

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**[Docket No. FR-4359-N-01]****Section 8 Tenant-Based Assistance for Persons With Disabilities, Fiscal Year 1998****AGENCY:** Office of Public and Indian Housing, HUD.**ACTION:** Notice of funding availability (NOFA).

SUMMARY: This NOFA announces the availability of budget authority for approximately 8700 Section 8 rental vouchers and certificates for persons with disabilities. HUD is issuing this NOFA, along with its SuperNOFA for Targeted Housing and Homeless Assistance Programs (published elsewhere in today's **Federal Register**), in order to encourage local efforts toward comprehensive planning and development of comprehensive local solutions.

This NOFA announces the availability of approximately \$48.5 million in 5-year budget authority under the Mainstream Program for Section 8 rental vouchers and certificates for persons with disabilities. This funding will support approximately 1,700 rental vouchers or certificates to enable persons with disabilities (elderly and non-elderly) to rent affordable private housing. Public Housing Agencies (PHAs) are invited to respond to this NOFA.

This NOFA also announces the availability in FY 1998 of approximately \$20 million in one-year budget authority for approximately 3,500 Section 8 rental vouchers and certificates for non-elderly families with disabilities in support of designated housing allocation plans, and approximately \$20 million in one-year budget authority for approximately 3,500 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, and certain types of section 202, section 221(d)(3), and section 236 developments where the owners are restricting occupancy in the development (or portion thereof) to elderly families. PHA applications for funding related to designated housing allocation plans, and PHA applications for funding related to non-elderly disabled families currently on the waiting lists or otherwise in the community of certain Section 8 project-based developments and certain types of section 202, section 221(d)(3) and section 236 developments

will be approved for funding on a first-come, first-served basis.

Approximately \$39 million (\$25 million for designated housing allocation plans and \$14 million related to certain types of Section 8 project-based developments) of the \$50 million in funding announced as available to PHAs under NOFA FR-4207, published in the **Federal Register** on April 10, 1997 (62 FR 17672), remains unobligated. These remaining funds, for which there was no application deadline, may be sufficient to fund all applications received during FY 1998 without having to use the FY 1998 appropriations provided for similar purposes. Funding announced in NOFA FR-4207 must be obligated before any new amounts are provided for applications related to designated housing allocation plans or certain types of Section 8 project-based developments. HUD's FY 1998 Appropriations Act expanded the use of any FY 1997 funding remaining unobligated under NOFA FR-4207, as well as allowed for the use of FY 1998 appropriations, to fund applications received for Section 8 rental vouchers and certificates in connection with non-elderly disabled families affected by the restriction in certain types of section 202, section 221(d)(3), and section 236 developments to elderly families. Any portion of the current balance of \$39 million in FY 1997 appropriations, or \$40 million in FY 1998 appropriations related to designated housing allocation plans, certain types of Section 8 project-based developments, or certain types of section 202, section 221(d)(3), or section 236 developments remaining unobligated will be added to the approximately \$48.5 million available under this NOFA, but for use only for non-elderly disabled families under the Mainstream Program. The authority to use any remaining funds for additional Section 8 rental vouchers and certificates under the Mainstream Program is found in HUD's 1998 Appropriations Act, which states that to the extent the Secretary determines that the FY 1997 and 1998 appropriations related to designated housing allocation plans, certain types of Section 8 project-based developments, and certain types of section 202, section 221(d)(3), or section 236 developments is not needed to fund applications, the funds may be used for other non-elderly disabled families. Consequently, PHAs should take this into consideration when deciding whether to apply for Mainstream Program funding, as the potential availability of such remaining funds in FY 1998 would support

approval of more than 10,000 additional Section 8 rental vouchers and certificates. Unlike in FY 1997, the potential exists in FY 1998 to fund a far greater number of Mainstream Program applications from PHAs.

With the exception of the ADDRESSES AND APPLICATION SUBMISSION PROCEDURES section of this NOFA, and section I.(A) of this NOFA, which cites the authority under which funding is being made available, the remainder of this NOFA applies only to the Mainstream Program.

Application Due Dates*(A) Delivered Applications*

The application deadline for delivered applications for the Mainstream Program is July 7, 1998, 6:00 p.m. local HUD Field Office HUB or local HUD Field Office Program Center time.

