment and on adult applicants for housing
4 assistance for tenants." I guess we could put the word
5 "or" back in there as well to make it grammatically
6 correct.

7 So "criminal conviction information on
8 applicants for employment and on adult applicants for
9 housing assistance for tenants" would be the way it
10 would read.

11 And then with Karin's other insertion, the
12 first part of new Subsection A would read, "with regard
13 to adult tenants and applicants for housing
14 assistance." The remainder is in the draft.

15 THE CHAIR: Are you okay with it, Karin?

16 MS. FOSTER: Yes.

17 THE CHAIR: Do we have consensus on that now?
18 Any objections? Passed.

19 MR. HEISTERKAMP: The next piece is actually
20 Subpart E. Our Work Group B rolled in what we assume
21 were going to be a few issues on Subpart E, which is
22 the guaranteed loan. And, actually, you will see that
23 we've come up with a lot more language.

24 The amendments to NAHASDA made a few changes.
25 They removed one section entirely. And they allowed

1 Title VI loans for housing related community
2 development activities.

3 So in order to make the regulations conform
4 with the statute, the first change that the committee
5 is proposing is to completely eliminate Regulation
6 1000.408, which only dealt with a piece of the statute
7 that has been repealed.

8 If we could scroll up a little bit, I think you
9 will see that that is the complete strike-through at
10 the top of the page there. I'm sorry. Back down, top
11 of the second page.

12 Removing sub-work group is recommended. You no
13 longer need anything in 1000.408, because there is no
14 longer a piece of the statute that requires that. That
15 is the first change.

16 Would the committee like me to go through each
17 regulatory change? Okay.

18 The next regulatory change is in Section
19 1000.424(a) and would be to add language recognizing
20 that housing related community development activity
21 isn't allowable Title VI.

22 THE CHAIR: Just because of the nature of this
23 subpart, can we take that section and ask for
24 consensus, and then go to the next part, if that's okay
25 with the committee?

1 MS. GORE: I just have one more comment. I
2 hear a lot of page turning, including my own. It would
3 be helpful, and I failed to do this when I gave my
4 report to the committee. Since we decided to use this
5 document, if we could be able to mark this document and
6 say this one received consensus from the committee, so
7 we begin to shorten the list. Otherwise, we're going
8 to have to go through it again.

9 THE CHAIR: That new one that was passed out?

10 MS. GORE: Yeah. I'm following the language on
11 the screen, but our conversations have been about this
12 form. And we agreed this was the list. So I would
13 really like to ask the presenters to make sure that we
14 tag the right section of the form so that we know what
15 has reached consensus and what do we still have in
16 front of us. That would really help me a lot.

17 I can start, if you like, with Subpart A on the
18 first page. The last item that says Section 2 has
19 consensus from this group. The first page of this
20 form, the last item that is titled Section 2, we just
21 reached consensus on that.

22 And then on page 2, the fourth item down, you
23 also reached consensus on. So those two items would be
24 completed tasks. Thank you.

25 THE CHAIR: Okay. Does everybody have the

1 document now?

2 MR. SOSSAMON: Mr. Chairman, we approved one
3 item for Dave. Where is it on our working list?

4 MR. HEISTERKAMP: If the committee is ready to
5 look at that, that would be page 16. The item is the
6 second from the bottom, the 2008 amendment. So the
7 first item the committee just approved is on page 16.
8 It is the second from the bottom.

9 THE CHAIR: 105.276?

10 MR. HEISTERKAMP: No. It's the one above that,
11 Mr. Chair, the 2008 amendment.

12 THE FACILITATOR: Can I make an announcement?
13 What I'm passing out here is what you're working off
14 of, plus we've added all of the potentially relevant
15 regulations to the right-hand column there. Now, we
16 also are going to, for the next meeting, have what you
17 requested, a line item numbering system. This might
18 help you for the rest of the day.

19 THE CHAIR: Okay. Is everyone on page 16?

20 MR. BUTTERFIELD: Mr. Chairman, I am confused
21 by the document. I want to make sure that I have the
22 right document. I think we are working on what was
23 just handed to me, which is marked C62 at the bottom
24 left.

25 THE CHAIR: Yes.

1 MR. BUTTERFIELD: So I was marking the wrong
2 page, looking at the wrong thing, so I just needed
3 that. So now we are in page 16 of this?

4 THE CHAIR: Let's wait until we get the new
5 handouts here so we're all working on the same thing at
6 the same time.

7 MR. BUTTERFIELD: And now that I have the
8 right document, have Carol mark off where she was, and
9 Dave do it so that I've got the thing marked off so
10 that we are all on the same document.

11 MS. GORE: I'm happy to do that.

12 THE CHAIR: Go ahead.

13 MS. GORE: Mark, page 1, Section 2 refers
14 to Public Law 110-411. We reached consensus on that
15 one. It's on the first page. And then on the second
16 page, the fourth one down under Section 4, it says
17 Public Law 110-411. We reached consensus on that as
18 well.

19 THE CHAIR: That's the only two you have? Now
20 we're going (indiscernible -- speaker not using
21 microphone.)

22 MR. BUTTERFIELD: I appreciate your courtesy
23 and patience. Are we to go now with Dave?

24 MR. HEISTERKAMP: Again, page 16 of either one
25 of the matrix documents, second from the bottom. You

1 just got consensus on that item.

2 THE CHAIR: PL 110.411?

3 MR. HEISTERKAMP: Yes.

4 THE CHAIR: Is this the one you had a question
5 on, Karin?

6 MS. FOSTER: Yes. But we did reach consensus
7 on it.

8 THE CHAIR: So everyone is in consensus on this
9 one? Okay.

10 Dave, go ahead.

11 MR. HEISTERKAMP: In terms of the new set of
12 subparts, we're going to switch down to page 27 in the
13 document. And the item that gets removed -- and I
14 think there was a consensus on it, but I'm not sure if
15 it was completed. The item that gets removed is,
16 again, second from the bottom, the 2002 amendment to
17 the statutory Section 601(b). That amendment removes
18 that section of the Regulation 1000.408.

19 THE CHAIR: Now, this is --

20 MR. KASAMA: We wanted to take this one at a
21 time, and this one, we were actually (indiscernible --
22 speaker not using microphone) subject area and subpart.

23 THE CHAIR: Now, does everybody understand what
24 this is in reference to 184, Title VI?

25 Okay. Are you ready to vote? Thumbs up.

1 MR. HEISTERKAMP: The next piece that is on the
2 board proposes a change to 1000-424(a). And that is
3 the same page, page 27, the first item. The amendment
4 to Section 601 of the act, the 2002 amendment, is the
5 amendment that is dealt with here. That added the
6 language for housing related community development
7 activities. And so the committee's next proposed
8 addition is to simply add to Title VI guarantees that
9 it can be either, one, for affordable housing
10 activities as defined in 202 of NAHASDA, which is the
11 original language of the regulation; or, as a housing
12 related community development activity under
13 Section 606(a)(1) of NAHASDA. That is the proposed
14 change.

15 MS. HENRIQUEZ: Question. Is it 606(a) that
16 you really want? Is that the demonstration?

17 MR. HEISTERKAMP: It should be 601. I am
18 sorry. You're correct. It should be 601(a).

19 MS. HENRIQUEZ: Okay. Thank you.

20 MR. HEISTERKAMP: So if we can change that. I
21 don't think there needs to be a 1 there. I think it's
22 just 601(a).

23 THE CHAIR: Okay. Other questions, comments?
24 Are you ready to vote?

25 Okay. This is getting scary.

1 MR. HEISTERKAMP: The next piece, which is
2 titled here, but it appears on the next page, would
3 change 24 CFR 1000.424(d)(2) to remove another section
4 of the regulation that is dealt with by the second item
5 on page 27, the same item. The same amendment that
6 removed all of Section 408, 1000.408, it would remove
7 all of Section 424(d)(2) for the same reason. It
8 reflects the same requirement that has been repealed
9 from the statute.

10 THE CHAIR: Did you say 601(b)(2) or just (b)?

11 MR. HEISTERKAMP: This is the amendment that is
12 reflected, the second one from the bottom of page 27.
13 601(b) was amended that eliminated certain requirements
14 under the act. Because 601(b) was eliminated, this
15 regulation no longer has any grounding in the statute.
16 It is gone.

17 THE CHAIR: Is everybody okay with that?

18 MR. HEISTERKAMP: Again, it is the same one
19 that changed 1000.408. So on page 27, second from the
20 bottom, that one amendment actually wiped out two whole
21 regulations. Somebody said earlier less regulation is
22 better. Today we do the job.

23 THE CHAIR: Just think, this is happening with
24 an attorney.

25 Okay. We've taken care of page 27, right?

1 MR. HEISTERKAMP: Not yet, Larry. Hold up.

2 THE CHAIR: I'm getting anxious.

3 MR. HEISTERKAMP: So we are okay with this one?

4 THE CHAIR: Ready to vote? Okay.

5 MR. HEISTERKAMP: There is another amendment
6 again, the same page, page 27, the first amendment to
7 Section 601. It again affects housing related
8 community development activities. I think the
9 Assistant Secretary's comments are going to be the
10 same, if we can scroll up. It should refer to
11 Section 601(a) of NAHASDA.

12 The committee is recommending that there be a
13 small conforming amendment to 428(b) that changes the
14 second line. If we can scroll up a little bit and put
15 that on the screen. Since (d) no longer exists in
16 Section 601, and it was renumbered, 428(b) should refer
17 only to 601(c) and 605(b). So that is the ultimate
18 conforming amendment right there, just changing that
19 one letter.

20 And then similarly on the next section, the
21 activities to be undertaken are not eligible either
22 under 1, Section 202 of NAHASDA, or 2. And it should
23 read 601(a) of NAHASDA to be consistent with the
24 amendment. Again, that is the same amendment that
25 added the housing related community development

1 activities. It is referred to in two separate pages in
2 the regulations. We're just making sure that is
3 consistent.

4 THE CHAIR: Any questions or comments? Ready
5 to vote? Thumbs up. All right.

6 MR. HEISTERKAMP: If I could ask the folks to
7 put up 150 one more time, the original. There was a
8 grammatical piece that was pointed out to me after
9 consensus. And I would like to bring it to the
10 committee's attention.

11 In Subpart B if we could scroll down to the new
12 Subpart B there. Subpart B reads, "With regards to
13 applicants for employment, the recipient shall use the
14 criminal conviction information described in 1000.150
15 only for applicant screening or employee disciplinary
16 actions."

17 It was pointed out to not be entirely
18 grammatically correct.

19 The word "applicants" should be taken out of
20 the first part of the sentence. So it just reads,
21 "with regards to employees or matters of employment,
22 the recipient shall use the criminal conviction
23 information for screening applicants or disciplinary
24 purposes."

25 If the committee wants to think about making

1 that one change, so "with regard to employees or
2 matters of employment" in the first part of that
3 sentence just so it reads consistently.

4 MS. HENRIQUEZ: May I recommend that "matters
5 of employment," because an applicant for employment is
6 not your employee yet.

7 MR. HEISTERKAMP: Even more grammatically
8 correct. Thank you.

9 THE CHAIR: Any other comments?

10 MR. HEISTERKAMP: So the proposed change is
11 just to change it to "for matters of employment," and
12 the rest to read as the committee already consented to.

13 THE CHAIR: Okay. Do we want to vote at this
14 time?

15 Question, Carol?

16 MS. GORE: I just have a procedural question.
17 This is an item we already received consensus on, is
18 that correct, and we're going back to make an
19 amendment?

20 THE CHAIR: Yes.

21 MS. GORE: I just want to make sure that we
22 follow our protocols, that we first unanimously agree
23 to reconsider it so that the minutes are accurate.
24 Thank you.

25 THE CHAIR: All right. We are still on the

1 same matter here. So I think it would be part of the
2 protocol to ask for a new consensus.

3 MR. ADAMS: Do you need somebody to formally
4 ask for that? I ask for consensus to bring that back
5 up, to bring this issue back to the table according to
6 the protocols.

7 THE CHAIR: So do we have consensus to bring it
8 back up? Okay.

9 MR. SOSSAMON: I have a question.
10 Dave, on the one previous to this where they
11 just redesignated the lettering, are they separate on
12 this list that we're trying to keep track of
13 eliminating them?

14 MR. HEISTERKAMP: It's that one item that
15 you're talking about on the matrix?

16 MR. SOSSAMON: Yes.

17 MR. HEISTERKAMP: It will be the same issue.

18 MR. ADAMS: It's on page 27. It's the first
19 one on the page. It has three parts to it.

20 MR. HEISTERKAMP: We're back to Subsection B.

21 MR. SOSSAMON: No. It has to do with
22 Section 601. There was consensus on that, 601(a). And
23 then you said it had an effect on redesignating some
24 lettering in the subparagraphs. Is that referring to
25 the one that is on the top of page 28? It requires no

1 language; it's just a technical amendment.

2 MR. HEISTERKAMP: Actually, Rusty, it's -- I'm
3 sorry. We're switching back for just a moment to the
4 guaranteed loan language now.

