

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4228-N-01]

Notice of Funding Availability for HOPE VI Public Housing Demolition—Fiscal Year 1997

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

ACTION: Notice of funding availability (NOFA).

SUMMARY: This notice informs Public Housing Agencies (PHAs) of the availability of up to \$30 million in HOPE VI funding for the demolition of obsolete Public Housing units without revitalization, where the demolition would otherwise not occur due to lack of available resources. Indian Housing Authorities are not eligible to apply.

DATES: An original application must be received at HUD Headquarters, Attention: Director, Office of Public Housing Investments, 451 Seventh Street, SW, Room 4138, Washington, DC 20410, on or before 4 p.m. eastern time on August 4, 1997. The application deadline for the original application delivered to HUD Headquarters is firm as to date and hour. PHAs should take this into account and submit applications as early as possible to avoid the risk brought about by unanticipated delays or delivery-related problems. In particular, PHAs intending to mail applications must provide sufficient time to permit delivery on or before the deadline date. HUD will disqualify and return to the applicant any application that it receives after the deadline date and time. Notwithstanding the foregoing, HUD will accept any application the original of which was delivered to a U.S. post office or private mailer for expedited delivery, properly addressed to Headquarters and fully paid for, no later than 12:00 noon local time on the day before it was due at HUD, for scheduled delivery prior to the deadline established above. If an application arrives at HUD Headquarters after the deadline date and time and the applicant wishes to make a case that it delivered the application for expedited delivery on time, the applicant must document with an official receipt from the post office or private mailer that the application was received by 12:00 noon local time on the day before it was due at HUD.

In addition, two copies of the completed application must be received at the Field Office. The deadlines for submission discussed above only apply

to the original, official copy, not to the copies of the application going to the Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. Milan Ozdinec, Director, Office of Urban Revitalization, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4142, Washington, DC 20410; telephone (202) 401-8812 (this is not a toll free number). Hearing-or speech-impaired individuals may access this number via TTY by calling the Federal Information Relay Service at 1-800-877-TDDY, which is a toll-free number. The NOFA is also available on the HUD Home Page, at the World Wide Web at <http://www.hud.gov/nofas.html>. HUD also will post frequently-asked questions and answers on the Home Page throughout the application preparation period.

SUPPLEMENTARY INFORMATION:

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, HUD 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.

NOFAs related to housing revitalization that HUD has published are the NOFA for Revitalization of Severely Distressed Public Housing (HOPE VI), which was published on April 14, 1997, and the NOFA for the Comprehensive Improvement Assistance (CIAP) Program, which was published on May 1, 1997. Other NOFAs related to housing revitalization the Lead-based Paint Hazard Reduction NOFA, which is published elsewhere in today's **Federal Register**, and the NOFA for the Section 8 Rental Certificate and

Voucher Programs, which HUD expects to publish within the next few weeks.

To foster comprehensive, coordinated approaches by communities, HUD 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.

I. Purpose and Substantive Description

A. Authority

The funding made available under this NOFA is provided by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub. L. 104-204; approved September 26, 1996) (the 1997 Appropriations Act), under the heading "Revitalization of Severely Distressed Public Housing."

B. Fund Availability

This NOFA announces the availability of up to \$30 million in HOPE VI funding for the demolition of obsolete Public Housing units without revitalization, where the demolition would otherwise not occur due to lack of available resources. Indian Housing Authorities are not eligible to apply.

C. Application Limitations

There is no minimum or maximum limitation on the size of the PHA that may apply or on the number of dwelling units for which demolition funding is requested. The Department will limit the eligible demolition funding per unit to \$5,000 for vacant units and \$6,500 for occupied units that require resident relocation. In addition, there will be a \$3,000,000 limit on each grant. A PHA may apply for funding for only one public housing development. Contiguous developments will be considered one development for purposes of this NOFA.

D. Previously Submitted Demolition Applications

PHAs with previously submitted and/or approved demolition applications that include dwelling units may apply for funding under this NOFA where the PHA has not signed a contract to demolish the structure(s) and the actual

demolition costs have not yet been incurred. This NOFA is not intended to reimburse PHAs for demolition costs already incurred.

