

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR-4632-N-01]

Notice of Funding Availability; Fair Share Allocation of Incremental Voucher Funding, Fiscal Year 2001

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

ACTION: Notice of fund availability (NOFA).

SUMMARY: *Purpose of the Program.* The purpose of this NOFA is to invite public housing agencies (PHAs) to apply for vouchers on a fair share allocation basis under the Housing Choice Voucher Program. The vouchers are for issuance to families on a PHA's housing choice voucher waiting list to enable these families to rent decent, safe, and affordable housing of their choice on the private rental market.

Available Funds. Approximately \$452,907,000 in one-year budget authority for approximately 79,000 housing choice vouchers. Prior to the funding of any new applications under this NOFA for FY 2001, \$4,191,788 of this budget authority will be used to correct the underfunding of four PHAs under the FY 2000 Fair Share NOFA due to an error on the part of HUD. See Section II(C)(3) of this NOFA regarding the specific PHAs, dollar amounts and corresponding number of vouchers that each of the four PHAs will receive to correct the underfunding error. This will leave \$448,715,212 in one-year budget authority available for the funding of approximately 78,475 vouchers for applications submitted in FY 2001 under this NOFA.

Eligible Applicants. Public housing agencies (PHAs), Indian Housing Authorities (IHA), Indian tribes and their tribally designated housing entities are not eligible applicants. The Native American Housing Assistance and Self-Determination Act of 1996 does not allow HUD to enter into new housing choice voucher (Section 8) annual contributions contracts (ACC) with IHAs after September 30, 1997.

Application Due Date. January 29, 2001.

Match. None.

SUPPLEMENTARY INFORMATION: If you are interested in applying for funding under this NOFA, please read the balance of this NOFA which will provide you with detailed information regarding the submission of an application, Housing Choice Voucher Program requirements,

the application selection process to be used by HUD in selecting applications for funding, and other valuable information relative to a PHA's application submission and participation in the program covered by this NOFA.

I. Application Due Date, Application Kits, Further Information, and Technical Assistance

Application Due Date. Your completed application (an original and one copy) is due on or before January 29, 2001 at the address shown below. This application deadline is firm. 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.

Address for Submitting Applications. Submit your original application and one copy to Michael E. Diggs, Director of the Grants Management Center, Department of Housing and Urban Development, 501 School Street, SW, Suite 800, Washington, D.C. 20024.

The Grants Management Center is the official place of receipt for all applications in response to this NOFA. A copy of the application is not required to be submitted to the local HUD Field Office. For ease of reference, the term "local HUD Field Office" will be used in this NOFA to mean the local HUD Field Office Hub and local HUD Field Office Program Center.

Hand Carried Applications. If you are hand delivering your application, your application is due by not later than 8:45 am to 5:00 pm, Eastern time, on the application due date to the Office of Public and Indian Housing's Grants Management Center (GMC) in Washington, DC.

Mailed Applications. Applications sent by U.S. mail will be considered timely filed if postmarked on or before 12:00 midnight on the application due date and received on or within ten (10) days of that date at the Grants Management Center.

Applications Sent By Overnight/Express Mail Delivery. Applications sent by overnight delivery or express mail will be considered timely filed if received by the Grants Management Center 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.

For Application Kit. An application kit is not available and is not necessary for submitting an application for funding under this NOFA. This NOFA contains all of the information necessary for the submission of an application for voucher funding in connection with this NOFA.

For Further Information and Technical Assistance. Prior to the application due date, you may contact George C. Hendrickson, Housing Program Specialist, Room 4216, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, Room 4216, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-1872, ext. 4064. Subsequent to application submission, you may contact the Grants Management Center at (202) 358-0273. (These are not toll-free numbers.) Persons with hearing or speech impairments may access these numbers via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339 (this is a toll-free number).

II. Authority, Purpose, Fair Share Allocation Amount, Voucher Funding, and Eligibility

(A) Authority

Authority for the approximately \$452,907,000 in one-year budget authority for housing choice vouchers for low-income families is found in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, FY 2001 (Pub.L. 106-377, approved October 27, 2000, referred to as the FY 2001 HUD Appropriations Act. The allocation of housing assistance budget authority for housing choice vouchers, by allocation area based on fair share factors, is pursuant to the provisions of 24 CFR part 791, subpart D, implementing section 213(d) of the Housing and Community Development Act of 1974, as amended. Funding in the amount of \$4,191,788 will be subtracted from the one-year budget authority of \$452,907,000 in order to correct an underfunding error affecting four PHAs funded by HUD in FY 2000 under the FY 2000 Fair Share NOFA (see Section II(C)(3), Underfunding Corrections, in this NOFA).

(B) Purpose

The purpose of the housing choice voucher funding being made available under this NOFA is to provide housing assistance to very low-income families

to enable them to rent decent, safe, and affordable housing of their choice on the private market.