5 MR. SOSSAMON: Yeah, because we're marking it
6 off of our list (indiscernible -- simultaneous
7 conversation.)

8 MR. HEISTERKAMP: I believe the reason is that
9 on page 27, the one section that changes 601(b) removes
10 some language from the statute, which changes three
11 sections of the regulation. That is also the reason
12 for the redesignation of the language. When the
13 paragraph in the statute disappeared, you don't refer
14 back to the paragraph. It just renumbered the other
15 ones.

16 MR. SOSSAMON: Exactly. So we can say that we
17 can mark off the last one on page 27 and the first one
18 on page 28 because of that? Mark it off this list?

19 MR. HEISTERKAMP: Yes. I see what you are
20 saying.

21 MR. SOSSAMON: Okay. We're trying to narrow
22 our list down to know what we've dealt with so we won't
23 have to revisit it. I ask that when we eliminate
24 something off this list that we make that clear so that
25 we know that we've dealt with it and don't have to come

1 back to it. Thank you.

2 THE CHAIR: Karin.

3 MS. FOSTER: I'm just looking at this. We're
4 back on 208, right, on 150? Is that where we are now?
5 Okay. It appears that the statute opened up the
6 ability to get criminal conviction records of
7 applicants for employment.

8 It says later on in the statute that the
9 information may be used only for the purposes provided
10 in this section. And the only purposes it lists are
11 applicant screening, lease enforcement, and eviction.
12 So does it reach to the use of criminal conviction
13 information for employee discipline? I don't --

14 MR. HEISTERKAMP: I guess I would address that
15 on a practical level. If you have an employee that
16 breaks the law that is also a tenant, that might take
17 the form of a disciplinary action. There are plenty of
18 housing authorities who employ their own tenants.

19 And you might discover through their employment
20 screening that they have a criminal action that was not
21 disclosed at the time they became a tenant. And you
22 may only have the ability to act on that as a
23 disciplinary action. Or they break the law in the
24 course of their employment, if you're their employer,
25 that may also affect their tenancy.

1 I think what we're trying to capture is when
2 can you use that information. I guess that would be my
3 response, is that wouldn't be the form of denying a
4 job. That would be the form of taking a disciplinary
5 action against your employee.

6 MS. FOSTER: Only if the employee is a tenant?

7 MR. HEISTERKAMP: Potentially, yeah.

8 MS. FOSTER: And it should probably really be
9 referred to in the section on tenants and may be
10 captured by the lease enforcement and eviction already.
11 I mean, I don't want it to be more restrictive either.
12 You want to be able to use information as well as you
13 can. I'm not suggesting that. I'm just reading that
14 the purpose of the statute actually only says applicant
15 screening. It says that is limited to that purpose.
16 So that --

17 MR. HEISTERKAMP: Does that mean if you don't
18 discover a new employee's criminal conviction until
19 after they are on the job, you can't take action
20 against them?

21 MS. FOSTER: No.

22 MR. HEISTERKAMP: I guess that's what I'm
23 trying to figure out.

24 MS. FOSTER: No.

25 MR. HEISTERKAMP: In order, as you said, not to

1 be restrictive, if you are allowed to use that
2 information to work with your employees, I think that
3 is what we're trying to capture.

4 MR. SOSSAMON: Does your employment policy not
5 cover that? If it does -- I believe it should. It's
6 not a federal regulation. I think we're just dealing
7 with eligible persons to participate in the NAHASDA
8 services or program. Your employee policy is yours.

9 MR. ADAMS: This deals with employment, though.

10 MR. SOSSAMON: I know. But I think the
11 employment issue needs to be dealt with by the tribe
12 and their policy, not federal regulations.

13 THE CHAIR: Sharol.

14 MS. McDADE: I agree with Karin and Rusty on
15 this one. I think we need to be consistent with the
16 statute. We're opening doors or legal loopholes with
17 regard to employment law and all these other avenues.
18 That is just not something we should be dealing with,
19 because that's the tribe's right to govern their
20 employees, background policies, or whatever they have
21 in place.

22 MR. HEISTERKAMP: I think the provision in
23 the statute does say you have access to use this
24 information to screen employees. The statute is
25 putting this in the employment agreement. It does

1 not -- and I think this is the point that Rusty and the
2 rest if you were making. It does not dictate what you
3 do with that information once you get it. All it says
4 is you can have it on the people that you are employing
5 or are applying for employment.

6 It does not require you to take any particular
7 action. But it allows you access to that information
8 so you can decide what to do with it. This was brought
9 up yesterday in our work group also.

10 This isn't saying you have to take any
11 particular action, but it's being permissive, because
12 the stuff you're going to have access to is the
13 national criminal information database and the FBI
14 criminal records and serious criminal information on
15 the people who may be working for you.

16 It doesn't say what you have to do with that
17 information once you get it. That is up to you as a
18 matter of tribal law and policy. It is just saying it
19 is allowing access based on the statutory amendment.

20 I think that's a good distinction you are
21 making there. It's not telling you to do anything with
22 the information.

23 MR. TELLER: Leonard Teller with Navajo.

24 I think it's clear we don't have consensus on
25 this matter. We need to leave it as no consensus

1 achieved here and move on with the reports. We have
2 another working group's report. It's pretty obvious we
3 don't have consensus. This is a to-be-negotiated item.

4 MR. SAWYERS: I must've misunderstood. I
5 thought we already passed it. I thought we had
6 consensus on this. So why are we bringing it up again?
7 If you have a change -- if we have consensus, and we
8 have a change, all you do is bring up the change for
9 consensus. You don't have to bring up the whole
10 discussion all over again. So if you have consensus,
11 it's gone. And if you missed it, you missed it. It's
12 just like the bus.

13 MR. SOSSAMON: Again, Mr. Chairman, that is why
14 I really request that we mark it off the list. It was
15 up there before. And then we came back to it, and then
16 I asked to go back to something else to be clear, then
17 we went back to it. So if it's real clear that this
18 has been dealt with, and it's marked off our list, we
19 won't have this misunderstanding. It's already been to
20 a consensus.

21 THE CHAIR: It was consensus, and there was a
22 minor word change, which shouldn't even be a problem.

23 MR. ADAMS: Mr. Chairman, that's what we can't
24 get consensus on is the proposed grammatical change.
25 The section itself was already approved by consensus.

1 MS. HENRIQUEZ: I am a little confused. Didn't
2 we just have consensus for reconsideration?

3 MS. FOSTER: Yes.

4 MS. HENRIQUEZ: Okay. So to discuss proposed
5 language, we have consensus to do that on something we
6 have already consented on. But now we have brought it
7 back, correct? So procedurally we are fine right now
8 in this discussion.

9 THE CHAIR: Right. Are we all clear?

10 MS. HENRIQUEZ: Since we are in the middle of
11 discussion, I want to make sure.

12 So if you read Section 208, availability of
13 records, it is clear about what it is asking for. So I
14 guess I am suggesting we follow, in large part, Karin's
15 suggestion. The language says on Subpart B, we've got
16 it saying, "With regards to matters of employment, the
17 recipient shall use the criminal conviction information
18 described in Section 1000.150 only for applicant
19 screening or employee screening actions."

20 The statute now says "and after applicant
21 screening." If you read that in the context of the
22 rest of the section that was before it, applicants for
23 screening includes employment and housing.

24 So I think without putting the last four --
25 because you are expanding something out if you add the

1 last four words, which is beyond the regulation. Is
2 that the point -- beyond the law. That's right.

3 THE CHAIR: You are saying (indiscernible --
4 simultaneous conversation) disciplinary action?

5 MS. HENRIQUEZ: Pardon me?

6 THE CHAIR: "Or employee disciplinary action"?

7 MS. HENRIQUEZ: I would suggest striking "or
8 employee disciplinary actions" from Section B.

9 THE CHAIR: Was that a consensus? That was
10 your consensus, wasn't it, Jason?

11 MR. ADAMS: Yeah. Somebody did what has to be
12 done. What she just put on the table was an additional
13 change. So we are additionally changing what we have
14 already consented to. Now, if this doesn't pass, then
15 the original language stands.

16 MR. SAWYERS: My point is, if you have
17 consensus on it, the only things we will vote on are
18 the changes after consensus. We don't open the whole
19 thing up again. I promise you, that is important as we
20 go along. So once there is consensus, it takes
21 consensus to open it up again. All we are voting on
22 now are the changes. Right?

23 MS. FOSTER: I think that if we want to
24 restrict our reconsideration to a particular part of a
25 regulation that we've just had consensus on, then we

1 need to do that when we're talking about what we're
2 going to reconsider. But I think if we say can we open
3 it back up again and reconsider it, I think the whole
4 thing is on the floor.

5 MR. SAWYERS: We have to have consensus to open
6 it back up?

7 MS. FOSTER: Right.

8 MS. MARASCO: Mr. Chairman, there was no
9 specific language as to what part we were looking at,
10 the change. I put forward that we allow this change,
11 and we vote.

12 MR. ADAMS: Mr. Chairman, if I could, as I
13 recall the events of what happened to bring this issue
14 back to the table, Dave came to the microphone and said
15 there is a grammatical error. And that's what he
16 wanted to open this up to fix, not the whole thing.

17 MR. SAWYERS: Right.

18 MR. ADAMS: That is what the first change was
19 for was to change that grammatical error. Now we have
20 changed it beyond that scope. Is that what we
21 consented to do?

22 THE FACILITATOR: I have been asked to
23 intervene for a moment in the process to get some
24 clarification.

25 Some of you thought that you were voting to

1 open up that whole provision for discussion. Some of
2 you thought you were voting to open it up to make
3 little changes. But I think we have to be clear. When
4 you open -- when you reach consensus to rediscuss an
5 amendment or a whole thing, you are opening up the
6 whole amendment.

7 I think that's what many of you thought we were
8 doing here. But I think some of you, Jack in
9 particular, felt we were just opening it up to discuss
10 some minor grammatical changes and that kind of thing.

11 I think there is some honest confusion here
12 about exactly what we were opening up here. And it is
13 not intentional, but I think that happens. But I do
14 think when you do take consensus vote, and you say
15 we're going to open up this provision here because we
16 want to change the wording or the intent, you need to
17 be sure, if it's just a grammatical thing, you can
18 discuss the grammatical things without reopening the
19 provision.

20 So I want to give you kind of a warning. If
21 you vote to open up a provision for discussion, then
22 all of the things you guys are talking about are valid,
23 the things that you mentioned. Some of you felt, I
24 don't think -- did not realize we were doing that.
25 Jack said, no, it's done. We can't go back to it.

1 Let's go back to the old language.

2 That is not what you voted on. So I think we
3 should take a timeout here and make it clear. When you
4 vote and have consensus to reopen a provision for
5 discussion, you are kind of voiding your past consensus
6 on that particular passage. I think maybe what you
7 should do is give yourselves a timeout and say that if
8 that is not what some of you intended to do, you should
9 take the vote over again.

10 So what I would recommend -- because people
11 believed they were voting on different things with
12 this, that is not fair. We have to take the vote over
13 again and make it very clear what you're voting on. So
14 if you would like -- I mean, I think that's the only
15 fair thing to do. We are kind of new with this stuff
16 here, some of us are. So I would say if you want to do
17 that, if that was your intent to re-examine and do
18 that, that is fine.

19 Otherwise, when you go back and you go through
20 this document, you can have free discussion about
21 verbiage changes. You can have free discussion about
22 that. You don't have to revote and open up a provision
23 to have grammatical changes or add an "a" or that kind
24 of thing. So just make it very clear what you are
25 doing.

1 MS. FOSTER: I would like to take a moment to
2 speak about the substance of this and how I see it as
3 operating legally.

4 If we adopt a regulation that leads my client
5 or folks who are operating this program to go beyond
6 what they are allowed to do under statute, if the
7 statute says you can only use it for applicant
8 screening, but we have a regulation that says you can
9 use it for other things too, then if my client is ever
10 in a position where he uses it for those other things,
11 and then he gets sued -- I mean, he has violated
12 NAHASDA, the statute. And the regulation is not a
13 lawful regulation, because it doesn't parallel the
14 statute.

15 So I think it is important that we pay
16 attention. Is not really a wording or a verbiage
17 change; it's actually a substantive change. If we did
18 end up with a regulation like this, then I guess I'll
19 have to make sure I remember to always counsel my
20 client that that regulation is not consistent with a
21 law. And I can do that, but it is not a small thing,
22 and that's why I raised it.

23 THE CHAIR: Karin, can I ask one question on
24 that? Would this refer to the policies that the tribes
25 have that you're saying they could be sued, or to this

1 regulation?

2 MS. FOSTER: You know, I --

3 THE CHAIR: The tribe governs my policy or
4 statutes.

5 MS. FOSTER: The way I would read this is that,
6 if information is provided by police departments and
7 other law enforcement agencies to you upon request,
8 they are authorized to do that under the statute. Then
9 when you get that information on an application for
10 employment, that information that you get this way
11 under this statute could be used only for the purposes
12 in the statute.

13 Now, if you didn't want to say only for
14 applicant screening, and you just wanted to say only
15 for the purposes provided in the statute, I think that
16 would be fine.

17 THE CHAIR: Jack.

18 MR. SAWYERS: I don't disagree, Karin. The
19 thing I disagreed with is, unless it changes the
20 meaning of what we already have had consensus on, then
21 we should only vote on those changes. In other words,
22 we should make it so that it doesn't open the whole
23 thing again.