E. Eligible Costs

Eligible costs include: (1) The cost of demolition, including any required asbestos and/or lead-based paint abatement, of dwelling units and nondwelling facilities, where the demolition is approved by HUD under 24 CFR part 970 but where the PHA has not yet signed a contract for demolition and the building(s) has not been demolished, (2) minimal site restoration after demolition and subsequent site improvements to benefit the remaining portion of the project or to make the site more saleable, (3) demolition of nondwelling facilities are eligible costs only where related to the demolition of the dwelling units, (4) necessary administrative costs, and relocation and other assistance costs related to the permanent relocation.

II. NOFA Application Requirements

The PHA shall submit the original NOFA Application to the address specified by the date specified in the **DATE** section above. An application must contain all of the items in A–E of this section to be considered complete for the purposes of this section. The NOFA Application is comprised of the following documents:

A. Demolition Application

In order for a demolition application to be complete the PHA must address each of the requirements identified below in II. A. 1. (a–i). Where the Processing Center or Headquarters determines that more information is needed to clarify the submission with respect to one or more part 970 requirements, the PHA will be required to submit supplementary documentation. The PHA may be requested to provide this supplementary information at any time in the review process. However, where the PHA has failed to address a requirement under part 970 the application will be determined to be incomplete and will not be processed further in connection with this NOFA.

1. If a demolition application has not been previously submitted, the PHA shall submit a demolition application in accordance with 24 CFR part 970. In order for a demolition application to be complete it shall include the following:

- a. A description of the property involved (§ 970.8(a));
- b. A description of, as well as a timetable for, the specific action proposed (§ 970.8(b));

c. A statement justifying the proposed demolition based on 24 CFR 970.6:

(a) "In the case of demolition of all or a portion of a project, the project, or portion of the project, is obsolete as to physical condition, location, or other factors, making it unusable for housing purposes and no reasonable program of modifications, is feasible to return the project or portion of the project to useful life." (§ 970.6(a))

(b) "In the case of demolition of only a portion of a project, the demolition will help to assure the useful life of the remaining portion of the project (e.g., to reduce project density to permit better access by emergency, fire, or rescue services)." (§ 970.6(b))

d. If applicable, a plan for the relocation of residents who would be displaced by the proposed demolition (§ 970.5). The relocation plan must at least indicate:

- (1) The number of residents to be displaced;
- (2) What counseling and advisory services the PHA plans to provide;
- (3) What housing resources are expected to be available to provide housing for those displaced residents;
- (4) An estimate of the cost of advisory services and resident moving expenses and the expected source for payment of these costs; and
- (5) The minimum official notice that the PHA will give residents before they are required to move (§ 970.8(d)).

e. The application must be developed in consultation with residents and any resident organizations at the development, as well as any PHA-wide organizations. Copies of resident comments and the PHA's evaluation of those comments must be submitted. (§§ 970.4(a) and 970.8(e))

f. Evidence of compliance with the requirement for offering of the property to any resident organizations at the development for purchase, as required in § 970.13, or documentation that the application fits one of the exceptions.¹ Evidence must be submitted as to the residents' response to the offer or that the time for response has expired. (§ 970.13)

g. A relocation certification regarding relocation of residents, in accordance with § 970.5(h)(1); (See § 970.8(h).)

¹ At a minimum the PHA's demolition application submitted to HUD must include a signed and dated copy of the letter of offer to the resident organization at the affected development or where no resident organization exists, a copy of the notification of a meeting with residents for the purpose of assisting the residents to organize and a certification that the notification has been issued.

As required by the regulation, the PHA must complete this requirement for the demolition application to be approved.

h. Estimated balance of development debt, under the Annual Contributions Contract (ACC), for development and modernization debt;² (§ 970.8(k)) and

i. A signed and dated resolution by the Board of Commissioners approving the demolition application. (970.8(n))

2. If a demolition application has been submitted to HUD previously but not yet been approved, the PHA shall submit a copy of its letter transmitting the application to HUD.