(C) Fair Share Allocation Amount

This NOFA announces the availability of approximately \$452,907,000 in one-year budget authority for a fair share formula allocation which will provide rental assistance to approximately 79,000 very low-income families. Funding in the amount of \$4,191,788 for 525 vouchers for four PHAs will first be subtracted from the \$452,907,000 (leaving a balance of \$448,715,212 for approximately 78,475 vouchers for FY 2001 applications submitted in response to this NOFA) to correct an underfunding error attributable to HUD under the FY 2000 Fair Share NOFA that affected four PHAs. (See Section II(C)(3), Underfunding Corrections.)

(1) Fair Share Allocation for Each Allocation Area

Appendix A of this NOFA lists the allocation of housing assistance budget authority for vouchers for each allocation area, based on fair share factors. Appendix A also provides an estimate of the total number of vouchers that could be funded from the housing assistance available for each allocation area based on the weighted local average costs of voucher assistance for a two-bedroom unit. The actual number of units assisted within each allocation area will vary from the estimates prepared by Headquarters since the actual costs of voucher assistance for each PHA vary from the average.

(2) Potential Additional Funding

If additional voucher funding becomes available for fair share use during FY 2001, HUD plans to distribute any additional funding to allocation areas using the same percentage distribution as reflected in Appendix A to this NOFA. Any additional funding will be used under the competitive requirements of this NOFA to fund PHA applications which were approvable but not funded, or approved and funded at less than 100 percent of the requested amount for which the PHA was eligible under this NOFA.

(3) Underfunding Corrections

If prior to the award of Fair Share funding under this NOFA, HUD determines that any awardees under the FY 2000 Fair Share NOFA have been underfunded due to an error attributable to HUD, funding will be increased to the amount that the awardee should have received. The Grants Management Center will, in coordination with the local HUD Field Office and the affected

PHA, determine the number of units that should have been awarded the PHA under the FY 2000 NOFA and the funding amount that would currently be appropriate to fund that number of units under the voucher funding procedures in Section II.(D) of this FY 2001 Fair Share NOFA.

Prior to the issuance of this NOFA the determination was made that four PHA awardees under the FY 2000 Fair Share NOFA were underfunded due to HUD's failure to include these PHAs' Moving to Work (MTW) units when calculating the number of certificates and vouchers being administered for purposes of the number of vouchers a PHA was eligible to apply for and be funded. Funding in the amount of \$4,191,788 will be subtracted from the Fair Share funding available under this NOFA to fund these four PHAs as follows: Seattle, Washington Housing Authority—\$1,621,534 for 231 vouchers; Portland Oregon Housing Authority—\$841,788 for 117 vouchers; Cambridge, Massachusetts Housing Authority—\$1,514,386 for 133 vouchers; and Portage, Ohio Housing Authority—\$214,080 for 44 vouchers.

(D) Voucher Funding

(1) Determination of Funding Amount for the PHA's Requested Number of Vouchers

HUD will determine the amount of funding that a PHA will be awarded under this NOFA based upon an actual annual per unit cost {except that for Moving to Work (MTW) agencies the per unit cost will be calculated in accordance with the agency's MTW Agreement} using the following three step process (as may be modified based upon a percentage of annual per unit cost if necessary to produce the 79,000 vouchers provided for under this NOFA):

(a) HUD will extract the total expenditures for all the PHA's housing choice voucher and certificate programs and the unit months leased information from the most recent approved year end statement (form HUD-52681) that the PHA has filed with HUD. HUD will divide the total expenditures for all of the PHA's housing choice voucher and certificate programs by the unit months leased to derive an average monthly per unit cost.

(b) HUD will multiply the monthly per unit cost by 12 (months) to obtain an annual per unit cost.

(c) HUD will multiply the annual per unit cost derived under paragraph (b) above by the Housing Choice Voucher Program (Section 8) Housing Assistance Payments Program Contract Rent

Annual Adjustment Factor (with the highest cost utility included) to generate an adjusted annual per unit cost. For a PHA whose jurisdiction spans multiple annual adjustment factor areas, HUD will use the highest applicable annual adjustment factor.

(E) Eligible Applicants

A PHA established pursuant to State law may apply for funding under this NOFA. A regional (multi-county) or State PHA is also eligible to apply for funding.

A PHA may submit only one application under this NOFA. This one application per PHA limit applies regardless of whether or not the PHA is a State or regional PHA, except in those instances where such a PHA has more than one PHA code number due to its operating under the jurisdiction of more than one HUD Field Office. In such an instance, a separate application under each code shall be considered for funding, with the cumulative total of vouchers applied for under the applications not to exceed the maximum number of vouchers the PHA is eligible to apply for under Section V.(B) of this NOFA; *i.e.*, no more than the number of vouchers the same PHA would be eligible to apply for if it only had one PHA code number.

Two or more divisions within State government comprising separate PHAs shall require the State to determine which division shall submit an application to HUD under this NOFA. As with other PHAs, only one application per PHA shall be considered (see sole exception referenced immediately above).

A contract administrator which does not have an annual contributions contract (ACC) with HUD for housing choice vouchers or certificates, but which constitutes a PHA under 24 CFR 791.102 by reason of its administering housing choice vouchers or certificates on behalf of another PHA, shall not be eligible to submit an application under this NOFA.