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing public housing agencies, HUD will treat as ineligible for consideration any application that is not received before the application deadline. Applicants should submit their materials as early as possible to avoid any risk of loss of eligibility because of unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent by facsimile (FAX) transmission.

(B) Mailed Applications

Applications for the Mainstream Program will be considered timely filed if postmarked before midnight on the application due date and received by the local HUD Field Office HUB or local HUD Field Office Program Center within ten (10) days of that date.

(C) Applications Sent by Overnight Delivery

Overnight delivery items will be considered timely filed for the Mainstream Program if received before or on the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date.

Address and Application Submission Procedures*Headquarters Submission*

The original and a copy of applications for each of the three programs covered by this NOFA: (1) Section 8 rental voucher and certificate funding for the Mainstream Program, (2) non-elderly disabled families in support

of designated housing allocation plans, and (3) non-elderly disabled families in connection with certain Section 8 project-based developments and certain types of section 202, section 221(d)(3) and section 236 developments should be submitted to the local HUD Field Office HUB, Attention: Director, Office of Public Housing; or to the local HUD Field Office Program Center, Attention: Program Center Coordinator. A copy of an application submitted in connection with a designated housing allocation plan should also be submitted concurrently to HUD Headquarters, Office of Customer Service and Amenities, Room 4206, 451 Seventh Street, SW., Washington, DC 20410. The local HUD Field Office HUB or local HUD Field Office Program Center is the official place of receipt for all applications submitted in response to this NOFA. For ease of reference, the term "local HUD Field Office" will be used throughout this NOFA to mean the local HUD Field Office HUB and local HUD Program Center.

PHAs submitting an application for either of the \$20 million increments of funding (related to either allocation plans, or certain types of Section 8 project-based developments and certain types of section 202, section 221(d)(3) and section 236 developments) available under this FY 1998 NOFA should note that, other than the address for submission of applications specified in NOFA FR-4207, they are to otherwise follow the application procedures and requirements set forth in NOFA FR-4207 published on April 10, 1997, and NOFA FR-4085 published on October 30, 1996, in the **Federal Register**. PHAs submitting an application related to funding available for non-elderly disabled families in connection with certain types of Section 8 project-based developments should also see the correction to NOFA FR-4207 dated April 17, 1997, in the **Federal Register**. The 200-unit limitation on the number of Section 8 rental certificates or vouchers that any PHA may request that was addressed by the correction shall also be the same unit limitation for applications submitted in response to this FY 1998 NOFA in connection with the funding related to certain types of section 202, section 221(d)(3), and section 236 developments. Section I.(A) in this FY 1998 NOFA further describes and defines these developments.

The FY 1997 publications are included in the application kits available under this NOFA for these programs.

For Application Kits, Further Information and Technical Assistance: For Application Kits. HUD will be

pleased to provide you with application kits for purposes of submitting an application in connection with funding for either designated housing allocation plans, or with regard to certain types of Section 8 project-based developments or certain types of section 202, section 221(d)(3), and section 236 developments. An application kit is not necessary for submitting an application for Mainstream Program funding. When requesting an application kit, please refer to the program name of the application kit you are interested in receiving. Please be sure to provide your name, address (including zip code), and telephone number (including area code).

Requests for application kits should be made immediately to ensure sufficient time for application preparation. HUD will distribute application kits as soon as they become available.

The SuperNOFA Information Center (1-800-HUD-8929) can provide you with assistance, application kits, and guidance in determining which local HUD Field Office should receive a copy of your application.

For Further Information. For answers to your questions, you have several options. You may contact the local HUD Field Office. You may also contact George C. Hendrickson, Housing Program Specialist, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-8000; telephone (202) 708-0477. (The number listed above is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339 (this is a toll-free number).

For Technical Assistance. Prior to the application due date, HUD staff will be available to provide general guidance and technical assistance about this NOFA. Current law does not permit HUD staff to assist in preparing the application. Following selection, but prior to award, HUD staff will be available to assist in clarifying or confirming information that is a prerequisite to the offer of an award by HUD.

Additional Information

I. Authority, Purpose, Amount Allocated, and Eligibility

(A) Authority

Authority for the approximately \$48.5 million in 5-year budget authority available for the Mainstream Program under this NOFA (general use rental assistance for persons with disabilities)

is found in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Pub. L. No. 105-65; approved October 27, 1997) (1998 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.