3. If a demolition/disposition application has been submitted and approved by HUD, the PHA shall submit a copy of HUD's signed and dated approval letter.

B. Narrative Statements, in an original and two copies, addressing each of the program threshold criteria and the rating factors in Sections III and IV of this NOFA.

C. An Implementation Schedule, showing the start and completion dates of the proposed demolition by phases if any.

D. Budget Form HUD-52825-A, HOPE VI Budget, Parts I and II, in an original and two copies.

E. Required HUD Certifications

Copies of the required certifications are contained in the Fiscal Year (FY) 1997 HOPE VI Application Kit which will be mailed to each PHA.

1. *SF-424, Application for Federal Assistance*. This form must be signed by the Executive Director of the PHA.

2. *A letter from the Chief Executive*. A letter from the Chief Executive of the applicable jurisdiction in support of the application.

3. *Compliance with the Consolidated Plan*. A certification by the public official responsible for submitting the Consolidated Plan under 24 CFR part 91 that the proposed activities are consistent with the approved Consolidated Plan of the State or unit of general local government within which the development is located.

4. *Form HUD-52820-A, PHA Board Resolution for Submission of HOPE VI Application*.

5. *Form HUD-50070, Certification for a Drug-Free Workplace*, in an original only.

6. *Form HUD-50071, Certification for Contracts, Grants, Loans and Cooperative Agreements*, in an original only, required of PHAs applying for grants exceeding \$100,000.

7. *Form SF-LLL, Disclosure of Lobbying Activities*, in an original only, required where any funds, other than

² Where the HA does not have information on the debt, the Processing Center will contact the Office of Finance and Accounting to determine the debt.

federally appropriated funds, will be or have been used to influence Federal workers, Members of Congress and their staff regarding specific grants or contracts. The PHA determines if the submission of the SF-LLL is applicable.

8. *Form HUD 2880, Recipient Disclosure/Update Report*, in an original only.

III. Program Threshold Criteria

This section identifies criteria which must be satisfied by each application in order for it to be rated and ranked. HUD will determine whether each criterion has been satisfied, based on the information submitted in accordance with the specific requirements of Sections II, III and IV of this NOFA and available program reports (e.g., LOCCS Quarterly Reports, FHEO Records). Only complete applications will be rated under this NOFA.

There are four program threshold criteria as follows:

A. Completeness of the Application

For an application to be complete, the PHA must address each requirement identified in Section II. With reference to the demolition portion of the application, the demolition application must be complete in terms of addressing each of the regulatory requirements found in Section II A.1. a-i of this NOFA. The demolition application does not have to be approved prior to rating or funding decisions.

B. Progress in Obligation of Modernization Funds

Based on the 12/30/1996 Quarterly Letter of Credit Control System (LOCCS) Report, at least 90 percent of modernization (i.e., Comprehensive Improvement Assistance Program or Comprehensive Grant Program) funds approved for Fiscal Year 1994 and prior years have been obligated.

C. Need for Demolition Funding

The PHA must demonstrate through written documentation that without HUD funds the demolition of this development or portion of the development could not take place. A Comprehensive Grant Program (CGP) participant must provide a copy of its 1997 Annual Statement. Using the Annual Statement, the PHA must demonstrate that either (a) 50 percent or more of its CGP funds for one year will be used to fund emergency needs, or (b) 50 percent or more of its CGP funds are needed for a combination of emergency needs, and critical needs³. The CGP

PHA must provide an itemized list of emergency and/or critical needs, the individual and total cost of these work items accompanied by either a municipal order or a narrative demonstrating the gravity of the critical needs in order to address the threshold requirement.

A non-CGP PHA must demonstrate that it does not have adequate reserves to perform the demolition and maintain a reasonable operating reserve. The PHA must enumerate its capital reserves and then describe the amount of its capital reserves that it anticipates will be used for emergency and/or critical needs in FY 1997. Such a PHA must provide the specific dollar amount of the capital reserves, an itemized list of the emergency and/or critical needs work items, and the individual and total cost of these work items accompanied by a narrative demonstrating the gravity of the critical needs that it is going to use its funds to correct.

