

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4127-N-01]

## Office of the Assistant Secretary for Public and Indian Housing; Notice of Funding Availability for the Fair Housing Services Center in East Texas

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice of Funding Availability (NOFA) for the Fair Housing Services Center (FHSC) in East Texas.

**SUMMARY:** This NOFA announces the availability of funds and HUD's request for proposals to establish a Fair Housing Services Center in East Texas to be administered by a non-profit organization (NPO). HUD will award to, and enter into a grant agreement with, an NPO to administer the FHSC as required by the Final Judgment and Decree (Final Judgment) in *Lucille Young v. Cisneros*, CA No. P-80-8-CA, (E.D. Tex.; dated March 30, 1995). HUD has been ordered to provide \$500,000 per year for a period of at least five years to fund the FHSC to be located in Beaumont, Texas, with branch offices within the 36 county area that constitutes East Texas, and one mobile office unit to provide services to remote locations throughout East Texas. Appendix A to this Notice is a copy of the Request for Proposals (RFP) and Program Guidelines as approved by the Court. All information relating to the RFP is included in the RFP.

**DATES:** The proposal deadline for the Fair Housing Services Center NOFA is October 25, 1996, 3:00 p.m., Washington, DC time.

The above-stated proposal deadline is firm as to date and hour. In the interest of fairness to all competing NPOs, HUD will treat as ineligible for consideration any proposal that is not received before the proposal 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. HUD will not accept, at any time during the NOFA competition, proposal materials sent via facsimile (FAX) transmission.

**ADDRESSES:** The original and nine complete copies of the proposal should be submitted by the deadline to Mr. Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW, Washington, DC 20410.

**FURTHER INFORMATION CONTACT:** Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW, Washington, DC 20410-8000, telephone number (202) 708-0477 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339.

### SUPPLEMENTARY INFORMATION:

#### Request for Proposals

All information related to the RFP is available in Appendix A to this Notice. Appendix A has been approved by the Court under the terms of the Final Judgment and Decree as identified above and therefore is the only document potential bidders should use to determine the requirements of the RFP.

#### Background

The plaintiffs, African-American residents of public housing in East Texas, filed suit in 1980 alleging that HUD had knowingly maintained a system of segregated housing in a 36-county area of East Texas, in violation of the U.S. Constitution and various civil rights laws. The plaintiffs contended that there was segregation in HUD-supported low income public housing, Section 8 Existing Housing and other HUD-assisted multifamily housing programs.

In 1982, the U.S. District Court for the Eastern District of Texas certified a class consisting of all African-American applicants for and residents of HUD-funded public housing, Section 8 housing and other assisted housing programs in the 36-county area. In 1985, the court issued a liability decision finding that HUD had knowingly and continually maintained a system of segregated housing in the 36-county area.

In 1987, while an appeal was pending, HUD and the plaintiffs reached an agreement to limit the scope of the case and the class of plaintiffs. In 1988, the court appointed a special master and issued an interim injunction which compelled HUD to require each of the 70 housing agencies to implement race-conscious Tenant Selection and Assignment Plans and to provide all class members a series of notices of desegregative opportunities in all HUD-assisted housing in East Texas. On March 30, 1995, U.S. District Judge William Wayne Justice issued the Final Judgment that approved the

desegregation plans and the plan amendments and required HUD to fund the FHSC.

The following is an outline of the activities of the FHSC (bidders should refer to the attached RFP for details of the activities and responsibilities of the FHSC):

1. Familiarity with all relevant HUD regulations;
2. Outreach to landlords and assistance with exception rents;
3. Prescreening services;
4. Counseling services and other social services support;
5. Responsibilities to Class members who receive a desegregative voucher/certificate;
6. FHSC encouragement and assistance to class members to make desegregative moves;
7. Information provided to Class members;
8. Quarterly and Annual Performance Reports; and
9. Respond to Information Requests from HUD.

Bidders must respond to the requirements of the RFP attached to this NOFA and HUD encourages bidders to refer to the RFP for all appropriate information concerning the Fair Housing Services Center.

#### Other Matters

##### *Environmental Impact*

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(o)(1) of the HUD regulations, the policies and procedures contained in this notice relate only to the provision of information services whose content does not constitute a development decision nor affect the physical condition of project areas or building sites, and therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

##### *Federalism Impact*

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. This notice is a funding notice and does not substantially alter the established roles of the Department, the States, and local governments, including Public Housing Agencies.

*Impact on the Family*

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this notice does not have potential for significant impact on family formation, maintenance, and general well-being within the meaning of the Executive Order and, thus, is not subject to review under the Order. This is a funding notice and does not alter program requirements concerning family eligibility.

*Section 102 of the HUD Reform Act: Documentation and Public Access Requirements*

HUD will ensure that documentation and other information regarding each proposal 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 calendar 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.

*Section 103 of the HUD Reform Act*

Section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a) (Reform Act) and HUD's implementing regulation codified as 24 CFR part 4, subpart B, applies to the funding competition announced today. These requirements 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 restrained by these requirements 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 these requirements.

Applicants or employees who have ethics-related questions should contact the HUD Office of Ethics (202) 708-3815 (TTY/Voice) (this is not a toll-free number). Any HUD employee who has

specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact the appropriate Field Office Counsel or Headquarters counsel for the program to which the question pertains.

*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 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 subrecipients 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. IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but IHAs established under State law are not excluded from the statute's coverage.

Dated: September 18, 1996.

Kevin Emanuel Marchman,  
*Acting Assistant Secretary for Public and Indian Housing.*

*Appendix A—Request for Proposals (RFP) and Program Guidelines for Establishing a Fair Housing Services Center (FHSC) in East Texas*

This is a request for proposals to establish a FHSC in East Texas to be administered by a nonprofit organization ("NPO") as required by the Final Judgment and Decree in ("Final Judgment") *Lucille Young v. Cisneros*, CA No. P-80-8-CA, (E.D. Tex.; dated March 30, 1995). HUD has been ordered to provide \$500,000 per year for a period of at least five years to fund a FHSC for East Texas to be located in Beaumont, Texas, with several branch offices within the 36-county area that constitutes East Texas, and one mobile office unit to provide services to remote locations throughout East Texas. The funding will provide for a variety of services designed to facilitate desegregative moves of class member

applicants for and residents of public housing throughout the seventy (70) Public Housing Authorities ("PHAs") located in the 36-county jurisdiction of the *Young* Final Judgment. The specific responsibilities of the FHSC are enumerated in the Scope of Work below, in the Final Judgment (copy attached), and the original desegregation plans and the plan amendments approved by the Court. The Final Judgment is the document that controls the activities of the FHSC. The FHSC is bound by the terms of the Final Judgment and final desegregation plans (as determined by the Court).