HUD's 1998 Appropriations Act also authorizes the use of approximately \$40 million in one-year budget authority for Section 8 rental vouchers and certificates for non-elderly disabled families in support of designated housing allocation plans, 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, and for non-elderly disabled families not being housed in certain section 202, section 221(d)(3) and section 236 developments (or portions thereof) where the owners have restricted occupancy to elderly families. HUD's 1998 Appropriations Act added this third category of eligible families (non-elderly disabled families affected by occupancy restrictions established in accordance with section 658 of the Housing and Community Development Act of 1992 (the 1992 Act)). Section 658 of the 1992 Act provides that an owner of a Federally assisted project (or portion of a project) as described in subparagraphs (D), (E), and (F) of section 683(2), that was designed for occupancy for elderly families may continue to restrict occupancy in such project (or portion) to elderly families in accordance with the rules, standards, and agreements governing occupancy in such housing in effect at the time of the development of the housing. The three types of housing listed under the relevant subsections are: housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the National Affordable Housing Act (NAHA); housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears an interest rate determined under section 221(d)(5); and housing insured, assisted or held by the Secretary or a State or State Agency under section 236 of the National Housing Act.

The 1998 Appropriations Act states that to the extent the Secretary determines that the FY 1997 and FY 1998 appropriations related to

designated housing allocation plans and certain types of Section 8 project-based developments and certain types of section 202, section 221(d)(3) and section 236 developments are not needed to fund applications, the funds may be used for other non-elderly disabled families. Any such remaining funds will be used to supplement funding for the Mainstream Program. As a result, approximately \$79 million may be available in additional funding in FY 1998 for the Mainstream Program.

(B) Purpose

The Secretary has established a Mainstream Housing Opportunities for Persons with Disabilities Program (Mainstream Program) to provide rental vouchers or certificates to enable persons with disabilities to rent affordable private housing of their choice.

The Mainstream Program will assist PHAs in providing Section 8 rental vouchers and certificates to a segment of the population recognized by HUD's housing research as having one of the worst case housing needs of any group in the United States; i.e., very low-income households with adults with disabilities. In addition, the Mainstream Program will assist persons with disabilities who often face difficulties in locating suitable and accessible housing on the private market.

(C) Amount Allocated

HUD will award funding for rental vouchers or certificates under the Mainstream Program to PHAs that submit an application for rental assistance for persons with disabilities. HUD will make available approximately \$48.5 million for approximately 1,700 Section 8 rental vouchers and certificates for PHAs to increase the supply of mainstream housing opportunities available to persons with disabilities. HUD will supplement the Mainstream Program funding with additional funding to the extent funding is not needed during FY 1998 to fund applications in support of designated housing allocation plans, or applications related to non-elderly disabled families on the waiting lists of certain types of Section 8 project-based developments where the owner has established a preference for the admission of elderly families. HUD will select PHA applications for funding by lottery in the event approvable applications are received for more funding than is available under this NOFA.

There is a limit on the amount of rental assistance that may be requested. An eligible PHA may apply for one of

the following: (1) up to 100 rental vouchers, (2) up to 100 rental certificates, or (3) a combination of rental vouchers and certificates not to exceed 100. A State or Regional (multicounty) PHA may apply for up to 200 rental vouchers or certificates (either all rental vouchers, all rental certificates, or a combination of the two not to exceed 200).

(D) Eligible Applicants

A PHA established pursuant to State law may apply for funding under this NOFA. Indian Housing Authorities are no longer eligible for new increments of Section 8 funding. A regional (multicounty) or State PHA is eligible to apply for funding.

Some PHAs 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., PHA has not implemented mandatory Family Self-Sufficiency (FSS) Program). HUD will not accept applications for additional funding from these PHAs as contract administrators if, on the application due date, the findings are not closed to HUD's satisfaction. If the PHA wants to apply for funding under this NOFA, the PHA must submit an application that designates another housing agency, nonprofit agency, or contractor, that is acceptable to HUD. The PHA's application must include an agreement by the other housing agency, nonprofit agency, or contractor to administer the new funding increment on behalf of the PHA, and a statement that outlines the steps the PHA is taking to resolve the program findings. Immediately after the publication of this NOFA, the Office of Public Housing in the local HUD Field Office will notify, in writing, those PHAs that are not eligible to apply without such an agreement. The PHA may appeal the decision, if HUD has mistakenly classified the PHA as having outstanding management or compliance problems. Any appeal must be accompanied by conclusive evidence of HUD's error and must be received prior to the application deadline. HUD will reject applications submitted by these PHAs without an agreement from another housing agency, nonprofit agency, or contractor, approved by HUD, to administer the new funding increment on behalf of the PHA.

