

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-4360-N-01]

**Notice of Funding Availability, Family Unification Program, Fiscal Year 1998****AGENCY:** Office of Public and Indian Housing, HUD.**ACTION:** Notice of Funding Availability (NOFA).

**SUMMARY:** This NOFA announces the availability of approximately \$15 million in one-year budget authority for Section 8 rental certificates under the Family Unification Program, which will provide rental assistance for approximately 2,200 families. The purpose of the Family Unification Program is to provide housing assistance to families for whom the lack of adequate housing is a primary factor in the separation, or imminent separation, of children from their families.

Public Housing Agencies (PHAs) are invited to submit applications for housing assistance. (Indian Housing Authorities are not eligible.) In the event there are insufficient funds to fund all approvable applications received in response to this NOFA, a lottery will be held to select approvable applications for funding.

**Application Due Dates****(A) Delivered Applications**

The application deadline for delivered applications for the Family Unification program NOFA is July 24, 1998, 6:00 p.m., local HUD Field Office HUB and local HUD Field Office Program Center time.

This application deadline is firm as to date and hour. In the interest of fairness to all competing PHAs, HUD will not consider any application that is received after the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent via facsimile (FAX) transmission.

**(B) Mailed Applications**

Applications for the Family Unification 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 Family Unification 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**

The original and a copy of the application for the Family Unification Program 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. The local HUD Field Office HUB or local HUD Field Office Program Center is the official place of receipt for all applications received 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 or local HUD Field Office Program Center.

**For Further Information and Technical Assistance****(A) 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; telephone (202) 708-0477. (This number 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).

**(B) 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**

The Family Unification Program is authorized by section 8(x) of the United States Housing Act of 1937 (42 U.S.C. 1437f(x)). The Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Pub. L. 105-65; approved October 27, 1997) provides funding for the Family Unification Program. Of the approximately \$15 million available under this NOFA, approximately \$1.3 million are carryover amounts from the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub. L. 104-204; approved September 26, 1996), for prevention of resident displacement.

**(B) Purpose**

The Family Unification Program is a program under which Section 8 rental assistance is provided to families for whom the lack of adequate housing is a primary factor which would result in:

- (1) The imminent placement of the family's child, or children, in out-of-home care; or
- (2) The delay in the discharge of the child, or children, to the family from out-of-home care.

The purpose of the Family Unification Program is to promote family unification by providing rental assistance to families for whom the lack of adequate housing is a primary factor in the separation, or the threat of imminent separation, of children from their families.

Rental certificates awarded under the Family Unification Program are administered by PHAs under HUD's regulations for the Section 8 rental certificate program (24 CFR parts 882 and 982). If the family requests a rental voucher, the PHA may issue a rental voucher (24 CFR parts 887 and 982) if it has one to a family selected for participation in the Family Unification Program.

**(C) Amount Allocated**

This NOFA announces the availability of approximately \$15 million for the Family Unification Program which will provide assistance for about 2,200 families. PHAs with a current Section 8 rental voucher and certificate program of more than 500 units as shown in the most recent HUD-approved program budget may apply for funding for a maximum of 100 units. PHAs with a current Section 8 rental voucher or

certificate program of 500 units or less as shown in the most recent HUD-approved program budget may apply for a maximum of 50 units. PHAs not currently administering either a Section 8 rental voucher or certificate program may apply for a maximum of 50 units.

The amounts allocated under this NOFA will be awarded under a national competition based on the threshold criteria. A national lottery will be conducted to select approvable applications for funding if approvable applications are submitted by PHAs for more funding than HUD has available under this NOFA. In the event a lottery is necessary, any approvable applications that are not selected for funding will be funded in FY 1999 to the extent appropriations are available in FY 1999 for the Family Unification Program.

The Family Unification Program is exempt from the fair share allocation requirements of section 213(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)) and the implementing regulations at 24 CFR part 791, subpart D.

#### (D) Eligible Applicants

(1) Family Unification Program Eligibility. Any PHA established pursuant to State law, including regional (multicounty) or State PHAs, may apply for funding under this NOFA. Indian Housing Authorities are no longer eligible.