Indian Housing Authorities (IHA), Indian tribes and their tribally designated housing entities are not eligible to apply because the Native American Housing Assistance and Self-Determination Act of 1996 does not allow HUD to enter into new housing choice voucher annual contributions contracts (ACC) with IHAs after September 30, 1997.

Applicants are limited to those PHAs currently administering housing choice vouchers or certificates.

Some PHAs currently administering the housing choice voucher and certificate programs have, at the time of

publication of this NOFA, major program management findings from Inspector General audits, HUD management reviews, or independent public accountant (IPA) audits that are open and unresolved or other significant program compliance problems. HUD will not accept applications for additional funding from these PHAs as contract administrators if, on the application due date, the findings are either not closed, or sufficient progress toward closing its findings has not been made to HUD's satisfaction. The PHA must also, to HUD's satisfaction, be making satisfactory progress in addressing any program compliance problems. 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 and the program compliance problems. *Immediately after the publication of this NOFA, the local HUD Field Office will notify, in writing, those PHAs that are not eligible to apply without such an agreement.*

Concurrently, the local HUD Field Office will provide a copy of each such written notification to the GMC. The PHA may appeal the decision, in writing, 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 or satisfactory progress toward closing the findings or addressing the compliance problems has been made) and must be received prior to the application deadline. The appeal should be submitted to the local HUD Field Office where a final determination shall be made. Concurrently, the local HUD Field Office shall provide the GMC with a copy of its written response to the appeal, along with a copy of the PHA's written appeal. Major program management findings are those that would cast doubt on the capacity of the PHA to effectively administer any new housing choice voucher funding in accordance with applicable HUD regulatory and statutory requirements.

(F) Eligible Participants

Eligible participants must be income eligible under 24 CFR 982.201(b)(1) in order to receive a voucher. Eligible

participants include very low-income families, and on an exception basis some low-income families, who are on the PHA's housing choice voucher waiting list and who are determined to be eligible for housing assistance under the housing choice voucher regulations at 24 CFR part 982 and part 5.

III. General Program Requirements

(A) General 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 systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination; (b) is the defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or (c) has received a letter of noncompliance findings under Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act of 1974, the applicant's application will not be evaluated under this NOFA if, prior to the application deadline, the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken necessary to address allegations of ongoing discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(2) Additional Nondiscrimination Requirements

In addition to compliance with the civil rights requirements listed at 24 CFR 5.105(a), 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.*), Title IX of the Education Amendments Act of 1972, and the Americans with Disabilities Act of 1990 (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) Examine the PHA's own programs or proposed programs, including an identification of any impediments to fair housing (identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice—in its Consolidated Plan); develop a plan to (i) address those impediments in a reasonable fashion in view of the resources available; and (ii) work with local jurisdictions to implement any of the jurisdictions' initiatives to affirmatively further fair housing; and maintain records reflecting this analysis and actions.

(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 under this NOFA to address affirmatively furthering fair housing.

(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.

(B) PHA Responsibilities and Rental Assistance Requirements

(1) Housing Choice Voucher Regulations

PHAs must administer the housing choice vouchers received under this NOFA in accordance with HUD regulations and requirements governing the Housing Choice Voucher Program.

(2) Housing Choice Voucher Program Admission Requirements

Housing choice voucher assistance must be provided to eligible applicants in conformity with regulations and requirements governing the Housing Choice Voucher Program and the PHA's administrative plan.

(3) Turnover

When a voucher 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 voucher may be used only for the next eligible family on the PHA's housing choice voucher waiting list.

IV. Fair Share Application Rating Process

(A) Selection Criteria

The GMC will use the Selection Criteria shown below for the rating of applications submitted in response to this NOFA. The maximum score under the selection criteria for fair share funding is 100 points.

(1) Selection Criterion 1: Housing Needs (65 points)

(a) *Description*: This criterion assesses the housing need in the primary market area specified in the PHA's application compared with the housing need for the State. Housing need is defined as the number of very low-income renter households with severe rent burden, based on 1990 Census data. Very low-income is defined as income at or below the housing choice voucher (Section 8) very low-income limits. Severe rent burden is defined as a household paying 50 percent or more of its gross income for rent.

(b) *Needs Data*: For the purpose of this criterion, housing needs are based on a tabulation of 1990 Census data prepared for the Department by the Bureau of the Census. Data on housing needs are available for all States, all counties (county equivalents), and places with populations of 10,000 or more as of 1990. Information will be posted on the HUD Home Page site on the Internet's world wide web (<http://www.hud.gov>), under "funds available" for the Fair Share NOFA, indicating the proportion of each State's housing needs for primary markets.

(c) *Rating and Assessment*: The number of points assigned is based on the percentage of the State's housing need that is within the PHA's primary market area. The primary market area is defined as the jurisdiction (or its closest equivalent in terms of areas for which housing needs data are available) in which the PHA is legally authorized to operate and where the vouchers will be used, as described in its application. (See Section VI. (C) of this NOFA regarding the description of the primary market area required to be included in each PHA's application.)

