

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4194-N-01]

Notice of Funding Availability, Family Unification Program, Fiscal Year 1997

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

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1997.

SUMMARY: *Purpose.* This notice announces the availability of FY 1997 funding for section 8 rental certificates under the Family Unification Program, which will provide rental assistance for approximately 6,400 families. The purpose of the Family Unification Program is to provide housing assistance to families for whom the lack of adequate housing is a primary factor in the separation, or imminent separation, of children from their families.

Available Funds. Up to \$ 58.8 million in one-year budget authority.

Eligible Applicants. Housing agencies (HAs), including Indian Housing Authorities (IHAs), are invited to submit applications for housing assistance. Applications from twenty-four HAs that were included in the FY 1996 lottery and were not selected for funding in FY 1996 because of insufficient funds will be funded with FY 1997 funds. HUD will fund applications for Section 8 rental certificates from these HAs for approximately 1,100 units at an estimated cost of \$10 million of one-year budget authority from FY 1997 funds. The balance of available funding of approximately \$ 48.8 million in one-year budget authority will be made available for a new competition under this NOFA.

For FY 1997, HUD has determined that there are sufficient funds available to conduct a national lottery. Therefore, unlike in prior fiscal years when HAs within sixteen selected states only were eligible to apply, for FY 1997, any HA nationwide that currently administers a Section 8 certificate program or rental voucher program is eligible to apply and may be eligible for the lottery selection process for the FY 1997 Section 8 Family Unification Program.

DATES: The application deadline for the Family Unification program NOFA is June 17, 1997, 3:00 p.m., local time.

This application deadline is firm as to date and hour. In the interest of fairness to all competing HAs, 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.

ADDRESSES: The local HUD State or Area Office, Attention: Director, Office of Public Housing, is the official place of receipt for all applications, except applications from Indian Housing Authorities (IHAs). The local HUD Native American Programs Office, Attention: Administrator, Office of Native American Programs, is the place of official receipt for IHA applications. For ease of reference, the term "HUD Office" will be used throughout this NOFA to mean the HUD State Office, HUD Area Office, and the HUD Native American Programs Office. If a particular type of HUD Office needs to be identified, e.g., the HUD Native American Programs Office, the appropriate office will be used.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-8000, telephone number (202) 708-0477 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The section 8 information collection requirements contained in this NOFA have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), and assigned OMB control 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.

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work

better if linked at the local level. Toward this end, the Department in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

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

The related NOFAs that the Department has published are as follows: the NOFA for the Continuum of Care Assistance, published on April 8, 1997 (62 FR 17024), the NOFA for the Section 8 Mainstream Housing Opportunities for Persons with Disabilities, published on April 10, 1997 (62 FR 17666), and the NOFA for the Rental Assistance for Persons with Disabilities in Support of Designated Housing Allocation Plans, published on April 10, 1997 (62 FR 17672). The related NOFAs that the Department expects to publish within the next few weeks include: the NOFA for Housing Opportunities for Persons with Aids; the NOFA for the Supportive Housing for the Elderly; the NOFA for Supportive Housing for Persons with Disabilities; and the NOFA for Section 8 Service Coordinators.

To foster comprehensive, coordinated approaches by communities, the Department intends for the remainder of FY 1997 to continue to alert applicants to upcoming and recent NOFAs as each NOFA is published. In addition, a complete schedule of NOFAs to be published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at <http://www.hud.gov/nofas.html>. Additional steps on NOFA coordination may be considered for FY 1998.

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

Family Self-Sufficiency (FSS) Program Requirement

Unless specifically exempted by HUD, all rental voucher or rental certificate funding reserved in FY 1997 (except funding for renewals or amendments) will be used to establish the minimum size of an HA's FSS program.

A. Purpose and Substantive Description of Family Unification Program

(1) 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, 1997 (Pub. L. No. 104-204) provides funding for the Family Unification Program.

(2) Background

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

(a) The imminent placement of the family's child, or children, in out-of-home care; or

(b) The delay in the discharge of the child, or children, to the family from out-of-home care.

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

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

(3) Eligibility of HAs

(a) *Family Unification Program Eligibility.* HUD has revised the family unification eligibility criteria for FY 1997 to allow any HA nationwide that currently administers a Section 8 rental voucher or certificate program to apply.