The U.S. Department of Housing and Urban Development ("HUD") will award to and enter into a contract with an NPO. HUD's Beaumont Staff Office will monitor performance. The term of the contract shall be for one year, renewable in one year increments for at least five years. The renewal of the contract is contingent upon the FHSC's ability in meeting the conditions set forth in Section B, "Scope of Work" below, and in complying with the Final Judgment. HUD shall provide \$500,000 for the activities of the FHSC for each year of operation, and a total of 1,000 Section 8 rental assistance vouchers and/or certificates (excluding incremental and turnovers) to be used toward HUD's obligation to provide 5,134 desegregative housing opportunities to *Young* class members.

The housing opportunity counseling funds will be provided to the FHSC through HUD's contract administrator. HUD will award the 1,000 desegregation vouchers/certificates to PHAs that have jurisdiction in the areas where the *Young* class members move. The PHAs that are awarded these vouchers/certificates are herein called "receiving PHA(s)".

**DATES:** Deadline for proposals: Proposals must be received by 3 P.M., Washington DC time, on October 25, 1996. Proposals received after this deadline will not be eligible for consideration. Faxed documents will not be accepted, nor will documents be accepted that are postmarked after October 25, 1996. It is the responsibility of all applicants to ensure that their proposal is received by the above deadline.

**ADDRESSES:** The original and nine complete copies of the proposal should be submitted by the deadline to Mr. Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW., Washington, DC 20410.

**CONTACTS FOR FURTHER INFORMATION:** For general information, interested nonprofit organizations should contact—Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone number (202) 708–0477 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339.

The following sections of this RFP are:

- I. Scope of Work
  - A. Background and Objectives
  - B. Activities of the FHSC
  - C. Administrative Requirements
  - D. Monitoring
- II. Contents of Proposal
  - A. Eligible Applicant
  - B. Description of Activities and Costs
  - C. Deficient Applications for FHSC
- III. Factors for Award
  - A. Evaluating Rating Factors
  - B. Certification
  - C. Cost Factor
  - D. Contract Award

#### I. Scope of Work

##### A. Background and Objectives

The plaintiffs in *Young*, African-American residents of public housing in East Texas, filed this action in 1980, alleging that HUD had knowingly maintained a system of segregated housing in a 36-county area of East Texas, in violation of the U.S. Constitution and various civil rights laws. The plaintiffs contended that there was segregation in HUD-supported low income Public Housing, Section 8 Existing Housing Program, and other HUD-assisted multifamily programs (including HUD-insured housing). While there are presently 70 individual public housing authorities ("PHAs") in the 36-county area, none of the PHAs are included in the lawsuit as parties.

In 1982, the U.S. District Court for the Eastern District of Texas ("Court") certified a class consisting of all African-American applicants for and residents of HUD-funded public housing, Section 8 housing and other assisted housing programs in the 36-county area.

In 1985, the court issued a liability decision, finding that HUD had knowingly and continually maintained a system of segregated housing in the 36-county area. In 1987, while an appeal was pending, HUD and the plaintiffs reached an agreement to limit the scope of the case and class of plaintiffs to

public housing in the 36-county area. The *Young* class thus consists of all African-American residents of, or applicants for, public housing in the 36-county area.

In 1988, the court appointed a special master and issued an interim injunction, which, among other things, compelled HUD to require each of the 70 PHAs to implement race-conscious Tenant Selection and Assignment Plans and to provide all class members a series of notices of desegregative opportunities in all HUD-assisted housing in East Texas.

After settlement discussions between HUD and the plaintiffs proved unsuccessful in 1990, the court issued an Order for Further Relief, dated September 9, 1990, which required, among other things, that HUD develop desegregation plans or assertions of unitary status for each of the 70 PHAs. The court ordered HUD, in developing each plan, to provide for the equalization of conditions between predominantly African-American projects and the conditions in the projects and neighborhoods where the majority of white HUD-assisted housing recipients resided.

By June 1991, HUD had submitted desegregation plans or unitary status assertions for all 70 PHAs to the court for approval. Although the court did not rule as to the adequacy of the plans and unitary status assertions at that point, HUD began to implement the desegregation plans. In October 1993, after further analysis, HUD withdrew its submission of the plans and assertions after having determined that they did not fully or adequately address the requirements of the September 1990 Order.

HUD filed revised plans on February 8, 1994, along with the East Texas Comprehensive Desegregation Plan (Comprehensive Plan). The Comprehensive Plan reinstituted the original plans filed in 1990–91, but amended them to provide for further actions, and replaced all unitary status assertions with new desegregation plans (asserting that none of the 70 PHAs had, as of yet, attained unitary status).

The Comprehensive Plan filed in February 1994 called for the creation of 1,000 desegregative housing opportunities for class members over a five-year period. In May 1994, after further analysis, HUD agreed to provide for the creation of 5,134 desegregative opportunities within seven years. On March 30, 1995, U.S. District Judge William Wayne Justice issued the Final Judgment, that approved the original desegregation plans and the plan amendments and required HUD to fund the FHSC.

#### B. Activities of the FHSC

1. The FHSC must become familiar with all relevant HUD regulations (e.g., those governing Section 8 assistance, public housing, assisted housing, and Fair Housing), the Final Judgment and applicable individual desegregation plans. The FHSC shall order and/or approve all issuances by the receiving PHA of Section 8 vouchers or certificates to class members or others pursuant to the Final Judgment Decree, § II.

2. Outreach to landlords and assistance with exception rents. The FHSC shall encourage and assist in the development of desegregative housing opportunities, including outreach to private landlords in non-minority areas for the purpose of encouraging them to participate in the Section 8 existing program, as well as counseling and referral services to Section 8 existing housing tenants and applicants who wish to utilize their Section 8 certificates or housing vouchers in a manner furthering desegregation pursuant to ¶ IV.5.d. of the Final Judgment.

The FHSC, along with the PHAs, shall monitor rents in desegregative housing opportunity areas every six months to determine whether such rents are adversely affecting housing opportunities. If so, the FHSC shall take such steps as are necessary to overcome this adverse affect, including by requesting that HUD consider granting exception rents for certificates or payment standards for vouchers, pursuant to the Court's 1990 Order for Further Relief, if such exception rents or payment standards would increase the availability of desegregative housing opportunities for class members.

3. Prescreening services. The FHSC shall prescreen all clients of the FHSC who have not already been screened by the receiving PHA, to document each client's ability and willingness to comply with an acceptable lease and HUD program requirements pursuant to ¶ IV.5.a. of the Final Judgment.

