

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4570-N-01]

## Office of the Assistant Secretary for Public and Indian Housing; Notice of Funding Availability; Fair Share Allocation of Incremental Voucher Funding Fiscal Year 2000

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

**ACTION:** Notice of Fund Availability (NOFA).

**SUMMARY:** *Purpose of the Program.* The purpose of this NOFA is to invite public housing agencies (PHAs) to apply for vouchers on a fair share allocation basis under the Section 8 Housing Choice Voucher Program. The vouchers are for issuance to families on a PHA's Section 8 waiting list to enable these families to rent decent, safe, and affordable housing of their choice on the private rental market.

*Available Funds.* Approximately \$346,560,000 in one-year budget authority for approximately 60,000 Section 8 vouchers.

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

*Application Due Date.* April 24, 2000.  
*Match.* None.

### Additional Information

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

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

*Application Due Date.* Your completed application (an original and two copies) is due on or before April 24, 2000 at the addresses shown below.

*Address for Submitting Applications.* Submit your original application and one copy to Michael E. Diggs, Director

of the Grants Management Center, Department of Housing and Urban Development, 501 School Street, SW, Suite 800, Washington, DC 20024.

Submit the second copy of your application to the local HUD Field Office Hub, Attention: Director, Office of Public Housing, or to the local HUD Field Office Program Center, Attention: Program Center Coordinator.

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

*Delivered Applications.* If you are hand delivering your application, your application is due on or before 5:00 pm, Eastern time, on the application due date to the Office of Public and Indian Housing's Grants Management Center (GMC) in Washington, DC. A copy is also to be submitted by the applicant to the local HUD Field Office Hub or local HUD Field Office Program Center.

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

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

*Applications Sent By Overnight Delivery.* Applications sent by overnight delivery will be considered timely filed if received before or on the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date.

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

*For Further Information and Technical Assistance.* You may contact George C. Hendrickson, Housing Program Specialist, Room 4216, Office

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

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

(A) *Authority.* Authority for the approximately \$346,560,000 in one-year budget authority for Section 8 vouchers for low-income families is found in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, FY 2000 (Pub.L. 106-74, approved October 20, 1999, referred to as the FY 2000 HUD Appropriations Act. The allocation of housing assistance budget authority for Section 8 vouchers, by State based on fair share factors, is pursuant to the provisions of 24 CFR part 791, subpart D, implementing section 213(d) of the Housing and Community Development Act of 1974, as amended.

(B) *Purpose.* The purpose of the Section 8 voucher funding being made available under this NOFA is to provide housing assistance to low-income families to enable them to rent decent, safe, and affordable housing of their choice on the private rental market.

(Note: Due to the lack of funding in FY 2000 for a Family Unification Program (FUP), PHAs may wish to consider using some portion of their fair share funding under this NOFA to either establish or expand upon their existing FUP. Requirements relative to the operation of a FUP may be found in the FY 1999 FUP NOFA, published under Docket No. FR-4414-N-01, on March 5, 1999, in the **Federal Register**.)

(C) *Fair Share Allocation Amount.* This NOFA announces the availability of approximately \$346,560,000 in one-year budget authority for a fair share formula allocation which will provide rental assistance to approximately 60,000 low-income families.

(1) *Fair Share Allocation For Each State.* Attachment 1 lists the allocation of housing assistance budget authority for vouchers for each State, based on fair share factors. Attachment 1 also provides an estimate of the total number of vouchers that could be funded from the housing assistance available for each State based on the weighted local

average costs of voucher assistance for a two-bedroom unit. The actual number of units assisted within each State will vary from the estimates prepared by Headquarters since the actual costs of voucher assistance for each PHA vary from the average.

(2) *Potential additional funding.* If additional voucher funding becomes available for fair share use during FY 2000, HUD plans to distribute any additional funding to States using the same percentage distribution as reflected in Attachment 1 to this NOFA. Any additional funding will be used under the competitive requirements of this NOFA to fund PHA applications which were approvable but not funded, or approved and funded at less than 100 percent of the requested amount for which the PHA was eligible under this NOFA.

(3) *Underfunding Corrections.* The last prior year in which fair share funding was provided to PHAs was in 1994. HUD Headquarters will be funding the only case brought to its attention of a PHA which did not receive fair share funding in FY 1994 due to an error by the local HUD Field Office; i.e., the city of Oceanside, California Housing Authority (OHA). The Grants Management Center will, in coordination with the local HUD Field Office and the OHA, determine the number of units that should have been awarded the OHA under the FY 1994 NOFA and the funding amount that would currently be appropriate under the voucher funding procedures in Section II.(D) of this FY 2000 Fair Share NOFA. The correction of the FY 1994 error will not affect the OHA's ability to compete, nor the amount of funding for which it may be eligible, in FY 2000 under the FY 2000 Fair Share NOFA.