D. Civil Rights Compliance

The Department will use the following standards to assess compliance with civil rights laws at the threshold review. In making this assessment, the Department shall review appropriate records maintained by the Office of Fair Housing and Equal Opportunity, e.g., records of monitoring, audit, or compliance review findings, complaint determinations, compliance agreements, etc. If the review reveals the existence of any of the following, the application will be rejected.

(1) There is a pending civil rights suit against the sponsor instituted by the Department of Justice.

(2) There is an outstanding finding of noncompliance with civil rights statutes, Executive Orders or regulations as a result of formal administrative proceedings, unless the applicant is operating under a HUD-approved compliance agreement designed to correct the area of noncompliance, or is currently negotiating such an agreement with the Department.

(3) There is an unresolved Secretarial charge of discrimination issued under Section 810(g) of the Fair Housing Act, as implemented by 24 CFR 103.400.

(4) There has been an adjudication of a civil rights violation in a civil action brought against it by a private individual, unless the applicant is operating in compliance with a court

safety of residents but that do not qualify technically as an emergency since there is no immediate threat to tenant health or safety. Examples of critical needs include the repair of roofs and plumbing in cases where failure to repair the problem would result in a significant increase in the expenditure of funds in the future.

order designed to correct the area of noncompliance, or the applicant has discharged any responsibility arising from such litigation.

IV. Rating Factors. Maximum [100 Points]

A. Extent of PHA Need for Funding for the Demolition [50 points]

The PHA will be rated on the extent to which funds are needed to demolish the targeted development. Using the threshold data for need described in III.C. and materials presented to address this factor, HUD will rate the extent of need for funding for the proposed demolition.

There are two 25 point elements that comprise this factor, as follows:

Element 1

CGP PHAs and non-CGP PHAs will be rated depending on the amount of CGP funds or capital reserves remaining after taking into consideration grant funds used for emergency and/or critical needs. A CGP PHA must provide a comparison of the total cost of demolition of the targeted development with the amount remaining in the FY 1997 annual comprehensive grant award after funding emergency and/or critical needs for FY 1997. Notwithstanding the PHA's annual statement, the Department expects a PHA to expend any dollars remaining in the CGP grant after it funds any emergency and/or critical needs to partially or fully fund the proposed demolition.

A CIAP PHA is to use the amount of funds in its capital reserves at the time of the HOPE VI application as the basis of the computation for this element. That is, a CIAP PHA is to compare the total cost of demolition of the targeted development with the amount remaining in the capital reserves after funding emergency and/or critical needs for FY 1997.

PHAs that cannot fund the demolition with the remaining CGP funds or capital reserves or those who could only fund a small percent (i.e., 0 percent to 25 percent) of the demolition with the remaining CGP award or capital reserves will receive between 16–25 points.

Percent of proposed demolition cost able to be funded with CGP or capital reserves	Points awarded
76–100	0–5
51–75	6–10
26–50	11–15
25–0	16–25

Element 2

CGP PHAs will be rated on the number of years it will take to fund the

³ Critical needs are defined as modernization needs at the PHA that are a threat to health and

total physical needs of the PHA. PHAs that participate in the CIAP will automatically receive the maximum score of 25 points for this element. Comprehensive Grant PHAs will be rated on the number of years that it will take to fully fund the total physical needs, as identified in the Physical Needs Assessment (PNA) approved by HUD. The CGP PHA must provide the total cost of the PNA (minus any grant awards funded since the date of the PNA) divided by the dollar amount of the FY 1997 CGP grant. The resulting figure is the number of years to fully fund the PHA's physical needs. For example, if the physical needs of the PHA will take 15-years to fund given the PHA's FY 1997 grant, then the PHA is eligible to receive 25 points.