4. Counseling services and other social services support. Pursuant to ¶ IV.5.b. of the Final Judgment, the FHSC shall provide counseling services designed to provide information and counseling with respect to class members including the following: inform applicants of desegregative housing opportunities; provide offers and/or referral to such housing opportunities; assist applicants in taking advantage of those opportunities; and help them overcome obstacles inherent in desegregative moves. In addition, the FHSC will: provide escort assistance to

available units; provide post-move support services; provide information about educational and economic opportunities; arrange home visits; and communicate information about the positive features of neighborhoods where there is housing that represents desegregative housing opportunities as defined in the Final Judgment.

5. Class members who receive a desegregative voucher/certificate. Under the Final Judgment and Decree, HUD will provide to class members 5,134 desegregative housing opportunities, over a seven-year period. The actual placement of a total of 40 class members in Alba (1), Corrigan (2), Fruitvale (2), Kirbyville (8), Mount Pleasant (22), Talco (2), and Trinidad (3) is also required under the Final Judgment. Two hundred desegregative vouchers/certificates will be provided in the first year of the FHSC's operation, and 200 per year thereafter for the following five years. The class members who receive one of the desegregative vouchers/certificates will be required to use their vouchers/certificates in rental housing that constitutes a desegregative opportunity as defined in the Final Judgment. The FHSC will provide to the class members who receive a desegregative voucher/certificate counseling services and other forms of assistance, as necessary, to aid them in locating desegregative housing.

Pursuant to ¶ IV.5.g. of the Final Judgment and Decree, FHSC will give each class member written notice, every six months, in a form and distribution method to be approved by HUD, of all HUD-assisted and/or HUD-subsidized low-income housing developments in the housing markets where the class member resides that offer the class members a desegregative housing opportunity, provide notice of the full address, telephone number, and name of the person responsible for accepting applications for the development, a short description of the type of housing offered by the development, and the general eligibility requirements or the development. The FHSC will include in the Notice to class members, information about the mobility program, and the opportunities available through it.

a. PHA Responsibilities. The receiving PHAs will be awarded 1,000 desegregation certificates and vouchers to be used toward HUD's obligation to provide 5,134 desegregative housing opportunities to *Young* class members; conduct the intake and initial eligibility determination of applicants; and conduct any required Housing Quality Standards ("HQS") inspections of units. The 1,000 desegregative vouchers/

certificates are for the exclusive use of class members. Certificates or vouchers obtained by receiving PHAs from other East Texas § 8 programs through turnover, recapture, or otherwise, may be provided to non-class members when required by HUD under subparagraph c below.

b. Award and Turn-in of Desegregative certificates. Class members who initially receive a desegregative voucher/certificate will have 120 days within which to enter into a lease for a unit of desegregative housing as defined, or, if the FHSC has failed to offer a unit within that time, until a desegregative offer is in fact received. At the expiration of 120 days, if an offer and if a lease has not been entered, the applicant has the option of continuing to search for housing with no restrictions as to locations for an additional sixty days. However, should the class member locate in a minority neighborhood, this will not count toward HUD's obligation to create 5,134 desegregative housing opportunities. At the end of the sixty-day period, the certificate would revert to the receiving PHA unless it grants an extension.

c. Special procedures for Affirmative Action Waiting List Initiatives. HUD shall provide to the FHSC the name and address of every class member applicant who is to be offered a certificate and counseling as an alternative to public housing when a PHA uses an affirmative action waiting list procedure that has been approved by the Court to offer the unit that would otherwise have been offered to the class member, to a white applicant whose name is listed lower on the waiting list. Paragraph III of the Final Judgment is to be followed when implementing the Affirmative Action Waiting List initiatives. When a class member is offered a certificate or voucher under these circumstances:

(1) The class member is to be made an offer of alternative housing within 60 days of the date on which the public housing unit that is to be offered to a white applicant available for assignment.

(2) The class member must be provided the § 8 voucher or certificate and an offer of a unit must be made within 120 days from issuance of the certificate to the class member that meets the requirements of VII.7 of the Final Judgment and must notify HUD within one day if the applicant accepts the offer;

(3) If the class member rejects the offer of alternative housing, the FHSC must notify HUD within one day of the rejection, state the reason(s) for the rejection, and provide information as to

the location of the rejected unit and evidence of its availability.

(4) If, after 120 days, an alternative housing opportunity has not been found for the class member, the class member may opt to hold the certificate for up to sixty additional days and to search for housing on her or his own without restriction as to location.

HUD will provide the FHSC with the name and address of every non-class member who is to receive a § 8 voucher/certificate as a result of the implementation of the Affirmative Action Waiting List. The FHSC must instruct the receiving PHA to issue a § 8 existing housing voucher/certificate to the non-class member applicant who held the highest position on the waiting list and who would otherwise have been offered an available public housing unit but for the advancement of a class member to the head of the waiting list for that unit under the Affirmative Action Waiting List.

d. Priority of Offers. The FHSC will offer the desegregative certificates to class members according to the following priority: (1) To class members residing in predominantly African American low-rent public housing projects; (2) to class members who are on a waiting list for low-rent public housing as of March 30, 1995; (3) to class members who apply for low-rent public housing subsequent to the date of March 30, 1995.

6. The FHSC shall encourage and assist class members to make desegregative moves within the low income housing program and to privately owned assisted housing programs pursuant to ¶ IV.5.e. of the Final Judgment. The FHSC shall develop and implement a plan to refer class members, with or without the use of § 8 certificates or vouchers, to privately owned, HUD-assisted, or FmHA housing located in areas which provide a desegregative housing opportunity. FHSC shall conduct outreach to the landlords and/or owners of all such HUD-assisted, or FmHA private housing providers located in areas which provide a desegregative opportunity and other § 8 existing agencies, to encourage participation in the FHSC-developed referral plan. FHSC shall monitor the performance of other § 8 existing agencies in the 36-county area in this regard, and shall also develop a system to record all offers of an/or placements of class members in desegregative housing by other § 8 agencies in East Texas.

7. Information. The FHSC shall designate specific personnel to respond to requests for information and requests for assistance from class members

desiring to obtain a desegregative housing opportunity as defined in the Final Judgment. The assistance to be provided shall include referrals of interested class members to public housing developments, and to programs other than low income public housing, that offer desegregative housing opportunities in East Texas.

8. Quarterly Status and Annual Performance Report. The FHSC shall provide quarterly status reports on significant activities taken under the requirements of the Final Judgment and Decree. HUD will file each report with the court and serve it on plaintiffs' counsel within thirty days of the end of the quarter covered in the report.

The FHSC shall submit an annual report on their performance of their obligations under the Final Judgment and Decree to the plaintiffs, with a copy to go to the court by April 30th of each year.