(1) The GMC will assign one of the following point totals:

- 65 points (maximum). For each percentage point of the State's housing need (rounded to the nearest percentage point), the PHA will receive three points.

(2) A State or regional (multi-county) PHA will receive points based on the areas it serves where the vouchers will be used, e.g., the entire State or the sum of the housing needs for the counties

and/or localities comprising its primary market area.

(3) A PHA with a primary market area that is a community with a population of 10,000 or less, or a PHA for which housing needs data are not available, will receive three points.

(2) Selection Criterion 2: Efforts of PHA to Provide Area-Wide Housing Opportunities for Families (15 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 housing choice voucher program. The GMC will assign points to PHAs that are not using/will not use a residency preference, or will use a residency preference in a limited manner for selection of families to participate in the voucher program. In addition, the GMC will assign points to PHAs that have established relationships with non-profit 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. The GMC will also assign points to PHAs that demonstrate they have implemented other initiatives that have resulted in expanding housing opportunities.

A PHA having more than one housing authority code number and submitting an application under one or more of these code numbers (see Section II. (E) of this NOFA) will be eligible to receive points under the categories in Selection Criterion 2 if it meets the qualifications for points under any one or more of the separate applications it submits.

(b) *Rating and Assessment*: The GMC will assign point values for any of the following assessments for which the PHA qualifies and add the points for all the assessments (maximum of 15 points) to determine the total points for this Selection Criterion:

- 5 Points—Assign 5 points if the PHA certifies that (i) its administrative plan does not include a "residency preference" for selection of families to participate in its voucher program, or (ii) it will eliminate immediately any "residency preference" currently in its administrative plan, or (iii) it will limit applicability of residency preferences to up to 50% of all new admissions.

- 5 Points—Assign 5 points if the PHA documents that it has established a contractual relationship with a non-profit agency or the 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 93 Moving to Opportunity (MTO) for Fair Housing Demonstration, PHAs participating in the Regional Opportunity Counseling (ROC) Program, and any other PHAs that receive counseling funds from HUD in connection with the demolition of public housing, public housing vacancy consolidation, or settlement of litigation involving desegregation may qualify for points under this assessment. However, these PHAs must identify all activities undertaken, other than those funded and required under the MTO Demonstration, ROC Program, or the court-ordered plans or plans for relocating public housing families, to expand housing opportunities.

- 5 Points—Assign 5 points if the PHA documents that it has implemented other initiatives that have resulted in expanding housing opportunities.

(3) Selection Criterion 3: Disabled Families (15 points)

(a) *Description*: The GMC will assign 15 points to PHAs that indicate at least 15 percent or more of the vouchers they are requesting (or funded by HUD) under this NOFA will be used to house disabled families. The PHA's application must be specific as to the exact percentage of vouchers that will be issued solely to disabled families. Disabled families are defined as follows:

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

(ii) *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:

1. Is expected to be of long-continued and indefinite duration;

2. Substantially impedes his or her ability to live independently; and

3. 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 housing choice voucher designated as being for a disabled family 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 meeting the requirements of Fair Housing laws, including providing reasonable accommodations.

No individual shall be considered a person with disabilities for the purpose of determining eligibility solely on the basis of any drug or alcohol dependence.

(b) *Rating and Assessment:* The GMC will assign one of two point values, as follows:

- 15 points: The PHA will use not less than 15 percent of the vouchers being requested (or funded by HUD) to house disabled families.
- 0 points: The PHA will use less than 15 percent of the vouchers it is requesting (or funded by HUD) to house disabled families.

(4) Selection Criterion 4: Medicaid Home and Community Based Services Waivers Under Section 1915(c) of the Social Security Act (5 points)

(a) *Description:* This selection criterion is for PHAs interested in the provision of housing choice voucher assistance to families within their jurisdiction who are disabled and also covered under a waiver of Section 1915(c) of the Social Security Act. Section 1915(c) waivers are approved by the Health Care Financing Administration within the Department of Health and Human Services (HHS) for the agency within each State responsible for the administration of the medicaid program. Contacting the responsible State agency (for example, the Agency for Health Care Administration in the State of Florida) will assist the PHA in determining how many, if any, individuals are covered by a Section 1915(c) waiver in the PHA's legal area of operation. These waivers allow medicaid-eligible individuals at risk of being placed in hospitals, nursing facilities or intermediate care facilities the alternative of being cared for in their homes and communities. These individuals are thereby assisted in preserving their independence and ties to family and friends at a cost no higher than that of institutional care.

While a Section 1915(c) waiver may cover individuals other than those who are disabled, the focus of Selection Criterion 4 is on disabled families only. The definition of disabled families listed under Selection Criterion 3 will be used by PHAs for purposes of the issuance of vouchers to disabled families in connection with Selection Criterion 4; i.e., only those individuals that meet the definition of a disabled family in this NOFA are to be considered in connection with a PHA determining how many such disabled families are covered by a Section 1915(c) waiver in their legal area of operation and whether to try to qualify for the 5 points available under Selection Criterion 4. The PHA's application must be specific as to the percentage of vouchers that will be issued to such disabled families.