24 I don't disagree but (indiscernible) statutes
25 are not what you can do, it's what you can't do. So

1 consequently, I'm just saying, you can read that both
2 ways. I am saying that I agree with you. I just don't
3 think that we should have another thought to say, okay,
4 we're going to go back unless we have consensus.

5 So this is going to come up time and time
6 again. Because as we put this together, somebody's
7 going to come back and say, well, grammatically, we
8 need to change that. It won't be me, by the way.
9 But some of you other folks will say we need to change
10 it.

11 We don't want that to open the whole discussion
12 again. We only want to vote on those things that
13 changed. It doesn't open it. And I promise you, I
14 have seen it happen, and so have some of the other
15 folks. People say, well, we should change that, and it
16 opened the whole thing with the same discussion.

17 So that is my point, Karin, not that I disagree
18 with you. I just think that if we make a change that
19 does not change the law itself that we should just go
20 on with the change and not open it up again.

21 THE CHAIR: Marty, you raised your hand a while
22 ago.

23 MR. SHURAVLOFF: I don't know. It was
24 basically reiterating what Jack said. I don't agree
25 with what Jan says. When we opened this up, it was

1 specifically like Dave said. There was a grammatical
2 error. That's why a lot of us chose to give consensus,
3 because it was a grammatical issue.

4 And I don't really have any issue about
5 changing the other portions of what needs to be
6 changed. But I just want to make sure that we
7 recognize, again, when we open this up, like Jack said,
8 we're typically opening it up for a specific issue.

9 THE CHAIR: And the specific issue at the time
10 was a grammatical error that we corrected. And it was
11 brought in for matters of employment. That was the
12 only change. And that died, right?

13 MR. ADAMS: That's why I asked, when Carol
14 raised the point, I asked for consensus to open it up,
15 and it was for that specific issue that was raised at
16 that time.

17 THE CHAIR: And we brought back consensus on
18 that item.

19 MR. ADAMS: Going forward, Mr. Chairman, how to
20 handle this is we vote on the first change, and if
21 there is an additional change, then we ask for
22 consensus to open it up for that change and then get
23 consensus on that.

24 THE CHAIR: Okay. Right now, everything is
25 closed. We have consensus on everything. Do we want

1 to address the item that the Secretary brought up --

2 MR. ADAMS: Excuse me, Mr. Chairman. I don't
3 think we voted on the first grammatical change.

4 THE CHAIR: I thought we had consensus on that.

5 MR. SAWYERS: That's what we're voting on right
6 now.

7 MR. ADAMS: We didn't vote on that.

8 THE CHAIR: Rusty, do you have a comment before
9 we take a vote?

10 MR. SOSSAMON: No.

11 THE CHAIR: Consensus? Anybody against it?

12 Karin, on the first item.

13 MS. FOSTER: Is that what we're talking about,
14 the consensus on the "for matters of employment"
15 change?

16 THE CHAIR: For matters of employment.

17 MS. FOSTER: Okay. I don't think I agree with
18 the change, and the reason is because the statute
19 refers to applicants and doesn't refer generally to
20 matters of employment. And in some ways, it's an
21 issue very closely related to the one I raised. So it
22 seems to expand it, in my view. So that would be my
23 reason.

24 MR. SOSSAMON: Yeah, I think I agree with
25 Karin. But after I looked at it, the statute has been

1 amended. It is displayed on the right up there. And
2 the words "applicants for employment" and "of" have
3 been added, and then I think, if I understand
4 correctly, that is what they are trying to address with
5 this amended language. It is a change to the statute.
6 And since that is in the statute, I agree with this
7 language.

8 MS. FOSTER: Do you mean the "for matters of
9 employment" is in the statute? Or the reference to
10 applicants?

11 MR. SOSSAMON: No. The reference to applicants
12 for employment.

13 MS. FOSTER: Which is what this was before this
14 recommended change. I think it's what we had. The
15 consensus language was with regard to applicants for
16 employment.

17 THE CHAIR: If we can't come to consensus on
18 adding "for matters of," we will revert back to the
19 first consensus that we have, which didn't have any
20 changes in it. Isn't that right? Shall we back up and
21 just forget about it? Or do you want to proceed on and
22 change the grammatical error?

23 MR. SOSSAMON: We may have to just back up.
24 Let me ask Jack and them.

25 If you change this regulatory language from

1 "for matters of employment" to "employment applicants,"
2 would that -- could you guys live with that? Okay.

3 And then we can get consensus on this one and
4 move on. Okay. So I would ask to change it to the
5 exact language that is in the law.

6 THE CHAIR: We have consensus already on the
7 first part.

8 MS. FOSTER: May I ask something. I'm sorry.
9 Believe me, I don't want to make anything more
10 restrictive for clients or for ourselves than need be.
11 But I have had a chance to listen and speak with a few
12 other lawyers behind me who read it the same way.
13 So I am not -- maybe we should take a break and hear
14 what other people think about it, whether it is
15 really --

16 MR. SAWYERS: What are you asking, to start all
17 over?

18 THE CHAIR: Let's back up to our first
19 consensus and proceed on.

20 MR. ADAMS: So, Mr. Chairman, for the record,
21 we do not have consensus on the proposed change.

22 THE CHAIR: No change.

23 MR. ADAMS: So now we can go, then, to the
24 Secretary's proposed change and open it up for that
25 change, correct?

1 THE CHAIR: Sandra, do you want to open it up
2 and wipe out -- we can ask for opening of the consensus
3 on this matter.

4 MS. HENRIQUEZ: I would like to propose a
5 reconsideration, actually, on the entire wording
6 of (b). It depends on what you do at the back end how
7 it will affect the front end.

8 THE CHAIR: The entire wording of (b)?

9 MS. HENRIQUEZ: Yes. I'm sorry. Yes. Because
10 what you --

11 THE CHAIR: Carol?

12 MS. GORE: May I make a suggestion? We have a
13 number of these low-hanging fruit that are going to be
14 assigned to the drafting committee. Can we simply
15 reassign this back? The consensus stands, but we
16 reassign it as part of the package to the drafting
17 committee so they can look at the language. Then it
18 comes back to this committee. That's just a suggestion
19 so that we can move on.

20 THE CHAIR: Well, unless we have a consensus on
21 opening back up on (b), we are proceeding on. Is there
22 a consensus on reopening (b) only? Is there anybody
23 against it?

24 Marty, against it?

25 MR. SHURAVLOFF: I guess I wouldn't mind

1 opening it up, but it would sure be nice to see the
2 language, like Carol is saying, that they get together
3 and give us some language to see what we are going to
4 be opening it up for. I don't see this going anywhere
5 if we don't do it that way.

6 THE CHAIR: Okay. Why don't we --

7 MR. ANGASAN: I thought that when you don't
8 agree, you are supposed to offer a solution. Wasn't
9 that part of our protocol? So can we give her time for
10 a solution?

11 MALE SPEAKER: Yes. In fact, I was going
12 to. As reconsideration under our policies,
13 reconsideration -- do you (indiscernible -- speaker not
14 using microphone.)

15 THE CHAIR: Okay. (Reading.)

16 "Under the reconsideration of a
17 matter on which consensus has been
18 achieved may not be reconsidered by
19 the committee except by consensus vote
20 of the committee. A proposal with
21 respect to which consensus was not
22 achieved within the two-hour time
23 period limit may only be reconsidered
24 with a consensus vote and time limits
25 set by the committee. Once reopened,

1 a matter still requires consensus to
2 be adopted."

3 This is what we approved.

4 MR. COYLE: Now, do we want consensus on
5 reopening (b) only? Is there anybody against that?
6 Can we get the proper authorities on it right now to
7 rewrite this paragraph and come back for consensus?

8 MS. HENRIQUEZ: I would like to make a proposal
9 on language. And it appears on the screen behind you
10 that Section (b) read, "With regards to applicants for
11 employment, the recipient shall use the criminal
12 conviction information described in Section 1000.150
13 only for applicant screening."

14 THE CHAIR: Any questions or remarks? Do you
15 want to vote on consensus on that? Is there anybody
16 against it? We've got consensus there. Everyone has
17 read this, and you are ready to go? Do you feel this
18 addresses it for all of your clients and so forth?

19 MR. TELLER: I believe there is a whole segment
20 of what -- of something we're losing, which is, I
21 think, the vital part of what it was for. You are
22 losing the employee disciplinary action piece of it.

23 THE CHAIR: We can only open up (b) by
24 consensus.

25 MS. HENRIQUEZ: Can I just respond?

1 THE CHAIR: Yes.

2 MS. HENRIQUEZ: So by deleting the last four
3 words, let me try to run a scenario by you.

4 You have an employee working for you now who is
5 not a resident in your housing. And you find out that
6 that person lied on an application to get employment,
7 because you specifically asked a certain set of
8 questions. Then it's your personnel policies that
9 would govern how you handled that employee once you
10 found out that that person lied.

11 If you have an employee who does not live in
12 your housing, and they were truthful in their
13 application for employment, and they have been working
14 with you for some time, and you then decide to run a
15 criminal background check on that person, and you found
16 something that, had you known it at the time, you would
17 not have hired that person.

18 And then you go to fire the employee for that
19 information that you found, particularly if that
20 employee had been a good employee and had not done
21 anything contrary to policy, had always performed well,
22 and you may have given performance evaluation
23 underscoring that, and then you moved against the
24 employee for something that happened that you found out
25 after the fact, I would suggest that that employee

1 would sue you, because they had done nothing that
2 would make them not be a good employee while working
3 for you.

4 And so your ability to reach back and find out
5 information and use it prospectively as the only basis
6 by which you might remove somebody, I think gets you
7 into legal problems and exposes you unnecessarily. And
8 instead, if you had policies and procedures around that
9 governed employment issues and performance, et cetera,
10 and followed those, then you would be on much more
11 solid ground. So that is why those four words are
12 troubling.

13 THE CHAIR: Jason?

14 MR. ADAMS: Co-chairs, I just want to raise a
15 point of order. If I recall correctly, you asked for
16 consensus to open on this issue. And Marty didn't
17 consent to it. And I don't think Jack did either. But
18 we are not closing those calls for consensus. We are
19 not saying -- or you are not saying that we have
20 consensus, and we move forward, or some ruling that
21 says we have consensus so we can move forward.

22 Because then the very next thing is a proposal
23 to make this language change, and we voted on that.
24 And somebody disagreed with that. There has to be a
25 process where we close those calls for consensus. We

1 either have consensus, or we don't.

2 THE CHAIR: Okay.

3 Marty.

4 MR. SHURAVLOFF: And, again, I am not opposed
5 to what is being proposed. I just wanted to see
6 something up there before I consented to it. If you
7 want to go back and try to open this up for consensus,
8 I'm fine if I have something to look at.

9 THE CHAIR: One more time. Let's go back and
10 open it up for consensus. On reopening only
11 paragraph (b) -- only paragraph(b) -- do we have a
12 consensus on it? Everybody with your thumbs in the air
13 if you're for it. Okay. It's a consensus to reopen
14 paragraph (b).

15 We're going to leave it at that until the
16 re-write committee gets together, and we're going to
17 take a 15-minute break while they do that.

18 (Recess from 2:51 p.m. until 3:04 p.m.)

19 MR. COYLE: I would like to remind the
20 committee that we only have one hour to go through all
21 of these. At 4:00 we have public comments. And we
22 want to make sure that we have devoted the proper time
23 for all of the guests that have been here through the
24 last two and a half days.

25 THE CHAIR: We are ready to go.

1 THE FACILITATOR: We're still experimenting
2 with what constitutes chairing and what constitutes
3 facilitation. I think the definition of co-chairs for
4 this type of session that co-chairs are chairing when
5 they asking for work group to give their reports and
6 clarification of something that we have to go around.

7 If it starts getting into some discussion and
8 debate, then we should really have a facilitator take
9 part in that. Okay? So we will try to keep the
10 distinction there. And you remind us if you think it's
11 moving from chairing to needs facilitation.

12 I will also kind of keep my eyes open on
13 that. It is not a black-and-white line. So we will
14 just try to assist when we think it's appropriate
15 to do so without taking over any of the chairing
16 responsibilities that you guys are doing so well.

17 So I think over the break, there has been a
18 proposal made over here on the screen. If we take a
19 look at that, let's see how the committee feels about
20 that. Ed is going it to explain to us if we need any
21 further explanation.

22 MR. GOODMAN: Thank you. Ed Goodman, and I'm
23 an attorney (indiscernible) Indian tribal housing.

24 The proposal is essentially to, instead of
25 limiting it specifically to the words applicant

1 screening, since the discussion has been as to whether
2 Section 208 limits it to applicant screening or not, to
3 simply refer to the purposes set out in Section 208.
4 As it reads now, "With regard to applicants for
5 employment, recipient shall use the criminal conviction
6 information described in 1000.150 for the purposes set
7 out in Section 208 of NAHASDA."

8 That way, if there is some ambiguity and
9 different attorneys for different TDHEs or tribes
10 interpret Section 208 more broadly or less broadly,
11 then they would advise their clients accordingly.

