

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4207-N-01]

NOFA for Rental Assistance for Persons With Disabilities in Support of Designated Housing Allocation Plans and Establishment of Preferences for Certain Section 8 Developments

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 \$25 million in one-year budget authority for approximately 4,200 Section 8 rental vouchers and certificates for non-elderly persons with disabilities in support of designated housing allocation plans, and up to \$25 million in one-year budget authority for approximately 4,200 Section 8 rental vouchers and certificates for non-elderly disabled families who are not currently receiving housing assistance in certain Section 8 project-based developments due to the owners establishing preferences for the admission of elderly families. The rental vouchers and certificates will enable persons with disabilities to rent affordable housing.

Housing agencies (HAs), including Indian Housing Authorities (IHA), are invited to respond to this NOFA for funding for rental vouchers and certificates related to preferences for elderly admissions at certain Section 8 project-based developments. PHAs are also invited to respond to this NOFA for funding related to designated housing allocation plans. IHAs, however, may not apply for funding related to designated housing allocation plans, because the requirements of section 7 (42 U.S.C. 1437e) concerning designated housing allocation plans do not apply to IHAs.

Paragraphs A and G of this NOFA address application related information pertinent to preparing and submitting an application related to designated housing allocation plans, or an application related to certain Section 8 project-based developments. Information provided in paragraphs B through F in this NOFA relate solely to applications pertaining to certain Section 8 project-based developments.

DATES: There are no application deadlines for applications submitted in response to this NOFA's requirements pertinent to either designated housing allocation plan, or certain Section 8 developments. Applications may be submitted immediately following the

publication of this NOFA and will continue to be accepted through FY 1998 and beyond or until further notice from HUD that all funds have been obligated. HUD will not accept application materials sent via facsimile (FAX) transmission.

ADDRESSES: a. *Allocation Plans.* The addresses for applications submitted for Section 8 rental vouchers or certificates in connection with allocation plans: 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. A PHA's application (see paragraph C. of NOFA FR-4085-N-01 (61 FR 56090, October 30, 1996), captioned Application Submission Requirements, regarding the multiple components that must comprise an HA's application) should be submitted concurrently to both offices.

b. *Certain Section 8 Projects.* The addresses for applications submitted for Section 8 rental vouchers or certificates in connection with Section 8 project-based developments: HUD Headquarters, Operations Division, Room 4220, 451 Seventh St., S.W., Washington, D.C., 20410; and the local HUD State or Area Office, Attention: Director, Office of Public Housing, is the official place of receipt, except for applications from IHAs. HUD's local Office of Native American Programs, Attention: Administrator, Office of Native American Programs, is the official place of receipt for IHA applications. The application should be submitted concurrently to HUD Headquarters and the appropriate local HUD Office.

For ease of reference, the term "HUD Office" is subsequently used throughout this NOFA to mean the local HUD State Office, local HUD Area Office, and local HUD Office of Native American Programs.

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 numbers 2577-0169 and 2577-0192. 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.

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, the Department in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of other related HUD NOFAs that have recently been published or are expected to be published in this fiscal year. By reviewing these NOFAs with respect to their program purposes and the eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan.

Elsewhere in today's **Federal Register**, the Department has published a related NOFA concerning Mainstream Housing Opportunities for Persons with Disabilities. On April 8, 1997, the Department published in the **Federal Register** the NOFA for Continuum of Care Assistance. Other related NOFAs the Department expects to publish in the **Federal Register** within the next few weeks include: the Family Unification NOFA, the Housing Opportunities for Persons with Aids NOFA, the Supportive Housing for the Elderly NOFA, and the Supportive Housing for Persons with Disabilities NOFA.

To foster comprehensive, coordinated approaches by communities, the Department intends for the remainder of FY 1997 to continue to alert applicants of HUD's NOFA activity. In addition, a complete schedule of NOFAs to be

published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at <http://www.hud.gov.nofas.html>. Additional steps to better coordinate HUD's NOFAs are being considered for FY 1998.

For help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

Family Self-Sufficiency (FSS) Program Requirement

Unless specifically exempted by HUD, all rental voucher or rental certificate funding (except funding for renewals or amendments) reserved in FY '97, including funding reserved as a result of this NOFA, will be used to establish or increase the minimum size of an HA's FSS program.

