

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**[Docket No. FR-4085-N-01]****NOFA for Rental Assistance for Persons With Disabilities, in Support of Designated Housing Allocation Plans****AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.**ACTION:** Notice of funding availability (NOFA).

SUMMARY: This notice announces the availability of up to \$78.6 million (\$20.3 million in two-year budget authority and \$58.3 million in five-year budget authority) for Section 8 rental certificates and vouchers for persons with disabilities in support of designated housing allocation plans. This funding will support approximately 4,300 rental vouchers and certificates. Public housing agencies (HAs) are invited to respond to this NOFA. This NOFA is not applicable to Indian Housing Authorities (IHAs), as the requirements of Section 7 (42 U.S.C. 1437e) pertinent to designated housing allocation plans are not applicable to IHAs.

The purpose is to provide rental vouchers and certificates to enable persons with disabilities to rent affordable private housing.

DATES: There is no application deadline for this NOFA.

Applications may be submitted by HAs to the local HUD Office immediately following the publication of this NOFA, or at any subsequent time. The \$78.6 million in funding available under this NOFA will be used to approve HA applications on a first-come, first-served basis until all the funding has been obligated. Any additional funding made available for this purpose will also be used to approve HA applications in accordance with this NOFA. Consequently, this NOFA has no closing date and applications will continue to be accepted by the local HUD Offices until further notice. HUD will not accept application materials sent via facsimile (FAX) transmission.

ADDRESSES: HUD Headquarters, Office of Public and Assisted Housing Operations, Room 4206, 451 Seventh Street, S.W., Washington, D.C., 20410; and the local HUD State or Area Office, Attention: Director, Office of Public Housing, are the official places of receipt for all applications. An HA's application (see paragraph C., Application Submission Requirements,

regarding the multiple components that must comprise an HA's application) should be submitted concurrently to both offices. For ease of reference, the term "HUD Office" will be used throughout this NOFA to mean the HUD State Office, and HUD Area Office.

FOR FURTHER INFORMATION CONTACT:

Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Department of Housing and Urban Development, 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 by calling the Federal Information Relay Service at 1-800-877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:**Paperwork Reduction Act Statement**

The Section 8 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 2577-0169. 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.

Family Self-Sufficiency (FSS) Program Requirement

Unless specifically exempted by HUD, all rental voucher or rental certificate funding reserved with FY 1996 funds (except funding for renewals or amendments) will be used to establish or contribute to the minimum size of an HA's FSS program.

A. Purpose and Substantive Description

(1) Authority. Legislative authority to provide Section 8 assistance in support of allocation plans to designate public housing for occupancy by elderly families only, persons with disabilities only, and/or elderly families and disabled families only (covering \$20.3 million of the total of \$78.6 million available through this NOFA) is found at Section 7 of the U.S. Housing Act of 1937 (42 U.S.C. 1437e). The Omnibus Consolidated Rescissions and Appropriations Act, Pub.L 104-134, approved April 26, 1996 (Appropriations Act), contains language authorizing the use of Section 8 rental certificate and voucher funding for housing agencies to implement allocation plans approved by the Secretary for designated housing. Legislative authority (applicable to

\$58.3 million of the total of \$78.6 million available under this NOFA) for rental assistance for persons with disabilities is found in the Appropriations Act which states that the Secretary may designate up to 25 percent of the amounts earmarked for Section 811 of the National Affordable Housing Act of 1990 (42 U.S.C. 8013) for tenant-based assistance, as authorized under that section.

(2) Application Funding. HUD will award funding for rental vouchers or certificates to HAs that submit an allocation plan to designate public housing for occupancy by elderly families only, disabled families only, and/or disabled and elderly families only, and that also administer a Section 8 rental certificate or rental voucher program.

