

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4047-N-01]

Office of the Assistant Secretary for Fair Housing and Equal Opportunity; NOFA for Fair Housing Initiatives Program; FY 1996 Competitive Solicitation

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: This NOFA announces the availability of up to \$12,106,000 of 1996 Fiscal Year (FY) funding for the Fair Housing Initiatives Program (FHIP). This program assists projects and activities designed to enforce and enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. In the body of this document is information concerning the purpose of the NOFA, eligibility, available amounts, selection criteria, how to apply for funding, and how selections will be made.

DATES: An application kit for funding under this Notice will be available following publication of the NOFA. The actual application due date will be specified in the application kit. However, applicants will be given at least 60 days from today's date, until July 23, 1996, to submit their applications. Applications will be accepted if they are received on or before the application due date, or are received within 7 days after the application due date, but with a U.S. postmark or receipt from a private commercial delivery service (such as, Federal Express or DHL) that is dated on or before the application due date.

ADDRESSES: To obtain a copy of the application kit, please write the Fair Housing Information Clearinghouse, P.O. Box 9146, McLean, VA 22102, or call the toll free number 1-800-343-3442 (voice) or 1-800-290-1617 (TTY). Please also contact this number if information concerning this NOFA is needed in an accessible format.

FOR FURTHER INFORMATION CONTACT: Sharon Bower, Special Assistant, Office of Fair Housing Initiatives and Voluntary Programs, Room 5234, 451 Seventh Street, S.W., Washington, D.C. 20410-2000. Telephone number (202) 708-0800. A telecommunications device for hearing and speech impaired persons is available at (202) 708-0800. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), and assigned OMB control number 2529-0033. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

I. Purpose and Substantive Description

(a) Authority

Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601-19 (Fair Housing Act), charges the Secretary of Housing and Urban Development with responsibility to accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Fair Housing Act directs the Secretary to coordinate action with State and local agencies administering fair housing laws and to cooperate with, and render technical assistance to, public or private entities carrying out programs to prevent and eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987, 42 U.S.C. 3616 note, established the Fair Housing Initiatives Program (FHIP) to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing. This program assists projects and activities designed to enforce and enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. Implementing regulations are found at 24 CFR part 125.

Three general categories of activities were established at 24 CFR part 125 for FHIP funding under section 561 of the Housing and Community Development Act of 1987: the Administrative Enforcement Initiative, the Education and Outreach Initiative, and the Private Enforcement Initiative. Section 905 of the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102-550, approved October 28, 1992), amended section 561 by adding specific eligible applicants and activities to the Education and Outreach and Private Enforcement Initiatives, as well as an entirely new Fair Housing Organizations Initiative.

More significantly, section 905 has established FHIP as a permanent

program. The final rule implementing these statutory amendments was published on November 27, 1995 (60 FR 58446).

The primary objective of this NOFA is to provide funds for the purpose of sustaining and supporting the activities of fair housing enforcement organizations. The limited amount of funding prevents the Department from embarking on new projects or initiatives. Instead, it prompts the Department to promote supporting those new fair housing enforcement organizations created under previous FHIP competitions and giving preference to those FHIP recipients whose grants expire between September 30, 1995 and December 31, 1996.

Definitions: The term "qualified fair housing enforcement organization" (the only eligible applicants under this NOFA) is given a specific definition in section 905. In addition, the November 27, 1995 final rule defines the term "meritorious claim," which is used in the statutory definition of "qualified fair housing enforcement organization." Applicants should note that the definition of "meritorious claim" is only relevant as a part of the definition of QFHO, and does not impose a limit on the kinds of activities that may be funded under FHIP. These definitions, which apply to this NOFA, are as follows:

Qualified fair housing enforcement organization (QFHO) means any organization, whether or not it is solely engaged in fair housing enforcement activities, that—

- (1) Is organized as a private, tax-exempt, nonprofit, charitable organization;
- (2) Has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and
- (3) Is engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims at the time of application for FHIP assistance. For the purpose of meeting the 2-year qualification period for these activities it is not necessary that the activities were conducted simultaneously, as long as each activity was conducted for 2 years. It is also not necessary for the activities to have been conducted for 2 consecutive or continuous years. An organization may aggregate its experience in each activity over the 3 year period preceding its application to meet the 2-year qualification period requirement.

Meritorious claims means enforcement activities by an

organization that resulted in lawsuits, consent decrees, legal settlements, HUD and/or substantially equivalent agency (under 24 CFR 115.6) conciliations and organization initiated settlements with the outcome of monetary awards for compensatory and/or punitive damages to plaintiffs or complaining parties, or other affirmative relief, including the provision of housing.