(E) Eligible Participants

Only a disabled family may receive a rental voucher or certificate awarded under the Mainstream Program.

Applicants with disabilities will be selected from the PHA's Section 8 waiting list.

II. Program Requirements and Definitions.

(A) Program Requirements

(1) Compliance With Fair Housing and Civil Rights Laws. All applicants must comply with all fair housing and civil rights laws, statutes, regulations, and executive orders as enumerated in 24 CFR 5.105(a). If an applicant: (a) has been charged with a violation of the Fair Housing Act by the Secretary; (b) is the defendant in a Fair Housing Act lawsuit filed by the Department of Justice; or (c) has received a letter of noncompliance findings under Title VI of the Civil Rights Act, section 504 of the Rehabilitation Act, or section 109 of the Housing and Community Development Act, the applicant is not eligible to apply for funding under this NOFA until the applicant resolves such charge, lawsuit, or letter of findings to HUD's satisfaction.

(2) Additional Nondiscrimination Requirements. Applicants must comply with the Americans with Disabilities Act, and Title IX of the Education Amendments Act of 1972. In addition to compliance with the civil rights requirements listed at 24 CFR 5.105, each successful applicant must comply with the nondiscrimination in employment requirements of Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*), the Equal Pay Act (29 U.S.C. 206(d)), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 *et seq.*), and Titles I and V of the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*).

(3) Affirmatively Furthering Fair Housing. Each successful applicant will have a duty to affirmatively further fair housing. Applicants will be required to identify the specific steps that they will take to: (a) address the elimination of impediments to fair housing that were identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice; (b) remedy discrimination in housing; or (c) promote fair housing rights and fair housing choice. Further, applicants have a duty to carry out the specific activities cited in their responses to the rating factors that address affirmatively furthering fair housing in this NOFA.

(4) Certifications and Assurances. Each applicant is required to submit signed copies of Assurances and Certifications. The standard Assurances and Certifications are on Form HUD-52515, Funding Application, which includes the Equal Opportunity

Certification, Certification Regarding Lobbying, and Certification Regarding Drug-Free Workplace Requirements.

(5) Family Self-Sufficiency (FSS) Program Requirement. Unless specifically exempted by HUD, all rental vouchers and certificates provided under this NOFA will be used to establish or contribute to the minimum size of the PHA's FSS program.

(6) Rental Voucher and Certificate Assistance Requirements.

(a) Section 8 regulations. PHAs must administer the Mainstream Program in accordance with HUD regulations and requirements governing the Section 8 rental voucher and certificate programs.

(b) Section 8 admission requirements. Section 8 assistance must be provided to eligible applicants in conformity with regulations and requirements governing the Section 8 program and the PHA's administrative plan.

If there is ever an insufficient pool of disabled families on the PHA Section 8 waiting list, the PHA shall conduct outreach to encourage eligible persons to apply for this special allocation of rental vouchers and certificates. Outreach may include contacting independent living centers, advocacy organizations for persons with disabilities, and medical, mental health, and social service providers for referrals of persons receiving such services who would benefit from Section 8 assistance. If the PHA's Section 8 waiting list is closed, and if the PHA has insufficient applicants on its Section 8 waiting list to use all awarded rental vouchers and certificates under this NOFA, the PHA shall open the waiting list for applications from disabled families.

(c) Turnover. When a rental voucher or certificate under this NOFA becomes available for reissue (e.g., the 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 NOFA for 5 years from the date the rental assistance is placed under an annual contributions contract (ACC).

(d) PHA Responsibilities. In addition to PHA responsibilities under the Section 8 rental voucher and certificate programs and HUD regulations concerning nondiscrimination based on disability (24 CFR 8.28) and to affirmatively further fair housing, PHAs that receive rental voucher or certificate funding shall:

(i) Where requested by an 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 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 PHA programs to eligible applicants who choose not to participate.

(iv) Provide Section 8 search assistance.