HUD will make available approximately 4,300 rental vouchers and certificates (2,000 rental vouchers and certificates representing \$20.3 million in two-year budget authority, and 2,300 rental vouchers and certificates representing \$58.3 million in five-year budget authority) to support approvable HA allocation plans. The \$58.3 million of five-year budget authority will be obligated first, before the \$20.3 million of two-year budget authority is obligated. The rental vouchers and certificates will assist HAs in providing sufficient alternative resources to meet the housing needs of those persons with disabilities who would have been housed by the HA if occupancy in the designated public housing project were not restricted to elderly households and assist HAs that wish to continue to designate their buildings as "mixed elderly and disabled buildings" but can demonstrate a need for alternative resources for persons with disabilities that is consistent with the jurisdiction's Consolidated Plan and the low-income housing needs of the jurisdiction. Applicants who choose to apply should review the Housing Program Opportunity Extension Act of 1996, Pub.L 104-120, approved March 28, 1996 (Extender Act), which significantly changed the requirements for public housing allocation plans. HUD has not yet issued regulations implementing the Extender Act; however, an explanatory HUD publication, Notice PIH 96-60 (HA), was issued on August 5, 1996. The Notice states that HAs are not normally required to submit allocation plans if they wish to keep all their "elderly" housing as "mixed population" housing; however, HAs that wish to obtain certificates under this NOFA must by law submit an allocation plan in accordance with this NOFA.

HUD intends to fund all approvable applications for designated housing allocation plans on a first-come, first-served basis.

(3) **Limit on Rental Assistance Requested.** An HA submitting a designated housing allocation plan may apply for only the number of units needed to meet the requirements of the allocation plan to provide housing resources for persons who otherwise would have received public housing.

(4) **Guidelines.**

(a) **Definitions.**

Allocation plan. A HUD-approved allocation plan required of HAs seeking to designate a project for occupancy by elderly families only, disabled families only, and/or elderly and disabled families only. See 42 U.S.C. 1437e, as amended by the Extender Act. (The requirements of 42 U.S.C. 1437e are not applicable to IHAs.)

Disabled Family. A family whose head, spouse or sole member is a person with disabilities. The term "disabled family" may include two or more persons with disabilities living together, and one or more persons with disabilities living with one or more persons who are determined to be essential to the care or well-being of the person or persons with disabilities. A disabled family may include persons with disabilities who are elderly.

Person with disabilities. A person who—

(a) Has a disability as defined in section 223 of the Social Security Act (42 U.S.C. 423), or

(b) Is determined to have a physical, mental or emotional impairment that:

(i) Is expected to be of long-continued and indefinite duration;

(ii) Substantially impedes his or her ability to live independently; and

(iii) Is of such a nature that such ability could be improved by more suitable housing conditions, or

(c) Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5)).

The term "person with disabilities" does not exclude persons who have the disease of acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome (HIV).

(b) **Eligible HAs.** HAs that submit an allocation plan to designate public housing for occupancy by elderly families only, disabled families only, and/or elderly and disabled families only, receive HUD approval of that allocation plan, and that also administer

a Section 8 Rental Certificate or Rental Voucher Program.

Some housing agencies currently administering the Section 8 Rental Voucher and Certificate Programs have, at the time of publication of this NOFA, major program management findings that are open and unresolved or other significant program compliance problems (e.g., HA has not implemented mandatory FSS Program). HUD will not accept applications for additional funding from these HAs as contract administrators if, on the application deadline date, the findings are not closed to HUD's satisfaction. If these HAs want to apply under this NOFA, the HA must submit an application that designates another housing agency, non-profit agency, or contractor that is acceptable to HUD and includes an agreement with the other housing agency or contractor to administer the new funding increment on behalf of the HA. The Office of Public Housing in the local HUD Office will notify, immediately after the publication of this NOFA, those HAs that are not eligible to apply. Applications submitted by these HAs without an agreement from another housing agency or contractor, approved by HUD, to serve as contract administrator will be rejected.

(c) **Eligible Participants.**

Only persons with disabilities and disabled families who live in public housing that has been designated for occupancy by the elderly, or disabled families who are on the HA's public housing waiting list, may receive a rental voucher or certificate awarded in conjunction with designated housing allocation plans. Non-elderly persons with disabilities and disabled families who live in public housing designated for the elderly in accordance with an allocation plan submitted in response to this NOFA, or are on the HA's public housing waiting list, need not be listed on the Section 8 waiting list in order to be offered and receive Section 8 rental assistance. These families may be admitted to the Section 8 program as a special admission (24 CFR 982.203).

(d) **Rental Voucher and Certificate Assistance.**

(i) **Section 8 regulations.** HAs must administer the Section 8 assistance in accordance with HUD regulations governing the Section 8 rental voucher and certificate programs.

(ii) **Section 8 admissions requirements.** Section 8 assistance must be provided to eligible applicants in conformity with applicable rules governing the Section 8 program, and in accordance with the terms of the HA's designated housing allocation plan and administrative plan.