9. HUD's Right to Request Information. The FHSC will collect and maintain the data necessary to monitor the program toward providing desegregative opportunities. This would include: (a) The number of class members seeking desegregated housing opportunities; (b) the number of class members actually leasing units in non-impacted neighborhoods; (c) the number and name of housing providers recruited into the program; and (d) the number of class members assisted and number of hours staff members devoted to assisting families, and similar data as HUD may require. The FHSC will comply with any informational requests from HUD that HUD, in its discretion, makes from time to time during the course of the program.

#### *C. Administrative Requirements*

The FHSC shall be required to adhere to the following three administrative requirements in performing work under this award:

1. Submission of quarterly progress reports detailing progress made in fulfilling the tasks and sub-tasks in the approved Project Management Plan;

2. Distribution of an Evaluation Questionnaire to all persons, organizations, agencies, or other entities receiving services, participating, or otherwise involved in this project and submission of a "Customer Satisfaction Report" semi-annually;

3. Preparation of a final report in a format suitable for information transfer, exchange and dissemination to other PHA's communities, or other entities interested in providing such services. The final report should detail the case study of East Texas Desegregation Counseling Project and provide insights

and recommendations for others who may wish to develop similar programs.

#### *D. Monitoring*

The FHSC shall monitor the compliance of the providers of low-income housing in the class action area (low-income public housing and assisted housing) with the fair housing laws and the requirements placed upon the providers under the comprehensive plan and the individual desegregation plans pursuant to ¶ IV.5.c. of the Final Judgment.

### **II. Contents of Proposal**

#### *A. Eligible Applicant*

The proposal must be submitted by an NPO and must include all information requested in this section. Any proposal submitted after the due date or that does not contain the required information may be rejected. The NPO must submit documentation as a part of the proposal that verifies the "501(c)3" and/or "501(c)4" (IRS Code) status, of the NPO and its legal authority to operate throughout East Texas area.

Corporate documents. The NPO shall provide a copy of its Articles of Incorporation.

#### *B. Description of Activities and Costs*

It is to an NPO's advantage if it describes its experiences, if any, as requested in this section. In the case of a newly formed NPO, the NPO may substitute a description of experience and knowledge of its principal officers and employees where a description of its own experience is requested below.

1. Description of experience. The NPO must submit a narrative description of its experience in assisting lower-income families and/or African-Americans or other minorities in the search for housing. The NPO should describe its working knowledge of HUD's Section 8 programs, as well as its Public Housing and Assisted Housing programs. The NPO should include a list of its projects over the last two years that are relevant to this procurement action. HUD reserves the right to request information from any source so named.

2. Knowledge of fair housing and mobility experience. The NPO must submit a narrative description of its knowledge of, and experience in assisting African-Americans with fair housing as well as monitoring providers for violations of the fair housing laws. The narrative should specifically address the NPO's knowledge of the rental market in racially non-impacted areas and the barriers that limit access to that housing by lower-income minority persons. The NPO shall also

describe its experience with mobility activities.

3. Description of organizational capacity. The NPO must submit a narrative description of its capability and capacity to handle a project of this scope. The narrative is to include a list of current federally funded activities. The NPO should provide an organizational chart of key personnel to be involved in each activity under the agreement, and the percentage of time that they will devote to each activity. The NPO should include resumes, references, or other documents that show that key personnel have experience in the tasks described in the "Scope of Work", the Final Judgment and Decree, and applicable individual desegregation plans. If the NPO plans to utilize subcontractors, consultants or other agents, it should provide the same information with respect to them.

4. Management plan. A summary of a management plan as described below, particularly as the Plan pertains to the evaluation factors set out in Section III. A. of this RFP, shall be submitted as part of each organization's proposal. A detailed narrative of a management plan to carry out the programs as outlined in the Final Judgment and Decree and this RFP. This plan will be delivered to the HUD Beaumont Staff Office within 15 days after the agreement is awarded. The Plan will include a description of: (1) Each task and sub-task; (2) the methodology to be used in accomplishing each task and sub-task; (3) internal financial management and oversight procedures and policies; (4) when each task, sub-task and establishment of financial oversight procedures will be accomplished; (5) staff and organization (including an organizational flow-chart), including the staff-loading for each task and sub-task; (6) projected costs for each task and sub-task by calendar quarter; (7) the support that is expected to be required from HUD and its contract administrator; and (8) projected site and cost of office space and mobile unit, if applicable. The final management plan will then be submitted by HUD to the Court for approval.

#### *C. Deficient Applications for FHSC*

A proposal will be deemed technically ineligible if:

1. It does not fully adhere to the guidelines established herein, including budgetary requirements;

2. The complete proposal is not received by the deadline;

3. A comprehensive line item budget is not included;

4. The project budget for costs charged against funds exceeds \$500,000; or
5. Unsigned proposal or certification forms are submitted.

### III. Factors for Award

#### A. Evaluating Rating Factors

HUD will use the following criteria to evaluate proposals received in response to this RFP. In all cases, the number of points stated represents the maximum. In the actual scoring, any given application may receive less than the maximum for each category, based on an evaluation of competing applications.

1. Familiarity with housing mobility counseling and HUD housing programs (30 points).
  - a. Demonstrated work experience with fair housing mobility counseling of lower income and minority families. (10)
  - b. Demonstrated work experience with HUD's Section 8 Public Housing or privately owned assisted housing programs. (10)
  - c. Demonstrated work experience in coordinating resources and activities provided by a variety of government, private sector agencies, and organizations for providing housing and/or fair housing law enforcement support. (10)
2. Knowledge of fair housing and mobility experience (25).
  - a. Demonstrated record of participation in fair housing activities, particularly with respect to low income families and racial or ethnic minorities and monitoring providers of low-income housing for violations of the fair housing laws. (10)
  - b. Demonstrated knowledge of and experience in mobility services for African-American tenants. (10)
  - c. Experience in rental markets in the racially non-impacted areas. (5)
3. Organizational capacity (20 points).
  - a. Demonstrated capability and capacity of the non-profit organization to effectively manage a grant of this scope. (10)
  - b. Demonstrated capability of the non-profit's key personnel, including officers, employees, partners, subcontractors, consultants and other agents to accomplish the work responsibilities of the FHSC. (10)
4. Quality of Proposal (25 points).
  - a. Extent to which the proposal demonstrates an understanding of the Final Judgment and Decree, the applicable individual desegregation plans, and this RFP, and proposes a realistic approach to all the work requirements that most nearly meet the

conditions of the Final Judgment and Decree. (15)

- b. Degree of clarity and acceptability of the overall proposal and specific methods, procedures and steps as outlined in the Management Plan. (10)

#### B. Certification

Each application must contain an original and nine copies of the certifications identified below. Each certification must be signed by the Chief Executive Officer of the applicant organization unless otherwise noted.