On July 14, 1995, HUD announced a public meeting to be held July 21, 1995 (60 FR 36301). The purpose of the meeting was to solicit comments on the FHIP. Additionally, on August 3, 1995, HUD invited written public comments on the FHIP (60 FR 39769). During the comment period, which ended August 15, 1995, HUD received public comments. HUD is grateful for public comments and has considered them in the development of the FY 1996 FHIP NOFA and Application Kit.

The program components of FHIP are described in the Catalog of Federal Domestic Assistance at 14.409, Education and Outreach Initiative; 14.410, Private Enforcement Initiative; and 14.413, Fair Housing Organizations Initiative.

(b) Allocation Amounts

For FY 1996, The Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134, approved April 26, 1996) appropriated \$30 million for Fair Housing activities, of which \$17 million is being made available for the FHIP. Of this amount, \$4,894,000 is being utilized for the FY 1996 funding of FY 1995 awards. These awards were made to nine organizations that submitted applications under the FY 1995 FHIP NOFA and received scores making them the next eligible applicants for funding, but that did not receive FY 1995 funding. The remaining \$12,106,000 is being made available on a competitive basis to eligible organizations that submit timely applications and are selected in response to this NOFA. The funding selections will be made on the basis of criteria for eligibility, factors for award, and completeness of budget information, and any other factors described in this NOFA under the heading, below, Selection Process.

The full cost of FY 1996 multi-year awards under the Private Enforcement Initiative will be funded from FY 96 funds. Recipients of 48 month PEI FHIP grant awards based upon applications submitted under the FY 1995 FHIP NOFA, RFA-95-1 (FR-3878, published April 11, 1995, 60 FR 18444), may not apply in the FY 1996 competition for multi-year Private Enforcement Initiative awards.

The Department retains the right to shift funds among the FHIP Initiatives listed below, within statutorily prescribed limitations. The amounts included in this NOFA are subject to change based on fund availability. The amount of FY 1996 funding available for the FHIP is divided among three FHIP Initiatives as follows:

(1) *Education and Outreach Initiative (EOI)*. The amount of \$2,000,000 in FY 1996 funds is being used for the Education and Outreach Initiative for single year projects. Of this amount, \$185,677 is made available under this NOFA for national Education and Outreach Initiative programs, with an award cap of \$185,677, and \$1.0 million in FY 1996 funds is made available under this NOFA for regional, local, and community based programs, with an award cap of \$125,000. Furthermore, \$814,323 will be utilized for the FY 1996 funding of FY 1995 awards.

(2) *Private Enforcement Initiative (PEI)*. The amount of \$12 million in FY 1996 funds is being used for the PEI. Funds are made available under this NOFA in the amount of \$7,920,323 for 24 to 36 month projects, with an award cap of \$500,000 and with incremental funding during the life of the award subject to periodic performance reviews. The amount of \$4,079,677 will be used for the FY 1996 funding of FY 1995 awards.

Recipients of multi-year PEI awards based upon applications submitted under RFA 95-1 for 48-month projects may not apply for multi-year PEI funds made available under this NOFA. This restriction does not apply to 24 month projects with FY 95 funding.

(3) *Fair Housing Organizations Initiative (FHOI)*. The amount of \$3,000,000 is made available under this NOFA for the FHOI, to be used for the continued development of fair housing enforcement organizations, with an award cap of \$250,000.

(c) Eligibility

Eligible activities, eligible applicants, and additional requirements under each Initiative are listed below. All activities and materials funded by FHIP must be reasonably accessible to persons with disabilities.

(1) *Education and Outreach Initiative.*

(i) *Eligible applicants.* The only organizations that are eligible to receive FY 1996 funding under the Education and Outreach Initiative are qualified fair housing enforcement organizations (QFHOs);

(ii) *Eligible activities.* (A) *In general.* Each application for Education and Outreach Initiative funding must identify if it proposes a national,

regional, local, or community-based program. The kinds of activities that may be funded through this Initiative may include (but are not limited to) the following:

(1) Activities that support the Fair Housing planning requirement of State and local governments subject to the Consolidated Plan (24 CFR part 91). These activities include (a) conducting an analysis of impediments to fair housing choice and (b) undertaking actions to eliminate the identified impediments.