A. Authority and Funding

(1) Authority.

Legislative authority to provide Section 8 assistance in support of allocation plans to designate public housing for occupancy by elderly families only, disabled families only, or elderly families and disabled families only (covering the \$25 million available under this NOFA) is found at Section 7 of the U.S. Housing Act of 1937 (42 U.S.C. 1437e). HUD's Fiscal Year 1997 Appropriations Act, Public Law 104-204, approved September 26, 1996 (Appropriations Act), contains language authorizing the use of Section 8 rental voucher and certificate funding for housing agencies to implement allocation plans approved by the Secretary for designated housing. HUD's 1997 Appropriations Act also contains language authorizing the use of Section 8 rental vouchers and certificates by HAs for non-elderly disabled families who are not receiving housing assistance in certain Section 8 project-based developments, in accordance with Section 651 of the Housing and Community Development Act of 1992 where the owners have elected to establish preferences for elderly families (covering the remaining \$25 million of the total of \$50 million available under this NOFA).

(2) Application Funding

a. *Allocation Plans.* HUD will award funding for rental vouchers or certificates to PHAs that submit an allocation plan to designate public housing for occupancy by elderly families only, disabled families only, or disabled and elderly families only, and that also administer a Section 8 rental certificate or rental voucher program.

The \$25 million in funding announced in this NOFA, for Section 8 rental vouchers and certificates for persons with disabilities in support of designated housing allocation plans, is in addition to the \$78.6 million in funding previously made available by the NOFA for Rental Assistance for Persons With Disabilities In Support of Designated Housing Allocation Plans (NOFA FR-4085-N-01) published at 61 FR 56090 on October 30, 1996.

The following requirements of NOFA FR-4085-N-01, except as expressly modified by this NOFA, apply to all applications received after the date of publication of this NOFA, including applications funded from balances remaining from the \$78.6 million initially made available by the NOFA FR-4085-N-01:

Section A.(3) Limit on Rental Assistance Requested;

Section a.(4) Guidelines, except see this NOFA for turnover and HA Responsibilities;

Section C. Application Submission Requirements. Additional submission requirements include:

- The maximum number of rental vouchers or certificates that an HA may apply for related to allocation plans under this NOFA and NOFA FR-4085-N-01 is limited to 200. The PHA must indicate whether it will accept a reduction in the number of rental vouchers or certificates, and must state the minimum number of rental vouchers or certificates 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 vouchers or certificates requested.

- Also, any PHA wishing to rely on an allocation plan previously approved by HUD (i.e., not submitted as part of a PHA's application in response to NOFA FR-4085-N-01) will be required to resubmit the HUD-approved allocation plan as part of its application, along with updated needs data indicating why the PHA does not have the appropriate resources to carry out the previously approved or submitted plan, identifying the new resources (Section 8 rental vouchers or certificates) needed for persons with disabilities and disabled families, and addressing the housing needs in its comprehensive plan.

- Applicants who choose to apply must submit an allocation plan in conformity with the requirements in section 10(a) of the Housing Opportunity Program Extension Act of 1996, Public Law 104-120, approved March 28, 1996, as explained in Notice PIH 97-12 (HA), Requirements for Designation of Public Housing Projects.

Section D. Correction of Deficient Applications. Section D.(2)(b)(viii) lease-up rate threshold does not apply to applications processed under this NOFA. The statutorily-required three month delay in the reissuance of turnover rental vouchers and certificates has had an adverse impact on the lease-up rate of HAs, which makes it unfair to apply this threshold; and

Section E. Application Selection Process, except section E.(2), Funding. HUD intends to fund all approvable applications for designated housing allocation plans on a first-come, first-served basis (not to exceed a maximum of 200 rental vouchers or certificates for any individual application). Applications will be funded for the total number of units requested by the PHA and approved by the HUD Office (not to exceed 200 units) in accordance with the NOFA. However, when remaining budget authority is insufficient to fund the last selected PHA application in full, HUD Headquarters will fund that application to the extent of the funding available unless the PHA's application indicates it will only accept a higher number of units. In that event, the next selected application shall be one which has indicated a willingness to accept the lesser amount of funding for units available.