(2) Eligibility for HUD-Designated Housing Agencies with Major Program Findings. 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 FSS program). HUD will not accept applications for additional funding from these PHAs as contract administrators if, on the application deadline date, the findings are not closed to HUD's satisfaction. If any of these PHAs want to apply for the Family Unification Program, the PHA must submit an application that designates another housing agency, nonprofit agency, or contractor that is acceptable to HUD. The PHA application must include an agreement by the other housing agency or contractor to administer the program for 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

Office will notify, in writing, those PHAs that are not eligible to apply because of outstanding management or compliance problems. 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 (i.e., documentation showing that the finding has been cleared) and must be received prior to the application deadline. Applications submitted by these PHAs without an agreement from another housing agency or contractor, approved by HUD, to administer the program on behalf of the PHA will be rejected.

## II. General Requirements and Requirements Specific To The Family Unification Program

### (A) General 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 response 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 voucher or rental certificate funding reserved in FY 1998 (except funding for renewals or amendments) will be used to establish the minimum size of an PHA's FSS program.

### (B) Requirements Specific to the Family Unification Program

#### (1) Eligibility.

(a) Family Unification eligible families. Each PHA must modify its selection preference system to permit the selection of Family Unification eligible families for the program with available funding provided by HUD for this purpose. The term "Family Unification eligible family" means a family that:

(i) The public child welfare agency has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of-home care, or in the delay of discharge of a child, or children, to the family from out-of-home care; and

(ii) The PHA has determined is eligible for Section 8 rental assistance.

(b) Lack of Adequate Housing. The lack of adequate housing means:

(i) A family is living in substandard or dilapidated housing; or

(ii) A family is homeless; or

(iii) A family is displaced by domestic violence; or

(iv) A family is living in an overcrowded unit.

(c) Substandard Housing. A family is living in substandard housing if the unit where the family lives:

(i) Is dilapidated;

(ii) Does not have operable indoor plumbing;

(iii) Does not have a usable flush toilet inside the unit for the exclusive use of a family;

(iv) Does not have a usable bathtub or shower inside the unit for the exclusive use of a family;

(v) Does not have electricity, or has inadequate or unsafe electrical service;

(vi) Does not have a safe or adequate source of heat;

(vii) Should, but does not, have a kitchen; or (viii) Has been declared unfit for habitation by an agency or unit or government.

(d) Dilapidated Housing. A family is living in a housing unit that is dilapidated if the unit where the family lives does not provide safe and adequate shelter, and in its present condition endangers the health, safety, or well-being of a family, or the unit has one or more critical defects, or a combination of intermediate defects in sufficient number or extent to require considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair or from serious damage to the structure.

(e) Homeless. A homeless family includes any person or family that:

(i) Lacks a fixed, regular, and adequate nighttime residence; and  
(ii) Has a primary nighttime residence that is:

1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing);

2. An institution that provides a temporary residence for persons intended to be institutionalized; or

3. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(f) Displaced by Domestic Violence. A family is displaced by domestic violence if:

(i) The applicant has vacated a housing unit because of domestic violence; or

(ii) The applicant lives in a housing unit with a person who engages in domestic violence.

(iii) "Domestic violence" means actual or threatened physical violence directed against one or more members of the applicant family by a spouse or other member of the applicant's household.

(g) Involuntarily Displaced. For a family to qualify as involuntarily displaced because of domestic violence:

(i) The PHA must determine that the domestic violence occurred recently or is of a continuing nature; and

(ii) The applicant must certify that the person who engaged in such violence will not reside with the family unless the HA has given advance written

approval. If the family is admitted, the PHA may terminate assistance to the family for breach of this certification.

(h) Living in Overcrowded Housing. A family is considered to be living in an overcrowded unit if:

(i) The family is separated from its child (or children) and the parent(s) are living in an otherwise standard housing unit, but, after the family is re-united, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or

(ii) The family is living with its child (or children) in a unit that is overcrowded for the entire family and this overcrowded condition may result in the imminent placement of its child (or children) in out-of-home care.

For purpose of this paragraph (h), the PHA may determine whether the unit is "overcrowded" in accordance with PHA subsidy standards.