(iii) **Turnover.** When a rental voucher or rental certificate under this program becomes available for reissue (e.g., the individual or family initially selected for the program drops out of the program or is unsuccessful in the search for a unit), the rental assistance may be used only for another individual or family eligible for assistance under this program for five years subject to appropriations for renewal funding (for two-year budget authority), and the five-year term of the ACC for rental assistance for five-year budget authority.

(e) **HA Responsibilities.** In addition to normal HA responsibilities under the Section 8 programs and under HUD regulations for nondiscrimination based on handicap (24 CFR 8.28), HAs that receive rental voucher or certificate funding must:

(i) Assist program participants to gain access to supportive services available within the community, and to identify public or private funding sources for accessibility features, when participants request such assistance, but not require eligible applicants or participants to accept supportive services as a condition of participation or continued occupancy in the program;

(ii) Not deny persons who qualify for rental assistance under this program other housing opportunities for which they are eligible; and

(iii) Not deny other housing opportunities, or otherwise restrict access to HA programs, to eligible applicants who choose not to participate.

B. Allocation Amounts

This NOFA announces the availability of up to \$78.6 million (approximately) of budget authority that will support about 4,300 rental vouchers or certificates. HAs are provided with the opportunity to apply for rental vouchers and certificates in conjunction with submission of an allocation plan to designate public housing for elderly families only, disabled families only, and/or elderly and disabled families only.

C. Application Submission Requirements

(1) **Form HUD-52515.** All HAs must complete form HUD-52515, Funding Application, for the Section 8 rental certificate and rental voucher programs (dated January 1996). This form was recently revised to include all necessary certifications for Fair Housing, Drug Free Workplace and Lobbying Activities; therefore, HAs can complete and sign the new form HUD-52515 to meet the requirements of these certifications. An application must

include the information in Section C, Average Monthly Adjusted Income, of form HUD-52515 in order for HUD to calculate the amount of Section 8 budget authority necessary to fund the requested number of units. Copies of form HUD-52515 may be obtained from the local HUD Office.

(2) Local Government Comments. Section 213 of the Housing and Community Development Act of 1974 requires that HUD independently determine that there is a need for the housing assistance requested in applications and solicit and consider comments relevant to this determination from the chief executive officer of the unit of general local government. The HUD Office will obtain Section 213 comments from the unit of general local government in accordance with 24 CFR part 791, subpart C, Applications for Housing Assistance in Areas Without Housing Assistance Plans. Comments submitted by the unit of general local government must be considered before an application can be approved.

For purposes of expediting the application process, the HA should encourage the chief executive officer of the unit of general local government to submit a letter with the HA application commenting on the HA application in accordance with Section 213. Because HUD cannot approve an application until the 30-day comment period is closed, the Section 213 letter should not only comment on the application, but also state that HUD may consider the letter to be the final comments and that no additional comments will be forthcoming from the unit of general local government.

(3) Letter of Intent and Narrative. All the items in this Section must be included in the application submitted to the HUD Office. The HA must state in its cover letter to the application whether it will accept a reduction in the number of rental certificates or rental vouchers and the minimum number of rental certificates or rental vouchers it will accept, since the funding is limited and HUD may only have enough funds to approve a smaller amount than the number of rental certificates or rental vouchers requested.

(4) Approvable Designated Housing Allocation Plan. The application must include an approvable allocation plan to designate housing [for the elderly] in accordance with 42 U.S.C. 1437e, as amended by the Extender Act.

D. Corrections to Deficient Applications

(1) Acceptable Applications. The HUD Office will initially screen all applications and notify HAs of deficiencies (exclusive of the allocation

plan which will be reviewed by HUD Headquarters) by letter within 7 calendar days.

If an application has deficiencies, the HA will have 14 calendar days from the date of the issuance of the HUD notification letter to submit the missing or corrected information to the HUD Office before the application can be considered for further processing by HUD.

All HAs must submit corrections within 14 calendar days from the date of the HUD Office letter notifying the applicant of any such deficiency. Information received after 3 p.m. local time (i.e., the time in the appropriate HUD Office), of the 14th calendar day of the correction period will not be accepted and the application will be rejected as incomplete.