12 THE FACILITATOR: Any questions or comments?
13 All in favor? Any opposed? Thank you.

14 THE CHAIR: Gosh, that was easy.

15 MR. JACOBS: Dave, do you have anything else?

16 MR. HEISTERKAMP: Let me just clear it up. I
17 think with reopening this, we finished the other issues
18 in Subpart E before we did this. This has been
19 clarified. So I'm going to look to our work group
20 chair with his mouth full of popcorn just to make sure
21 we are putting everything down okay. Thank you very
22 much. That is B and E.

23 THE CHAIR: Okay. C.

24 MR. ADAMS: Mr. Chairman, Jason Adams. I was
25 the chairman of Subpart C work group. I would like to

1 turn the discussion over to Denise to present on the
2 handout that has been given and the proposed language
3 on the sections.

4 Denise.

5 MS. DENISE: Thank you. I in turn will turn
6 this over to Tim, and I will sit right by him.

7 MR. HUMPHREY: My name is Tim Humphrey. I am
8 with Stetson Law Offices.

9 The first thing I want to say is that in light
10 of the past discussion, we apologize beforehand,
11 because we gave you choices. We have alternative
12 language for several of the proposed changes. Okay.

13 And then for some reason also, I think it was
14 Dave's fault, they put our changes in the list
15 backwards. So if you go to the end of the Section C,
16 and we're going from the end to the front.

17 THE CHAIR: What page would that be on?

18 MR. HUMPHREY: They are all page 1. This was
19 formatted by a HUD employee.

20 (Laughter.)

21 MS. HENRIQUEZ: It wasn't me; it wasn't Rodger.
22 It was someone close to us in proximity.

23 MR. HUMPHREY: And it wasn't Ed Fagen.

24 MS. HENRIQUEZ: But he's really good, and we'll
25 keep him around. Thank you very much.

1 MR. HUMPHREY: Basically, in Subpart C what we
2 found needed to be dealt with was Section 102
3 amendments. The first thing that we ran across, of
4 course, was the use of the term "fiscal year". Because
5 the statute changes it to program year -- excuse me --
6 tribal program year. And we realized as well that
7 there are more than one type of fiscal years now
8 referenced in the statute.

9 So before we went to the changes, which are
10 found right before F, we have suggested some proposed
11 language for a new definition.

12 MALE SPEAKER: I'm not sure what page he's on
13 either.

14 MR. ADAMS: It's on the bottom of the page. He
15 is on C56.

16 MR. HUMPHREY: At the bottom of page C56, if
17 you look down in the corner here, we have suggested a
18 definition of tribal program year to be "tribal program
19 year means the fiscal year of the IHBG recipient." We
20 found it necessary because oftentimes the term fiscal
21 year in the statute refers to HUD's fiscal year. So
22 that would be a change to Subpart A, the definition
23 section.

24 THE CHAIR: Is everybody comfortable with this?
25 Consensus vote? Okay.

1 MR. HUMPHREY: Okay. Then we next looked to
2 Section 1000.201. And if you can scroll up the page a
3 little bit so we can see both of them.

4 We have a Version 1 and Version 2. And these
5 are stylistic only. So we decided to let you choose
6 between the two. So the first change is, "Every fiscal
7 year HUD will make grants under the IHBG program to
8 recipients who have submitted to HUD an IHP covering a
9 tribal program year in accordance with 1000.220 to
10 carry out affordable housing."

11 The alternative is the same, except the
12 language is slightly altered. It says, "Every fiscal
13 year HUD will makes grants under the IHBG program to
14 recipients who have submitted to HUD for a tribal
15 program year an IHP in accordance with 1000.220 to
16 carry out affordable housing."

17 THE CHAIR: Carol.

18 MS. GORE: I have a question, maybe just a
19 couple to make sure that I am clear. First of all, do
20 I understand that a definition for tribal program year
21 does not yet exist?

22 MR. HUMPHREY: You just passed it in consensus.

23 MS. GORE: Okay. My next question is, when you
24 use the term "a tribal program year," how does that fit
25 with -- could that be my three years from now fiscal

1 year instead of this current fiscal year? I just want
2 to make sure that we don't misinterpret this. Does
3 that make sense?

4 MR. HUMPHREY: It does make sense, and we
5 discussed that. We went with the language basically
6 from the statute and modified it. One of the things we
7 discussed was using the term "that tribal program year"
8 instead of "a." Carol, if it was changed to "that
9 tribal program year" instead of "a tribal program
10 year."

11 THE CHAIR: Are you assuming that each tribe
12 will set the fiscal year for all programs and so forth?

13 MR. HUMPHREY: Each tribe, which currently --
14 excuse me. Each recipient, which could be a tribe or a
15 TDHE, currently has fiscal years. What happened with
16 the amendment to the statute, it went from a grant year
17 to the program year of the recipient. So we have to be
18 careful about the use of the "fiscal year" term as it
19 relates to the tribal program year.

20 THE CHAIR: Okay.

21 Carol, do you still have a question or comment?

22 MS. GORE: I would like to offer a friendly
23 amendment back to your original -- either, and there's
24 another one in front of me, "that tribal program year"
25 or "upcoming tribal program year." I think "a" is not

1 clear enough, because it could be any year.

2 MR. ADAMS: Carol, which version are you
3 looking at?

4 MS. GORE: I don't really care. In any case,
5 instead of "a," it should be "that."

6 THE CHAIR: Okay. What is the committee's
7 preference?

8 MS. MARASCO: Can I hear a little bit more
9 discussion? I'm hearing bits and pieces over here. I
10 think part of the consideration for the language was
11 the 75 days that you have to submit and how it would
12 affect this year's funding. I just need to hear a
13 little more of your discussion.

14 MR. ADAMS: Tim, maybe if I could, maybe we
15 need to have Jennifer come and talk about the overall
16 change in the IHP process. Maybe that's where the
17 confusion is coming from.

18 MR. HUMPHREY: We did notice that in the
19 committee earlier today that some people may not have a
20 clear understanding that the program and the way it is
21 handled is actually changing.

22 MR. ADAMS: A few of us.

23 MR. HUMPHREY: They want to know how it's
24 changing.

25 MS. BULLOUGH: Okay. I sort of have to use

1 examples so I think it is a little more clear.

2 Currently, say in fiscal year 2008, federal
3 fiscal year 2008, we got appropriations. It was
4 divvied up by formula. You then submitted your grant.
5 Say you get a million dollars. And in that IHP, you
6 identified all of the activities that you were going to
7 do for that million dollars, no matter how long it
8 takes. It could be two years, three years, five years.
9 That grant -- that IHP is for the entire grant amount
10 as long as all of those activities are being conducted
11 and the money exists.

12 And then the next year, we get another
13 appropriation. You submit another IHP, and you get
14 another million dollars, and you identify in the IHP
15 all of the activities that you're going to do for that
16 grant, no matter how long, again, maybe three years,
17 four years, five years.

18 So what ends up happening is that currently,
19 you may have two, three, four, five, six open grants.
20 And every time you do an activity, you have to track
21 back what that activity is to the correct IHP for that
22 grant, the IHP that you describe activity in.

23 Then on the APR side, at the end of the fiscal
24 year, you have to send us an APR that describes every
25 single open IHP. So you may be submitting an IHP for

1 three, four, five, six open grants.

2 When we transition to the fiscal year based
3 program, appropriation comes in, we still run the
4 formula. You still execute a grant agreement and all
5 of that.

6 But what does change is that before your fiscal
7 year begins, you identify -- before your tribal program
8 year begins, you identify in you IHP what activities
9 you are going to do for your 12-month program year. It
10 doesn't matter what funds you're using. It doesn't
11 matter if you're using funds from 2005, 2007, 2010. It
12 doesn't matter. You are not going to care what year
13 your money comes from. Just tell us what you're going
14 to do for the next 12 months.

15 Then at the end of the year, you submit an ARP
16 that says what you did for those 12 months. Once your
17 ARP comes in and is reviewed and approved, you're done
18 and moving on to the next fiscal year. Of course, the
19 ARP comes in after you already have the IHP in for the
20 year, for your upcoming year. But it is basically a
21 cyclical process. You should only be working on one
22 open grant at any given time.

23 MALE SPEAKER: One open IHP.

24 MS. BULLOUGH: Thank you. Sorry. One open IHP
25 at any given time.

1 MR. HUMPHREY: Annually, at the end of the
2 year, the remaining funds rolled over to the next year.
3 You don't have to track them separately.

4 MS. BULLOUGH: Right. Basically, you create a
5 piggy bank. LOX (phonetic) will be like that. Your
6 money will go into one project in LOX. It's going to
7 be seamless to you what year it comes from. You're not
8 going to care. Just whatever money you had at a
9 certain period of time goes into this LOX account, and
10 every year, your new money gets fed into the LOX piggy
11 bank, and every year as you have expenditures, you draw
12 it out of the piggy bank.

13 THE CHAIR: Okay. Carol.

14 MS. GORE: Thanks, Jennifer. I withdraw my
15 comments. I am fine with the language as submitted. I
16 appreciate it.

17 THE CHAIR: Okay. Judith.

18 MS. MARASCO: I asked this question of Deb
19 earlier, and I thought she relieved my concerns. If
20 we are all talking different tribal years, in other
21 words, mine may start in February; yours may start in
22 June; Leon's may start in September. Now, that is
23 fine if you're not in an overlapping area where we
24 have 10 to 13 tribes agree on how the formula is
25 distributed. How does that affect us if we're picking

1 different --

2 Can you answer that, Deb? How does that affect
3 us when we are negotiating an MOU on distribution if we
4 all have different fiscal years? It does matter,
5 because right now the time is the same for all of us.

6 MS. LANCETTE: But this won't have any impact
7 at all on the formula. The formula will still be run
8 at the same time every year after we receive the
9 appropriation.

10 MS. MARASCO: Okay.

11 MS. LANCETTE: So there is no impact on the
12 IHPARP process.

13 MS. MARASCO: Okay. I'll believe you.

14 THE CHAIR: Okay. Anything else on this item?

15 MR. HUMPHREY: We do need to make a selection
16 on the first or second alternative, whichever you're
17 more comfortable with.

18 THE CHAIR: Okay. State those again.

19 MR. HUMPHREY: Number one, "Every fiscal year
20 HUD will make grants under the IHBG program to
21 recipients who have submitted to HUD an IHP covering a
22 tribal program year in accordance with 1000.220 to
23 carry out affordable housing."

24 Version 2, "Every fiscal year HUD will make
25 grants under the IHBG program to recipients who have

1 submitted to HUD for a tribal program year an IHP in
2 accordance with 1000.220 to carry out affordable
3 housing."

4 THE CHAIR: Yes, Marvin.

5 MR. JONES: My friend, Carol, had some friendly
6 amendments that we haven't disposed of it yet to the
7 language.

8 THE CHAIR: Carol took them off.

9 MR. JONES: Okay. Thanks.

10 THE CHAIR: Okay. Let's take a vote on the
11 first one, the tribal program year. Is that agreeable
12 with everybody? Okay. Is anybody opposed to it? It
13 looks unanimous to me.

14 MR. TELLER: I would go with No. 2.

15 THE CHAIR: Yes, Lafe.

16 MR. HAUGEN: Mr. Teller, if you didn't approve
17 it, you need to say why.

18 THE CHAIR: There was a majority on the first
19 proposal and not a consensus. Okay. Do you want to
20 vote for the second one? All in favor -- excuse me.

21 Jack, so you have a comment?

22 MR. SAWYERS: He was going to tell us why. I
23 think there was only one person who objected. He needs
24 to tell us why he thinks it's better. Maybe he's got a
25 better idea than I have.

1 THE CHAIR: Okay.

2 MR. TELLER: I think with respect to grammar,
3 the first one is really not speaking on the IHP as an
4 Indian block grant. The second one does, I believe.
5 It clearly explains a tribal program year and IHP.

6 THE CHAIR: Okay. Any other comments on the
7 second version?

8 MR. ADAMS: Mr. Chairman, just as a point of
9 order, did you ask -- I don't recall us going to vote.
10 Did you ask for a consensus on 1, and we didn't get it?
11 So we're not going with 1 as a consensus item? I'm
12 just trying to procedurally catch up here.

13 THE CHAIR: We don't have consensus, so we will
14 refer it back to the committee.

15 MALE SPEAKER: Or do you look at No. 2, Jason?

16 MR. ADAMS: Now I think we ask for consensus on
17 No. 2, right?

18 THE FACILITATOR: You need to ask for consensus
19 on No. 2.

20 THE CHAIR: All right. Let's clarify. We did
21 not get consensus on No. 1. I mentioned No. 2. We
22 didn't get to vote. So on No. 2, let's establish if we
23 have consensus. Okay? Is anybody willing to vote for
24 No. 2? All right. Has anybody voted no? Okay.

25 Go ahead.

1 MR. HUMPHREY: If you will run back -- Jack?

2 MR. SAWYERS: (Indiscernible -- speaker not
3 using microphone.)

4 MR. HUMPHREY: I apologize, Jack.

5 Unfortunately we have two more.

6 MR. SOSSAMON: Mr. Chairman, where do we mark
7 this off our list?

8 MR. HUMPHREY: If you will turn back one page,
9 it is on page 57. Oh, on here? I believe it is on --

10 MR. ADAMS: I believe it's page 7.

11 MR. HUMPHREY: It's page 7 on the chart.

12 MR. ADAMS: It is the Section 103, the 2008
13 amendment.

14 MR. HUMPHREY: It's at the bottom of page 6 on
15 the matrix. Everything that we are dealing with is the
16 2008 amendment to 102. Then we look to 1000.214.