(i) Detained Family. A Family Unification eligible family may not include any person imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

(j) Public child welfare agency (PCWA) means the public agency that is responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

(2) PHA Responsibilities. PHAs must:

(a) Accept families certified by the PCWA as eligible for the Family Unification Program. The PHA, upon receipt of the PCWA list of families currently in the PCWA caseload, must compare the names with those of families already on the PHA's Section 8 waiting list. Any family on the PHA's Section 8 waiting list that matches with the PCWA's list must be assisted in order of their position on the waiting list in accordance with PHA admission policies. Any family certified by the PCWA as eligible and not on the Section 8 waiting list must be placed on the waiting list. If the PHA has a closed Section 8 waiting list, it must reopen the waiting list to accept a Family Unification Program applicant family who is not currently on the PHA's Section 8 waiting list;

(b) Determine if any families with children on its waiting list are living in temporary shelters or on the street and may qualify for the Family Unification Program, and refer such applicants to the PCWA;

(c) Determine if families referred by the PCWA are eligible for Section 8 assistance and place eligible families on the Section 8 waiting list;

(d) Amend the administrative plan in accordance with applicable program regulations and requirements;

(e) Administer the rental assistance in accordance with applicable program regulations and requirements; and

(f) Assure the quality of the evaluation that HUD intends to conduct on the Family Unification Program and cooperate with and provide requested data to the HUD office or HUD-approved contractor responsible for program evaluation.

(3) Public Child Welfare Agency (PCWA) Responsibilities. A public child welfare agency that has agreed to participate in the Family Unification Program must:

(a) Establish and implement a system to identify Family Unification eligible families within the agency's caseload and to review referrals from the PHA;

(b) Provide written certification to the PHA that a family qualifies as a Family Unification eligible family based upon the criteria established in section 8(x) of the United States Housing Act of 1937, and this notice;

(c) Commit sufficient staff resources to ensure that Family Unification eligible families are identified and determined eligible in a timely manner and to provide follow-up supportive services after the families lease units; and

(d) Cooperate with the evaluation that HUD intends to conduct on the Family Unification Program, and submit a certification with the PHA's application for Family Unification funding that the PCWA will agree to cooperate with and provide requested data to the HUD office or HUD-approved contractor having responsibility for program evaluation.

(4) Section 8 Rental Certificate Assistance. The Family Unification Program provides funding for rental assistance under the Section 8 rental certificate program. Although HUD is providing a special allocation of rental certificates, the PHA may use both rental vouchers and certificates to assist families under this program.

PHAs must administer this program in accordance with HUD's regulations governing the Section 8 rental certificate and rental voucher programs. The PHA may issue a rental voucher to a family selected to participate in the Family Unification Program if the family requests a rental voucher and the PHA has one available. If Section 8 rental assistance for a family under this program is terminated, the rental assistance must be reissued to another Family Unification eligible family for 5 years from the initial date of execution of the Annual Contributions Contract

subject to the availability of renewal funding.

### III. Application Selection Process for Funding

#### (A) Rating and Ranking

HUD's local HUD Field Offices are responsible for rating the applications for the selection criteria established in this NOFA, and are responsible for selection of applications that will receive assistance under the Family Unification Program. The local HUD Field Offices will initially screen all applications and determine any technical deficiencies based on the application submission requirements.

Each eligible application submitted in response to the NOFA, in order to be eligible for funding, must receive at least 20 points for Threshold Criterion 2, Efforts of HA to Provide Area-Wide Housing Opportunities for Families. Each application must also meet the requirements for Threshold Criterion 1, Unmet Housing Needs; Threshold Criterion 3, Coordination between HA and Public Child Welfare Agency to Identify and Assist Eligible Families; and Threshold Criterion 4, Public Child Welfare Agency Statement of Need for Family Unification Program.

#### (B) Threshold Criteria

##### (1) THRESHOLD CRITERION 1: UNMET HOUSING NEEDS.

This criterion requires the PHA to demonstrate the need for an equal or greater number of Section 8 rental certificates than it is requesting under this NOFA. The PHA must assess and document the unmet housing need for its geographic jurisdiction of families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care, or in a delay of discharge of a child or children to the family from out-of-home care. The results of the assessment must include a comparison of the estimated unmet housing needs of such families to the Consolidated Plan covering the PHA's jurisdiction.