Any PHA attempting to qualify for the 5 points available under Selection Criterion 4 should also include information within its application indicating the collaborative efforts already undertaken with the responsible State agency to identify eligible families, as well as agreements reached with that agency for future referrals of such families. HUD reserves the right at some future point in time to conduct an evaluation of the success of the PHA's efforts to collaborate with the State agency and to successfully house individuals that meet the requirements of being covered by a Section 1915(c) waiver, qualify as a disabled family under this NOFA, and are otherwise eligible for a housing choice voucher.

(b) *Rating and Assessment:* The GMC will assign one of two point values as follows:

- 5 points: The PHA will use not less than 3 percent of the vouchers being requested (or funded by HUD) to house voucher eligible, disabled families covered by a waiver under Section 1915(c) of the Social Security Act.
- 0 points: The PHA will use less than 3 percent of the vouchers it is requesting (or funded by HUD) to house voucher eligible, disabled families covered by a waiver under Section 1915(c) of the Social Security Act.

(c) *Prohibition Against Double Counting.* The number (percentage) of disabled families that a PHA indicates it will issue vouchers to when qualifying for the 5 points available under Selection Criterion 4 cannot be used to also qualify for the 15 points available under Selection Criterion 3 or conversely.

V. Fair Share Application Selection Process

(A) Maximum Funding Allowed

The GMC may recommend for approval the maximum funding for a PHA under this NOFA that does not exceed the lesser of 25 percent of the PHA vouchers and certificates [including Moving to Work (MTW) units] reserved; i.e., the number of units in its adjusted baseline (see 24 CFR 982.102(d)(ii)), or 25 percent of the number of vouchers available in the allocation area. The determination of reserved units shall be made in accordance with the methodology indicated in Appendix B.

(B) Funding Procedure

HUD seeks to maximize, insofar as practical, the number of PHAs awarded funding under this NOFA. The GMC will recommend applications for approval in rank order (highest to lowest score) within each allocation area. No PHA shall be eligible to request or be funded at more than the maximum funding indicated under Section V.(A) above of this NOFA. The number of vouchers for which a PHA will first receive consideration by the GMC for funding will be based upon initially using the lesser of a 5 percent calculation for a PHA's reserved units, or 25 percent of the vouchers available for the allocation area. If funding remains available within the allocation area, the percentage used for the PHA's reserved units will increase to the percent required to use all funding within the allocation area, not to exceed 25 percent.

Where the GMC finds it has some number of vouchers left but not enough to fully fund the next ranked application or applications receiving the same score, funding will be recommended by the GMC for the application indicating it will accept the lesser number of vouchers (see Section VI. (B) of this NOFA). In the event there are two or more PHAs ranked at the same position (same number of rating points) indicating they will accept the lesser number of vouchers, the PHA whose application is eligible for the largest number of vouchers among these PHAs will be recommended by the GMC for funding.

(C) Reallocations Between Allocation Areas

The GMC will make every reasonable effort to use all available funds. It may be necessary, however, to reallocate funds from one allocation area to another when the funds cannot be used in the allocation area to which they

were initially allocated. (See 24 CFR 791.405(d).) In such cases, the GMC will re-allocate funds to the allocation area having the largest number of approvable vouchers remaining unfunded due to lack of sufficient fair share funding.

(D) Applications Recommended by the GMC for Funding

After the GMC has screened PHA applications and disapproved any applications found unacceptable for further processing, the GMC will review all acceptable applications to ensure they are technically adequate and responsive to the requirements of the NOFA. As PHAs are selected, the cost of funding the applications will be subtracted from the funds available. Applications will be funded for the total number of units recommended for approval by the GMC in accordance with this NOFA.

VI. Fair Share Application Submission Requirements

(A) Form HUD-52515

All PHAs must complete and submit form HUD-52515, Funding Application, for housing choice vouchers (Section 8), (dated January 1996). Section C of the form should be left blank. PHAs are requested to enter their housing authority code number, as well as their electronic mail address, telephone number, and facsimile telephone number in the same space at the top of the form where they are also to enter the PHA's name and mailing address.

This form includes all necessary certifications for Fair Housing, Drug Free Workplace and Lobbying Activities.

Appendix A to this NOFA lists the estimate of the number of vouchers and budget authority available for each allocation area. PHAs should limit their applications for the "fair share" program to a reasonable number of vouchers based on the capacity of the PHA to lease-up within 12 months of ACC execution. The number of vouchers on the PHA application may not exceed that allowed under Section V.(A) of this NOFA. 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>). (On the HUD website click on "handbooks and forms," then click on "forms", then click on "HUD-5" and click on "HUD-52515".) The form must be completed in its entirety, with the exception of section C, signed and dated.

(1) A PHA may submit only one application (Form HUD-52515). (See

Section II(E), Eligible Applicants, of this NOFA which fully addresses this one application per eligible applicant requirement and the one very limited exception allowed under that requirement.)

(2) The GMC will reduce the number of vouchers requested in any application that exceeds the established application limit in Section V(A) of this NOFA above.