1. Drug-free Workplace Certification. The non-profit must certify that it will provide a drug-free workplace and comply with the drug-free workplace requirements at 24 CFR Part 24, Subpart F. See attached certification for drug-free workplace.

2. Certification regarding Lobbying pursuant to Section 319 of the Department of the Interior Appropriation Act of 1989, generally prohibiting use of appropriated funds for lobbying.

3. Certification of no outstanding violations of: Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and regulations pursuant thereto (24 CFR part 1); the Fair Housing Act (42 U.S.C. 3601-19); Executive Order 11063, as amended by Executive Order 12892 and HUD regulations (24 CFR part 107); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and regulations issued pursuant thereto (24 CFR part 8); Title II of the Americans with Disabilities Act of 1990 (and applicable regulations at 28 CFR Part 36); the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and regulations issued pursuant thereto (24 CFR part 146); Executive Order 11246 and all regulations issued pursuant thereto (41 CFR Chapter 60-1); Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701U) and regulations pursuant thereto (24 CFR part 135).

4. Conflicts of Interest. The nonprofit shall provide a statement which describes all relevant facts concerning any past, present or currently planned interest (financial, contractual, organizational, or otherwise) relating to the work to be performed which could present a possible conflict of interest with respect to: (a) being able to render impartial, technically sound, and objective assistance or advice; or (b) being given an unfair competitive advantage. The nonprofit shall describe its current and past relationship with HUD as it relates to a possible conflict of interest in carrying out the counseling program.

Such conflict could arise when any employee, officer or agent of the PHA,

HUD or plaintiffs' counsel; any member of his or her immediate family, his or her partner, or organization which employs or is about to employ any of the above has a financial or other interest in the NPO that is selected.

#### C. Cost Factor

Cost will become relevant in the case of a tie score in the technical part of the evaluation, as stated under "Contract Award" below. It is the goal of the Final Judgment to provide high quality services that will contribute substantially to the desegregation of all federally assisted housing in East Texas. It is expected that the costs of each task and sub-task will be addressed in the proposal, including the costs for sub-contractors, etc. HUD reserves the right to reject any proposal that does not adequately analyze costs.

#### D. Contract Award

Negotiations will be conducted with those NPOs whose proposals fall within a competitive range from a technical perspective. Award will be made to the most responsive NPO whose proposal is considered to be the most advantageous. In the event two or more offerors are considered technically equivalent, cost efficiency—i.e., the extent to which the non-profit that has a plan that will accomplish the most desegregative placements of all kinds within the established financial parameters—will be considered of primary importance.

#### E. Approval by HUD and Court Review

Notwithstanding the foregoing, a contract shall not be entered into for the FHSC without the express written approval by HUD of the entity and proposal selected, and of the contract with such entity. The initial and any subsequent HUD decisions to select an entity to contract with the NPO and the initial and any subsequent HUD approvals of the entity and proposal selected and of the contract with the NPO are subject to judicial review by motion of the plaintiffs under ¶ IV.6. of the Final Judgment and Decree.

Certification Regarding Drug-Free Workplace Requirements (From 24 CFR 24, Appendix C)

#### Instructions for Certification

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.
2. The certification set out below is a material representation of fact upon which reliance was placed when the agency determined to award the grant. If it is later determined that the grantee knowingly rendered a false certification,

or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

#### Certification Regarding Drug-Free Workplace Requirements

##### Alternate I

A. The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program

approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grantee shall insert in the space provided below the site(s) for the performance of work done in connection with the specific grant: Place of Performance (Street address, city, county, state, zip code)

##### Alternate II

The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in conducting any activity with the grant.

In the United States District Court for the Eastern District of Texas Paris Division

Lucille Young, et al., Plaintiffs, v. Henry G. Cisneros, et al., Defendants. [P-80-8-CA, Final Judgment]

##### Final Judgment and Decree

In 1985, defendants in the above-entitled and numbered civil action were found liable for knowingly and continually maintaining a system of segregated housing in a thirty-six county area of East Texas in violation of the constitutional and civil rights of a class of African-Americans. *Young v. Pierce*, 628 F. Supp. 1037 (E.D. Tex. 1985). An interim injunction issued in this action in 1988. *Young v. Pierce*, 685 F. Supp. 986 (E.D. Tex. 1985). Such interim injunction was amended by order of this court in 1990. Order for Further Relief, September 10, 1990. After extensive briefing by the parties and a hearing on the plaintiffs' motion for final remedy, it is

*Ordered, Adjudged, and Decreed* that the Honorable Henry G. Cisneros, as Secretary of the Department of Housing and Urban Development ("HUD"), his officers, agents, servants, employees, successors, and all persons in active concert or participation with them shall be, and are hereby, *Permanently Enjoined*, either directly, or through contractual or other arrangements, to take the actions necessary to effectuate the relief decreed by the provisions of this Final Judgment and Decree, as follows:

1. The individual desegregation plans and the individual desegregation plan amendments for each Public Housing

Authority ("PHA") submitted by the Department of Housing and Urban Development ("HUD") are hereby approved, subject to the modifications contained in this judgment and decree. As used herein, "individual desegregation plan" or "desegregation plan" includes both the original, individual desegregation plan filed by HUD for a particular PHA and the individual plan amendment filed by HUD for that PHA. Within ninety days from the issuance of this judgment and decree HUD shall re-file the individual desegregation plans, which shall fully incorporate the amendments to such plans, in order that a fully integrated plan for each PHA will be on file.

2. The desegregation plans shall be implemented and interpreted in a manner consistent with the applicable provisions of HUD's East Texas Comprehensive Desegregation Plan ("Comprehensive Plan") and with the provisions of this judgment and decree. HUD shall discharge all duties imposed upon HUD by the terms of the Comprehensive Plan and by the provisions of this judgment and decree. In the event of any inconsistency or conflict between the provisions of this judgment and decree and the provisions of either the Comprehensive Plan or the desegregation plans, the provisions of this judgment and decree shall be controlling.

3. All orders, including the interim injunction previously issued in this action, shall be in full force until HUD attains unitary status, as defined in this judgment and decree, and judicial supervision ends in accordance with this judgment and decree. All previous orders entered in this action shall be interpreted in a manner consistent with this judgment and decree. In the event of any inconsistency or conflict between the provisions of this judgment and decree and the provisions of any earlier order, the provisions of this judgment and decree shall be controlling.

4. All provisions of this judgment and decree shall require, or be construed as requiring, compliance with federal statutes as they now exist, or as they may be amended or enacted.