Number of years to complete the physical needs assessment	Points awarded
0	0
1-4	6
5-9	12
10-14	18
15 or more	25

PHAs that participate in the CIAP will automatically receive the maximum score of 25 points for this element.

The total points for this factor can be determined by combining the score from element 1 with the score from element 2.

B. Extent of Impact of Demolition of Building on PHA and Surrounding Neighborhood [20 points]

1. The PHA must have described the extent to which the demolition of the development or portion of the development will have a significant impact on the remainder of the development and/or the PHA as it relates to such factors as the financial situation of the PHA, the elimination of long term vacancies, fire safety, resident and neighborhood security, as well as any other health and safety factors the change will bring about.

2. The degree to which the demolition of the development or portion of the development will eliminate serious conditions or problems in the surrounding neighborhood, e.g., buildings that are a health hazard, an imminent threat to health and safety, a notorious security or safety problem, or an extremely negative impact on the surrounding area.

Each PHA must have submitted a narrative description to address this factor. The assignment of points is described in the following chart. The PHA must have developed a strong narrative to describe the problems caused by the development and provide

any available documentation of problems such as a copy of a condemnation order, fire department citations of violations, other code enforcement violations, etc.

Points awarded	Degree of significance and quantity of problems resolved by demolition as described by the PHA in its narrative
9 to 10	The demolition will resolve a significant number of serious problems, including health and safety problems that have a significant impact on the surrounding neighborhood.
6 to 8	The demolition will resolve a moderate number of important health and safety problems and have significant impact on surrounding neighborhood.
0 to 5	The demolition will resolve a few problems of lesser importance and have little impact on the surrounding neighborhood.

C. Extent of PHA's Actions to Affirmatively Further Fair Housing [10 points]

In addressing the affirmatively furthering fair housing rating factor, actions that the PHA has taken, or plans to take, to accomplish this objective may include, but are not limited to the following:

1. Actions that contribute to the provision of fair housing choice to residents displaced as a result of demolition or disposition. These actions may also include programs or activities that provide information on housing opportunities outside of minority concentrated areas within the PHA's jurisdictional boundaries, or efforts that encourage landlords/owners to make available to displaced housing opportunities outside of minority concentrated areas. For example, the PHA may refer applicants to other available housing as part of an established housing counseling service or assist applicants in getting on other waiting lists.

2. Actions that overcome the consequence of prior discriminatory practices or usage which may have tended to exclude persons of a particular race, color, religion, sex, family status and national origin; or that overcome the effects of past discrimination against persons with disabilities. Such actions may include those actions taken without any kind of legally binding order, but which have changed previous discriminatory management, resident selection and assignment or maintenance practices.

The PHA must have submitted a narrative description in response to C. 1. and 2.

D. Extent of PHA's Capability and Readiness to Perform the Demolition [10 points]

Based on the latest HUD records (including the PHA's PHMAP modernization score) the PHA will be scored on the extent of the PHA's ability to begin immediately after approval and to effectively carry out the proposed demolition (e.g., the PHA has a request for proposal (RFP) prepared and ready to issue).

This criteria is divided into two factors—*capability* which has a maximum of 8 points and *readiness* to perform the demolition which has a maximum of 2 points.

HUD will consider the extent to which the PHA with any active capital funding under CIAP, CGP and development programs, is on schedule or, if behind schedule, has resolved all major issues and has been making good progress in the last six months. The PHA's capability will be judged by the immediate past performance in timely use of funding for capital programs including CIAP, CGP and development. For this criterion the capability of the PHA will be measured by the timeliness of fund obligation from the modernization PHMAP score, as follows:

Maximum points	Capability
8	Latest modernization PHMAP score of A.
6	Latest Modernization PHMAP score of B.
4	Latest Modernization PHMAP score of C.
2	Latest Modernization PHMAP score of D.

The readiness of the PHA will be determined by whether the PHA has a draft RFP that is in compliance with § 85.36 for the demolition contract prepared at the time of its response to this NOFA. The PHA must have included in its application a copy of the draft RFP to document its contention. A PHA with a draft RFP will receive the maximum score for this element, 2 points. A PHA without a draft RFP will receive 0 points. The PHA's score on readiness is to be combined with its score on modernization capability to give the total score on the rating factor.