(b) *Eligibility for HUD-Designated Housing Agencies with Major Program Findings.* Some housing agencies currently administering the Section 8 rental voucher and certificate programs have, at the time of publication of this NOFA, major program management findings that are open and unresolved or other significant program compliance problems (e.g., HA has not implemented mandatory FSS program). HUD will not accept applications for additional funding from these HAs as contract administrators if, on the application deadline date, the findings are not

closed to HUD's satisfaction. If any of these HAs want to apply for the Family Unification Program, the HA must submit an application that designates another housing agency, nonprofit agency, or contractor that is acceptable to HUD. The HA 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 HA and a statement that outlines the steps the HA is taking to resolve the program findings. Immediately after the publication of this NOFA, the Office of Public Housing in the local HUD Office will notify, in writing, those HAs that are not eligible to apply because of outstanding management or compliance problems. The HA may appeal the decision, if HUD has mistakenly classified the HA as having outstanding management or compliance problems. Any appeal must be accompanied by conclusive evidence of HUD's error and must be received prior to the application deadline. Applications submitted by these HAs without an agreement from another housing agency or contractor, approved by HUD, to administer the program on behalf of the HA will be rejected.

(4) Program Guidelines

(a) *Eligibility.* (i) Family Unification eligible families. Each HA 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:

(A) 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

(B) The HA has determined is eligible for Section 8 rental assistance.

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

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

(B) A family is homeless; or

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

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

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

(A) Is dilapidated;

(B) Does not have operable indoor plumbing;

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

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

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

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

(G) Should, but does not, have a kitchen; or

(H) Has been declared unfit for habitation by an agency or unit or government.

(iv) 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.

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

(A) Lacks a fixed, regular, and

adequate nighttime residence; and

(B) Has a primary nighttime residence that is:

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

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

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

(vi) Displaced by Domestic Violence.

A family is displaced by domestic violence if:

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

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

(C) "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.

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

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

(B) 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 HA may terminate assistance to the family for breach of this certification.

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

(A) 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

(B) 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 (viii), the HA may determine whether the unit is "overcrowded" in accordance with HA subsidy standards.

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

(x) Public child welfare agency (PCWA) means the public agency that is responsible under applicable State or Tribal 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.

(b) *HA Responsibilities.* HAs must:

(i) Accept families certified by the PCWA as eligible for the Family Unification Program. The HA, upon receipt of the PCWA list of families currently in the PCWA caseload, must compare the names with those of families already on the HA's Section 8 waiting list. Any family on the HA'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 HA 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 HA 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 HA's Section 8 waiting list;

(ii) 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;

(iii) Determine if families referred by the PCWA are eligible for Section 8

assistance and place eligible families on the Section 8 waiting list;

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

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

(vi) 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.

(c) *Public Child Welfare Agency (PCWA) Responsibilities.* A public child welfare agency must:

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

(ii) Provide written certification to the HA 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;

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

(iv) Cooperate with the evaluation that HUD intends to conduct on the Family Unification Program, and submit a certification with the HA'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.

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

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

Annual Contributions Contract subject to the availability of renewal funding.

B. Family Unification Allocation Amounts

This NOFA announces the availability of approximately \$58.8 million for the Family Unification Program which will provide assistance for about 6,400 families. Each HA with a current Section 8 rental voucher and certificate program of more than 500 units as shown in the most recent HUD approved program budget may apply for funding for a maximum of 100 units. Each HA with a current Section rental voucher or certificate program of 500 units or less as shown in the most recent HUD approved program budget may apply for a maximum of 50 units.

The amounts allocated under this NOFA will be awarded under a national competition, based on the threshold criteria and a lottery for selection from all approvable applications. 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. A few applications for FY 1996 funding that met the requirements of the FY 1996 NOFA, were included in the FY 1996 lottery and were not selected for funding from funds in FY 1996 will be selected using funds appropriated for FY 1997 funding for the Family Unification Program. In order to allow the HAs that had approvable applications in FY 1996 to begin implementation of the Family Unification Program, these FY 1996 applications will be funded upon publication of this NOFA.

C. Family Unification Application Submission Requirements

(1) Form HUD-52515

Funding Application Section 8 Tenant-Based Assistance, Form HUD-52515, must be completed in accordance with the program regulations (24 CFR 982.102). An application must include the information in Section C, Average Monthly Adjusted Income, of Form HUD-52515 in order for HUD to calculate the amount of Section 8 budget authority necessary to fund the requested number of certificate units. HAs may obtain a copy of Form HUD-52515 from the local HUD Office or may download it from the HUD Home page on the internet's world wide web (<http://www.hud.gov>).

(2) Local Government Comments

Section 213 of the Housing and Community Development Act of 1974 requires that HUD independently determine that there is a need for the housing assistance requested in applications and solicit and consider comments relevant to this determination from the chief executive officer of the unit of general local government. The HUD Office will obtain Section 213 comments from the unit of general local government in accordance with 24 CFR part 791, subpart C, Applications for Housing Assistance in Areas Without Housing Assistance Plans. Comments submitted by the unit of general local government must be considered before an application can be approved.