(2) Informing persons with disabilities, and/or their support organizations and service providers, housing providers, and the general public on the rights of disabled persons under the Fair Housing Act and on the location or availability of accessible housing or the modification of non-accessible housing;

(3) Providing guidance to housing providers on meeting their Fair Housing Act obligation to make reasonable accommodations for persons with disabilities;

(4) Providing fair housing counseling services, including the subjects of pre- and post-purchase counseling (mortgage lending, appraisal, and insurance and/or rental);

(5) Developing informative material on fair housing rights and responsibilities;

(6) Developing fair housing and affirmative marketing instructional material for educational programs for housing industry groups;

(7) Providing educational materials, seminars and working sessions for schools, civic associations, neighborhood organizations, and other groups to support community based education and outreach efforts;

(8) Developing media campaigns regarding fair housing;

(9) Bringing housing industry and civic or fair housing groups together to identify illegal real estate practices and to determine how to correct them;

(10) Developing mechanisms for the identification of, and quick response to, housing discrimination cases involving the threat of physical harm;

(11) Developing materials and providing technical assistance to support compliance with housing adaptability and accessibility guidelines contained in the 1988 Fair Housing Amendments Act;

(12) Developing or implementing Fair Housing Month activities.

(B) *National programs.* (1) Activities eligible to be funded as national programs shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair

housing media products or educational materials that may appropriately be used on a nationwide basis. All activities listed in paragraph I.(c)(2)(ii)(A) above are eligible as national projects.

(2) National program applications will receive a preference of up to ten additional points if they:

(i) Demonstrate cooperation with real estate industry organizations (up to five points); and/or

(ii) Provide for the dissemination of educational information and technical assistance to support compliance with the housing adaptability and accessibility guidelines contained in the Fair Housing Amendments Act of 1988 (up to five points).

(C) *Regional, local and community-based programs.* (1) Activities eligible to be funded as regional, local and community-based programs include any of the activities, to be implemented on a regional, local or community-based level, listed in paragraph I.(c)(2)(ii)(A) above, of this NOFA.

(2) For the purposes of this NOFA, activities that are "local" in scope are activities that are limited to a single unit of general local government, meaning a city, town, township, county, parish, village, or other general purpose political subdivision of a State. Activities that are "regional" in scope are activities that cover adjoining States or two or more units of general local government within a State. Activities that are "community based" in scope are those which are focused on particular neighborhoods within a unit of general local government. Community-based programs include school, church and community presentations, conferences or other educational activities.

(iii) *Additional requirements.* The following requirements are applicable to all applications under the Education and Outreach Initiative:

(A) All projects must address or have relevance to housing discrimination based on race, color, religion, sex, handicap, familial status or national origin.

(B) Projects may range in length from twelve to eighteen months in duration. National projects have an award cap of \$185,677. Regional, local and community based projects have an award cap of \$125,000. Applications which request FHIP funding in excess of the award cap will be deemed ineligible.

(C) Projects that appear to be aimed solely or primarily at research or data-gathering, including surveys and questionnaires, will not be eligible under this NOFA. Such data-gathering activities require OMB approval under

the Paperwork Reduction Act before commencement of the activity.

(D) All proposals must contain a description of how the activities or the final products of the projects can be used by other agencies and organizations and what modifications, if any, would be necessary for that purpose.

(E) *Coordination of activities.* Each non-governmental applicant for funding under the Education and Outreach Initiative Regional, Local and Community-Based Component that is located within the jurisdiction of a State or local enforcement agency or agencies administering a fair housing law that has been certified by the Department under 24 CFR part 115 as being a substantially equivalent fair housing law must provide, with its application, documentation (such as letters between the two organizations) that it has consulted with the agency or agencies to coordinate activities to be funded under the Education and Outreach Initiative. This coordination will ensure that the activities of one group will minimize duplication and fragmentation of activities of the other. Failure to submit the documentation required by this section will be treated as a technical deficiency in accordance with section IV., below, of this NOFA.

(F) Every application must include as one of its activities a procedure for referring persons with Fair Housing complaints to State or local agencies administering substantially equivalent laws, private attorneys, HUD or the Department of Justice for further enforcement processing.

(2) *Private Enforcement Initiative (PEI).*

(i) *Eligible applicants.* The only organizations that are eligible to receive FY 1996 funding assistance under the PEI are qualified fair housing enforcement organizations (QFHOs). NOTE: Recipients of multi-year (48 month) PEI FHIP grant awards based upon applications submitted under RFA-95-1 may not apply in the FY 1996 competition for multi-year PEI awards.

(ii) *Eligible activities.* Applications are solicited for multi-year project proposals as described in this NOFA. Applications may designate up to 20% of requested funds to conduct education and outreach to promote awareness of the services provided by the project, but such promotion must be necessary for the successful implementation of the project.

(A) *Bonus Points.* PEI applications from FHIP grant recipients whose period of performance for all FHIP grants expired/will expire between

September 30, 1995 and December 31, 1996, will receive a bonus of ten additional points.

