

not included in the determination of Formula Current Assisted Stock.

**§ 1000.324 How is the need component developed?**

After determining the FCAS allocation, remaining funds are allocated by need component. The need component consists of seven criteria. They are:

(a) American Indian and Alaskan Native (AIAN) Households with housing cost burden greater than 50 percent of formula annual income weighted at 22 percent;

(b) AIAN Households which are overcrowded or without kitchen or plumbing weighted at 25 percent;

(c) Housing Shortage which is the number of AIAN households with an annual income less than or equal to 80 percent of formula median income reduced by the combination of current assisted stock and units developed under NAHASDA weighted at 15 percent;

(d) AIAN households with annual income less than or equal to 30 percent of formula median income weighted at 13 percent;

(e) AIAN households with annual income between 30 percent and 50 percent of formula median income weighted at 7 percent;

(f) AIAN households with annual income between 50 percent and 80 percent of formula median income weighted at 7 percent;

(g) AIAN persons weighted at 11 percent.

**§ 1000.325 How is the need component adjusted for local area costs?**

The need component is adjusted by the TDC.

**§ 1000.326 What if a formula area is served by more than one Indian tribe?**

(a) If an Indian tribe's formula area overlaps with the formula area of one or more other Indian tribes, the funds allocated to that Indian tribe for the geographic area in which the formula areas overlap will be divided based on:

(1) The Indian tribe's proportional share of the population in the overlapping geographic area; and

(2) The Indian tribe's commitment to serve that proportional share of the population in such geographic area.

(3) In cases where a State recognized tribe's formula area overlaps with the formula area of a Federally recognized Indian tribe, the Federally recognized Indian tribe receives the allocation for the formula area up to its population cap, and the State recognized tribe receives the balance of the overlapping area (if any) up to its population cap.

(b) Tribal membership in the geographic area (not to include dually enrolled tribal members) will be based on data that all Indian tribes involved agree to use. Suggested data sources include tribal enrollment lists, the U.S. Census, Indian Health Service User Data, and Bureau of Indian Affairs data.

(c) Upon receiving a request for expansion or redefinition of a tribe's formula area, if approving the request would create an overlap, HUD shall follow the notice and comment procedures set forth in paragraph (2)(ii) of the definition of "Formula area" in § 1000.302.

(d) If the Indian tribes involved cannot agree on what data source to use, HUD will make the decision on what data will be used to divide the funds between the Indian tribes by August 1.

[63 FR 12349, Mar. 12, 1998, as amended at 72 FR 20025, Apr. 20, 2007; 81 FR 83681, Nov. 22, 2016]

**§ 1000.327 What is the order of preference for allocating the IHBG formula needs data for Indian tribes in Alaska not located on reservations due to the unique circumstances in Alaska?**

(a) Data in areas without reservations. The data on population and housing within an Alaska Native Village is credited to the Alaska Native Village. Accordingly, the village corporation for the Alaska Native Village has no needs data and no formula allocation. The data on population and housing outside the Alaska Native Village is credited to the regional Indian tribe, and if there is no regional Indian tribe, the data will be credited to the regional corporation.

(b) Deadline for notification on whether an IHP will be submitted. By

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September 15 of each year, each Indian tribe in Alaska not located on a reservation, including each Alaska Native village, regional Indian tribe, and regional corporation, or its TDHE must notify HUD in writing whether it or its TDHE intends to submit an IHP. If an Alaska Native village notifies HUD that it does not intend either to submit an IHP or to designate a TDHE to do so, or if HUD receives no response from the Alaska Native village or its TDHE, the formula data which would have been credited to the Alaska Native village will be credited to the regional Indian tribe, or if there is no regional Indian tribe, to the regional corporation.

### **§ 1000.328 What is the minimum amount that an Indian tribe may receive under the need component of the formula?**

(a) Subject to the eligibility criteria described in paragraph (b) of this section, the minimum allocation in any fiscal year to an Indian tribe under the need component of the IHBG Formula shall equal 0.007826 percent of the available appropriations for that fiscal year after set asides.

(b) To be eligible for the minimum allocation described in paragraph (a) of this section, an Indian tribe must:

(1) Receive less than \$200,000 under the FCAS component of the IHBG Formula for the fiscal year; and

(2) Certify in its Indian Housing Plan the presence of any households at or below 80 percent of median income.

[72 FR 20025, Apr. 20, 2007, as amended at 77 FR 71527, Dec. 3, 2012]

### **§ 1000.329 What is the minimum total grant allocated to a tribe if there is carryover funds available?**

(a) If in any given year there are carryover funds, then HUD will hold the lesser amount of \$3 million or available carryover funds for additional allocations to tribes with grant allocations of less than 0.011547 percent of that year's appropriations. All tribes eligible under this section shall receive a grant allocation equal to 0.011547 percent of that year's appropriations.

(b)(1) If the set-aside carryover funds are insufficient to fund all eligible tribes at 0.011547 percent of that year's appropriations, the minimum total

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grant shall be reduced to an amount which can be fully funded with the available set-aside carryover funds.

(2) If less than \$3 million is necessary to fully fund tribes under paragraph (a) of this section, any remaining carryover amounts of the set aside shall be carried forward to the next year's formula.

(c) To be eligible, an Indian tribe must certify in its Indian Housing Plan the presence of any households at or below 80 percent of median income.

(d) For purposes of this section, carryover funds means grant funds voluntarily returned to the formula or not accepted by tribes in a fiscal year.

[81 FR 83681, Nov. 22, 2016]

### **§ 1000.330 What are the data sources for the need variables?**

(a) The sources of data for the need variables shall be data that are available and collected in a uniform manner that can be confirmed and verified for all AIAN households and persons living in an identified area. Until fiscal year 2018, the data used are 2000 U.S. Decennial Census data and any HUD-accepted Census challenges. The 2000 U.S. Decennial Census data shall be adjusted annually using IHS projections based upon birth and death rate data provided by the National Center for Health Statistics.

(b)(1) Beginning fiscal year 2018, the data source used to determine the AIAN persons variable described in § 1000.324(g) shall be the most recent U.S. Decennial Census data adjusted for any statistically significant undercount for AIAN population confirmed by the U.S. Census Bureau and updated annually using the U.S. Census Bureau county level Population Estimates for Native Americans. For Remote Alaska as designated by the U.S. Census Bureau, Alaska Formula Areas in Remote Alaska shall be treated as Reservation and Trust Lands, unless the U.S. Census Bureau includes Remote Alaska in their Census Coverage Measurement or comparable study. The data under this paragraph (b) shall be updated annually using the U.S. Census Bureau county level Population Estimates for Native Americans.