##### (2) THRESHOLD CRITERION 2: EFFORTS OF PHA TO PROVIDE AREA-WIDE HOUSING OPPORTUNITIES FOR FAMILIES (60 POINTS).

(a) *Description:* Many PHAs have undertaken voluntary efforts to provide area-wide housing opportunities for families. The efforts described in response to this selection criterion must be beyond those required by federal law or regulation such as the portability provisions of the Section 8 rental voucher and certificate programs. PHAs in metropolitan and non-metropolitan

areas are eligible for points under this criterion. The local HUD Field Office will assign points to PHAs that have established cooperative agreements with other PHAs or created a consortium of PHAs in order to facilitate the transfer of families and their rental assistance between PHA jurisdictions. In addition, the local HUD Field Office will assign points to PHAs that have established relationships with nonprofit groups to provide families with additional counseling, or have directly provided counseling, to increase the likelihood of a successful move by the families to areas that do not have large concentrations of poverty.

(b) *Rating and Assessment:* The local HUD Field Office will assign 10 points for any of the following assessments for which the PHA qualifies and add the points for all the assessments (maximum of 60 points) to determine the total points for this Selection Criterion:

(i) 10 points—Assign 10 points if the PHA documents that it participates in an area-wide rental voucher and certificate exchange program where all PHAs absorb portable Section 8 families.

(ii) 10 Points—Assign 10 points if the PHA documents that its administrative plan does not include a "residency preference" for selection of families to participate in its rental voucher and certificate programs or the PHA states that it will eliminate immediately any "residency preference" currently in its administrative plan.

(iii) 10 Points—Assign 10 points if the PHA documents that PHA staff will provide housing counseling for families that want to move to low-poverty or non-minority areas, or if the PHA has established a contractual relationship with a nonprofit agency or a local governmental entity to provide housing counseling for families that want to move to low-poverty or non-minority areas. The five PHAs approved for the FY 1993 Moving to Opportunity (MTO) for Fair Housing Demonstration and any other PHAs that receive counseling funds from HUD (e.g., in settlement of litigation involving desegregation or demolition of public housing, regional opportunity counseling, or mixed population projects) may qualify for points under this assessment, but these PHAs must identify all activities undertaken, other than those funded by HUD, to expand housing opportunities.

(iv) 10 Points—Assign 10 points if the PHA documents that it requested from HUD, and HUD approved, the authority to utilize exceptions to the fair market rent limitations as allowed under 24 CFR 882.106(a)(4) to allow families to

select units in low-poverty or non-minority areas.

(v) 10 Points—Assign 10 points if the PHA documents that it participates with other PHAs in using a metropolitan wide or combined waiting list for selecting participants in the program.

(vi) 10 Points—Assign 10 points if the PHA documents that it has implemented other initiatives that have resulted in expanding housing opportunities in areas that do not have undue concentrations of poverty or minority families.

##### (3) THRESHOLD CRITERION 3: COORDINATION BETWEEN PHA AND PUBLIC CHILD WELFARE AGENCY TO IDENTIFY AND ASSIST ELIGIBLE FAMILIES.

The application must describe the method that the PHA and the PCWA will use to identify and assist Family Unification eligible families. The application must include a letter of intent from the PCWA stating its commitment to provide resources and support for the program. The PCWA letter of intent and other information must include an explanation of: the method for identifying Family Unification eligible families, the PCWA's certification process for determining Family Unification eligible families, the responsibilities of each agency, the assistance that the PCWA will provide to families in locating housing units, the PCWA staff resources committed to the program, the past PCWA experience administering a similar program, and the PCWA/PHA cooperation in administering a similar program.