(B) Project applications may involve, but are not limited to, the following:

(1) Discovering and providing remedies for discrimination in the public or private real estate markets and real estate-related transactions, including, but not limited to, the making or purchasing of loans and the provision of other financial assistance for sales and rentals of housing, such as property insurance, appraisal practices, and housing advertising;

(2) Conducting investigations of systemic housing discrimination for further enforcement processing by HUD or State or local agencies which administer laws that are substantially equivalent to the Fair Housing Act, or for referral to private attorneys or the Department of Justice;

(3) Professionally conducting testing or other investigative support for administrative and judicial enforcement of fair housing laws;

(4) Linking fair housing organizations regionally in enforcement activities designed to combat broader housing market discriminatory practices;

(5) Building the capacity to investigate, through testing and other investigative methods, housing discrimination complaints covering all protected classes, including persons with mental and physical disabilities;

(6) Carrying out special projects, including the development of prototypes to respond to new or sophisticated forms of discrimination against persons protected under title VIII, such as in the areas of independent living and architectural barriers;

(7) Providing funds for the costs and expenses of litigating fair housing cases, including expert witness fees.

(iii) *Additional requirements.*

(A) Testers in testing activities funded with PEI funds must not have prior felony convictions or convictions of crimes involving fraud or perjury, and they must receive training or be experienced in testing procedures and techniques. Testers and the organizations conducting tests, and the employees and agents of these organizations may not:

(1) Have an economic interest in the outcome of the test, without prejudice to the right of any person or entity to recover damages for any cognizable injury;

(2) Be a relative of any party in a case;

(3) Have had any employment or other affiliation, within one year, with the person or organization to be tested; or

(4) Be a licensed competitor of the person or organization to be tested in the listing, rental, sale, or financing of real estate.

(B) Multi-year projects must be for 24–36 months in duration, with an award cap of \$500,000. Successful projects will receive incremental funding during the life of the award subject to periodic performance reviews. Applications which request FHIP funding in excess of the award cap will be deemed ineligible.

(C) Projects that appear to be aimed solely or primarily at research or data-gathering, including surveys and questionnaires unrelated to existing or planned fair housing enforcement programs, will not be eligible for funding under this NOFA. Data-gathering activities require OMB approval under the Paperwork Reduction Act before commencement of the activity.

(D) In accordance with 24 CFR 125.104(f), no recipient of assistance under the PEI may use any funds provided by the Department for the payment of expenses in connection with litigation against the United States.

(E) Recipients of funds under the Private Enforcement Initiative shall be required to record, in a case tracking log (or Fair Housing Enforcement Log) to be supplied by HUD, information appropriate to the funded project relating to the number of complaints of discrimination received; the basis of these complaints; the type and number of tests utilized in the investigation of each allegation; the time for case processing, including administrative or judicial proceedings; the cost of testing activities and case processing; and case outcome or relief provided. The recipient must agree to make this log available to HUD.

(F) All proposals must certify that the applicant will not solicit funds from or seek to provide fair housing educational or other services or products for compensation, directly or indirectly, to any person or organization which has been the subject of testing by the applicant during a 12 month period following the test. This requirement does not preclude settlements based on investigative findings.

(3) Fair Housing Organizations Initiative (FHOI).

(i) Purpose: Continued Development of Existing Organizations.

(A) *Eligible applicants.* The only organizations eligible under this NOFA to apply under this purpose of the FHOI are: qualified fair housing enforcement organizations (QFHOs).

(B) *Eligible activities.* Eligible activities for funding under this purpose

of the FHOI are any activities listed as eligible under the Private Enforcement Initiative in section I.(c)(2)(ii) of this NOFA and carried out as twelve to eighteen month projects. However, all applications must be for the sole purpose of providing direct services/support to sustain the operations of the new fair housing enforcement organizations created under the FY 93 FHIP NOFA (58 FR 68000, December 22, 1993) and the FY 94 FHIP NOFA (59 FR 25532, May 16, 1994). (The full listing of these organizations will be included in the Application Kit.)

The list of eligible activities are examples only, and is not all inclusive. In addition to the examples listed in section I.(c)(2)(ii), other eligible activities include:

(1) Technical assistance and mentoring services for the new organization(s);

(2) Training for the staff of the new organization(s);

(3) Up to 20% of requested funds to conduct education and outreach to promote awareness of the services provided by the new organization(s), but such promotion must be necessary for the successful implementation of the project;

(4) Other costs relating to the operations of the new organization(s):

(i) Salaries and fringe benefits;

(ii) Rent, leases, supplies and other direct costs;

(iii) Travel connected with funded activities;

(iv) Testing and litigation expenses, and

(v) Indirect costs.

(C) *Additional Requirements.* The following requirements apply to activities funded under the Continued Development of Existing Organizations purpose of the FHOI:

(i) Limitation on Sponsorship.