E. Degree of Local Government Support [10 points]

The Secretary's Representative shall award up to 10 points for the degree of

local government support of the proposed demolition as demonstrated through either funding or in-kind contributions of services to the PHA, over and above what is required under the Cooperation Agreement for municipal services, (e.g., building and staffing of a police or fire substation, refuse collection, locating job training, child care or health services near or within the PHA). In the event that a Representative does not score this factor for any application during the time allotted for the first stage of the review process, the program office will read and score the Degree of Local Government Support factor.

NOFA rating factors	Maximum points
Extent of need for demolition funding	50
Extent of effect of demolition of building or portion of building on PHA and community	20
Extent of PHA actions to affirmatively furthering fair housing	10
Extent of PHA's capability and readiness	10
Degree of local government support	10
Total maximum points	100

V. Application Processing

A. Corrections to Deficient Applications

To be eligible for processing, the original HOPE VI Demolition Application including the demolition application, where applicable, must be physically received by HUD Headquarters by the time and date specified in this NOFA. Where a demolition application is submitted with the HOPE VI Demolition application, it must be complete in accordance with Section II (a)(1) of this NOFA. HUD will immediately perform a review to determine whether an application is complete. A PHA's HOPE VI Demolition application will not be disqualified for rating simply because the demolition application is not approvable at the time it is submitted to the Headquarters address shown elsewhere in this NOFA.

1. If any of the items listed in Section II A, B, C, and D of this NOFA are missing, the PHA's HOPE VI NOFA Demolition Application will be considered substantially incomplete and, therefore, ineligible for further processing.

2. If any of the items listed in Section II E (1-8) are required but missing or there is a technical mistake on any document, such as an incorrect signatory, or a document is missing any other information that does not affect

evaluation of the HOPE VI or demolition applications, HUD will immediately notify the PHA in writing by facsimile (fax) that the PHA has 14 calendar days from the date of HUD's written notification to submit or correct any of the specified items. The PHA will have no opportunity to correct deficiencies other than those identified in HUD's written notification, or otherwise to supplement or revise its NOFA Application. If any of the items identified in HUD's written notification are not corrected and submitted within the required time period, the NOFA Application will be ineligible for further consideration.

B. Rating and Ranking

Awards under this NOFA will be made through a selection process that will award grants to the highest ranked applications based upon points as provided in Section IV. The Field Office Public Housing Director and staff, Field Office FHEO Director and staff and the Secretary's Representative together with Headquarters staff will participate in the rating and ranking.

HUD will preliminarily review, rate and rank each eligible application on the basis of the factors set forth in Sections III and IV. A final review panel will then review the scores of all applications whose preliminary score is above a base score established by HUD, using the same evaluation factors set forth in Section IV. HUD intends to set the base score so that applications requesting a total of approximately \$60 million are advanced to the final review stage.

The review panel will assess each of the applications advanced to final review and will assign the final scores. HUD will select for funding the most highly rated applications in rank order up to \$30 million, the amount of available funding.

The Field Office of Public Housing shall forward a list of all PHAs to be rated to the Secretary's Representative for scoring the rating factor related to local government support. Within an established time frame, the Field Office of Public Housing shall provide the Secretary's Representative with the portion of each PHA's narrative statement, included in the HOPE VI application, related to the technical review factor on local government support.

In addition, the Field Office of Public Housing shall forward a list of all applications to the Field Office of FHEO to review for the program threshold criteria. Once the assessment of each applicant on the threshold criteria has been completed, the list of all applications to be rated will then be

forwarded to the Field Office of FHEO for scoring the rating factor related to affirmatively furthering fair housing. Within an established time frame the Field Office of Public Housing shall provide the Office of FHEO with the portion of each PHA's narrative statement, included in the HOPE VI application, related to the threshold factor and rating factor on affirmatively furthering fair housing.