##### (4) THRESHOLD CRITERION 4: PUBLIC CHILD WELFARE AGENCY STATEMENT OF NEED FOR FAMILY UNIFICATION PROGRAM.

The application must include a statement by the PCWA describing the need for a program providing assistance to families for whom lack of adequate housing is a primary factor in the placement of the family's children in out-of-home care or in the delay of discharge of the children to the family from out-of-home care in the area to be served, as evidenced by the caseload of the public child welfare agency. The PCWA must adequately demonstrate that there is a need in the PHA's jurisdiction for the Family Unification program that is not being met through existing programs. The narrative must include specific information relevant to the area to be served, about homelessness, family violence resulting in involuntary displacement, number and characteristics of families who are experiencing the placement of children in out-of-home care or the delayed

discharge of children from out-of-home care as the result of inadequate housing, and the PCWA's past experience in obtaining housing through HUD assisted programs and other sources for families lacking adequate housing.

*(C) Funding FY 1998 Applications*

After the local HUD Field Office has screened HA applications and disapproved any applications unacceptable for further processing (See Section V(B) of this NOFA, below), the local HUD Field Office will review and rate all approvable applications, utilizing the Threshold Criteria and the point assignments listed in this NOFA. The local HUD Field Office will send to HUD Headquarters' Office of Funding and Financial Management the following information on each application that passes the Threshold Criteria:

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

HUD Headquarters' Office of Funding and Financial Management will select eligible PHAs to be funded based on a lottery in the event approvable applications are received for more funding than is available under this NOFA. All PHA applications identified by the local HUD Field Offices as meeting the Threshold Criteria identified in this NOFA will be eligible for the lottery selection process. If the cost of funding these applications exceeds available funds, HUD Headquarters will limit the number of FY 1998 applications selected for any State to no more than 10 percent of the budget authority made available under this NOFA in order to achieve geographic diversity. However, if establishing this geographic limit results in unspent budget authority, HUD may modify this limit to assure that all available funds are used.

Applications will be funded in full for the number of rental certificates requested by the PHA in accordance with the NOFA. However, if the remaining rental certificate funds are insufficient to fund the last PHA application in full, HUD Headquarters

may fund that application to the extent of the funding available and the applicant's willingness to accept a reduced number of rental certificates. Applicants that do not wish to have the size of their programs reduced may indicate in their applications that they do not wish to be considered for a reduced award of funds. HUD Headquarters will skip over these applicants if assigning the remaining funding would result in a reduced funding level.

*(D) Possibility of Subsequently Funding FY 1998 Approvable Applications Not Selected By Lottery For Funding*

In the event a lottery is necessary during FY 1998, any approvable applications which are not selected for funding will be funded in FY 1999 to the extent that appropriations are available in FY 1999 for the Family Unification Program.

**IV. Application Submission Requirements**

*(A) Form HUD-52515*

Funding Application, form HUD-52515, must be completed and submitted for the Section 8 rental certificate program. This form includes all the necessary certifications for Fair Housing, Drug-Free Workplace and Lobbying Activities. 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 certificate units. PHAs may obtain a copy of form HUD-52515 from the local HUD Field Office or may download it from the HUD Home page 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 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 should 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 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.

*(C) Letter of Intent and Narrative*

All the items in this section must be included with the application submitted to the local HUD Field Office. Funding is limited, and HUD may only have enough funds to approve a smaller amount than the number of rental certificates requested. The PHA must state in its cover letter to the application whether it will accept a smaller number of rental certificates and the minimum number of rental certificates it will accept. The cover letter must also include a statement by the PHA certifying that the PHA has consulted with the agency or agencies in the State responsible for the administration of welfare reform to provide for the successful implementation of the State's welfare reform for families receiving rental assistance under the family unification program. The application must include an explanation of how the application meets, or will meet, Threshold Criteria 1 through 4 in Section IV(D) of this NOFA, below.

The application must also include a letter of intent from the PCWA stating its commitment to provide resources and support for the Family Unification Program. The PCWA letter of intent must explain:

- (1) The definition of eligible family unification program families;
- (2) The method used to identify eligible family unification program families;
- (3) The process to certify eligible family unification program families;
- (4) The PCWA assistance to families to locate suitable housing;
- (5) The PCWA staff resources committed to the program; and
- (6) PCWA experience with the administration of similar programs including cooperation with a PHA.