17 And, Jack, I apologize again. There is a
18 choice.

19 The first suggestion is, "How are funds made
20 available under NAHASDA? Every fiscal year HUD will
21 make grants under the IHBG program to recipients who
22 have submitted to HUD an IHP covering -- "

23 You guys didn't roll up. You have to go to
24 214. There you go, 214.

25 "What is the deadline for submission of an

1 IHP?" Version 1, "IHPs must be initially sent by the
2 recipient to the area ONAP no later than 75 days before
3 the beginning of a tribal program year. Grant funds
4 cannot be provided until the plan due under this
5 section is submitted and determined to be in compliance
6 with Section 102 of NAHASDA and funds are available."

7 And No. 2, "IHPs must be initially sent by the
8 recipient to the area ONAP no later than 75 days before
9 the beginning of a tribal program year. Grant funds
10 cannot be provided until the plan due under this
11 section is determined to be in compliance with Section
12 102 of NAHASDA and funds are available."

13 The second one dropped the term, "is submitted
14 and," because it cannot be determined to be in
15 compliance until it is submitted. So the first one
16 requires submittal, and the second sentence requires
17 approval. That's the only difference between the two
18 versions.

19 THE CHAIR: Okay. Which one do you vote on
20 first, No. 1 or No. 2?

21 MR. HUMPHREY: My recommendation is No. 2.

22 THE CHAIR: Comments?

23 MR. SOSSAMON: I propose we consider Version 2
24 for consensus.

25 THE CHAIR: All right. A vote for Version 2?

1 Thank you.

2 MR. ADAMS: Was there consensus on Version 2?

3 THE CHAIR: That was consensus.

4 MR. ADAMS: On Version 2. Thank you.

5 THE CHAIR: Okay. Go ahead.

6 MR. HUMPHREY: Did you get consensus on that

7 one? Okay. Roll back to 216. It is on the page

8 before this one. It is on page C58.

9 This is a change to 1000.216. The question is,

10 "What happens if the recipient does not submit the IHP

11 to the area ONAP by not later than 75 days before the

12 beginning of the tribal program year? If the IHP is

13 not initially sent by at least 75 days before the

14 beginning of the tribal program year, the recipient

15 will not be eligible for IHBG funds for that fiscal

16 year. Any funds not obligated because an IHP was not

17 received before the deadline has passed shall be

18 distributed by formula in the following fiscal year."

19 The second alternative, "If the IHP is not

20 initially sent by at least 75 days before the beginning

21 of the tribal program year, the recipient will not be

22 eligible for program funds for the fiscal year. Any

23 funds not obligated because an IHP was not received

24 before this deadline has passed shall be distributed by

25 formula in the following fiscal year."

1 THE CHAIR: Which version are you recommending?

2 MR. HUMPHREY: I recommend Version 2. The
3 difference between them really is that the second one
4 identifies the deadline as being the deadline stated in
5 the first sentence. In the first one, it just says the
6 deadline.

7 THE CHAIR: Okay. What is the pleasure of the
8 committee? Do want to vote on 2 first? All in favor
9 of 2?

10 Question, Rusty.

11 MR. SOSSAMON: I want to be clear on this.
12 When it says any funds not obligated, does that mean
13 funds from prior years' allocations that's not
14 obligated? If you don't get your IHP in, you lose them
15 too? It doesn't say.

16 MR. HUMPHREY: As I understand it, if I may,
17 that language was in the original regulation, and it
18 was dealing with funds not obligated under the formula
19 that year by HUD. It is not the funds you have.

20 MR. SOSSAMON: Well, we are looking at this new
21 IHP coming down the road. Every year you submit a --
22 you close that last fiscal year out, and you start
23 over, and it is not tied to a year's worth of
24 allocation.

25 So this could be interpreted to say, if you

1 didn't get it in 75 days before your tribal year, any
2 of those funds you already have that are not obligated,
3 you lose them too.

4 THE CHAIR: Can we ask HUD to clarify?

5 MS. HENRIQUEZ: Would you restate your
6 question?

7 MR. SOSSAMON: Yes. In this regulation where
8 it says -- I am reading now Version 1. "Any funds not
9 obligated because an IHP was not received before the
10 deadline has passed shall be distributed by formula the
11 following year."

12 Is that the funds that you have already
13 received --

14 MS. LANCETTE: It should be obligated by HUD.

15 MR. SOSSAMON: -- but you may not -- during
16 your fiscal year, you may not have all of the funds
17 that you received prior obligated. Okay?

18 MS. LANCETTE: I am pretty sure --

19 MR. SOSSAMON: For the next fiscal year, if you
20 don't get your IHP in within 75 days, do you lose those
21 funds too? They are not tied to a funding year.

22 MS. LANCETTE: "Any funds not obligated by HUD
23 because an IHP was not received before the deadline has
24 passed shall be distributed by formula the following
25 fiscal year," is referring to that particular tribal

1 program year. But I would use "any funds not obligated
2 by HUD," because under the recovery act, we know now we
3 are getting obligated by the grantee versus granted by
4 HUD, so it might make it clearer.

5 MR. SOSSAMON: So once you have distributed
6 them to the tribe or entered an agreement with the
7 tribes, they are obligated by HUD?

8 MS. LANCETTE: Once we sign the grant
9 agreement, they are obligated by HUD.

10 MR. SOSSAMON: Okay. That would give me the
11 comfort that I need.

12 MS. LANCETTE: Right. So I think if we add the
13 words "by HUD."

14 THE CHAIR: Steven.

15 MR. ANGASAN: That's going to -- because how
16 would you enforce it if you didn't know, you know, the
17 program year?

18 MS. LANCETTE: That's why it's obligated by
19 HUD.

20 THE CHAIR: Okay. Mark.

21 MR. BUTTERFIELD: I think I just have a
22 grammatical correction. I think it just seems awkward
23 when it says to the area ONAP. It should say the area
24 ONAP office. That's a physical place. I don't know if
25 that makes a difference, but to me that makes more

1 sense grammatically.

2 MALE SPEAKER: (Indiscernible -- speaker not
3 using microphone.)

4 THE CHAIR: Did we answer your question, Mark?

5 MR. BUTTERFIELD: Well, then, it should be
6 spelled out. I think it just reads awkwardly.

7 THE CHAIR: Karin.

8 MS. FOSTER: I just have a couple of questions.
9 We are using the words "if an IHP is not initially
10 sent." Are we approaching that that sent means mailed
11 that day or something? If it is submitted, usually is
12 it considered submitted the date it's mailed. Is that
13 what we're trying to carry over?

14 MR. HUMPHREY: The easiest way to answer that
15 question is that the statutory change date which dealt
16 with the date due -- and the black language was the
17 original language -- both for the use of the term ONAP,
18 and for, "it is not initially sent."

19 MS. FOSTER: Thank you. That should have been
20 clear to me. I see that now.

21 Can I ask one more question? The last clause,
22 "any funds not obligated by HUD," I guess it also was
23 in there too. Is that in the statute anywhere?
24 Because I don't see it in the section we're looking at.
25 I was trying to track it, and I couldn't.

1 MR. HUMPHREY: A lot of times the sections that
2 were modified will impact a regulation, not necessarily
3 the specifics of the regulation, but a part of the
4 regulation. Here what was impacted was the date. The
5 bit about the obligation of funds is not tied to
6 Section 102(a).

7 MS. FOSTER: Okay.

8 THE CHAIR: Any other questions or comments?
9 Okay. All in favor of Version 2, right? Thumbs up?
10 All right.

11 THE FACILITATOR: The words have been added,
12 "by HUD."

13 THE CHAIR: Okay. Continue.

14 MR. HUMPHREY: Just for Jack, I wanted to make
15 sure there was one that was easy. It's on page C59.
16 And if I may, I will not read the whole thing. If you
17 look, this is Section 1000.220, if you could go to that
18 one. The amendments to Section 102 effectively removed
19 Section (b) and it renumbered the section. Section (b)
20 was the five-year plan. It is no longer there.
21 Section (b) became the one-year plan.

22 So in this regulation, we did a search of all
23 the 102s in Subpart C and found out that this is
24 regulation referenced 102(b) and 102(c) as dealing with
25 the plans. So we have deleted 102(c). And we missed

1 one grammatical. It should be Section 102(b) instead
2 of sections. The keyboard had a mistake last night.

3 THE CHAIR: Can you repeat that.

4 MR. HUMPHREY: The word "section" in the first
5 line, it was Sections 102(b) and 102(c). By getting
6 rid of Section 102(c), you needed to change the word to
7 "section" instead of "sections."

8 If you will do that red-line so they can
9 see it.

10 THE CHAIR: All right. Any comments? All
11 those in favor? The longest one, and no problem.
12 Thank you. Anymore on Subpart C?

13 MR. HUMPHREY: No.

14 THE CHAIR: Thank you very much. Now we will
15 move forward to F.

16 MALE SPEAKER: Mr. Chairman, if I might, it
17 might be a good idea that when we reach consensus that
18 it is stated that we reached consensus just for the
19 record.

20 THE CHAIR: Okay. The last one we had
21 consensus.

22 MR. TILLINGHAST: If you bring up the first,
23 1000.524. There we go. What this does is in 2008, the
24 reauthorization, NAHASDA was amended to allow you to
25 carry funds over as long as you identified it in your

1 IHP. This left us with an inconsistent regulation that
2 said you had to obligate 90 percent of your funds
3 within two years.

4 We needed to get rid of the inconsistent
5 regulation. And, therefore, we are recommending and
6 requesting consensus on what you are looking at, which
7 is to repeal the inconsistent regulation and renumber
8 the rest of the section accordingly.

9 THE CHAIR: Darlene.

10 MS. TOOLEY: I have a question, John. Under
11 the new number (d), why did you leave in the five-year
12 goal and objective?

13 MR. TILLINGHAST: We're going to get rid of
14 that in the next thing I'm going to show you.

15 MS. TOOLEY: Oh, I'm sorry. I just wondered.

16 MR. TILLINGHAST: The question was asked where
17 in the matrix is this. It's on page 14. So if you
18 have consensus, you can scratch out where it says
19 Section 203 right there in the middle, you can scratch
20 off the first paragraph. You cannot scratch off the
21 second paragraph.

22 THE CHAIR: Okay. Any comments? Are we ready
23 to vote?

24 There is a question. Karin.

25 MS. FOSTER: John, you said you took out the

1 five-year reference in the next regulation but not in
2 this one? Can you help me understand why it appears in
3 one and not the other?

4 MR. TILLINGHAST: Because they are two
5 different issues.

6 MS. FOSTER: Okay. Can you explain that to me.

7 MR. TILLINGHAST: They appeared in two
8 different places of the matrix. If you would like to
9 vote on both of them at once --

10 MS. FOSTER: I'm just trying to understand why
11 there is a reference to the five-year plan. I don't
12 think Darlene -- well, maybe Darlene does understand
13 it, but I didn't quite understand that.

14 MS. TOOLEY: (Indiscernible -- speaker not
15 using microphone.)

16 THE CHAIR: It's totally up to the committee if
17 they would rather vote on both of the changes at once.

18 MS. FOSTER: Right. They're two different
19 items. I understand that they are two different items.
20 I just didn't understand why one -- I understand they
21 are two different items. And because I have not worked
22 directly with these as you have, I did not understand
23 why the five-year reference would come out of one but
24 not the other one. Maybe I'm just being dense.

25 MR. TILLINGHAST: It's going to come out.

1 There's only going to be one Section 524, and it's
2 going to have two changes to it. It's going to have
3 the deletion of (a) which you are looking at now. And
4 then it is going to have the amendment to (d).

5 MS. FOSTER: I'm sorry. I understand.

6 THE CHAIR: Okay. Jason.

7 MR. ADAMS: Mr. Chairman, since this is dealing
8 with a whole new statement in 524, I think we should
9 handle it all as one. Because if we approve this and
10 for some reason get caught up in the next one, this
11 language is approved further down and is not really
12 part of the discussion, but it is getting approved.

13 And we're opening it back up again for the next
14 discussion to change that section. I think we should
15 open it once and change everything that needs to be
16 changed in the regulation section and then close it.
17 That's my recommendation.

18 THE CHAIR: So you are recommending that on
19 C49, it's going to be changed and C50, that we vote on
20 C50, right?

21 MR. TILLINGHAST: Mr. Chairman, I think what
22 we're going to withdraw the first proposal altogether,
23 the one that just amends (a). Now, if we bring up the
24 next 524.

25 Now you will see that the 524 that you're

1 looking at now both gets rid of the inconsistent
2 regulation in (a) and it gets rid of the reference to
3 the five-year plan in (d), which of course we don't
4 have a five-year plan anymore. So that would be the
5 regulation that we have consensus on.

6 MR. ADAMS: Mr. Chairman, it was just pointed
7 out that if we are opening up the whole thing, then the
8 new section (d) makes reference to IHP goals and
9 objectives. And when they changed IHP, there are no
10 longer goals and objectives in the IHP. I am on C50.
11 The new letter (d) makes reference to IHP goals and
12 objectives.

13 So, Jennifer, maybe if you could come up with
14 the correct language for what they are now. So the
15 recommendation is that it would read the recipient has
16 met the IHP planned activities. Is that correct?