(B) Letter of Intent and Narrative

The PHA must state in its cover letter to the application whether it will accept a reduction in the number of vouchers, and the minimum number of vouchers it will accept, since the funding is limited and HUD may only have enough funds to approve a smaller amount than the number of vouchers requested. The application should include a narrative description of how the application meets, or will meet, the application selection criteria in Section IV(A) of this NOFA. Failure to submit a narrative description is not cause for application rejection; however, the GMC can only rate and rank the application based on information it has on-hand.

(C) Description of Primary Market Area

Each PHA must specify in the application its primary market area; *i.e.*, the area in which it is authorized to operate and in which the housing choice vouchers will be used. This information may be different than that entered by such a PHA on the form HUD-52515, as the form calls for the PHA to identify its "legal area of operation" which may be far more geographically expansive than the specific city, county, or area within a State where a PHA, particularly a regional or State PHA, intends to use the fair share vouchers. This information is critical because, as indicated in Section IV(A)(1)(c) of this NOFA, the geographic area in which the vouchers are intended to be used and in which the PHA is legally authorized to operate a Housing Choice Voucher Program will be used to determine the percentage of the state's housing needs that are within the PHA's primary market area under Selection Criterion 1. For example, although a PHA may be legally authorized to operate throughout the entire county in which it is located, if the vouchers will be used only in two cities within that county then the primary market area is those two cities and not the entire county. Likewise, for a State PHA which may be legally authorized to operate throughout the entire State, but which intends to use the fair share vouchers in only one county, the primary market area is solely that county. In addition,

the primary market area shall not include a geographic area in which the PHA is issuing vouchers, outside its normally legally authorized area of operation, based upon an agreement with another PHA(s) to issue vouchers in the other PHA's jurisdiction.

(D) Statement Regarding the Steps the PHA Will Take to Affirmatively Further Fair Housing

The areas to be addressed in the PHA's statement should include, but not necessarily be limited to:

(1) An examination of the PHA's own programs or proposed programs, including an identification of any impediments to fair housing (identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice—in its Consolidated Plan); and a description of a plan developed to (a) address those impediments in a reasonable fashion in view of the resources available and (b) work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and the maintenance of records reflecting this analysis and actions;

(2) Remedy discrimination in housing; or

(3) Promote fair housing rights and fair housing choice.

(E) Moving to Work (MTW) PHA Information and Certification

See Section VII(B)(2)(c) regarding the information to be submitted by an MTW PHA required to report under the Section 8 Management Assessment Program (SEMAP) but not meeting the 95 percent lease-up or budget authority utilization requirements, or the lease-up or budget authority utilization certification to be submitted by an MTW PHA not required to report under SEMAP.

(F) Multifamily Tenant Characteristics System (MTCS) Reporting Certification

In order to be eligible to submit an application under this NOFA, the PHA must have had a minimum reporting rate of not less than 85 percent for housing choice voucher and certificate resident records to HUD's MTCS (see 24 CFR Part 908 and Notice PIH 98-30) for the period ending December 1999, and must submit a certification with its application certifying to having met this requirement.

VII. Corrections to Deficient Applications

(A) Acceptable Applications

An acceptable application is one which meets all of the application submission requirements in Section VI

of this NOFA and does not fall into any of the categories listed in Section VII (B) of this NOFA. The GMC will initially screen all applications and notify PHAs of technical deficiencies by letter.

With respect to correction of deficient applications, HUD may not, after the application due date and consistent with HUD's regulations in 24 CFR part 4, subpart B, consider any unsolicited information an applicant may want to provide. HUD may contact an applicant to clarify an item in the application or to correct technical deficiencies. Please note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of a response to any selection factors. In order not to unreasonably exclude applications from being rated and ranked, HUD may contact applicants to ensure proper completion of the application and will do so on a uniform basis for all applicants. *Examples* of curable (correctable) technical deficiencies include failure to submit the proper certifications or failure to submit an application that contains an original signature by an authorized official. In each case under this NOFA, the GMC will notify the applicant in writing by describing the clarification or technical deficiency. The applicant must submit clarifications or corrections of technical deficiencies in accordance with the information provided by the GMC within 7 calendar days of the date of receipt of the HUD notification. (If the due date falls on a Saturday, Sunday, or Federal holiday, your correction must be received by HUD on the next day that is not a Saturday, Sunday, or Federal holiday.) If the deficiency is not corrected within this time period, HUD will reject the application as incomplete, and it will not be considered for funding.

(B) Unacceptable Applications

(1) After the 7-calendar day technical deficiency correction period, the GMC will disapprove all PHA applications that it determines are not acceptable for processing. The GMC'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 III(A)(1) of this NOFA, Compliance With Fair Housing and Civil Rights Laws.

(b) The PHA has major program management findings in an Inspector General audit, HUD management review, or independent public accountant (IPA) audit for its voucher or certificate programs that are not closed

or on which satisfactory progress in resolving the findings is not being made; or program compliance problems for its voucher or certificate programs on which satisfactory progress is not being made. The only exception to this category is if the PHA has been identified under the policy established in Section II.(E) of this NOFA and the PHA makes application with a designated contract administrator. Major program management findings are those that would cast doubt on the capacity of the PHA to effectively administer any new Section 8 voucher funding in accordance with applicable HUD regulatory and statutory requirements.