The PCWA serving the jurisdiction of the PHA is responsible for providing the information for Threshold Criterion 4, PCWA Statement of Need for Family Unification Program, to the PHA for submission with the PHA application.

This should include a discussion of the case-load of the PCWA and information about homelessness, family violence resulting in involuntary displacement, number and characteristics of families who are experiencing the placement of children in out-of-home care as a result of inadequate housing, and the PCWA's experience in obtaining housing through HUD assisted housing programs and other sources for families lacking adequate housing. A State-wide Public Child Welfare Agency must provide information on Threshold Criterion 4, PCWA Statement of Need for Family Unification Program, to all PHAs that request such information; otherwise, HUD will not consider applications from any PHAs with the State-wide PCWA as a participant in its program.

#### (D) Evaluation Certifications

The PHA and the PCWA, in separate certifications, must state that the PHA and Public Child Welfare Agency agree to cooperate with HUD and provide requested data to the HUD office or HUD approved contractor delegated the responsibility for the program evaluation. No specific language for this certification is prescribed by HUD.

### V. Corrections To Deficient Family Unification Applications

#### (A) Acceptable Applications

To be eligible for processing, an application must be received by 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.

After the application due date, HUD may not, consistent with 24 CFR part 4, subpart B, consider unsolicited information from an applicant. HUD may contact an applicant, however, to clarify an item in the application or to correct technical deficiencies. Applicants should note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of the applicant's response to any eligibility or selection criterion. Examples of curable technical deficiencies include failure to submit the proper certifications or failure to submit an application containing an original signature by an authorized official. In each case, HUD will notify the applicant in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile or by return receipt requested. Applicants must submit clarifications or corrections of technical deficiencies in accordance with the information provided by HUD within 14 calendar

days of the date of receipt of the HUD notification. If the deficiency is not corrected within this time period, HUD will reject the application as incomplete.

#### (B) Unacceptable Applications

(1) After the 14-calendar day technical deficiency correction period, the local HUD Field Office will disapprove 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 one or more of its Rental Voucher, Rental Certificate, or Moderate Rehabilitation Programs, or, in the case of a PHA that is not currently administering a Rental Voucher, Rental Certificate, or Moderate Rehabilitation Program, for its Public Housing Program. The only exception to this category is if the PHA has been identified under the policy established in Section I(D)(2) of this NOFA and the PHA makes application with another agency or contractor that will administer the family unification assistance on behalf of the PHA.

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

(d) After the 14-calendar day technical deficiency correction period, a PHA application that does not comply with the requirements of 24 CFR 982.102 and this NOFA, will be rejected from processing.

(e) A PHA application submitted after the deadline date.

### VI. 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, HUD has recently

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 the near future. 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.

Applicants should see the SuperNOFA for Housing and Community Development Programs published in the **Federal Register** on March 31, 1998 (62 FR 15490); the SuperNOFA for Economic Development and Empowerment Programs published on April 30, 1998 (62 FR 23876); and the SuperNOFA for Targeted Housing and Homeless Assistance Programs, that were both published on April 30, 1998 (62 FR 23988).

To foster comprehensive, coordinated approaches by communities, HUD intends for the remainder of FY 1998 to continue to alert applicants to upcoming and recent NOFAs as each NOFA is published. 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 on NOFA coordination may be considered for FY 1999.

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

### VII. 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 Requirements And Impact

In accordance with 24 CFR 50.19(b)(11), 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 number for this program is: 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 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 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 codified 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. The documentation, public access, and disclosure requirements of section 102 are applicable to 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 in 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 in 24 CFR part 15.

*(F) Section 103 of the HUD Reform Act*

HUD will comply with its regulations implementing section 103 of the HUD Reform Act, codified in 24 CFR part 4, for this funding competition. These requirements continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than persons authorized to receive such information) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics, (202) 708-

3815 (voice), (202) 708-1112 (TTY). (These are not toll-free numbers.) For HUD employees who have specific program questions, 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 in 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), 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: May 22, 1998.

**Deborah Vincent,**

*General Deputy Assistant Secretary for Public and Indian Housing.*

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