(2) Unacceptable Applications. (a) After the 14-calendar day deficiency correction period, the HUD Office will immediately notify any HA that submitted an application (exclusive of the allocation plan portion of the application) that the HUD Office determines is not acceptable for processing. The HUD Office must also concurrently notify HUD Headquarters, Attention: Gerald J. Benoit, Director, Operations Division, Room 4220, 451 Seventh Street, S.W., Washington, D.C., 20410, of this decision so that Headquarters will be able to take this into consideration as part of its processing of the HA's allocation plan. The HUD Office notification of rejection letter to the HA and HUD Headquarters must state the basis for the decision.

(b) Applications for Section 8 rental assistance (exclusive of the allocation plan) that fall into any of the following categories will not be processed:

(i) There is a pending civil rights suit against the HA instituted by the Department of Justice or there is a pending administrative action for civil rights violations instituted by HUD (including a charge of discrimination under the Fair Housing Act).

(ii) There has been an adjudication of a civil rights violation in a civil action brought against the HA by a private individual, unless the HA is operating in compliance with a court order or implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the areas of noncompliance.

(iii) There are outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations, as a result of formal administrative proceedings, or the Secretary has issued a charge against the applicant under the Fair Housing Act, unless the applicant is operating under

a conciliation or compliance agreement designed to correct the areas of noncompliance.

(iv) HUD has denied application processing under Title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3), and the HUD Title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1), or under section 504 of the Rehabilitation Act of 1973 and HUD regulations (24 CFR 8.57).

(v) The HA has serious unaddressed, outstanding Inspector General audit findings, Fair Housing and Equal Opportunity monitoring review findings, or HUD management review findings for its rental voucher or rental certificate programs. The only exception to this category is if the HA has been identified under the policy established in section A.(4)(b) of this NOFA and the HA makes application with a designated contract administrator.

(vi) The HA is involved in litigation and HUD determines that the litigation may seriously impede the ability of the HA to administer an additional increment of rental vouchers or rental certificates.

(vii) An HA application (exclusive of the allocation plan) that does not comply with the requirements of 24 CFR 982.102 and this NOFA, after the expiration of the 14-calendar day technical deficiency correction period will be rejected from processing.

(viii) The application is from an HA that has failed to achieve a lease-up rate of 90 percent of units in its HUD-approved budget for the HA fiscal year prior to application for funding in each of its rental voucher and certificate programs.

E. Application Selection Process

(1) HUD Office Review. Upon receipt, the Office of Public Housing in the HUD Office will screen HA applications (exclusive of the allocation plan) and stop processing any applications found unacceptable for further processing, as per paragraph D.(2) above.

If the HUD Office determines that the application (exclusive of the allocation plan) is approvable, it will notify HUD Headquarters that it is recommending that the application be funded (contingent upon Headquarters' approval of the allocation plan). Headquarters [at the address specified in paragraph D.(2)] shall be notified by the HUD Office within 30 days of the date of its receipt of the HA's application in response to this NOFA.

If HUD Headquarters disapproves an allocation plan submitted in response to this NOFA, the HA's Section 8 application will be rejected and the HA

will not be eligible for the rental vouchers and certificates available under this NOFA.

(2) **Funding.** Headquarters will fund, on a first-come, first-served basis, all applications for which the allocation plans are determined approvable by HUD Headquarters and for which the Section 8 application is recommended for approval by the HUD Office. The "first-come" status of each HA's application shall be based on the date and time the concurrently submitted application (see paragraph entitled **ADDRESSES** at the beginning of this NOFA) is received in HUD Headquarters where the designated housing allocation plan portion of the application will be reviewed. As HAs are selected, the cost of funding the applications will be subtracted from the funds available. Five-year budget authority will be obligated first until all such funds have been obligated, and then two-year budget authority will be obligated until all those funds have been obligated.

(3) **Program Type.** If an HA application specifically requests funding for either rental vouchers or rental certificates, and funding for the specified program is not available, HUD will award the available form of assistance, notwithstanding the program type specified in the HA application.

F. Other Matters

Catalog of Federal Domestic Assistance. The Federal Domestic Assistance numbers for this program are: 14.855 and 14.857.

Environmental Impact. A Finding of No Significant Impact with respect to the environment was made for the FY 1995 NOFA for this program 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). That Finding remains applicable to this NOFA and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW, Washington, D.C. 20410.

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 HAs.

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.

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. Section 103 of the Department of Housing and Urban Development Reform Act of 1989, and HUD's implementing regulation codified at subpart B of 24 CFR part 4, 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 limited by section 103 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 section 103 and subpart B of 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.) 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.

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 the 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: October 22, 1996.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

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