(c) The PHA has failed to achieve a lease-up rate of 95 percent for its combined certificate and voucher units under contract for its fiscal year ending in 1999. Category (c) may be passed, however, if the PHA achieved a combined certificate and voucher budget authority utilization rate of 95 percent or greater for its fiscal year ending in 1999. In the event the PHA is unable to meet either of these percentage requirements, it may still pass category (c) if it submits information to the GMC, as part of its application, demonstrating that it was able to either increase its combined certificate and voucher lease-up rate to 95 percent or greater for its fiscal year ending in 2000, or was able to increase combined certificate and voucher budget authority utilization to 95 percent or more for its fiscal year ending in 2000. PHAs that have been determined by HUD to have passed either the 95 percent lease-up, or 95 percent budget authority utilization requirement for their fiscal year ending in 1999 will be listed with the Fair Share NOFA under "funds available" on the HUD Home Page site on the Internet's world wide web (<http://www.hud.gov>). A PHA not listed must either submit information (following the format of Appendix B of this NOFA) in its application supportive of its 95 percent lease-up or 95 percent budget authority utilization performance for its fiscal year ending in 2000, or submit information (following the format of Appendix B of this NOFA) as part of its application supportive of its contention that it should have been included among those PHAs HUD listed on the HUD Home Page as having achieved either a 95 percent lease-up rate or 95 percent budget authority utilization rate for fiscal years ending in 1999. Appendix B of this NOFA indicates the methodology and data sources used by HUD to calculate the lease-up and budget authority utilization percentage

rates for PHAs with fiscal years ending in 1999. Any PHA wishing to submit information to the GMC in connection with its 1999 fiscal year or 2000 fiscal year for the purposes described immediately above (so as to be eligible under category (c) to submit an application) will be required to use the same methodology and data sources indicated in Appendix B.

Moving To Work (MTW) agencies that are required to report under the Section 8 Management Assessment Program (SEMAP) shall be held to the 95 percent lease-up and budget authority utilization requirements referenced above, except where such an MTW agency provides information in its application demonstrating to HUD that a lower percentage is the result of the implementation of specific aspects of its program under its MTW Agreement with HUD. MTW agencies which are not required to report under SEMAP must submit a certification with their application certifying that they are not required to report under SEMAP, and that they meet the 95 percent lease-up or budget authority utilization requirements.

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

(e) A PHA's application that does not comply with the requirements of 24 CFR 982.102 and this NOFA after the expiration of the 7-calendar day technical deficiency correction period will be rejected from processing.

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

(g) The application was not submitted to the official place of receipt as indicated in the paragraph entitled "Address for Submitting Applications" at the beginning of this NOFA.

(h) The applicant has been debarred or otherwise disqualified from providing assistance under the program.

(i) The applicant has failed to achieve a minimum 85 percent submission rate for housing choice voucher and certificate resident records to HUD's Multifamily Tenant Characteristics System (MTCS), as set forth by 24 CFR Part 908 and Notice PIH 98-30, for the period ending December 1999.

VIII. Findings and Certifications

(A) Paperwork Reduction Act Statement

The Housing Choice Voucher Program (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 rental activities under this program are categorically excluded from the requirements of the National Environmental Policy Act of 1969 (NEPA) and are not subject to environmental review under the related laws and authorities. This NOFA provides funding for these activities under 24 CFR part 982, which does not contain environmental review provisions because of the categorical exclusion of these activities from environmental review. Accordingly, under 24 CFR 50.19(c)(5), issuance of this NOFA is also categorically excluded from environmental review under NEPA.

(C) Catalog of Federal Domestic Assistance Numbers

The Federal Domestic Assistance number for this program is 14.857.

(D) Federalism Impact

Executive Order 13132 (captioned "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. None of the provisions in this NOFA will have federalism implications and they will not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order. As a result, the notice is not subject to review under the Order.

(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 at (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 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: December 4, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

Appendix A

HOUSING CHOICE VOUCHERS—FY 2001 FAIR SHARE ALLOCATIONS

Allocation area	Dollars	Units
Alabama	3,832,512	986
Alaska & Wash- ington	8,490,178	1,466
Arizona	5,674,314	1,058
Arkansas	2,259,847	593
California	80,985,425	11,176
Colorado	6,109,188	1,008