17 MS. LANCETTE: That is consistent with the
18 statutory language that is identified for the one-year
19 plan. So removing goals and objectives that was the
20 statutory language for the five-year plan and changing
21 it to planned activities, which is the statutory
22 language for the one-year plan.

23 MR. TALLINGHAST: So we request consensus on
24 the version of 524 that you're looking at as amended by
25 Jason.

1 THE CHAIR: Okay. What is the pleasure of the
2 committee?

3 MR. SAWYERS: Vote as amended.

4 THE CHAIR: All in favor? All right.

5 MR. TILLINGHAST: Finally, we have two items
6 that do not have -- am I interrupting somebody?

7 THE CHAIR: Excuse me.

8 We have consensus, right?

9 Sandra.

10 MS. HENRIQUEZ: Just one other -- I want to
11 state this. I wanted to take the vote first, because I
12 wanted to have you all clearly understand that I agree
13 in principle with the language in this section. I want
14 that to be really clear.

15 But I feel the need to at least share with you
16 a concern I have about this language. And it may
17 affect no one in this room and no one who you
18 represent. But there may come occasions when, because
19 there is no requirement now for you to obligate, and
20 you can carry over funds year after year as long as you
21 are demonstrating progress with the planned activities
22 in your IHP, the optics -- and I'm just talking about
23 optics -- is that you could be seen as sitting on money
24 and not expending it quickly enough clearly where there
25 is demonstrated need.

1 And I just think I need to have you all be
2 aware of that. I think you probably are spending your
3 money as quickly as you get it, or you can justify what
4 you are doing and what your activities are. So I don't
5 have a problem.

6 It is trying to sort of respect the process,
7 respect this language, and yet share with the outside,
8 if you will, why this language is important to remain,
9 particularly when there are those who would say, well,
10 how much is sitting out there. Well, we really don't
11 know. It just makes it more complicated.

12 I thought in all fairness, you should at least
13 understand that that could be a problem. Sometimes it
14 comes up. And there might be a point when we might
15 come back to you and ask you to have a friendly chat
16 with a colleague about maybe being a little more
17 aggressive in spending funding. So that's all. Thank
18 you.

19 THE CHAIR: There's another danger also. I
20 remember the pipeline situation with Congress. They
21 would use that against us in future funding and so
22 forth. So making sure that we obligate funds quickly
23 and so forth.

24 Okay. Rusty.

25 MR. SOSSAMON: Along those lines, of course,

1 the new IHP format is rolled out, but is there still a
2 part in there that requires reporting on the amount of
3 funds that you have obligated? Not a time line but the
4 amount you have obligated that you wrote for? There is
5 not? So there's no way to demonstrate to
6 appropriators, of this amount that you are rolling
7 forward, how much is obligated?

8 THE CHAIR: It should be outlined in the IHP,
9 right?

10 MR. SOSSAMON: That's what I'm asking. Is
11 there a place that indicates that or in the APR? So
12 unless we just volunteer that information --

13 MS. HENRIQUEZ: That would be nice.

14 MR. SOSSAMON: -- the appropriators aren't
15 going to know, correct?

16 MS. HENRIQUEZ: But it is not a requirement.
17 And I think for us to make it a requirement would mean
18 we would have to go through the Paperwork Reduction
19 Act, and we would have to negotiate and consult with
20 all of you about all of that anyway.

21 It is not there. But to the extent at least
22 that you are aware of that, again, the outside lens
23 looking in and just making sure that if asked, you can
24 provide clearly that information for your housing
25 authority.

1 THE CHAIR: Jason?

2 MR. ADAMS: Assistant Secretary, I appreciate
3 your comments in this regard as a concern for us. I
4 hope that we as tribes can take the other approach on
5 this and look at this as an opportunity. Because being
6 involved with the change in the IHP, what it now allows
7 and what we have heard ever since NAHASDA has been in
8 effect, especially from small tribes, is that they
9 never had the ability to put together enough money to
10 do anything.

11 So I hope we can sell that message to Congress.
12 Now what is happening is money is being set aside every
13 year and being planned for large developments or big
14 projects at some point in time in the future.

15 MS. HENRIQUEZ: That is right. So that's why,
16 I think, we have to figure out what the middle ground
17 is in some way so that smaller tribes that by formula
18 don't get enough money, that they can continue the
19 practice and that they are not -- and that there are
20 other tribes getting significant sums that are not
21 sitting on them unused and unobligated for very long
22 periods of time.

23 I got it whispered in my ear that if the
24 committee wanted to make recommendations about a new
25 regulatory format to include additional information, we

1 can do that. But that is really up to you all at some
2 point.

3 THE CHAIR: Thank you for your comments. We
4 only have a few minutes before we go into the public
5 comments.

6 So continue please.

7 MR. TILLINGHAST: We have two remaining items,
8 neither of which involve regulatory language, but do
9 involve crossing off a couple of additional items and
10 proposals to do it.

11 By the way, we're crossing off -- I mentioned
12 you cross off the provision on page 14 with respect to
13 (a) with respect to change in (d) to get rid of the
14 reference to the five-year plan. You will cross off
15 that issue as it appears at the bottom of page 6 and
16 the top of page 7 of the matrix. It relates to what we
17 did in Section 102.

18 If you pull up 1000.524 -- if you would pull up
19 1000.512, which is the next one, NAHASDA changed the
20 requirement of what has to be in performance reports.
21 We didn't think that this needed a change in
22 regulation, because all the regulation says is that a
23 performance report has to contain whatever is provided
24 for in statute. So it is not inconsistent with the
25 statutory provisions. It simply references them.

1 If you agree, then you can scratch off on
2 page 23 -- you can scratch off the bottom entry on
3 page 23. It says title Section 404. We're asking for
4 a consensus that we remove that from items to be
5 negotiated.

6 MS. MARASCO: So if we change goals and
7 objectives in the IHP, has that language not been
8 changed in the APR? Because under the (b)(1) again, it
9 references objectives. So would that language also
10 change? Should it not be planned activities there
11 also? And in (2)? Don't look at me like that.

12 MR. TILLINGHAST: It certainly could. I'm not
13 on the committee. I don't have opinions about that
14 kind of thing.

15 MS. MARASCO: I'm just saying if we are using
16 terminology, it should be consistent.

17 MR. TILLINGHAST: If that is the case, and the
18 committee believes that you should have consistent
19 terminology, so the word "objective" should be replaced
20 with "planned activities," then our request would be to
21 ask for consensus to amend 1000.512 to replace
22 "objective" where it appears and instead use words
23 "planned activities."

24 THE CHAIR: All right.

25 MR. ADAMS: I think that is okay.

1 Jennifer, under the APR, is that correct? APR
2 just continues from IHP, which talks about planned
3 activities, right? There's no objectives?

4 MS. BULLOUGH: It's just planned activities.

5 MR. ADAMS: So you are right, John.

6 THE CHAIR: Is everybody comfortable with that?
7 Are you ready for a vote? Everybody thumbs up.
8 Consensus. All right.

9 MR. TILLINGHAST: So you can scratch off the
10 last item on page 23.

11 Finally, way back in 1998, a provision was
12 added that says IHPs have to be made public. There was
13 never any implementing regulation. It shows up on
14 page 26 of the matrix as the first full item where it
15 says Section 408.

16 The conclusion of the work group is that we
17 couldn't think of any regulation other than to parrot
18 the statute verbatim, which is bad drafting. We didn't
19 need a regulation. And so our recommendation is that
20 you scratch a line through Section 408 as it appears
21 on 26.

22 THE CHAIR: Okay. Comments? Is everybody in
23 favor? Any objection? Okay. Consensus.

24 MR. TILLINGHAST: That is all, Mr. Chairman.
25 Thank you.

1 THE CHAIR: Thank you very much.

2 Do we have the microphone?

3 I want to apologize to the public. We have
4 gone into about four minutes of your time, and we
5 apologize.

6 MR. TELLER: Before we get into the public
7 comment session, maybe we could just have a recap
8 through the matrix and see where we are so we all have
9 the same information going away.

10 THE CHAIR: I would like to delay this until
11 after the public comments, because we have already
12 infringed on their time, if you don't mind.

13 What is the pleasure of the committee? We will
14 get back to this after the public comments. Okay.

15 Anyone in the audience that has some comments
16 or recommendations or what have you, please state your
17 name, the tribe that you're representing, and we look
18 forward to your comments. Comments? No? I think most
19 of you must've gotten your comments in the work groups.
20 Is that good? Well, thank you very much.

21 We'll go back to your point. Do you want to
22 restate your comment?

23 MR. TELLER: Since the public doesn't want to
24 get involved, we'll get to recapping our work for the
25 last two or three days.

1 THE CHAIR: Yes, Steve?

2 MR. ANGASAN: Before we go, I would like
3 to have something registered on the back parking
4 lot sheets. It deals with IHP Notice 2009-02,
5 March 4, 2009. I have copies of it here if you guys
6 would like to see it. I just want to add 2009-02.

7 FEMALE SPEAKER: (Indiscernible -- speaker not
8 using microphone.)

9 MR. ANGASAN: That's great. Thank you.

10 THE CHAIR: What is the pleasure of the
11 committee? How do you want to recap? Do you want to
12 start by having each of the chairpersons from the
13 committee to do a recap from the work groups?

14 THE CHAIR: Marvin.

15 MR. JONES: Before our next meeting, we will
16 get a document that has all of what we have gone
17 through on it? Okay.

18 THE CHAIR: And also the minutes. The minutes
19 are supposed to be there in ten days, I think, before
20 our next meeting.

21 Jason.

22 MR. ADAMS: Following Marvin's comment, is the
23 matrix then -- I think it was C56 or whatever the
24 document number was. Is that going to be updated to
25 show those items that we have reached consensus on?

1 THE FACILITATOR: Yes.

2 THE CHAIR: And line item also.

3 MR. KASAMA: In Subpart D, we had some
4 documents we wanted presented. So it was on the
5 demonstration program project on loan guarantee. I
6 thought it was something of that nature. So maybe
7 Debbie can remind Tom about that. That way we are not
8 having to wait again. Thank you.

9 THE CHAIR: Yes, Mark.

10 MR. BUTTERFIELD: Mr. Chairman, I believe our
11 calling from Navajo raises an interesting question,
12 that I know these things are going to be printed up.
13 And they will probably be something saying that we
14 reached consensus on it.

15 My problem is that from now until a month from
16 now, I may have forgotten the little interplays. And I
17 would like to have certainty in my mind that the matrix
18 at C62, that we just go through that quickly and say
19 okay, on page 1 we reached consensus on the second
20 from the bottom of the page. And then everybody is on
21 the same page, and we don't have to worry about a
22 clerical mistake occurring between now and the next
23 session.

24 So I second his thought that maybe we should go
25 through this and, just as a clerical matter, everybody

1 put their pages, and we all agreed that we did that.

2 THE CHAIR: I would like to give any of you
3 my -- well, it's on the address here. Any changes or
4 any good of the order, please send an e-mail to both of
5 us, and we can see what we can get done. You put me in
6 this hole, so now I'm going to make use of it. And so
7 please, keep the wires open to us, and get any
8 information you can to us so we can proceed a little
9 bit faster next time.

10 We did great this time. I am happy with what
11 we've done. Rodger said I hope we get at least one or
12 two. So I think even Rodger will appreciate what we
13 have accomplished these three days.

14 And, Madame Secretary, thank you again.

15 MR. JACOBS: How about some comments from
16 Sandra.

17 MS. HENRIQUEZ: I continue to be both humbled
18 and sometimes surprised and sometimes frustrated by the
19 process. But I think it's all good. And so I think
20 that the way we are now working together is really
21 terrific. I hope that that -- I'm sure that that will
22 continue. I continue to learn more and more from you.
23 I love watching the interplay and the exchanges and all
24 of that stuff. It helps me to really understand issues
25 even better.

1 And so I am looking forward to Denver. Is that
2 where we are going? I'm looking forward to Denver. I
3 will tell you one thing about Denver. I have never
4 been there before, so if I disappear while you're in
5 working groups, forgive me. I will try to come back on
6 time.

7 I think this is an amazing process. And I am
8 confident that we will make it on time. I'm pleased
9 that you are all so engaged and thoughtful. And I know
10 that when all is said and done, we will have a
11 phenomenal document from which to operate.

12 So thank you very much, and safe travels. This
13 is Thursday. Tomorrow is Good Friday, and Sunday is
14 the Resurrection. And so with that, I began in this
15 business a number of years ago, and someone said, we do
16 the Lord's work. And we are our brothers' keepers.
17 And there is something to have a mission in life for
18 justice and social equity. And so this Easter season,
19 I wish you enormous blessings from the Lord and for his
20 guidance, for his care, and may we just be able to
21 touch the hem of his garment to direct ourselves. God
22 bless you all.

23 THE CHAIR: Thank you. Anybody else?

24 MR. ANGASAN: I forgot one more. Before
25 Ron left for his flight back, he handed me a note and

1 asked me to add this to the parking lot. It says an
2 issue with unincorporated villages in Alaska
3 referencing a cooperation agreement and problems with
4 the State of Alaska's state process. So I would like
5 to put that on the board. Thank you.