Applicants may only propose to support up to two (2) new fair housing enforcement organizations under a single award. Applicants must include with their applications letters of support for the proposed activities from the new organization(s) identified for sponsorship and detailed budgets for both the applicant and the new organization(s).

(2) *Limitation on Awards.* The limitation of receiving one award cited in this NOFA at I.(d)(3) will be modified for applicants that submit successful applications under the FHOI. In such cases, FHOI recipients will also be eligible to receive one additional award under either the PEI or EOI.

(3) *Eligible applications involving the same new fair housing enforcement organization(s).* If more than one eligible

application proposes to support the same new organization(s), the applicant receiving the higher overall score will be selected for funding.

(4) *Capacity building.* Capacity building activities must be directed toward building capacity of the new fair housing enforcement organization(s) to provide fair housing enforcement. Thus, applications which include non-enforcement related activities as a part of the project will not be approved and corresponding budget reductions will be made to the award.

(5) *Operating budget limitation.* Funding provided under this purpose of the FHOI may not exceed more than 50 percent of the operating budget of a recipient organization for any one year. For purposes of the limitation in this paragraph, *operating budget* means the applicant's total planned budget expenditures from all sources, including the value of in-kind and monetary contributions, in the year for which funding is sought. Additionally, the grant recipient is limited to expending no more than 25% of the amount requested in the application for the purpose of covering the grantee's costs in providing sponsorship support to the new organization(s).

(6) *Term of grant.* One-year projects may be from twelve to eighteen months in duration, with an award cap of \$250,000. Applications which request FHIP funding in excess of the award cap will be deemed ineligible.

(7) Testers in testing activities funded with FHIP funds must not have prior felony convictions or convictions of crimes involving fraud or perjury, and they must receive training or be experienced in testing procedures and techniques. Testers and the organizations conducting tests, and the employees and agents of these organizations may not:

(i) Have an economic interest in the outcome of the test, without prejudice to the right of any person or entity to recover damages for any cognizable injury;

(ii) Be a relative of any party in a case;

(iii) Have had any employment or other affiliation, within one year, with the person or organization to be tested; or

(iv) Be a licensed competitor of the person or organization to be tested in the listing, rental, sale, or financing of real estate.

(8) Projects that appear to be aimed solely or primarily at research or data-gathering including surveys and questionnaires will not be eligible for funding under this NOFA. Data-gathering activities require OMB approval under the Paperwork

Reduction Act before commencement of the activity.

(9) Each applicant under the continued development of existing organizations purpose of the Fair Housing Organizations Initiative must submit an operating budget that describes the applicant's total planned expenditures from all sources, including the value of in-kind and monetary contributions, in the 12–18 months for which funding is sought. This operating budget will be used for the purposes of determining the extent of the 50% funding limitation on operating expenses.

(10) All proposals for testing under the Fair Housing Organizations Initiative must certify that the applicant will not solicit funds from or seek to provide fair housing educational or other services or products for compensation, directly or indirectly, to any person or organization which has been the subject of testing by the applicant during a 12 month period following the test. This does not preclude settlement based on investigative findings.

(d) Selection Criteria/Rating Factors

(1) Selection Criteria for Rating Applications for Assistance

In addition to the preference points indicated in section I.(c)(1)(ii)(B)(2) for particular activities, and in section I.(c)(1)(ii)(A) for PEI applications from FHIP grant recipients whose period of performance for all FHIP grants expired/ will expire, all projects proposed in applications will be rated on the basis of the following criteria for selection:

(i) *The anticipated impact of the project proposed on the concerns identified in the application.* (20 points) In determining the anticipated impact of the proposed project, HUD will consider the degree to which a proposed project addresses problems and issues that are significant fair housing problems and issues, as explained in the application, or based upon other information available to HUD. (The clarity and thoroughness of the project description can be considered in this determination.) This criterion will be judged on the basis of the applicant's submissions in response to paragraph III.(a)(1) of this NOFA under the heading "Checklist of Application Submission Requirements."

(ii) *The extent to which the project will provide benefits in support of fair housing after funded activities have been completed.* (20 points) In determining the extent to which the project will provide benefits after funded activities have been completed,

HUD will consider the degree to which the project will be of continuing use in dealing with housing discrimination after funded activities have been completed. This criterion will be judged on the basis of the applicant's submissions in response to paragraphs III.(a)(6) and III.(a)(7) of this NOFA under the heading "Checklist of Application Submission Requirements."