##### I. Physical Improvement to Projects and Neighborhoods

1. Financial assistance for physical improvements specified in the desegregation plans shall be provided by HUD or, in the case of neighborhood improvements receiving financial assistance under the Community Development Block Grant Small Cities Program ("CDBG Small Cities Program"), by the State of Texas, within seven years of the date of this judgment



and decree. The review and approval process for applications for financial assistance shall be conducted in accordance with all applicable laws and regulations, including the rules governing competitive programs, where appropriate.

2. Each such physical improvement shall be completed as soon as is feasible and practicable after approval and funding and, in no event, shall the time period for the completion of any such physical improvement exceed a period of three years from the date upon which the application is approved and funded. With respect to neighborhood improvements being carried out by a municipal government with financial assistance under the Community Development Block Grant Program ("CDBG program"), it shall be the responsibility of HUD to take all appropriate actions within HUD's control to obtain completion of those neighborhood improvements within the time periods specified herein.

3. If any municipal government fails to take an action necessary to complete the neighborhood improvements specified in the PHA's desegregation plan, HUD shall take appropriate action in accordance with the regulations governing the CDBG program. These actions may include (i) enforcement mechanisms available to HUD under its obligation affirmatively to further fair housing and (ii) causing the PHA to institute against the municipal government enforcement based on the municipality's violation of the cooperation agreement between the PHA and the municipality.

4. If any PHA fails to take an action necessary to complete the physical improvements specified in the PHA's desegregation plan, HUD shall take appropriate enforcement action against the PHA. These actions may include one or more of the actions described in the Comprehensive Plan at p. 20 for dealing with the failure of a PHA to follow its desegregation plan.

5. Where HUD has required improvement of neighborhood conditions as part of the desegregation remedy for a PHA, HUD shall cause that PHA and the responsible municipality to enter into a memorandum of understanding under which the municipality agrees to carry out the required neighborhood improvements. Each such memorandum of understanding shall identify the neighborhood conditions to be corrected or upgraded and describe the work to be done in carrying out such correction or upgrading. If such work requires funding under the CDBG Program, the memorandum of understanding shall

also contain a preliminary cost estimate for the required work. All such memoranda of understanding shall be entered into by the PHAs and their respective municipalities no later than July 1, 1995. All such memoranda of understanding shall be submitted for the approval of the court. Upon approval by the court, the memorandum of understanding between a PHA and a municipality shall define the full extent of the obligation to correct or upgrade neighborhood conditions in that PHA and in that municipality.

6. In approving applications for the funding of physical improvements, or the provision of amenities, to low-rent public housing projects in the class action area, HUD shall, to the extent consistent with applicable statutory and regulatory requirements, give priority to the funding of applications for making such improvements, or providing such improvements, to racially identifiable African-American projects, *i.e.*, low-rent public housing projects in which seventy-five percent (75%) or more of the residents are African-Americans.

7. The amended individual desegregation plans require, and the comprehensive plan contemplates, certain physical improvements which include, *inter alia*, the provision of air conditioning equipment, laundry facilities, community centers, and playgrounds. Plaintiffs additionally seek the provision of carpeting, dishwashers, a utility allowance to account for the reasonable use of air conditioning, and garbage disposals in predominately and historically African-American projects. Moreover, plaintiffs identify other conditions present at predominately and historically African-American projects that are not present at the historically and predominantly white projects, including inadequate security and maintenance.

HUD shall satisfy the obligations of the individual desegregation plans as they pertain to amenities and services. In addition to those amenities and services required by the individual desegregation plans, HUD shall provide the amenities and services available in any of the historically and predominantly white projects at the historically and predominately African-American projects of like or similar kind within the PHA. The amenities and services required at the non-elderly family units at historically and predominately African-American projects in a given PHA are to be determined by evaluating the historically and predominantly white non-elderly family units within the same PHA. For example, HUD must ensure that the historically and

predominately African-American non-elderly family units include carpeting if a historically and predominately white non-elderly family unit includes carpeting. Moreover, both projects shall be staffed with maintenance personnel in equal numbers or such numbers as necessary to maintain the premises in substantially similar condition.

## II. Creation of Desegregated Housing Opportunities

1. Within seven years from the date of this judgment and decree, HUD shall create a total of 5,134 desegregated housing opportunities for elderly and non-elderly class members in non-minority census blocks in the class action area. Desegregated housing opportunities shall be offered, first, to class members residing in predominately African-American low-rent public housing projects, second, to class members who are on a waiting list for low-rent public housing as of the date of this judgment and decree, and, third, to class members who apply for low-rent public housing subsequent to the date of this judgment and decree.

2. a. The term "non-minority census block" is defined in accordance with the "1/4 mile radius" methodology described in the report of the East Texas Demographic and Mapping Analysis conducted by George Galster of the Urban Institute under a contract with HUD (Defendants' Exhibit 116). A given census block shall be regarded as a non-minority census block, if the area consisting of the given census block, plus all census blocks within the PHA jurisdiction whose centroids lie within a 1/4 mile radius of the centroid of the given census block (i) has a percentage of white population of more than eighty percent (80%), or (ii) has a percentage of white population greater than 100%, minus the PHA jurisdiction's overall percentage of African-American population.

b. Notwithstanding subsection II.2.a., a census block will not be regarded as a non-minority census block, if (i) more than fifty percent (50%) of the African-Americans living in the area described by the 1/4 mile radius methodology are concentrated in individual census blocks with more than eighty percent (80%) African-American population, or (ii) the population of the area described by the 1/4 mile methodology is more than forty percent (40%) African-American or (iii) geographic, demographic, or social factors, including proximity to racially impacted areas or isolation from population centers or community services, indicate that the census block



should be regarded to be in a racially impacted area.

3. To the maximum extent feasible and practicable, HUD shall, through the use of tenant-based housing assistance, create within each PHA jurisdiction, the number and type (elderly and non-elderly) of desegregated housing opportunities which HUD has determined to be needed within each particular PHA jurisdiction, as indicated in Defendants' Hearing Exhibit No. 119, Table 1.

4. If the number of desegregated housing opportunities needed within a particular PHA cannot be created through the use of tenant-based housing assistance, that PHA's unmet need shall be satisfied by offering class members residing within that particular PHA a desegregative housing opportunity located in an adjacent jurisdiction. Such adjacent jurisdiction can be no more than thirty-five miles from the PHA and must be accessible from the PHA by adequate and feasible highway links and public transportation.