(B) Definitions

(1) *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 live-in aides. A disabled family may include a person with disabilities who is elderly. (Note: This definition applies to the approximately \$48.5 million available under the Mainstream Program. This definition shall be modified, however, to be limited to solely non-elderly disabled families (families whose head, spouse or sole member is disabled and under the age of 62) regarding any funding available and awarded from the approximately \$50 million in FY 1997 and \$40 million in FY 1998 for designated housing allocation plans or in connection with certain Section 8 project-based developments. See the SUMMARY section at the beginning of this NOFA regarding the possibility of additional Mainstream Program funding during FY 1998 beyond the approximately \$48.5 million available as announced under this NOFA.)

(2) *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).

Note: While the above definition of a "person with disabilities" is to be used for purposes of determining a family's eligibility for a Section 8 rental voucher or certificate under this NOFA, the definition of a person with disabilities contained in section 504 of the Rehabilitation Act of 1973 and its implementing regulations must be used for purposes of reasonable accommodations.

(3) Section 8 search assistance.

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 units suited to their needs.

III. Application Selection Process for Mainstream Program

After the local HUD Field Office has screened PHA applications and disapproved any applications found unacceptable for further processing, the local HUD Field Office will review all acceptable applications to ensure that they are technically adequate and responsive to the requirements of the NOFA. The local HUD Field Office will send to HUD Headquarters' Office of Funding and Financial Management the following information on each application that is found technically adequate and responsive:

- (1) Name and address of the PHA;
- (2) Local HUD Field Office contact person and telephone number;
- (3) The number of rental vouchers and/or certificates in the PHA application, and the minimum number of rental vouchers and/or certificates acceptable to the PHA; and
- (4) A completed fund reservation worksheet, indicating the number of Section 8 rental vouchers and/or certificates requested in the PHA application and recommended for approval by the local HUD Field Office during the course of its review, and the corresponding budget authority.

HUD Headquarters will fund all applications from PHAs that are recommended for funding by the local HUD Field Offices unless HUD receives approvable applications for more funds than are available. If HUD receives approvable applications for more funds than are available, HUD will select applicants to be funded by lottery. All PHAs identified by the local HUD Field Offices as having submitted technically adequate and responsive applications will be included in the lottery. As PHAs

are selected, the cost of funding the applications will be subtracted from the funds available. In order to achieve geographic diversity, HUD Headquarters will limit the number of applications selected for funding from any State to 10 percent of the budget authority available for the general use Mainstream Program. However, if establishing this geographic limit would result in unreserved budget authority, HUD may modify this limit to assure that all available funds are used.

Applications will be funded for the total number of units requested by the PHA and approved by the local HUD Field Office (not to exceed 100 units) in accordance with this 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 that has indicated a willingness to accept the lesser amount of funding for units available.

PHAs with approvable applications that are not funded, in whole or in part, due to insufficient funds available under this NOFA for the Mainstream Program, shall be considered first for funding in FY 1999 provided that HUD receives additional appropriations for the Mainstream Program for FY 1999.

IV. Application Submission Requirements for Mainstream Program

(A) Form HUD-52515

All PHAs must complete and submit form HUD-52515, Funding Application, for the Section 8 rental voucher and certificate program (dated January 1996). This form includes all necessary certifications for Fair Housing, Drug Free Workplace and Lobbying Activities; therefore, PHAs can complete and sign the form HUD-52515 to provide these required 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 Field Office or may be downloaded from the HUD Home Page site on the Internet's world wide web (<http://www.hud.gov>).

(B) 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 local HUD Field 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 PHA needs to encourage the chief executive officer of the unit of general local government to submit a letter with the PHA application commenting on the PHA application in accordance with section 213. Because HUD cannot approve an application until the 30-day comment period is closed, the section 213 letter needs to 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.

(C) Letter of Intent and Narrative

All the items in this section must be included in the application submitted to the local HUD Field Office. The PHA must state in its cover letter to the application whether it will accept a reduction in the number of rental vouchers or certificates, and 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. The maximum number of rental vouchers or certificates that a PHA may apply for under this NOFA is limited to 100, or 200 in the case of a State or regional (multicounty) PHA.