(iii) *The extent to which the project will provide the maximum impact on the concerns identified in a cost-effective manner.* (20 points) In determining the extent to which the project will provide the maximum impact on the concerns identified in a cost effective manner, HUD will consider the quality and reasonableness of the proposed activities, timeline and budget for implementation and completion of the project. HUD will consider as well the adequacy and clarity of proposed procedures to be used by the agency for monitoring the progress of the project and ensuring its timely completion. These procedures may consist of a system for checking whether or not the milestones established by the project's timeline are being met. The applicant's capability in handling financial resources (e.g., adequate financial control procedures, accounting procedures) will be taken into account as part of the assessment. This may be evidenced by the applicant's financial management of previous FHIP grants or other civil rights project management, a certification from the cognizant auditor, and other documentation. This criterion will be judged on the basis of the applicant's submissions in response to paragraphs III.(a)(2), and III.(a)(5) of this NOFA under the heading "Checklist of Application Submission Requirements."

(iv) *The extent to which the applicant's professional and organizational experience will further the achievement of project goals.* (30 points) In determining the extent to which the applicant's professional and organizational experience will further the achievement of the project's goals, HUD will consider the applicant's experience in formulating and carrying out programs to prevent or eliminate discriminatory practices, including the applicant's management and performance under past and current FHIP or other civil rights projects, the experience and qualifications of existing personnel identified for key positions, or a description of the qualifications of new staff that will be hired and the experience of subcontractors/ consultants. For organizations submitting an application under the Education and Outreach Initiative, HUD

will consider both fair housing experience and experience in implementing education, outreach or public information programs. This criterion will be judged on the basis of the applicant's submissions in response to paragraph III.(a)(3) of this NOFA under the heading "Checklist of Application Submission Requirements."

(v) *The extent to which the project utilizes other public or private resources that may be available.* (10 points) Both monetary and in-kind resources identified in the application are eligible for determining the extent to which other public or private resources will be used. The resources that will be considered must be targeted specifically for the proposed project, and must be over and above the resources available to the applicant as a part of its usual, non-project operations for such expenses as salaries, equipment, supplies, and rent. This criterion will be judged on the basis of the applicant's submissions in response to paragraph III.(a)(4) of this NOFA under the heading "Checklist of Application Submission Requirements."

(2) Selection Process

Each application for funding will be evaluated competitively, and awarded points based on the Selection Criteria for Rating Applications for Assistance identified in section I.(d)(1) of this NOFA. The final decision rests with the Assistant Secretary for Fair Housing and Equal Opportunity or designee. After eligible applications are evaluated against the factors for award and assigned a score, they will be organized by rank order. The rank ordering will be done separately for four categories: PEI; EOI-National; EOI-Regional, local and community-based; and FHOI-Continued Development of Existing Organizations. Awards for each category listed above will be funded in rank order until all available funds have been obligated, or until there are no acceptable applications, with one exception. If more than one eligible application under the FHOI competition proposes to support the same new fair housing enforcement organization(s), the applicant receiving the higher overall score will be selected for funding. The Assistant Secretary will have the discretion to make awards out of rank order to provide broader geographic representation among funded organizations and to provide enforcement of fair housing rights for all protected classes in a particular geographic region. When there is a tie in the overall total score, the award will be made to the applicant that receives a total higher number of cumulative

points under Selection Criteria (i) and (iv) of section I.(d)(1), above. If these scores are identical then geographical consideration will be the next variable, followed by the grant with the lower request for FHIP funding.

(3) Applicants Limited to a Single Award

Applicants may apply for funding for more than one project or activity. However, applicants are limited to one award under this NOFA, with one exception. The limitation of receiving one award will be modified for applicants that submit successful applications under the FHOI. In such cases, FHOI recipients will also be eligible to receive one additional award under either the PEI or EOI. In all other cases, if more than one eligible application is submitted by an applicant and both are within funding range, the Department will select the application which the applicant has indicated as its preference for award should more than one application submitted be within funding range.

(4) Independence of Awards

Each project or activity proposed in an application must be independent and capable of being implemented without reliance on the selection of other applications submitted by the applicant or other applicants. However, this provision does not preclude an applicant from submitting a proposal which includes other organizations as subcontractors to the proposed project or activity.

(5) Project Starting Period

The Department has determined that all applications must propose that the project will begin during the period October 1–December 1, 1996.

(6) Page Limitation

Applicants will be limited to 10 pages of narrative responses for each of the five selection criteria (this does not include forms or documents which are required under each criterion). Furthermore, brochures, news articles or other examples included in the application will not be considered in the evaluation process. Applicants that exceed the 10-page limit for each criterion will only have the first 10 pages evaluated for each criterion. Failure to provide narrative responses to all five criteria will result in an application being deemed as ineligible.

(e) Applicant Notification and Award Procedures

(1) Notification

No information will be available to applicants during the period of HUD evaluation, approximately 90 days, except for notification in writing to those applicants that are determined to be ineligible or that have technical deficiencies in their applications that may be corrected. Selectees will be announced by HUD upon completion of the evaluation process, subject to final negotiations and award.