5. If the number of desegregated housing opportunities needed within a particular PHA cannot be created through the use of tenant-based housing assistance, either within the PHA jurisdiction or an adjacent jurisdiction, the HUD shall, to the maximum extent feasible and practicable, and consistent with all statutory and regulatory requirements, satisfy that PHAs unmet need for desegregated housing opportunities through the use of project-based Section 8 existing housing certificates and vouchers.

6. If the number of desegregated housing opportunities needed within a particular PHA cannot be created through the use of either tenant-based or project-based Section 8 housing assistance, then that PHA's unmet need shall be satisfied through the creation of desegregative housing opportunities anywhere within the class action area.

7. HUD shall be given credit for the creation of a desegregated housing opportunity if:

a. A class member has been provided by HUD with a desegregative housing voucher or housing certificate. A desegregative housing voucher or housing certificate is a Section 8 existing housing certificate or housing voucher, limited for the first 120 days to use in non-minority census blocks.

b. The class member is offered mobility counseling to assist the class member to locate an appropriate housing unit.

c. The class member has been referred by the mobility counseling service to a landlord who is willing to accept the

class member's certificate or voucher for the rental of a housing unit.

d. The housing unit offered by the willing landlord is located in a non-minority census block.

e. The unit offered by the willing landlord meets the applicable Section 8 existing housing quality standards in 24 CFR § 882.109, and contains an appropriate number of bedrooms for the particular applicant's family size and composition.

f. The unit offered by the willing landlord is located outside an area where a reasonable African-American would perceive significant racial hostility.

g. There must be no legitimate basis for the class member to refuse the offered unit. Legitimate reasons to refuse an offer are limited to remoteness to jobs or day care and lack of adequate and feasible transportation. The burden is on the applicant to demonstrate that the proffered reason is legitimate. The special master, or some designated representative of the special master, shall make the initial determination as to whether the applicant has carried his or her burden in this regard.

8. HUD shall also receive credit for the creation of a desegregated housing opportunity, whenever a class member who has been provided with a desegregative housing certificate or housing voucher accepts an offer of a housing unit located in any non-minority census block in the class action area, or in any other non-minority area, but the unit was not obtained through a referral from the housing mobility service.

9. HUD shall receive credit for the creation of a desegregated housing opportunity, if a class member is referred by the mobility counseling service to a landlord willing to rent the class member, with or without the use of a Section 8 housing certificate or voucher, a suitable housing unit in a privately owned, HUD-assisted and/or HUD-subsidized housing development, or in a housing development assisted or subsidized by the Farmers Home Administration, provided that the offered housing unit meets the location requirements set forth in Paragraph II.7.d., above, and provided that the African-American occupancy of the project in which the unit is located does not exceed fifty percent (50%).

10. HUD shall also receive credit for the creation of a desegregated housing opportunity whenever a class member, with or without the use of Section 8 housing certificate or voucher, accepts an offer of a housing unit in a privately owned, HUD-assisted and/or HUD-subsidized housing development, or in

a housing development assisted or subsidized by the Farmers Home Administration, where (i) the housing unit is located in any non-minority census block in the class action area, or in any other non-minority area, (ii) the African-American occupancy of the project in which the unit is located does not exceed fifty percent (50%) and (iii) the unit was not obtained through a referral from the housing mobility service.

11. The mobility services referred to above shall be provided by the Fair Housing Services Center, a private, non-profit organization to be established and funded by HUD for a five-year period, as set forth below.

12. The Fair Housing Services Center shall administer the desegregative Section 8 housing vouchers and certificates under contract with one or more PHAs.

### III. Elimination or Reduction of Racially Identifiable Low-Rent Public Housing Projects

1. If the individual desegregation plan for a particular PHA does not require the use of any of the Waiting List Initiatives, that specific PHA shall continue to use a race-conscious tenant selection assignment plan in conformity with the requirements of Paragraph 2 of the Interim Injunction entered in this action on March 3, 1988.

2. Any particular Waiting List Initiative specified in an individual desegregation plan shall be fully implemented by the PHA within six months of the date of this judgment and decree. Any PHA that is required to implement a Waiting List Initiative shall also continue to use a race-conscious tenant selection assignment plan in conformity with the requirements of Paragraph 2 of the Interim Injunction entered in this action on March 3, 1988. HUD shall provide any and all assistance to the PHA necessary to implement the Waiting List Initiative, such as the drafting of detailed instructions to guide the PHA in the implementation of the Waiting List Initiative, and the preparation of interagency agreements required for the Cross-Listing Initiative, the Merged Waiting List Initiative, the Area-Wide Waiting List Initiative and the Housing Opportunities Waiting List Initiative.

3. If any Waiting List Initiative, such as the Affirmative Action Waiting List Initiative, employs race-conscious practices for the selection of tenants for assignment to a low-rent public housing project, an offer of alternative housing shall be made to any class member who would otherwise have been offered a unit in the project but for the need to

achieve a desired racial balance in the project within sixty days of the date on which the public housing unit in question became available for assignment.

a. Such an offer of alternative housing shall be made to a class member if (i) the class member has applied for low-rent public housing with the PHA operating the project; (ii) the class member meets all applicable eligibility and screening requirements for admission to public housing operated by the PHA; and (iii) and the class member would otherwise have been offered an available unit in the project but for the advancement of a non-class member applicant to the head of the waiting list for that unit under the terms of the Waiting List Initiative, *i.e.*, the class member held the highest position on the waiting list above the non-class member applicant whose position on the waiting list was advanced under the terms of the Waiting List Initiative. A non-class member applicant may not be advanced on a waiting list, unless it has been verified that the non-class member applicant meets all eligibility requirements and tenant selection criteria applicable to the low-rent public housing project.

b. In order to satisfy the requirements for an offer of alternative housing (i) the class member must be provided with a desegregative Section 8 housing voucher or housing certificate and (ii) all other requirements for the creation of a desegregated housing opportunity specified in Paragraph II.7., above, must be satisfied.

c. The public housing unit that otherwise would have been offered to the class member shall remain vacant pending receipt by the class member of an offer of alternative housing.

d. If the class member who would otherwise have been offered the public housing unit rejects an offer of alternative housing HUD shall, within seven days of such rejection, provide plaintiffs with a written notice stating the name of the applicant and stating the basis for HUD's determination that the applicant rejected the offer of a dwelling unit meeting the requirements for an offer of alternative housing.