C. Program Threshold Factors

A demolition application must be found approvable in accordance with CFR part 970 before HUD will obligate funds to an applicant selected for funding.

D. Litigation

In accordance with the provisions of the Departments of Veterans Affairs and Housing and Urban Development-Independent Agencies Appropriations Act, 1997, Public Law 104-204, no appropriated funds shall be used directly or indirectly for the purpose of granting a competitive advantage in awards to settle litigation or pay judgments in court cases affecting applicants for this program. The Department will not, when reviewing applications under this NOFA, award extra points, for example, to any PHA involved in a consent decree mandating desegregation of the PHA's public housing.

E. Reduction in Requested Grant Amount

HUD may select an application for funding in an amount lower than the amount requested by the PHA, or adjust line items in the proposed grant budget within the amount requested (or both). The Department will adjust for any costs which are determined to be unreasonable or inadequately justified.

F. Environmental Review

The Field Office will review the environmental impact of the demolition activities proposed by the PHA in accordance with 24 CFR part 50. The PHA shall provide any documentation to the Field Office that is needed to carry out its review under the National Environmental Policy Act (NEPA) and related environmental laws, orders and regulations.

G. Notification of Funding Decisions

HUD will not notify PHAs as to whether they have been selected to participate until the announcement of the selection of all recipients under this NOFA. HUD will provide written notification to PHAs that were selected

for funding and to those that were not selected.

H. Annual Contributions Contract (ACC) Amendment

After HUD selects a PHA for funding under this NOFA, HUD and the PHA shall enter into an ACC Amendment, setting forth the amount of the grant and applicable rules, terms, and conditions, including sanctions for violation of the amendment. Among other things, the amendment will require the PHA to agree to the following:

1. To carry out the program in accordance with the provisions of this NOFA, applicable law, the approved NOFA Application and Demolition Application, and all other applicable requirements;

2. To comply with such other terms and conditions, including recordkeeping and reports, as HUD may establish for the purposes of administering, monitoring, and evaluating the program in an effective and efficient manner;

3. That HUD may withhold, withdraw, or recapture any portion of a grant, terminate the ACC Amendment, or take other appropriate action authorized by the 1997 Appropriations Act or under the ACC Amendment if HUD determines that the PHA is failing to carry out the approved demolition in accordance with the application as approved and this NOFA.

I. Failure To Proceed Expeditiously

An applicant may be selected for funding for HOPE VI demolition in advance of the approval of its demolition application. However, the demolition application must be approved within three (3) months of the fund reservation or the funds will be withdrawn, unless HUD grants an extension to this deadline. In the event that an applicant selected to receive HOPE VI funding does not proceed in a manner consistent with its application, HUD may withdraw any unobligated balances of funding and make this funding available subject to applicable law, in HUD's discretion, to the next highest-ranked applicant that was not selected for funding in the most recently conducted HOPE VI selection process or combined with funding under an upcoming competitive selection process. Failure to proceed with respect to obligated funds will be governed by the terms of the Grant Agreement or ACC Amendment, as applicable. In selecting PHAs for the redistribution of funds to one or more other eligible PHAs, HUD will select a PHA from the most recently conducted selection process for demolition funding.

VI. Applicability of Other Federal Requirements

A. Fair Housing Requirements

PHAs shall comply with the requirements of the Fair Housing Act (42 U.S.C. 3601–19) and the regulations in 24 CFR part 100; Executive Order 11063 (Equal Opportunity in Housing) and the regulations in 24 CFR part 107; the fair housing poster regulations in 24 CFR part 110; and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the regulations in 24 CFR part 1.

B. Nondiscrimination on the Basis of Age or Handicap

PHAs shall comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and the regulations in 24 CFR part 146; the prohibitions against discrimination against, and reasonable modification, accommodation, and accessibility requirements for, handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the regulations in 24 CFR part 8; the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and regulations issued pursuant thereto (28 CFR part 36); and the Architectural Barriers Act of 1968 (42 U.S.C. 4151) and the regulations in 24 CFR part 40.