(2) Negotiations

After HUD has ranked the applications and made an initial determination of applicants whose scores are within the funding range (but before the actual award), HUD may require that applicants in this group participate in negotiations to determine the specific terms of the cooperative or grant agreement. In cases where it is not possible to conclude the necessary negotiations successfully, awards will not be made.

If an award is not made to an applicant whose application is in the initial funding threshold because of an inability to complete successful negotiations, and if funds are available to fund any applications that may have fallen outside the initial funding threshold, HUD will select the next highest ranking applicant and proceed as described in the preceding paragraph.

(3) Funding Instrument

HUD expects to award a cost reimbursable or fixed-price cooperative or grant agreement to each successful applicant. HUD reserves the right, however, to use the form of assistance agreement determined to be most appropriate after negotiation with the applicant.

(4) Reduction of Requested Grant Amounts and Special Conditions

HUD may approve an application for an amount lower than the amount requested, fund only portions of an application, withhold funds after approval, and/or require the grantee to comply with special conditions added to the grant agreement, in accordance with 24 CFR 84.14, the requirements of this NOFA, or where:

- (i) HUD determines the amount requested for one or more eligible activities is unreasonable or unnecessary;
- (ii) The applicant has proposed an ineligible activity in an otherwise eligible project;

(iii) Insufficient amounts remain in that funding round to fund the full amount requested in the application and HUD determines that partial funding is a viable option;

(iv) The applicant has demonstrated an inability to manage HUD grants, particularly Fair Housing Initiatives Program grants; or

(v) For any other reason where good cause exists.

(5) Performance Sanctions

A recipient failing to comply with the procedures set forth in its grant agreement will be liable for such sanctions as may be authorized by law, including repayment of improperly used funds, termination of further participation in the FHIP, and denial of further participation in programs of the Department or of any Federal agency.

II. Application Process

An application kit is required as the formal submission to apply for funding. The kit includes information on the Management Work Plan and Budget for activities proposed by the applicant. An application may be obtained by writing the Fair Housing Information Clearinghouse, P.O. Box 9146, McLean, VA 22102, or by calling the toll free number 1–800–343–3442 (voice) or 1–800–290–1617 (TTY). To ensure a prompt response, it is suggested that requests for application kits be made by telephone.

Completed applications are to be submitted to: Maxine B. Cunningham, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Room 5234, 451 Seventh Street, S.W., Washington, DC 20410.

The application due date will be specified in the application kit. However, applicants will be given at least 60 days from today's date, until July 23, 1996, to submit their applications. Applications will be accepted if they are received on or before the application due date, or are received within 7 days after the application due date, but with a U.S. postmark or receipt from a private commercial delivery service (such as, Federal Express or DHL) that is dated on or before the application due date.

The application deadline is firm as to date. In the interest of fairness to all competing applicants, the Department will treat as *ineligible for consideration* any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. A

transmission by facsimile machine ("FAX") will not constitute delivery.

An applicant may apply for funding for more than one project or activity, but a separate application must be submitted for each of the following categories of funding:

- (1) National programs under the Education and Outreach Initiative;
- (2) Regional or local and community-based activities under the Education and Outreach Initiative;
- (3) Multi-year projects under the Private Enforcement Initiative; and
- (4) Continued Development of Existing Organizations activities under the Fair Housing Organizations Initiative.

Although a separate application is required for each funding category, an application may propose more than one type of eligible activity under each category. For example, both production and distribution of a public service message may be proposed in a single application for a national program under the Education and Outreach Initiative.

Applicants must submit all information required in the application kit and must include sufficient information to establish that the applicant and its application meet eligibility requirements as set forth above and the application meets the selection criteria set forth in section I.(d), above, of this NOFA.

III. Checklist of Application Submission Requirements

(a) *General requirements.* The application kit will contain a checklist of application submission requirements to complete the application process. Each application for FHIP funding must contain the following items:

- (1) A description of the activities proposed for funding, and the practice or practices at the community, local, regional or national level that have adversely affected the achievement of the goal of fair housing, and that will be addressed by the proposed activities. This description must include a discussion and analysis of the housing practices identified, including available information and studies relating to discriminatory housing practices and their historical background, and relevant demographic data indicating the nature and extent of the impact of the described practices on persons seeking dwellings or services related to the sale, rental or financing of dwellings, in the general location where the applicant proposes to undertake activities.

- (2) A budget—which must include a set-aside of \$5,000 for single-year

projects and \$10,000 for multi-year projects to be used for travel and associated costs for training sponsored or approved by the Department—and a timeline for the implementation of the proposed activities, consisting of a description of the specific activities to be conducted with FHIP funds, the geographic areas to be served by the activities, any reports to be produced in connection with the activities, and a schedule for the implementation and completion of the activities.