e. The plaintiffs shall have seven days from the date of notice under the preceding subparagraph to submit to HUD, in writing, any objections plaintiffs may have to HUD's determination. If timely objections are submitted by the plaintiffs, the public housing unit shall remain vacant pending a decision by the special master. Except as provided in Paragraph III.3.b. (referring to Paragraph II.7.g.), above, in any such proceeding, HUD

shall bear the burden of proving that the applicant has rejected an offer of alternative housing. If no objection is made, or, upon objection, the special master determines that an offer of alternative housing was received by the class member who would otherwise have been offered the public housing unit, the class member shall be placed on the waiting list in the position occupied by the non-class member advanced in accordance with the Waiting List Initiative, and the non-class member applicant advanced under the Waiting List Initiative shall be assigned to the public housing unit. Either party dissatisfied with the decision of the special master may seek review of that decision by this court within seven days of the special master's decision.

f. If a class member rejects an offer of alternative housing after previously receiving an offer of alternative housing and rejecting such offer, the special master shall determine whether the applicant will again be placed on the waiting list in the position occupied by the advanced non-class member applicant or will receive different consideration in light of the unusual circumstances. Either party dissatisfied with the decision of the special master may seek review of that decision by this court, within seven days of the special master's decision.

g. If no offer of alternative housing is made within sixty days, HUD shall notify the special master, within seven days, of the circumstances preventing an offer of alternative housing. The special master shall investigate the conditions already causing HUD's failure to make an offer of alternative housing. If the special master determines that HUD is acting in good faith, the class member shall be provided a desegregative housing certificate or voucher which may be used without the geographic restriction described in Paragraph II.7.a., above, within the time period described in 24 C.F.R. § 882.209(d). A finding that HUD acted in bad faith shall be evidence to be considered in relation to any motion to hold HUD in contempt.

4. HUD shall provide a section 8 existing housing voucher to the non-class member applicant who would otherwise have been offered an available public housing unit but for the advancement of a class member to the head of the waiting list for that unit under the terms of a Waiting List Initiative, *i.e.*, the non-class member applicant who held the highest position on the waiting list above the class member applicant whose position on the waiting list was advanced under the terms of the Waiting List Initiative.

5. In determining whether to require a PHA to use the Affirmative Action Waiting List Initiative, or any other race conscious tenant selection and assignment plan, for a particular low-rent public housing project, HUD shall not consider the impact of the integration of the project on the racial composition of the neighborhood surrounding that project.

#### IV. Fair Housing Services Center

1. HUD shall establish a Fair Housing Services Center ("FHSC"), the functions of which must include providing assistance to class members in locating and obtaining affordable desegregated housing in areas where they choose and, additionally, providing class members with fair housing counseling services.

2. The FHSC shall be operated by a private, non-profit organization. HUD shall provide funding to the FHSC in an amount no less than \$500,000 per year for a period of five years.

3. Within sixty days of the date of the entry of this judgment and decree, HUD shall serve upon the plaintiffs, and submit for approval of the court, a proposed Request for Proposals ("RFP"), inviting private, non-profit organizations to apply for a contract with HUD to operate the FHSC. The plaintiffs shall have ten days from the date of service within which to file objections to the proposed RFP. If such objections are filed, the court shall conduct such proceedings as are required to resolve the objections.

4. Upon approval of the RFP by the court, HUD shall publish the RFP in the Commerce Business Daily. Within 120 days of the date of publication of the RFP, HUD shall make its selection of the organization to operate the FHSC.

5. The FHSC shall provide the following services:

a. pre-screen all clients of the FHSC who have not already been screened by a PHA, to document each client's ability and willingness to comply with an acceptable lease and HUD program requirements;

b. provide information and counseling with respect to housing opportunities to class members;

c. monitor the compliance of the providers of low-income housing in the class action area (low-income public housing and assisted housing) with the fair housing laws and the requirements placed upon the providers under the Comprehensive Plan and the individual desegregation plans;

d. encourage and assist in the development of desegregative housing opportunities, including outreach to private landlords in non-minority areas, as well as counseling and referral

services to Section 8 existing housing tenants and applicants who wish to utilize their Section 8 certificates or housing vouchers in a manner furthering desegregation;

e. encourage and assist class members to make desegregative moves within the low-income housing program and to privately owned assisted housing programs;

f. administer the desegregative housing certificates and vouchers to be provided by HUD under contract with one or more PHSSs;

g. give each class member written notice, every six months, in a form and distribution method to be approved by HUD, of all HUD-assisted and/or HUD-subsidized low-income housing developments in the housing markets where the class member resides that offer the class members a desegregative housing opportunity, provide notice of the full address, telephone number, and name of the person responsible for accepting applications for the development, a short description of the type of housing offered by the development, and the general eligibility requirements for the development.

6. The plaintiffs may seek review, in this court, of HUD's final selection of the organization to operate the FHSC. Such review shall be in accordance with the standards and procedures for judicial review set forth in the Administrative Procedure Act, 5 U.S.C. §§ 701, *et seq.*

#### V. Racially Hostile Sites

1. HUD shall utilize its statutory and regulatory authority to proceed against any resident who acts to deprive any other resident of his or her civil rights under the United States Constitution or applicable civil rights statutes.

2. HUD shall assist municipal leaders, including, but not limited to, the city's mayor and its city counsel, in undertaking actions to address hostility including, but not limited to, supplying trained security officers to protect the physical safety of African-American residents when necessary.

3. Within sixty days of issuance of this judgment and decree, HUD shall determine in which localities class participation is limited because of racial hostility such that it is unlikely class members will actually use the existing public housing.

4. HUD shall develop a supplemental desegregation plan for each site deemed by HUD to be racially hostile. The supplemental plan shall examine all avenues available to HUD effectively to counterbalance racial hostility, thereby facilitating class participation and the implementation of the individual desegregation plans and this judgment and decree. Such supplemental plan shall be submitted to the special master for his approval within six months of the designation of a site as racially hostile.

#### VI. Unitary Status

1. When HUD and each PHA have satisfied the requirements as provided

for in this judgment and decree and no racially identifiable low-rent public housing projects exist within the class action counties, HUD may apply to the court for a declaration of unitary status because of the elimination of all vestiges of discrimination attributable to HUD. *See Hills v. Gautreaux*, 425 U.S. 284, 297 (1976). A project shall be regarded as non-racially identifiable if less than seventy-five percent (75%) of the occupants of the project are members of the same race.

2. Upon issuance by the court of a declaration of unitary status, judicial supervision pursuant to this judgment and decree, or any other order entered in this case, of HUD's activities shall terminate.

3. Ten years after the date of this judgment and decree, if the court's jurisdiction has not been sooner terminated, the court shall determine whether its jurisdiction over HUD's actions should be continued or terminated. The court shall extend its jurisdiction over HUD if it determines that any of the specific obligations to be performed under this judgment and decree have not been accomplished within that time period. If the court extends its jurisdiction for this reason, its jurisdiction shall end upon fulfillment of those specific obligations.

[FR Doc. 96-24506 Filed 9-24-96; 8:45 am]

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