The \$25 million made available by this NOFA is one-year budget authority which will support approximately 4,200 rental vouchers and certificates in connection with approvable PHA allocation plans. The funding under this NOFA will be obligated only after the \$58.3 million of five-year budget authority and the \$20.3 million of two-year budget authority provided under NOFA FR-4085-N-01 are obligated. The rental vouchers and certificates will assist PHAs in providing sufficient alternative resources to meet the housing needs of those persons with disabilities who would have been housed by the PHA if occupancy in the designated public housing project were not restricted to elderly households and assist PHAs 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.

b. *Certain Section 8 Projects.* HUD also will award \$25 million in one-year budget authority for approximately 4,200 rental vouchers and certificates to HAs that submit an application identifying the number of non-elderly disabled families who are not receiving housing assistance in certain Section 8

project-based developments where the owners have elected to establish preferences for elderly families. HUD intends to fund all approvable applications for these funds on a first-come, first-served basis.

c. *Redistribution of Funds.* In the event that approvable applications are received for more funding than the \$25 million being made available in this NOFA related to certain Section 8 projects, funds will be transferred from the \$25 million made available under this NOFA for applications related to allocation plans. In the event that approvable applications are received for more than the combined funding made available under this NOFA and NOFA FR-4085-N-01 for applications related to allocation plans, funds will be transferred from the \$25 million being made available in this NOFA related to certain Section 8 projects.

d. *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, from the date the funding for the rental assistance was added to the ACC.

(e) *HA Responsibilities:*

In addition to HA responsibilities under the Section 8 programs and under HUD regulations for nondiscrimination based on disability (24 CFR 8.28) and to affirmatively further fair housing, HAs that receive rental voucher or certificate funding must:

(i) Where requested by the individual, assist program participants to gain access to supportive services available within the community but not require eligible applicants or participants to accept supportive services as a condition of participation or continued occupancy in the program;

(ii) Identify public and private funding sources to assist participants in covering the costs of modifications that need to be made to their units needed as a reasonable accommodation for their disabilities;

(iii) Not deny persons who qualify for rental assistance under this program other housing opportunities, or otherwise restrict access to HA programs to eligible applicants who choose not to participate; and

(iv) Provide assistance to increase access by program participants to housing units in a variety of neighborhoods (including areas with low poverty concentrations) and to

locate and obtain a unit suited to their needs (Section 8 search assistance).

B. Background, Purpose and Substantive Description for Rental Vouchers and Certificates Pertinent to Certain Section 8 Project-Based Developments

(1) *Background*

HUD's Fiscal Year 1997 Appropriations Act provided that funding for Section 8 rental vouchers and certificates would be made available to nonelderly disabled families affected by the establishment of preferences in accordance with Section 651 of the Housing and Community Development Act of 1992 (42 U.S.C. 13611). Section 651 of the 1992 Act allowed owners of the following Section 8 developments (limited to only such developments originally designed primarily for occupancy by elderly families) to provide preferences to elderly families in selecting tenants for available assisted units in those projects:

(a) Section 8 New Construction Program, 24 CFR Part 880;

(b) Section 8 Substantial Rehabilitation Program, 24 CFR Part 881;

(c) State Housing Agencies Program (insofar as involving new construction and substantial rehabilitation), 24 CFR Part 883;

(d) New Construction Set-Aside for Section 515 Rural Rental Housing Projects Program, 24 CFR Part 884; and

(e) Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects (insofar as involving substantial rehabilitation), 24 CFR Part 886, subpart C.

(2) *Purpose*

The rental vouchers and certificates that HAs may apply for under this NOFA will assist these agencies in providing sufficient alternative resources to meet the housing needs of those non-elderly disabled families who would have been housed if the owners of the Section 8 project-based developments identified in paragraph B.(1) above had not elected to provide preferences to elderly families in selecting tenants for vacancies in assisted units in those developments.

(3) *Limit on Rental Assistance Requested*

An HA may apply only for the number of units needed to house those non-elderly disabled families who are on the waiting list of an owner of a Section 8 project-based development, identified in paragraph B.(1) above

where the owner elected to provide preferences to elderly families and to house other non-elderly disabled families residing in the community who would qualify for one- or zero-bedroom units.

