

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4595-N-01]

Notice of Funding Availability Family Unification Program, Fiscal Year 2000

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

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: *Purpose of the Program.* The purpose of the Family Unification Program is to promote family unification by providing housing 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.

Available Funds. The approximately \$10 million in one-year budget authority available under this NOFA will support approximately 1,800 Section 8 Housing Choice vouchers. The possibility exists of additional funding being made available for this program; perhaps as much as an additional \$50 million. Applicants should bear this in mind when considering the number of vouchers to apply for under Section II(C)(1) of this NOFA.

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

Application Deadline. August 23, 2000.

Match. None.

Additional Information

If you are interested in applying for funding under the Family Unification Program, please read the balance of this NOFA which will provide you with detailed information regarding the submission of an application, Section 8 Housing Choice program requirements, the application selection process to be used in selecting applications for funding, and other valuable information relative to a PHA's application submission and participation in the Family Unification Program.

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

Application Due Date. Your completed application (an original and

two copies is due on or before August 23, 2000, at the address shown below.

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.

Submit the second copy of your application 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 Grants Management Center is the official place of receipt for all applications in response to this NOFA. For ease of reference, the term "local HUD Field Office" will be used throughout this NOFA to mean the local HUD Field Office Hub and local HUD Field Office Program Center.

Delivered Applications. If you are hand delivering your application, your application is due on or before 5 p.m., Eastern time, on the application due date to the Office of Public and Indian Housing's Grants Management Center (GMC) in Washington, D.C. A copy is also to be submitted by the applicant to the local HUD Field Office.

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.

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

Applications Sent By Overnight Delivery. Applications sent by overnight delivery will be considered timely filed 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.

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, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708-1872, ext. 4064. Subsequent to application submission, you may determine the status of your application by contacting 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, Amount Allocated, Voucher Funding, 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, 2000 (Pub. L. 106-74, approved October 20, 1999), referred to in this NOFA as the FY 2000 HUD Appropriations Act) provides funding for the Family Unification Program.

(B) Purpose

The Family Unification Program is a program under which Section 8 Housing Choice vouchers are 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.

Vouchers awarded under the Family Unification Program are administered by PHAs under HUD's regulations for the Section 8 Housing Choice Voucher Program (24 CFR part 982).

(C) Amount Allocated

(1) *Available Funds/Maximum Voucher Request and Lottery.* This NOFA announces the availability of approximately \$10 million for the Family Unification Program which will provide assistance for about 1,800

families. (The possibility exists of additional funding being made available for this program; perhaps as much as an additional \$50 million. Applicants should bear this in mind when considering the number of vouchers to apply for under Section II(C)(1) of this NOFA.) PHAs with a current Section 8 voucher and certificate program of more than 500 units under an Annual Contributions Contract may apply for funding for a maximum of 100 units. PHAs with a current Section 8 voucher or certificate program of 500 units or less under an Annual Contributions Contract may apply for a maximum of 50 units. PHAs not currently administering either a Section 8 voucher or certificate program may apply for a maximum of 50 units.

A national lottery will be conducted to select approvable applications for funding if approvable applications are submitted by PHAs in FY 2000 for more than the approximately \$10 million available under this NOFA.

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.

(2) *Underfunding Corrections.* If prior to the award of FY 2000 FUP funding, HUD determines that any awardees under the FY 1999 Family Unification Program NOFA have been underfunded, HUD will increase funding to the amount the awardee should have received. Funding of any such FY 1999 awardees will be dependent upon the availability of FY 2000 funds for the Family Unification Program.

(3) *Unfunded Approvable Applications.* PHAs with approvable applications that are not funded, in whole or in part, due to insufficient funds available under this FUP NOFA, shall be funded first in FY 2001 provided HUD receives additional appropriations for FUP for FY 2001.

(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 using the following three step process:

(a) HUD will extract the total expenditures for all the PHA's Section 8 tenant-based assistance 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 Section 8 tenant-based assistance 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 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

Any PHA established pursuant to State law, including regional (multicounty) or State PHAs, may apply for funding under this NOFA. Indian Housing Authorities, 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 Section 8 annual contributions contracts (ACC) with IHAs after September 30, 1997.