6 THE CHAIR: Marvin.

7 MR. JONES: Just a reminder, we probably don't
8 want to discuss it any more right now, but the work
9 groups that we established were temporary, and they
10 were to do the thing that apparently has been
11 accomplished. So at some point, if we want to make
12 those more -- I hate to say permanent -- more
13 long-lasting, we need to decide that at some point.
14 Just a reminder.

15 THE CHAIR: These permanent positions are
16 getting all knocked out of whack.

17 MR. SAWYERS: I'd just like to say, if I've
18 offended anybody, I meant to.

19 THE CHAIR: Rodger, would you like to have some
20 words?

21 MR. BOYD: Well, I guess I am pleased. As you
22 mentioned, we did get a lot more accomplished, and it
23 certainly make me feel better. I think it makes my
24 staff feel better as well. But thank you very much.
25 And I look forward to maintaining this momentum as we

1 move into Denver in the coming weeks. And I'm also
2 feeling a lot more confident that we're going to get
3 this done. Thank you.

4 THE CHAIR: Okay. Why don't we --

5 Go ahead, Blake.

6 MR. KASAMA: I just wanted to reiterate what I
7 said last time. I am really very grateful that the
8 Assistant Secretary is here at the table. I know a
9 little bit about the background of public housing. I
10 know that they -- Indian housing is pretty small
11 compared to the huge housing authorities of New York,
12 Atlanta, Chicago.

13 But here she is. And she oversees that as
14 well, and she's here with us. So, again, I really
15 appreciate that. It's an honor, and I want to thank
16 you.

17 (Applause.)

18 THE CHAIR: I think we need to go around the
19 room real quick and start with Shawna if there are
20 comments that any of the committee members want to
21 make, and you can make any comments regarding what
22 we've covered in the last days at the request of the
23 Navajo representative.

24 MS. PICKUP: I'm just kind of thankful that we
25 have got something accomplished at this meeting. For

1 me as a first-timer, I was kind of like, okay, get
2 moving. But I do feel like we have accomplished
3 something, and I want to wish everybody a happy Easter.

4 MS. GORE: I want to thank the HUD stuff that
5 is here. It's been nice to have so many of you here,
6 and you've been immensely helpful to the process.
7 Sometimes you go unnoticed, but I want you to know that
8 we noticed, and you were immensely helpful.

9 Also, there are a lot of folks on the drafting
10 committee that worked very long hours on our behalf,
11 and I want to acknowledge them. They are representing
12 a variety of tribes, and they've really worked as a
13 collective team. And I'm very, very grateful. As a
14 result, I got to have dinner while others worked last
15 night.

16 I am really pleased with that, and I don't
17 think as a committee we could succeed without that
18 support staff. I know we also have consultants in the
19 room, and they have been really patient with us, and I
20 want to thank them too. Thank you.

21 MR. SOSSAMON: I would like to echo the
22 sentiment thanking the support staff and the HUD staff
23 and Madame Secretary, and thank you for your blessing
24 and recognition of our Lord, the ultimate sovereign.

25 I would like to again reiterate what I believe

1 Mr. Teller requested that the matrix be completely
2 reviewed before we leave indicating what status each
3 item is. And I think it's necessary for us to know
4 where we're going to begin, because I don't think we're
5 finished with all of the things that have been
6 referred.

7 I know there are still some items that need
8 to be presented from Work Group A that really require
9 no language and can be dealt with quickly. So if we
10 can refer back to this and can finish our work by
11 classifying these, we will know where to start, and we
12 will really be finished with the work, I believe, of
13 that work group, almost, until we present the other
14 items.

15 And then we will be ready to consider, do we
16 want to continue these groups or reconfigure them or
17 what. So I will just ask that we finish that little
18 bit of business up before we leave and re-elect these
19 guys for Chair next time.

20 MR. TELLER: I second that motion as well. I
21 still think you all need to come to Albuquerque.

22 I just want to say thank you, Madame Secretary
23 and Rodger, and on behalf of Mr. Keeeswood, who's
24 sitting in the audience, and my cohorts in the back
25 here from Navajo, I want to say thank you.

1 It's a privilege to sit here amongst you and
2 participate in the discussion as well. Thank you
3 again for all of the prayers every morning that we
4 are offered and the blessings as extended by
5 Madame Secretary. Thank you. We'll see you soon.

6 MS. BECENTI: As I look around the room, some
7 of you folks I have been able to talk with and get to
8 know a little bit. I would like to, at least at some
9 point of the sessions that we're having, to maybe get
10 to know each and every one of you. I am honored to be
11 sitting at this table. And thank you for your time and
12 actually kind of listening to my comments. Thank you
13 and have a happy Easter.

14 MR. SAWYERS: First of all, I have been to
15 Albuquerque. I spent three weeks there one night.

16 Anyway, I appreciate you folks, and don't take
17 me too serious, because I don't take you that way. But
18 I do appreciate our association, and sometimes I'm a
19 little flippant, but I do understand why I'm here and
20 what my responsibilities are and what develops out of
21 this meeting. What you do here now will have an impact
22 on your tribes for a lot of years. And so I truly want
23 you to know that I do understand why we're here, and I
24 do appreciate you, and thank you very much.

25 MS. PHELPS: I just wanted to say I kind of had

1 some doubts after our first session. And after today,
2 I think we're on the right road, and I think we're
3 really working well together and being productive. And
4 like everyone else, I really enjoyed meeting a lot of
5 people, and I can see us coming together as a group
6 this time. Thank you.

7 MR. SHURAVLOFF: I'd like to also thank all of
8 HUD staff that's here. They always do a great job when
9 we get together. As hard a time as we give the
10 attorneys, I want to thank them as well. They put a
11 lot of work in, and I want to acknowledge everything
12 they have done. Safe travels back home for everybody
13 too.

14 MR. ADAMS: I want to thank everyone except
15 Jack. I'm only kidding. We appreciate you, Jack. I
16 do anyway.

17 Thank you all. I want to say thank you for the
18 privilege of being able to participate in this process.
19 It's stressful at times; it's frustrating at times.
20 But there's a sense of accomplishment that we have when
21 we walk away from this table that is going to help out
22 the families and the people that are relying on our
23 programs so much. And so I will remember that and look
24 to that.

25 I too want to thank HUD and the staff of HUD,

1 and I want to thank you again, Ms. Henriquez, for your
2 presence here and the attitude that you bring to this
3 table. In the past, we have not had that, and I think
4 that has permeated to your staff.

5 And the work that we're getting accomplished in
6 our work groups with your staff is refreshing. So I
7 want to thank you for that. And I also want to thank
8 the members of this committee who bring support staff
9 along who've done a lot of yeomen's work for us. We
10 were able to have an evening off, and a lot of folks
11 did some work last night. So I'm appreciative of that
12 too.

13 All of that being said, I just again want to
14 thank you all for the hard work that we've got underway
15 here. We've got some things accomplished, and yet we
16 still have a long ways to go. We are headed in the
17 right direction, so thank you.

18 MR. DePERRY: Madame Secretary, I also would
19 like to echo some of the comments that Jason has just
20 said. I think probably perhaps because, as Native
21 people, we have not had the likes of such a
22 governmental official so high up in the Administration
23 that is giving some attention and some sincerity to the
24 efforts that we are trying to do here.

25 I believe that by your presence and your

1 commitment to want to be at the next four meetings is
2 not only encouraging, but I think it instills in all of
3 us the hope that President Obama has so often said.
4 And certainly we as a people desperately need that
5 hope, as well as the country.

6 So to have you sit here with us and go through
7 these sessions adds a bit of a confidence, at least for
8 me as an elected official, to know that there is
9 someone in the Washington crowd that is taking the
10 time to hear what we have to say. And I appreciate
11 that.

12 As well as to the rest of the staff that
13 travels with you and to work with us in addressing the
14 needs that we need to address in this case, of course,
15 housing. And to my colleagues at this table, like
16 Rebecca, this is my first time being here at a table as
17 such. And I certainly had my concerns. And I
18 certainly offered a bit more prayers than normal when I
19 saw and listened to our deliberations. But I didn't
20 shy from that knowing that we do have a tendency to
21 come together when the time calls for it. And I think
22 we have in these past few days.

23 And to the people in the audience, especially
24 our elders who have sat so patiently with us and
25 watched us, I hope that we didn't shame them in any way

1 or embarrass them. But I noticed that throughout the
2 last few days, some have come in and some have left.
3 But I hope that they felt proud of us in that we were
4 able to come to consensus for the best of our people.

5 So safe journeys to all of you. And as the
6 Secretary mentioned, as we come near the end of the
7 holiest of holy weeks, I bless your family and loved
8 ones. Thank you.

9 MR. BUTTERFIELD: To our co-chairs and
10 Madame Secretary, I'd like to thank you for your
11 patience and good spirits in presiding over this and
12 contributing and particularly the patience. As I sat
13 through the first session and the beginning of this, I
14 know that it tried a lot of our patience to go through
15 some of those very difficult and frankly tedious steps
16 that needed to be done. You showed good grace
17 throughout.

18 I would like -- I know many of you have said
19 eloquent things about the staff and so forth, but I
20 would like to acknowledge the recorders and the
21 reporters in the background. Having been a judge in
22 the past, I realize the hard work that they do and how
23 difficult it is to remain constantly focused on all of
24 the words that are said and stated in these. And it is
25 important to create a good record for the future.

1 So I would like to single them out for a special thank
2 you.

3 I also appreciate that you put Minneapolis back
4 on the map. I'm sure that Robert Durant, who is close
5 by, and my people in the Great Lakes Region will be
6 glad to not have to travel so far. So we appreciate
7 that. Thank you very much.

8 MS. PHAIR: I am the quiet one. Henry was the
9 vocal one. But that's probably why I have been in
10 housing for 24 years. I go back way before NAHASDA,
11 and I've learned a lot being in this, up here at the
12 table. So I just want to thank everybody for the
13 opportunity in being an alternate. And I'll try to
14 fill in for Henry as best as I can, and hope everybody
15 has a safe trip home.

16 MS. MCDADE: For the first time in my life, I
17 don't have anything to say because everybody else said
18 it. I will yield my time to Judy, because I know she
19 has something to say.

20 MS. MARASCO: Sometimes you sit here and ask
21 yourself why did I fight to get back to the table, and
22 then when you get here, it's like coming home. And
23 even though Jack and I argue, I truly love everybody
24 that is sitting at this table, and it truly is like
25 family. I say that because I know that we come here in

1 the spirit of making our world better. And however we
2 get to that end is the appropriate process. I think we
3 all know that.

4 And for the new people that have come to the
5 table, you will learn to love us. And have a good
6 holiday.

7 MR. HAUGEN: I want to reiterate what everybody
8 else said and thank Madame Secretary for being here and
9 also Rodger and his staff. I want to thank Jack for
10 his good work. He's definitely helped us in our group.
11 More than that, I want to thank everyone at this table,
12 particularly the veterans for stepping up and kind of
13 taking charge this afternoon and this morning so we
14 could get this thing done.

15 And, co-chairs, good job.

16 I have learned a lot in these last couple of
17 days, and I'm sure I'll learn more. I'm just very
18 honored to be here. Thank you.

19 MS. FOSTER: I want to thank you all for
20 bearing with me. It is really a privilege to be
21 sitting at this table for so many reasons. I guess I
22 want to thank Leon for giving us a chance to say
23 something at the end of this meeting. It has been a
24 real pleasure to hear what everyone has to say.

25 I am thankful that this is a table where we can

1 talk about Easter and the Lord and those kinds of
2 things. It is not always true in a government setting.

3 I would like to thank the attorneys also in
4 particular. It made it a whole lot easier in the
5 working group with Dave Heisterkamp. I would like to
6 thank him. But, you know, everybody has done so much
7 work in the background on all of these regulations.

8 The Secretary's presence here is truly
9 remarkable. And I say that not just in being here but
10 in your actual presence. You were present every moment
11 in our work, and you participate hands-on. That is not
12 something that everybody -- we haven't seen that
13 before. We haven't seen that kind of engagement. It
14 is just a joy really, and I think it helps set the tone
15 for what we do, so I truly appreciate that.

16 So happy Easter. Thank you very much. And I
17 guess that's all I have to say.

18 MR. JONES: Just one thing. I am sure glad I
19 was forced to move from that corner over to here.

20 MR. ADAMS: Us too, Marvin.

21 MR. McGEISY: I'd like to thank everybody here.
22 the government-to-government relationship that we hope
23 to establish with these types of meetings for the
24 United States government and the secretary and staff,
25 and not only that, but the people who brought their

1 legal assistants here, for the facilitator, and
2 especially our chairs who helped us get this meeting
3 going.

4 I think we are moving, and I too am
5 appreciative of the opportunity to be here to be
6 associated with you. I had difficulty there for a
7 while saying that, because I didn't know if we were
8 going to get started for a while. I think we are on
9 the move, and I think that with continued effort and
10 cooperation of everybody, especially the openness which
11 I think we have to have here.

12 As that continues, and as we begin to
13 understand where each one is coming from, I believe we
14 can resolve our issues much more quickly as we begin to
15 understand what each one is trying to say more rapidly.
16 I thank you again for the opportunity.