(4) *Guidelines*

(a) *Definitions*

Elderly Family. A Family whose head of household, spouse, or sole member is 62 years or older.

Non-elderly Disabled Family. A family who is not elderly, and whose head, spouse, or sole member is a person with disabilities. The term "non-elderly disabled family" may include two or more such persons with disabilities living together, and one or more such persons with disabilities living with one or more persons who are determined to be essential to the care and well-being of the person or persons with disabilities.

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 application for Section 8 rental vouchers or certificates reflective of the need for housing by non-elderly disabled families (in connection with the establishment of preferences by owners for the admission of elderly families to certain Section 8 project-based developments), and also administer a Section 8 rental certificate and/or rental voucher program.

Some HAs currently administering the Section 8 rental certificate and voucher 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 funding from these HAs as contract administrators if, on the application deadline, 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, for PHAs, and the Office of Native American Programs, for IHAs, in the local HUD Office will notify immediately after publication of this NOFA, those PHAs and IHAs 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

Eligible participants include non-elderly disabled families who were on the waiting list (at the time of application) of a covered development listed in paragraph B.(1), where the owner had exercised a preference for the admission of elderly families when the HA received the names of these families from the management of this development(s) for purposes of requesting either Section 8 rental certificates or vouchers in response to this NOFA. These non-elderly disabled families need not be listed on the HA's Section 8 waiting list in order to be offered and receive Section 8 rental assistance; i.e., it is sufficient that their names are on the waiting list for a covered Section 8 development at the time their names are provided to the HA by the owner. Eligible participants also include other non-elderly disabled families residing in the community who would qualify for a one- or zero-bedroom unit.

(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 admission 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 HA's administrative plan.

(e) Turnover

When a rental voucher or rental certificate issued in support of the 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 in support of the program for five years, subject to appropriations for renewal funding, from the date the funding for the rental assistance was added to the ACC.

(f) HA Responsibilities

In addition to HA responsibilities under the Section 8 programs and under HUD regulations for nondiscrimination based on disability (24 CFR 8.28) and to affirmatively further fair housing, HAs that receive rental voucher or certificate funding must:

(i) Where requested by the individual, assist program participants to gain access to supportive services available within the community but not require eligible applicants or participants to accept supportive services as a condition of participation or continued occupancy in the program;

(ii) Identify public and private funding sources to assist participants in covering the costs of modifications that need to be made to their units needed as a reasonable accommodation for their disabilities;

(iii) Not deny persons who qualify for rental assistance under this program other housing opportunities, or otherwise restrict access to HA programs to eligible applicants who choose not to participate; and

(iv) Provide assistance to increase access by program participants to housing units in a variety of neighborhoods (including areas with low poverty concentrations) and to locate and obtain a unit suited to their needs (Section 8 search assistance).

C. Allocation Amount for Rental Vouchers and Certificates Pertinent to Certain Section 8 Project-Based Developments

This NOFA announces the availability of up to \$25 million (approximately) of one-year budget authority that will support about 4,200 Section 8 rental vouchers or certificates. HAs are provided with the opportunity to apply for rental vouchers or certificates in conjunction with the submission of an application to provide rental assistance to non-elderly disabled families from the waiting list of certain Section 8 project-based developments (see paragraph B.(1)) where the

developments were originally designed primarily for the occupancy of elderly families, and where the owners elected to provide preferences to elderly families in selecting tenants for available assisted units in the developments and to house other non-elderly disabled families residing in the community who would qualify for one- or zero-bedroom units.

D. Application Submission Requirements for Rental Vouchers and Certificates Pertinent to Certain Section 8 Project-Based Developments

(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 includes 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 or may be downloaded from the HUD Home Page on the Internet's world wide web (<http://www.hud.gov>).