(D) Description of Need for Mainstream Program Rental Assistance

The application must demonstrate a need for Mainstream Program rental vouchers or certificates by providing information documenting that the demand for housing for persons with disabilities would equal or exceed the requested number of rental vouchers or certificates (not to exceed a maximum of 100). The PHA must assess and document the housing need for persons with disabilities using a range of sources including, but not limited to: census data, information from the PHA's waiting list (both public housing and

Section 8), statistics on recent public housing admissions and rental certificate and voucher use, data from local advocacy groups and local public and private service agencies familiar with the housing needs of persons with disabilities, and pertinent information from the Consolidated Plan applicable to the PHA's jurisdiction. (See 24 CFR 91.205(d).) The PHA's demonstrated need for rental vouchers or certificates for disabled families must clearly support need on the basis of the types of disabled families (elderly and non-elderly disabled families versus exclusively non-elderly disabled families). This distinction is important, as any FY 1998 Mainstream Program funding that may be available beyond the approximately \$48.5 million available under this NOFA, must be used to assist only non-elderly disabled families. (See the **SUMMARY** section at the beginning of this NOFA regarding the possibility of substantially more Mainstream Program funding beyond the approximately \$48.5 million initially announced as available under this NOFA.)

(E) Mainstream Program Operating Plan

The application must include a description of an adequate plan for operating a program to serve eligible persons with disabilities, including:

(1) A description of how the PHA will carry out its responsibilities under 24 CFR 8.28 to assist recipients in locating units with needed accessibility features; and

(2) A description of how the PHA will identify private or public funding sources to help participants cover the costs of modifications that need to be made to their units as reasonable accommodations to their disabilities.

V. Corrections to Deficient Mainstream Program Applications

(A) Acceptable Applications

To be eligible for processing, an application must be received by the local HUD Field Office no later than the date and time specified in this NOFA. The local HUD Field Office will initially screen all applications and notify PHAs of technical deficiencies by letter.

If an application has technical deficiencies, the PHA 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 local HUD Field Office before the application can be considered for further processing by HUD. Curable technical deficiencies relate only to items that do not improve

the substantive quality of the application.

All PHAs must submit corrections within 14 calendar days from the date of the HUD letter notifying the applicant of any such deficiency. Information received by the local HUD Field Office after 3 p.m. eastern standard time on the 14th calendar day of the correction period will not be accepted and the application will be rejected as incomplete.

(B) Unacceptable Applications

(1) After the 14-calendar day technical deficiency correction period, the local HUD Field Office will disapprove all PHA applications that it determines are not acceptable for processing. The local HUD Field Office's notification of rejection letter must state the basis for the decision.

(2) Applications from PHAs that fall into any of the following categories will not be processed:

(a) Applications from PHAs that do not meet the requirements of Section II(A)(1) of this NOFA, Compliance With Fair Housing and Civil Rights Laws.

(b) The PHA has serious unaddressed, outstanding Inspector General audit findings or HUD management review findings for its rental voucher or rental certificate programs; or the PHA has serious underutilization of rental vouchers or certificates not attributable to the 3-month statutory delay for the reissuance of rental vouchers and certificates. The only exception to this category is if the PHA has been identified under the policy established in Section I.(D) of this NOFA and the PHA makes application with a designated contract administrator.

(c) The PHA is involved in litigation and HUD determines that the litigation may seriously impede the ability of the PHA to administer the rental vouchers or certificates.

(d) A PHA's 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.

(e) The PHA's application was submitted after the application due date.

VI. Findings and Certifications

(A) 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.

(B) Environmental Impact

In accordance with 24 CFR 50.19(b)(11) of the HUD regulations, tenant-based activities assisted under this program are categorically excluded from the requirements of the National Environmental Policy Act and are not subject to environmental review under the related laws and authorities. In accordance with 24 CFR 50.19(c)(5), the approval for issuance of this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

(C) Catalog of Federal Domestic Assistance Numbers

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

(D) 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 NOFA 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 HUD, the States, and local governments, including PHAs.

(E) 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 regulations in 24 CFR part 4, subpart A 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 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. HUD will comply with the documentation, public access, and disclosure requirements of section 102 with regard to the assistance awarded under this NOFA, as follows:

(1) *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 5-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.

(2) *Disclosures.* HUD will make available to the public for 5 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 3 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.

(F) Section 103 HUD Reform Act

HUD will comply with section 103 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's implementing regulations in subpart B of 24 CFR part 4 with regard 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.

(G) 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. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995 (Pub. L. 104-65; approved 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 (Pub. L. 104-65; approved December 19, 1995), which repealed section 112 of the HUD Reform Act, 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.

Dated: April 24, 1998.

Deborah Vincent,

General Deputy Assistant Secretary for Public and Indian Housing.

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