Some PHAs currently administering the Section 8 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 deadline date, the findings are either not closed, or sufficient progress toward closing the 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 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 and program compliance problems. 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. Concurrently, the local HUD Field Office will provide a copy of each such written notification to the GMC. 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. 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 Section 8 voucher funding in accordance with applicable regulatory and statutory requirements.

III. 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 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, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act, 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 Titles I and V of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).

(3) *Affirmatively Furthering Fair Housing.* Applicants 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.

(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) 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 a Section 8 voucher.

(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:

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

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

—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 Member.* 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).* 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 vouchers in accordance with applicable program regulations and requirements;

(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; and

(g) Comply with the actions to be taken by the PHA as specified in the memorandum of understanding (MOU) executed by the PHA and the PCWA. (See paragraph IV (B)(3) regarding the MOU.)

(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;

(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; and

(e) Comply with the actions to be taken by the PCWA as specified in the memorandum of understanding (MOU) executed between the PCWA and the PHA. (See paragraph IV (B)(3) regarding the MOU.)

(4) *Section 8 Voucher Assistance.* The Family Unification Program provides funding for rental assistance under the

Section 8 Housing Choice Voucher Program.

PHAs must administer this program in accordance with HUD's regulations governing the Section 8 Housing Choice Voucher Program. If a Section 8 voucher for a family under this program is terminated, the voucher 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.

IV. Application Selection Process For Funding

(A) Rating and Ranking

HUD's Grants Management Center is responsible for rating the applications under the selection criteria in this NOFA, and is responsible for the selection of FY 2000 applications that will receive consideration for assistance under the Family Unification Program. The Grants Management Center will initially screen all applications and determine any technical deficiencies based on the application submission requirements.

Each application submitted in response to the NOFA, in order to be eligible for funding, must receive at least 10 points for Threshold Criterion 2, Efforts of PHA 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 vouchers 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 (50 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 Housing Choice Voucher Program. PHAs in metropolitan and non-metropolitan areas are eligible for points under this criterion. The Grants Management Center 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 Grants Management Center 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 Grants Management Center 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 40 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 exchange program where all PHAs absorb portable Section 8 families.

(ii) 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.

(iii) 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.

(iv) 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 include a memorandum of understanding (MOU), executed by the chief executive officer of the PHA and the PCWA, identifying the actions that the PHA and the PCWA will take to identify and assist Family Unification Program eligible families and the resources that each organization will commit to the FUP. The MOU must clearly address, at a minimum, the following:

(a) PHA responsibilities as outlined in paragraph III.(B)(2) of this NOFA.

(b) PCWA responsibilities as outlined in paragraph III.(B)(3) of this NOFA.

(c) The assistance the PCWA will provide to families in locating housing units.

(d) The PCWA's past experience in administering a similar program.

(e) Past PCWA and PHA cooperation in administering a similar program. The MOU shall be considered by HUD and the signatories (the PCWA and the PHA) as a binding agreement. As such, the document should be very specific. For instance, the PCWA should clearly indicate in connection with paragraph (b) immediately above the length of time that its follow-up services will be available to FUP-eligible families after they have rented a unit using the voucher issued by the PHA; the amount of time and staff resources the PCWA will commit on a continuing basis to identify FUP-eligible families and provide follow-up support services, etc.

(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 2000 Applications.* After the Grants Management Center has screened PHA applications and disapproved any applications unacceptable for further processing (see Section VI(B) of this NOFA, below), the Grants Management Center will review and rate all approvable applications, utilizing the Threshold Criteria and the point assignments listed in this NOFA.

The Grants Management Center will select eligible PHAs to be funded based on a lottery in the event approvable applications submitted in FY 2000 are received for more funding than the approximately \$10 million available under this NOFA. All FY 2000 PHA applications identified by the Grants Management Center 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 will limit the number of FY 2000 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. If establishing this geographic limit results in unspent budget authority, however, HUD may modify this limit to assure that all available funds are used.

Applications will be funded in full for the number of vouchers requested by the PHA in accordance with the NOFA. If the remaining voucher funds are insufficient to fund the last PHA application in full, however, the Grants Management Center may recommend funding that application to the extent of the funding available and the applicant's willingness to accept a reduced number of vouchers. 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. The Grants Management Center will skip over these applicants if assigning the remaining funding would result in a reduced funding level.