- (3) A description of the applicant's experience in formulating or carrying out programs to prevent or eliminate discriminatory housing practices or in implementing other civil rights programs, the experience and qualifications of existing personnel identified for key positions, or a description of the qualifications of new staff to be hired, and the experience of subcontractors/consultants.

- (4) A statement indicating the need for FHIP funding in support of the proposed project and an estimate of other public or private resources that will be used to assist the proposed activities.

- (5) A description of the procedures to be used by the applicant for monitoring the progress of the proposed activities and the applicant's planned or implemented financial control procedures that will demonstrate the applicant's capability in managing financial resources.

- (6) A description of the fair housing benefits that successful completion of the project will produce, and the indicators by which these benefits are to be measured.

- (7) A description of the degree to which the project will be of continuing use in addressing housing discrimination after funded activities have been completed;

- (8) HUD Form 2880, Applicant Disclosures;

- (9) Fair Housing Organizations Initiative applicants must include with their applications letters of support for the proposed activities from the new organization(s) identified for sponsorship, and detailed budgets for both the applicant and the new organization(s).

- (10) A listing of any current or pending grants or contracts, or other business or financial relationships or agreements, to provide training, education, and/or self-testing services between the applicant and any entity or organization of entities involved in the sale, rental, advertising or provision of insurance, brokerage or lending services for housing. The listing must include the name and address of the entity or

organization; a brief description of the services being performed or for which negotiations are pending; the dates for performance of the services; and the amount of the contract or grant. This listing must be updated during the grant negotiation period, at the end of the grant term, and for grants that will run for more than twelve months, at the end of each year of the multi-year project.

- (11) The applicant must submit a certification and disclosure in accordance with the requirements of section 319 of the Department of the Interior Appropriations Act (Pub. L. 101-121, approved October 23, 1989), as implemented in HUD's interim final rule at 24 CFR part 87, published in the Federal Register on February 26, 1990 (55 FR 6736). This statute generally prohibits recipients and subrecipients of Federal contracts, grants, cooperative agreements and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. If warranted, the applicant should include the Disclosure of Lobbying Activities form (SF-LLL).

- (12) Prior to award execution, successful applicants must submit a certification that they will comply with the certification requirements contained in the application kit.

- (13) Each application must include documentation which demonstrates that the applicant meets all of the requirements of a qualified fair housing enforcement organization (QFHO), as defined under the heading *Definitions*, in section I.(a), above, of this NOFA.

IV. Corrections to Deficient Applications

Applicants will not be disqualified from being considered for funding because of technical deficiencies in their application submission, e.g., an omission of information such as regulatory/program certifications, or incomplete signatory requirements for application submission.

HUD will notify an applicant in writing of any technical deficiencies in the application. The applicant must submit corrections within 14 calendar days from the date of HUD's letter notifying the applicant of any technical deficiency.

The 14-day correction period pertains only to non-substantive, technical deficiencies or errors. Technical deficiencies relate to items that:

- 1. Are not necessary for HUD review under selection criteria/ranking factors; and
- 2. Would not improve the substantive quality of the proposal.

V. Other Matters

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of Section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the "Byrd Amendment") and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients and sub-recipients of assistance exceeding \$100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with the Department's regulations at 24 CFR part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that the policies announced in this Notice would not have a significant impact on the formation, maintenance, and general well-being of families except indirectly to the extent of the social and other benefits expected from this program of assistance.

Executive Order 12612, Federalism

The General Counsel has determined, as the Designated Official for HUD

under section 6(a) of Executive Order 12612, *Federalism*, that the policies contained in this Notice will not have federalism implications and, thus, are not subject to review under the Order. The promotion of fair housing policies is a recognized goal of general benefit without direct implications on the relationship between the national government and the states or on the distribution of power and responsibilities among various levels of government.

Drug-Free Workplace Certification

The Drug-Free Workplace Act of 1988 requires grantees of Federal agencies to certify that they will provide drug-free workplaces. Thus, each applicant must certify that it will comply with drug-free workplace requirements in accordance with 24 CFR part 24, subpart F.

Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its Federal Register notice of

all recipients of HUD assistance awarded on a competitive basis.

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

Section 103 HUD Reform Act. HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708-3815. (This is not a toll-free number.) A telecommunications device for persons with speech and hearing impairments is available at 1-800-877-8339. For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

Authority: 42 U.S.C. 3601-3619; 42 U.S.C. 3616 note.

Dated: May 10, 1996.

Elizabeth K. Julian,
Assistant Secretary for Fair Housing and
Equal Opportunity.

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