HOUSING CHOICE VOUCHERS—FY
2001 FAIR SHARE ALLOCATIONS—
Continued

Allocation area	Dollars	Units
Connecticut	5,822,038	891
Delaware	872,723	149
District of Columbia & Maryland	9,073,520	1,556
Florida	18,168,761	3,295
Georgia	9,376,338	1,762
Hawaii & Pacific Is- lands	2,952,114	407
Idaho	1,069,276	262
Illinois	21,352,392	3,626
Indiana	6,143,219	1,353
Iowa	3,311,913	803
Kansas	2,486,578	626
Kentucky	3,831,993	1,015
Louisiana	5,095,557	1,283
Maine	1,671,828	336
Massachusetts	14,279,752	2,112
Michigan	13,632,265	2,651
Minnesota	5,488,976	1,043
Mississippi	2,485,561	672
Missouri	5,662,051	1,337
Montana	1,187,042	245
Nebraska	1,905,039	445
Nevada	2,671,352	442
New Hampshire	1,495,658	243
New Jersey	16,581,017	2,210
New Mexico	1,678,279	383
New York	71,902,793	9,830
North Carolina	8,022,284	1,664
North Dakota	721,896	176
Ohio	15,518,163	3,266
Oklahoma	3,079,623	792
Oregon	4,588,121	948
Pennsylvania	18,177,238	3,558
Puerto Rico & Virgin Islands	3,726,802	1,005
Rhode Island	2,033,286	357
South Carolina	3,520,083	815
South Dakota	936,014	215
Tennessee	5,247,465	1,229

HOUSING CHOICE VOUCHERS—FY
2001 FAIR SHARE ALLOCATIONS—
Continued

Allocation area	Dollars	Units
Texas	25,394,562	4,955
Utah	2,095,813	398
Vermont	1,019,047	179
Virginia	6,958,322	1,475
West Virginia	1,778,802	492
Wisconsin	7,908,238	1,655
Wyoming	439,954	105
US Total*	448,715,212	78,475

* Budget authority was reduced from \$452,907,000 to \$448,715,212 in order to correct the underfunding of four PHAs under the FY 2000 Fair Share NOFA due to a HUD error (see Section II(C)(3), Underfunding Corrections, of this NOFA). Vouchers have likewise been reduced from 79,000 to 78,475 in order to first fund the 525 vouchers that should have been funded for the four PHAs under the FY 2000 Fair Share NOFA. The four PHAs were located in the Alaska/Washington, Massachusetts, Ohio, and Oregon fair share allocation areas, so the dollar/voucher reductions were effectuated for these allocation areas consistent with the dollars and vouchers per PHA cited in Section II(C)(3) of this NOFA.

Appendix B

Methodology for Determining Lease-Up and Budget Authority Utilization Percentage Rates

Using data from the HUDCAPS system, HUD determined which PHAs met the 95% budget authority utilization or 95% lease-up criteria. The data used in the determination was based on PHA fiscal years ending in 1999. The budget authority utilization and lease-up rates were determined based upon the methodology indicated below.

Budget Authority Utilization

Percentage of budget authority utilization was determined by comparing the total contributions required to the annual budget authority (ABA) available for the PHA 1999 year combining the certificate and voucher programs.

Total contributions required were determined based on the combined actual costs approved by HUD on the form HUD-52681, Year End Settlement Statement. The components which make up the total contributions required are the total of housing assistance payments, ongoing administrative fees earned, hard to house fees earned, and IPA audit costs. From this total any interest earned on administrative fees is subtracted. The net amount is the total contributions required.

ABA is the prorated portion applicable to the PHA 1999 year for each funding increment which had an active contract term during all or a portion of the PHA year.

Example. PHA ABC Fiscal year 10/1/98 through 9/30/99.

HUD 52681 Approved Data:

HAP	\$2,500,000
Administrative Fee	250,000
Hard to House Fee	1,000
Audit	2,000
Total	2,753,000
Interest earned on adminis- trative fee	(2,500)

Total contributions re- quired	2,750,500
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CALCULATION OF ANNUAL BUDGET AUTHORITY

Increments	Contract term	Total BA	ABA
001	11/01/98–10/31/99	\$1,300,000	\$1,191,667
002	01/01/99–12/31/99	1,200,000	900,000
003	04/01/99–03/31/00	950,000	475,000
004	07/01/99–06/30/00	1,500,000	375,000
Totals	4,950,000	2,941,667

Budget Authority Utilization

Total contributions required divided by
\$2,750,000
Annual budget authority equals
\$2,941,667
Budget Authority Utilization—93.5%

Lease-up Rate

The lease-up rate was determined by comparing the reserved units (funding increments active as of the end of the PHA 1999 year) to the unit months leased (divided by 12) reported on the combined HUD 52681, Year End Settlement Statement(s) for 1999.

Active funding increments awarded by HUD for special purposes such as litigation, relocation/replacement, housing conversions, Welfare to Work, and new units awarded to the PHA during the last twelve months were excluded from the reserved units as the Department recognizes that many of these unit allocations have special requirements which require extended periods of time to achieve lease-up.

Example.

Increments	Contract term	Units
001	11/01/98–10/31/99	242
002	01/01/99–12/31/99	224
003	04/01/99–03/31/00	178
004	07/01/99–06/30/00	280
Totals		924
Increment 003 litigation		(178)
Adjusted contract units		746

Unit months leased reported by PHA—8,726
Divided by 12—727
Units Leased—727

Lease-up Rate

Units leased—727
Divided by adjusted contract units equals—
746
Lease-up Rate—97.5%
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