V. Application Submission Requirements

(A) *Form HUD-52515.* Funding Application, form HUD-52515, must be completed and submitted for the Section 8 Housing Choice Voucher Program. This form includes all the necessary certifications for Fair Housing, Drug-Free Workplace and Lobbying Activities. Section C of the form should be left blank. 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>). On the HUD website click on "forms," then click on "HUD-5" and then click on "HUD-52515." The form must be completed in its entirety, with the exception of Section C, signed and dated.

(B) *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 vouchers requested. The PHA must state in its cover letter to the application whether it will accept a smaller number of vouchers and the minimum number of vouchers 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(B) of this NOFA.

The application must also include an MOU as described in paragraph IV.(B)(3) of this NOFA.

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.

(C) *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.

(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: (a) 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.

(E) *Program Summary.* Provide a separate, one paragraph statement describing how the vouchers being applied for will address the local housing needs of eligible families in renting decent, safe, and affordable housing. Describe, where applicable, how the vouchers will be used to expand existing housing choices, and whether the PHA intends to use the vouchers to establish or expand upon its partnerships with local government, nonprofit agencies, or private industry groups. Also address any related notable local program activities, best practices, or accomplishments.

VI. Corrections To Deficient Family Unification Applications

(A) Acceptable Applications

An acceptable application is one which meets all of the application submission requirements in Section V of this NOFA and does not fall into any of the categories listed in Section VI (B) of this NOFA. The Grants Management Center 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 Grants Management Center 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 Grants Management Center within 14 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 14-calendar day technical deficiency correction period, the Grants Management Center will disapprove PHA applications that it determines are not acceptable for processing. The Grants Management Center'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* Inspector General audit findings, HUD management review findings, or independent public accountant (IPA) findings for its voucher or certificate programs that are not closed or on which satisfactory progress in resolving the findings is not being made; 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 another agency or contractor that will administer the family unification assistance on behalf of the PHA. 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 90 percent for its combined certificate and voucher units under contract for its fiscal year ending in 1998. Category (c) may be passed, however, if the PHA achieved a combined certificate and voucher budget authority utilization rate of 90 percent or greater for its fiscal year ending in 1998. 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 Grants Management Center, as part of its application, demonstrating that it was able to either increase its combined certificate and voucher lease-up rate to 90 percent or greater for its fiscal year ending in 1999, or was able to increase combined certificate and voucher budget authority utilization to 90 percent or more for its fiscal year ending in 1999. PHAs that have been determined by HUD to have passed either the 90 percent lease-up, or 90 percent budget authority utilization requirement for their fiscal year ending in 1998 will be listed 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 in its application supportive of its 90 percent lease-up or 90 percent budget authority utilization performance for its fiscal year ending in 1999, or submit information 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 90 percent lease-up rate or 90 percent funding utilization rate for fiscal years ending in 1998. Attachment 1 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 1998. Any PHA wishing to submit information to the GMC in connection with its 1998 fiscal year or 1999 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 Attachment 1.

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

(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 14-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 "Official Place of Application Receipt" at the beginning of this NOFA.

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

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 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: July 18, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

Attachment 1—Methodology for Determining Lease-up and Budget Authority Utilization Percentage Rates

Using data from the HUDCAPS system, HUD determined which PHAs met the 90% budget authority utilization or 90% lease-up criteria. The data used in the determination was based on PHA fiscal years ending in

1998. 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 1998 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 1998 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 10/1/97 through 9/30/98]	
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 administrative fee	(2,500)
Total contributions required	2,750,500

Calculation of Annual Budget Authority

Increments	Contract term	Total BA	ABA
001	11/01/97–10/31/98	\$1,300,000	\$1,191,667
002	01/01/98–12/31/98	1,200,000	900,000
003	04/01/98–03/31/99	950,000	475,000
004	07/01/98–06/30/99	1,500,000	375,000
Totals		4,950,000	2,941,667

Budget Authority Utilization

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

Lease-up Rate

The lease-up rate was determined by comparing the contract units (funding increments active as of the end of the PHA 1998 year) to the unit months leased (divided by 12) reported on the combined HUD 52681, Year End Settlement Statement(s) for 1998.

Active funding increments awarded by HUD for special purposes such as litigation,

relocation/replacement, housing conversions, etc. were excluded from the contract 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	11/01/97–10/31/98	242
002	01/01/98–12/31/98	224
003	04/01/98–03/31/99	178
004	07/01/98–06/30/99	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	97.4%

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