For purposes of expediting the application process, the HA should encourage the chief executive officer of the unit of general local government to submit a letter with the HA application commenting on the HA application in accordance with Section 213. Because HUD cannot approve an application until the 30-day comment period is closed, the Section 213 letter should not only comment on the application, but also state that HUD may consider the letter to be the final comments and that no additional comments will be forthcoming from the unit of general local government.

(3) Letter of Intent and Narrative

All the items in this Section must be included with the application submitted to the HUD Office. Funding is limited, and HUD may only have enough funds to approve a smaller amount than the number of rental certificates requested. The HA must state in its cover letter to the application whether it will accept a smaller number of rental certificates and the minimum number of rental certificates it will accept. The cover letter must also include a statement by the HA certifying that the HA 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 D of this NOFA, below.

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

(i) The definition of eligible family unification program families;

(ii) The method used to identify eligible family unification program families;

(iii) The process to certify eligible family unification program families;

(iv) The PCWA assistance to families to locate suitable housing;

(v) The PCWA staff resources committed to the program; and

(vi) PCWA experience with the administration of similar programs including cooperation with a HA.

The PCWA serving the jurisdiction of the HA is responsible for providing the information for Threshold Criterion 4, PCWA Statement of Need for Family Unification Program, to the HA for submission with the HA 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 HAs that request such information; otherwise, HUD will not consider applications from any HAs with the State-wide PCWA as a participant in its program.

(4) Evaluation Certifications

The HA and the PCWA, in separate certifications, must state that the HA 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. Family Unification Application Rating Process

(1) General

The HUD Office is responsible for rating the applications for the selection criteria established in this NOFA, and HUD Headquarters is responsible for selection of applications (including applications rated by the Native American Programs Office) that will receive assistance under the Family Unification Program. The HUD Office will initially screen all applications and determine any technical deficiencies based on the application submission requirements.

Each eligible application submitted in response to the NOFA, in order to be eligible for funding, must receive at least 30 points for Threshold Criterion 1, Unmet Housing Needs, and at least 20 points for Threshold Criterion 2, Efforts of HA to Provide Area-Wide Housing Opportunities for Families. Each application must also meet the requirements for Threshold Criterion 3, Coordination between HA and Public Child Welfare Agency, and Threshold Criterion 4, Public Child Welfare Agency Statement of Need for Family Unification Program.

(2) Threshold Criteria

(a) Threshold Criterion 1: Unmet Housing Needs (50 Points).

(i) Description: This criterion assesses the unmet housing need in the primary area specified in the HA's application compared to the unmet housing need for the allocation area. Unmet housing need is defined as the number of very low-income renter households with housing problems based on 1990 Census, minus the number of federally assisted housing units provided since the 1990 Census.

In awarding points under this criterion, HUD will, to the extent practicable, consider all units provided since the 1990 Census under the Section 8 Rental Voucher and Certificate programs, any other Section 8 programs, the Public and Indian Housing programs, the Section 202 program, and the Farmers Home Administration's Section 515 Rural Rental Housing program.

(ii) Rating and Assessment: The number of points assigned is based on the percentage of the allocation area's unmet housing need that is within the HA's primary area. State or Regional Housing Agencies will receive points based on the areas they intend to serve with this allocation, e.g., the entire allocation area or the localities within the allocation area specified in the application. The HUD Office will assign one of the following point totals:

- *50 points.* If the HA's percentage of unmet housing need is greater than 50 percent of the allocation area's unmet need.

- *45 points.* If the HA's percentage of unmet housing need is equal to or less than 50 percent but greater than 40 percent of the allocation area's unmet need.

- *40 points.* If the HA's percentage of unmet housing need is equal to or less than 40 percent but greater than 30 percent of the allocation area's unmet need.

- *35 points.* If the HA's percentage of unmet housing need is equal to or less than 30 percent but greater than 20

percent of the allocation area's unmet need.

- *30 points.* If the HA's percentage of unmet housing need is equal to or less than 20 percent but greater than 10 percent of the allocation area's unmet need.

- *0 points.* If the HA's percentage of unmet housing need is equal to or less than 10 percent of the allocation area's unmet need.

The HUD Office will not consider for funding any HA application receiving zero (0) points.