(2) Local Government Comments

Section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439) 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 needs to encourage the chief executive officer of the unit of general local government to submit a letter with the application commenting on the HA's 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) Certification, Waiting List Information and Other Non-Elderly Disabled Families Residing in the Community

In order to support the requested number of rental vouchers or certificates being requested on the form HUD-52515, the HA's application must include a certification statement from the owner of a covered development(s) (see paragraph B.(1)), that the development is a covered development, it was developed primarily for occupancy by the elderly, the owner has established preferences for the admission of elderly families and indicating the number of non-elderly disabled families on the Owner's waiting list for the development(s). HAS may contact the local HUD State or Area Office's Director, Multifamily Division, to get the addresses and telephone numbers of the developments falling under the programs listed in paragraph B.(1). The HA will then need to contact the management/owners of these developments within their jurisdiction to determine, in each case, if the development was originally designed primarily for occupancy by elderly families and if the owner has established a preference for the admission of elderly families in accordance with the applicable program regulation.

Owners of covered developments are encouraged to cooperate with HAS in a timely manner in making these determinations and (if applicable) in providing the certification that their development is a covered development (for example: a development under the Section 8 New Construction Program), and that it was developed primarily for occupancy by the elderly, and that the owner has established preferences for

the admission of elderly families. The owner will also concurrently provide the HA with names, addresses and telephone numbers of those families on the development's waiting list that are non-elderly disabled families.

HAS must also submit information supportive of the number of other non-elderly disabled families residing in the community who would qualify for one-bedroom or zero-bedroom units (not on the waiting lists of covered developments).

E. Corrections to Deficient Applications for Section 8 Rental Vouchers and Certificates Pertinent to Certain Section 8 Project-Based Developments

(1) Acceptable Applications

The local HUD Office will initially screen all applications and notify HAS of deficiencies 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 that the local HUD Office determines is not acceptable for processing. The HUD Office notification of rejection letter to the HA must state the basis for the decision.

(b) Applications for Section 8 rental assistance 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 and compliance review findings, or HUD management review findings for its rental voucher or rental certificate programs. HA has serious underutilization of rental vouchers or certificates not attributable to the three month statutory delay for the reissuance of rental vouchers and certificates. The only exception to this category is if the HA has been identified under the policy established in section B.(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 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.

F. Application Selection Process for Section 8 Rental Vouchers and Certificates Pertinent to Certain Section 8 Project-Based Developments

(1) HUD Office Review

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

If the HUD Office determines that the application is approvable, it will notify HUD Headquarters, Attention: Gerald

Benoit, Director, Operations Division, Room 4220, 451 Seventh St., S.W., Washington, D.C. 20410, that it is recommending that the application be funded. Headquarters 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.

(2) Funding

Headquarters will fund, on a first-come, first-served basis, all applications 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 application (concurrently submitted to HUD Headquarters and the local HUD Office—see paragraph b, Certain Section 8 Projects, under the paragraph entitled Addresses) is received in HUD Headquarters. As HAs are selected, the cost of funding the applications will be subtracted from the funds available. Any remaining funds will be added to those funds for use in funding applications related to designated housing allocation plans.

When remaining budget authority is insufficient to fund the last selected HA application in full, HUD Headquarters will fund that application to the extent of the funding available, unless the HA's application indicates it will only accept a higher number of units. In that event, the next selected application shall be one which has indicated a willingness to accept the lesser amount of funding for units available.

(3) Program Type

If an HA's 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.

G. Other Matters

Catalog of Federal Domestic Assistance

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

Environmental Impact

This NOFA provides funding under, and does not alter environmental requirements of, 24 CFR part 982. This NOFA provides funding only for the tenant-based assistance, which is a categorical exclusion not subject to the individual environmental clearance requirements cited in 24 CFR 50.4. The regulations referred to above, therefore, do not contain environmental review

requirements. Accordingly, under 24 CFR 50.19(c)(5), this NOFA is categorically excluded from environmental review requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

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 effect 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:

a. *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.

b. *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. Applicants for funding under this NOFA are subject to the provisions of Section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. Section 1352 (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995,

Public Law 104-65 (December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR Part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal Executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any

prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF-LLL disclosing such payments must be submitted. The certification and the SF-LLL are included in the application package.

The Lobbying Disclosure Act of 1995, Public Law 104-65 (December 19, 1995), which repealed Section 112 of the HUD Reform Act and resulted in the elimination of the regulations at 24 CFR Part 86, requires all persons and entities who lobby covered Executive or Legislative Branch officials to register with the Secretary of the Senate and the

Clerk of the House of Representatives and file reports concerning their lobbying activities.

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: April 7, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

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