C. Employment Opportunities

PHAs shall comply with the requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects) and the regulations in 24 CFR part 135.

D. Minority and Women's Business Enterprises

The requirements of Executive Orders 11246, 11625, 12432, and 12138 apply to this funding. Consistent with HUD's responsibilities under these orders, PHAs shall make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

E. OMB Circulars

The policies, guidelines, and requirements of OMB Circular Nos. A–87 (Cost Principles Applicable to Grants, Contracts and Other Agreements with State and Local Governments) and 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments), apply to the award, acceptance, and use of assistance under this NOFA by PHAs, and to the

remedies for noncompliance, except when inconsistent with the provisions of the 1997 Appropriations Act, other Federal statutes, or this NOFA. PHAs also are subject to the audit requirements of OMB Circular A–128, implemented at 24 CFR part 44. Copies of OMB Circulars may be obtained from E.O.P. Publications, Room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395–7332 (this is not a toll-free number). There is a limit of two free copies.

F. Debarred or Suspended Contractors

The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts, subgrants, or funding of any recipients, or contractors or subcontractors, during any period of debarment, suspension, or placement in ineligibility status.

G. Conflict of Interest

In addition to the conflict of interest requirements in 24 CFR part 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of the PHA and who exercises or has exercised any functions or responsibilities with respect to activities assisted under this grant, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

H. Wage Rates

Davis-Bacon wage rates apply to demolition followed by construction on the site. HUD-determined wage rates apply to demolition followed only by filling in the site and establishing a lawn.

I. Lead-Based Paint Testing and Abatement

PHAs shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, et seq.) and 24 CFR part 35; 24 CFR part 965, subpart H; and 24 CFR 968.110(k). Tenant-based assistance provided to PHAs under this program will be subject to 24 CFR 982.401 and 24 CFR part 35. Unless otherwise provided, PHAs shall be responsible for testing and abatement activities before demolition as appropriate to meet state and Federal requirements.

J. Relocation

The requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and government-wide implementing regulations at 49 CFR part 24 apply to funding under this NOFA.

VII. Other Matters

A. Paperwork Reduction Act

The information collection requirements of this NOFA related to the HOPE VI program (including Forms HUD-52825-A and HUD-52820-A required by Sections K.1.a and M.3 of the NOFA) have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**. The information collection requirements of this NOFA related to the demolition approval have been approved by OMB and assigned approval number 2577-0075, which expires on March 31, 1998. 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

This NOFA provides funding under, and does not alter the environmental provisions of, regulations in 24 CFR part 970, which have been published previously in the **Federal Register**. 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). The environmental review provisions of 24 CFR part 970 are found in § 970.4.

C. Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this NOFA will not have substantial, direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the NOFA is not subject to review under the Order.

D. 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, 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:

1. Documentation and Public Access

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.

2. Disclosures

HUD will make available to the public for five years all applicant disclosure reports (Form HUD-2880) submitted in connection with this NOFA. Update reports (also Form HUD-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.

E. Prohibition Against Advance Information on Funding Decisions

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, 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 limited by part 4 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 24 CFR part 4.

Applicants or employees who have ethics-related questions should contact the HUD Office of Ethics (202) 708-3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Counsel or Headquarters Counsel for the program to which the question pertains.

F. 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 in 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 a 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 subrecipients 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.

If the amount applied for is greater than \$100,000, the certification is required at the time of application for funds is made that federally appropriated funds are not being or have not been used in violation of the Byrd Amendment. If the amount applied for is greater than \$100,000 and the PHA has made or has agreed to make any payment using nonappropriated funds for lobbying activity, as described in 24 CFR part 87 (Byrd Amendment), the submission also must include the SF-LLL, Disclosure of Lobbying Activities. The PHA determines if the submission of the SF-LLL is applicable.

G. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number is 14.864.

Dated: May 22, 1997.

Kevin Emanuel Marchman,

*Acting Assistant Secretary for Public and
Indian Housing.*

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