In accordance with Notice PIH 91-45, the HUD Office will notify the Rural Housing Service (RHS) of applications it receives and ask that RHS provide advisory comments concerning the market for additional assisted housing or the possible impact the proposed units may have on RHS projects. Applications for which RHS has provided comments expressing concerns about market need or the continued stability of existing RHS projects, with which HUD agrees, will receive zero points for this criterion.

(b) *Threshold Criterion 2: Efforts of HA to Provide Area-Wide Housing Opportunities for Families (60 Points).*

(i) *Description:* Many HAs have undertaken voluntary efforts to provide area-wide housing opportunities for families. The efforts described in response to this selection criterion must be beyond those required by federal law or regulation such as the portability provisions of the Section 8 rental voucher and certificate programs. HAs in metropolitan and non-metropolitan areas are eligible for points under this criterion. The HUD Office will assign points to HAs that have established cooperative agreements with other HAs or created a consortium of HAs in order to facilitate the transfer of families and their rental assistance between HA jurisdictions. In addition, the HUD Office will assign points to HAs 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.

(ii) *Rating and Assessment:* The HUD Office will assign point values for any of the following assessments for which the HA qualifies and add the points for all the assessments (maximum of 60 points) to determine the total points for this Selection Criterion:

- *10 points*—Assign 10 points if the HA documents that it participates in an area-wide rental voucher and certificate exchange program where all HAs absorb portable Section 8 families.

- *10 points*—Assign 10 points if the HA certifies that its administrative plan does not include a "residency preference" for selection of families to participate in its rental voucher and certificate programs or the HA certifies that it will eliminate immediately any "residency preference" currently in its administrative plan.

- *10 points*—Assign 10 points if the HA documents that HA staff will provide housing counseling for families that want to move to low-poverty or non-minority areas, or if the HA 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 HAs approved for the FY 1993 Moving to Opportunity (MTO) for Fair Housing Demonstration and any other HAs 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 HAs must identify all activities undertaken, other than those funded by HUD, to expand housing opportunities.

- *10 points*—Assign 10 points if the HA documents that it requested from HUD, and HUD approved, the authority to utilize exceptions to the fair market rent limitations as allowed under 24 CFR 882.106(a)(4) to allow families to select units in low-poverty or non-minority areas.

- *10 points*—Assign 10 points if the HA documents that it participates with other HAs in using a metropolitan wide or combined waiting list for selecting participants in the program.

- *10 Points*—Assign 10 points if the HA 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.

(c) *Threshold Criterion 3: Coordination Between HA and Public Child Welfare Agency to Identify and Assist Eligible Families.*

The application must describe the method that the HA and the PCWA will use to identify and assist Family Unification eligible families. The application must include a letter of intent from the PCWA stating its commitment to provide resources and support for the program. The PCWA letter of intent and other information must include an explanation of: the method for identifying Family Unification eligible families, the PCWA's certification process for

determining Family Unification eligible families, the responsibilities of each agency, the assistance that the PCWA will provide to families in locating housing units, the PCWA staff resources committed to the program, the past PCWA experience administering a similar program, and the PCWA/HA cooperation in administering a similar program.

(d) *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 HA'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.

E. Corrections to Deficient Family Unification Applications

(1) *Acceptable Applications*

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

If an application has technical deficiencies, the HA will have 14 calendar days from the date of the issuance of the HUD notification letter to submit the missing or corrected information to the HUD Office. Curable technical deficiencies relate only to items that do not improve the substantive quality of the application relative to the rating factors.

All HAs must submit corrections within 14 calendar days from the date of the HUD letter notifying the applicant of any such deficiency. Information received after 3 p.m. local time (i.e., the

time in the appropriate HUD Office) of the 14th calendar day of the correction period will not be accepted and the application will be rejected as incomplete.

(2) Unacceptable Applications

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

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

(i) There is a pending civil rights suit against the HA instituted by the Department of Justice or there is a pending administrative action for civil rights violations instituted by HUD (including a charge of discrimination under the Fair Housing Act).

(ii) There has been an adjudication of a civil rights violation in a civil action brought against the HA by a private individual, unless the HA is operating in compliance with a court order or implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the areas of noncompliance.

(iii) There are outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations, as a result of formal administrative proceedings, or the Secretary has issued a charge against the applicant under the Fair Housing Act, unless the applicant is operating under a conciliation or compliance agreement designed to correct the areas of noncompliance.

(iv) HUD has denied application processing under Title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3), and the HUD Title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1), or under section 504 of the Rehabilitation Act of 1973 and HUD regulations (24 CFR 8.57).