17 MS. HERNE: I was a bit frustrated the first
18 session and probably a bit most of the week, only
19 because I guess I like to dig in there and get the job
20 done. But I also have learned to appreciate that there
21 is a process that we all have to set up before we can
22 actually dive into things.

23 So I was encouraged greatly this afternoon.
24 And I tell you, I have a new-found respect for lawyers
25 now, because I tell you, I joined on the drafting

1 committee, and I didn't do anything. The attorneys did
2 most of it. So I really appreciated it, and they did a
3 really good job in putting together the matrix.

4 And I too -- well, I'm new to this process, but
5 I think I get prize one for being the most quiet. I've
6 never been to Denver and look forward to seeing you all
7 there.

8 MS. TOOLEY: I am echoing what everyone else
9 has said. It is a pleasure to be here with old friends
10 and to meet new people that are as committed and as
11 involved as all of you are. And, likewise, I would
12 like to acknowledge the HUD staff and all of the
13 support people that have been here and the attorneys.
14 We need a lot of help, and everybody gives it to us and
15 that is much appreciated. Thank you.

16 MR. ANGASAN: I think we had a turning point
17 when we named our esteemed co-chairs yesterday. I
18 think we had a turning point. We did a lot since that
19 happened. And I thank all of the staff and the
20 Secretary. Thank you. I thank everybody for putting
21 up with me. I'm a rookie. Thank you all.

22 MR. COYLE: We have some more work to do.
23 Thank you all for your comments and so forth.

24 Dave.

25 MR. HEISTERKAMP: With the committee's

1 permission, let me give a report quickly from the
2 drafting committee. I know you are expecting to see a
3 new version of the matrix. If you would like to sit
4 with us for two hours while we correct that, and
5 another two hours while we get hard copies, you can
6 have it tonight. Otherwise, we beg your indulgence
7 while we produce it and e-mail it to you prior to the
8 next meeting and probably even next week.

9 There's a number of more helpful changes we're
10 going to try so we can keep track of what the committee
11 has done so you can use the matrix more easily and some
12 other things. But it's just not going to be done
13 tonight unless you want to wait with us.

14 MR. COYLE: I definitely think that would be a
15 big improvement, Dave, if we just wait and have it
16 e-mailed to us.

17 I would like to make some statements now. The
18 two old farts around there, you've got to realize that
19 by the time these laws are produced and put on the
20 agenda for the U.S., Jack and me will probably be in a
21 wheelchair eating pablum in a rest home. But we'll be
22 hand in hand.

23 I kind of miss that corner there, and I think
24 I'm going to go back to it next time, because if I
25 remember right, this started out one and a half days.

1 We did accept the nomination for a day and a half.

2 There has been an idea thrown out here by Marvin and a
3 few other people that we're going to remain here. I
4 doubt that real seriously.

5 I have already threatened my alternate. He has
6 already been named, and he is a lawyer. So if he
7 replaces me, he will be up here. And watch out then.

8 And, Madame Secretary, thank you so much.
9 Thank you all.

10 MR. JACOBS: Okay. Before we go over the last
11 part for today, I would like the HUD staff to stand and
12 make some comments, and we will start with Deb. You
13 always called on me, so now I'm going to call on you.

14 MS. LANCETTE: I'd just like to thank everybody
15 for their support for all of us back here. And I wish
16 you all a happy Easter.

17 MALE SPEAKER: That's right. Deb speaks for
18 all of us, and we appreciate the opportunity to be here
19 and engaged with you. Thank you.

20 MALE SPEAKER: I don't think any of us expected
21 this back here, but we do appreciate the opportunity to
22 be here and to witness this. This is always history in
23 the making. We really appreciate it. Thank you.

24 FEMALE SPEAKER: Debbie spoke for all of us.
25 It's a pleasure to see all of you and many old friends.

1 I really appreciate my coworkers sitting on this side
2 of the table. I sat up there where you are one time.
3 So it's really wonderful to see how my coworkers work
4 and how much they support you when they go back in the
5 other room. So safe travels home. God bless you all.

6 MALE SPEAKER: Thank you everybody. Happy
7 Easter. I love seeing you all again. It is great.

8 MS. BULLOUGH: I'm not sure I have anything new
9 to add to that except thanks to the group that I worked
10 with on the support on the IHPARP. It has been a lot
11 of work, a long time coming, and hopefully we can get
12 that going real soon and relieve all of our burdens on
13 the IHPAPR side. Thank you.

14 MALE SPEAKER: I would repeat everything
15 everybody else said. Thank you. I really enjoyed it.
16 This has been my first negotiated rulemaking
17 experience. It's been really interesting so far.

18 MR. ATALLAH: I want to echo all of the
19 comments that were made today. I am one of the last
20 people to speak and everybody has said everything. But
21 thank you for the kind words. This is a fascinating
22 process. We learn every day. And we try to teach, but
23 we learn, and I learn a lot more than I try to teach.
24 This has been wonderful. Happy Easter.

25 MR. JACOBS: Okay. How about any of the

1 attorneys here that's been so helpful for these three
2 days. Any comments?

3 MR. SAWYERS: Never ask an attorney to talk.

4 MR. HAUGEN: Leon, can we get comments from the
5 bell boys as well?

6 (Laughter.)

7 THE CHAIR: Before we get --

8 Oh, Marvin. Karin?

9 MS. FOSTER: I would like to hear from Erin and
10 Jan. We haven't even mentioned them yet, and they did
11 a heck of a job these last few days.

12 (Applause.)

13 MS. SPALDING: I'd just like to say that Jan
14 will speak on both of our behalves.

15 MR. JUNG-MIN: That's okay. I'm still wired up
16 here. It's always -- when we had the opportunity to
17 apply for this work, I really jumped at it. I was very
18 excited about it, because I haven't done it for the
19 last 10 or 11 years since we first -- since the first
20 638, the first one that ever got done in Indian
21 Country.

22 And when we did it that time, everything was
23 new. We were just trying to learn how to do it. And
24 the tribes did not know what to expect. We were really
25 lucky. We had really great participants. There were

1 48 people. It wasn't just 24 or 25.

2 I was touched by the morning prayers, by just
3 the camaraderie and the good spirits of everybody
4 working hard together.

5 So when this came up and everybody is so much
6 more -- it's like so much more sophisticated, and they
7 are so much more clear in what their jobs are. In some
8 ways it makes things very easy. But in other ways, it
9 raises the bar in terms of what the facilitator is
10 supposed to do. Everybody has such high expectations.

11 So I apologize when we can't always meet the
12 bar, but we are trying our best. Our goal and our role
13 is to stay focused on the process, and it is really to
14 assist all of your really wonderful efforts by focusing
15 on the process, trying to help in any little way we can
16 to make the process roll as smoothly as possible.

17 So it is very familiar, and it feels good to be
18 back in this company in this kind of group where we
19 know that people are all just working with the best of
20 intentions and to help something we all believe in.

21 So, again, I will say once when I went to one
22 of these Neg-Regs somebody mistook me as being Navajo.
23 He said, are you Navajo? And I said, well -- I was
24 trying to be a wise guy. I said no, I was raised -- my
25 folks just never made that trek across the Bearing

1 Strait over here, but were all in the same tribe. So
2 he gave me a little bit of Indian perspective by
3 saying, well, Jan, we are the same tribe, and actually
4 I think we went to Asia. I said okay. I'm humbled by
5 that.

6 Thank you for the privilege of allowing us to
7 work and serve this effort, because it's a wonderful
8 effort.

9 MR. JACOBS: Very good. I would just like to
10 comment. Before we get into this, I have one story I
11 would like to share with you. When I moved to Chicago
12 and opened the Chicago office, I had to adjust to
13 federal government work. We had a McDonald's in our
14 building. And every morning I would meet with the
15 director of public housing. And one morning, I was
16 complaining about something that someone had sent a
17 memo to me from another department in the regional
18 office there in Chicago.

19 And Jim Albrecht, a good Irishman that ran the
20 public housing for a number of years, he looked at me,
21 and he said, Leon, you will never, never get a memo
22 from me. In fact, we don't have any problems
23 whatsoever in public housing, none whatsoever. But we
24 have loads and loads of unique opportunities.

25 And I have used that in my philosophy all of

1 these years, and I think what we are facing now is some
2 unique opportunities. We don't need to look at them as
3 problem areas, but as unique opportunities that we can
4 have a voice in moving them forward that will benefit
5 the tribes.

6 So let's do the last task. What do you want to
7 use to see how far we have come so far? Do you want to
8 use the HUD notice? Or do you want to use the NAIHC
9 legislative committee document? What are your
10 thoughts?

11 MS. MARASCO: Mr. Chairman, I think we would
12 like to use C62.

13 THE CHAIR: I'm sorry?

14 MS. MARASCO: We'd like to use C62. Okay.

15 THE CHAIR: 62. Okay. All right. Everybody
16 has C62. Who wants to start? Who was the Subpart A
17 chairman?

18 Do you want to make any comments?

19 MS. GORE: Maybe since we have a drafting
20 committee that should be tracking all of this, we could
21 ask them to go through the entire document. That would
22 be my suggestion.

23 MR. HEISTERKAMP: To be clear, that's what my
24 comment referred to. If you want to see a revised
25 document, be back here at 7:00, and then we will have

1 something up on the screen, and two hours later we
2 might have hard copies. Or, we can e-mail the revised
3 document to you that tracks some of that. But we're
4 trying to accumulate that information along with a
5 number of other pieces.

6 THE CHAIR: Let me ask the committee member who
7 brought it up. Would that satisfy you?

8 MR. TELLER: That's fine.

9 THE CHAIR: That's good.

10 Rusty.

11 MR. SOSSAMON: Yeah, that's fine.

12 I was under the impression that when the groups
13 came out of their work sessions that they were going to
14 tell us which ones they had referred to the drafting
15 committee and which ones they felt like needed no
16 language at all. And then we would know which group of
17 No. 3 was left. If they have that information, I would
18 like to make a note on mine.

19 I will be glad to get the drafting committee's
20 document, but it was really difficult to get them to
21 indicate which of these items we can cross off. I
22 don't know which ones, and are they going to indicate
23 which ones that the committee group told them that they
24 felt like needed no language? I don't know what to
25 expect from them, because so far, what I've expected, I

1 haven't seen. I don't know exactly where we are at.

2 MR. COYLE: Rusty, you mentioned before that
3 you had some items, and A Section had some items that
4 we could get out of the way real fast. Do you want to
5 hit those?

6 MS. GORE: Mr. Chairman, I don't think it's a
7 ten-minute item. What I was going to propose to do,
8 because I think everyone is packed up to go home, I
9 would be happy to summarize the items that are
10 Category 1 and give a brief explanation. Also those
11 that are 2s.

12 I understand. Rusty is reminding me not to
13 explain the No. 1s. I will explain the philosophy
14 behind the work group's No. 1. I would be happy to
15 distribute that electronically. I think there are
16 other groups that have similar homework, and I'm happy
17 to do that and get that back early to the committee.

18 THE CHAIR: Jason.

19 MR. ADAMS: I know for our group, we had
20 notes that we were passing on to the drafting committee
21 that had all of the documentation. We did not get a
22 chance -- and I think this is what Rusty's comments are
23 in reference to. We did not get a chance to bring
24 those comments back here today. We went right back
25 into the drafting language that was done by the

1 drafting committee, and not covering all of the work or
2 recapping the work done by the work groups necessarily.

3 I think that is all going to be encapsulated in
4 the document. I hope it will be encapsulated in what
5 the drafting committee will prepare tonight.

6 THE CHAIR: Do you think we've done enough work
7 for one day? Consensus on that?

8 I'd like to call for going home from Thomas.

9 (Closing prayer led by Mr. McGeisy.)

10 (The meeting adjourned at 4:55 p.m.)

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1 STATE OF ARIZONA)
) ss.

2 COUNTY OF MARICOPA)

3
4 BE IT KNOWN that the foregoing transcript
5 was taken before me, Cindy Bachman, a Certified Court
6 Reporter, in and for the County of Maricopa, State of
7 Arizona; that the foregoing proceedings were taken down
8 by me using the Voice Writing method and translated
9 into text via speech recognition under my direction;
10 and that the foregoing typewritten pages are a full,
11 true, and accurate transcript of all proceedings, all
12 done to the best of my ability.

13 I FURTHER CERTIFY that I am in no way
14 related to any of the parties hereto, nor am I in any
15 way interested in the outcome hereof.

16 DATED at Phoenix, Arizona, this 12th day
17 of April, 2010.

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21 _____
 Cindy Bachman

22 AZ Certified Reporter No. 50763
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1 STATE OF ARIZONA)

) ss.

2 COUNTY OF MARICOPA)

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4 BE IT KNOWN that the foregoing transcript
5 was taken before me, Debora Mitchell, a Certified Court
6 Reporter, in and for the County of Maricopa, State of
7 Arizona; that the foregoing proceedings were taken down
8 by me using the Voice Writing method and translated
9 into text via speech recognition under my direction;
10 and that the foregoing typewritten pages are a full,
11 true, and accurate transcript of all proceedings, all
12 done to the best of my ability.

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14 related to any of the parties hereto, nor am I in any
15 way interested in the outcome hereof.

16 DATED at Phoenix, Arizona, this 12th day
17 of April, 2010.

18
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20 _____
21 Debora Mitchell

22 AZ Certified Reporter No. 50768
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