(v) The HA has serious unaddressed, outstanding Inspector General audit findings, Fair Housing and Equal Opportunity monitoring review findings, or HUD management review findings for one or more of its Rental Voucher, Rental Certificate, or Moderate Rehabilitation Programs, or, in the case of a HA that is not currently administering a Rental Voucher, Rental Certificate, or Moderate Rehabilitation Program, for its Public Housing Program or Indian Housing Program. The only exception to this category is if the HA has been identified under the policy established in section A.(3)(b) of this

NOFA and the HA makes application with another agency or contractor that will administer the family unification assistance on behalf of the HA.

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

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

(viii) A HA application submitted after the deadline date.

F. Family Unification Application Selection Process

(1) Funding FY 1996 Applications

The FY 1996 NOFA was published in the **Federal Register** on May 2, 1996, (61 FR 19761) and provides that HUD may use FY 1997 funds for applications from the FY 1996 lottery that were not awarded funds in FY 1996. HUD has determined that sufficient funds are available in FY 1997 to fund these applications and to conduct a new lottery in FY 1997 for new applicants. HUD will fund the remaining FY 1996 lottery applications upon publication of this NOFA prior to funding any FY 1997 applications. Any HA that applied under the FY 1996 NOFA and is being funded under the FY 1997 NOFA may also submit an FY 1997 application.

(2) Funding FY 1997 Applications

After the HUD Office has screened HA applications and disapproved any applications unacceptable for further processing (See Section E.(2) of this NOFA), the HUD Office will review and rate all approvable applications, utilizing the Threshold Criteria and the point assignments listed in this NOFA. Each HUD Office will send to HUD Headquarters the following information on each application that passes the Threshold Criteria:

- (1) Name and address of the HA;
- (2) Name and address of the Public Child Welfare Agency;
- (3) State Office, Area Office, or Native American Programs Office contact person and telephone number;
- (4) The requested number of rental certificates in the HA application and the minimum number of rental certificates specified in the HA application, and the corresponding budget authority; and
- (5) A completed fund reservation worksheet for the number of rental certificates requested in the application.

HUD Headquarters will select eligible HAs to be funded based on a lottery. All acceptable applications by HAs identified by the HUD Offices as meeting the Threshold Criteria identified in this NOFA will be eligible for the lottery selection process. The costs of funding the FY 1997 applications will be counted against the total available funds remaining for the Family Unification Program. If the cost of funding the applications received by HUD exceeds available funds, in order to achieve geographic diversity HUD Headquarters will limit the number of FY 1997 applications selected for funding under the lottery for any State to no more than 10 percent of the budget authority made available under this NOFA. However, if establishing this geographic limit results in unspent budget authority, HUD may modify this limit to assure that all available funds are used.

Applications will be funded in full for the number of rental certificates requested by the HA in accordance with the NOFA. However, if the remaining rental certificate funds are insufficient to fund the last HA application in full, HUD Headquarters may fund that application to the extent of the funding available and the applicant's willingness to accept a reduced number of rental certificates. Applicants that do not wish to have the size of their programs reduced may indicate in their applications that they do not wish to be considered for a reduced award of funds. HUD Headquarters will skip over these applicants if assigning the remaining funding would result in a reduced funding level.

G. Other Matters

Environmental Impact

This NOFA provides funding under, and does not alter environmental requirements of, regulations in 24 CFR part 882 subparts A, B, C and F. 887 and 982, which have been previously published in the **Federal Register**. This NOFA provides funding only for tenant-based assistance, which is a categorical exclusion not subject to the individual compliance requirements of the Federal laws and authorities cited in § 50.4, and therefore those regulations do not contain environmental review requirements. Accordingly, under 24 CFR 50.19(c)(5), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. This notice is a funding notice and does not substantially alter the established roles of the Department, the States, and local governments, including HAS.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this notice does not have potential for significant impact on family formation, maintenance, and general well-being within the meaning of the Executive Order and, thus, is not subject to review under the Order. This is a funding notice and does not alter program requirements concerning family eligibility.

Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

Documentation and Public Access Requirements

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

Section 103 of the HUD Reform Act

HUD's regulation implementing section 103 of the HUD Reform Act, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than persons authorized to receive such information) concerning funding decisions, or from otherwise giving any applicant an unfair

competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708-3815 (voice), (202) 708-1112 (TTY). (These are not toll-free numbers.) For HUD employees who have specific program questions, the employee should contact the appropriate Field Office Counsel or Headquarters Counsel for the program to which the question pertains.

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the "Byrd Amendment") and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and sub-recipients of assistance exceeding \$100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance. IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but IHAs established under State law are not excluded from the statute's coverage.

Dated: April 10, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

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