(D) *Voucher Funding.*

(1) *Determination of Funding Amount for the PHA's Requested Number of Vouchers.* HUD will determine the amount of funding that a PHA will be awarded under this NOFA based upon an actual annual per unit cost using the following three step process (as may be modified based upon a percentage of annual per unit cost if necessary to produce the 60,000 vouchers provided for under this NOFA):

(a) HUD will extract the total expenditures for all the PHA's Section 8 tenant-based assistance programs and the unit months leased information from the most recent approved year end statement (form HUD-52681) that the PHA has filed with HUD. HUD will divide the total expenditures for all of the PHA's Section 8 tenant-based assistance programs by the unit months

leased to derive an average monthly per unit cost.

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

(c) HUD will multiply the annual per unit cost derived under paragraph (b) above by the Section 8 Housing Assistance Payments Program Contract Rent Annual Adjustment Factor (with the highest cost utility included) to generate an adjusted annual per unit cost.

(E) *Eligible Applicants.* A PHA established pursuant to State law may apply for funding under this NOFA. A regional (multi-county) or State PHA is eligible to apply for funding. Indian Housing Authorities (IHA), Indian tribes and their tribally designated housing entities are not eligible to apply because the Native American Housing Assistance and Self-Determination Act of 1996 does not allow HUD to enter into new Section 8 annual contributions contracts (ACC) with IHAs after September 30, 1997. Applicants are limited to those PHAs currently administering Section 8 vouchers or certificates.

Some PHAs currently administering the Section 8 voucher and certificate programs have, at the time of publication of this NOFA, major program management findings from Inspector General audits, HUD management reviews, or independent public accountant (IPA) audits that are open and unresolved or other significant program compliance problems. HUD will not accept applications for additional funding from these PHAs as contract administrators if, on the application due date, the findings are either not closed, or sufficient progress toward closing its findings has not been made to HUD's satisfaction. The PHA must also, to HUD's satisfaction, be making satisfactory progress in addressing any program compliance problems. If the PHA wants to apply for funding under this NOFA, the PHA must submit an application that designates another housing agency, nonprofit agency, or contractor, that is acceptable to HUD. The PHA's application must include an agreement by the other housing agency, nonprofit agency, or contractor to administer the new funding increment on behalf of the PHA, and a statement that outlines the steps the PHA is taking to resolve the program findings and the program compliance problems. *Immediately after the publication of this NOFA, the local HUD Field Office will notify, in writing, those PHAs that are not eligible to apply without such an agreement. Concurrently, the local HUD Field*

*Office will provide a copy of each such written notification to the GMC.* The PHA may appeal the decision, in writing, if HUD has mistakenly classified the PHA as having outstanding management or compliance problems. Any appeal must be accompanied by conclusive evidence of HUD's error and must be received prior to the application deadline. The appeal should be submitted to the local HUD Field Office where a final determination shall be made. Concurrently, the local HUD Field Office shall provide the GMC with a copy of its written response to the appeal, along with a copy of the PHA's written appeal. Major program management findings are those that would cast doubt on the capacity of the PHA to effectively administer any new Section 8 voucher funding in accordance with applicable HUD regulatory and statutory requirements.

(F) *Eligible Participants.* Eligible participants include very low-income families, and on an exception basis some low-income families, who are on the PHA's Section 8 waiting list and who are determined to be eligible for rental assistance under the Section 8 regulations at 24 CFR part 982 and part 5. The families must be income eligible under 24 CFR 982.201(b) in order to receive a voucher.

### III. General Program Requirements

(A) *General Program Requirements.*

(1) *Compliance With Fair Housing and Civil Rights Laws.* All applicants must comply with all fair housing and civil rights laws, statutes, regulations, and executive orders as enumerated in 24 CFR 5.105(a). If an applicant: (a) Has been charged with a systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination; (b) is the defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or (c) has received a letter of noncompliance findings under Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act of 1974, the applicant's application will not be evaluated under this NOFA if, prior to the application deadline, the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken necessary to address allegations of ongoing discrimination in the policies or

practices involved in the charge, lawsuit, or letter of findings.

(2) *Additional Nondiscrimination Requirements.* In addition to compliance with the civil rights requirements listed at 24 CFR 5.105(a), each successful applicant must comply with the nondiscrimination in employment requirements of Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*), the Equal Pay Act (29 U.S.C. 206(d)), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 *et seq.*), Title IX of the Education Amendments Act of 1972, and Titles I and V of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).

(3) *Affirmatively Furthering Fair Housing.* Each successful applicant will have a duty to affirmatively further fair housing. Applicants will be required to identify the specific steps that they will take to:

(a) Address the elimination of impediments to fair housing that were identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice;

(b) Remedy discrimination in housing; or

(c) Promote fair housing rights and fair housing choice. Further, applicants have a duty to carry out the specific activities cited in their responses to address affirmatively furthering fair housing under this NOFA.

(4) *Certifications and Assurances.* Each applicant is required to submit signed copies of Assurances and Certifications. The standard Assurances and Certifications are on Form HUD-52515, Funding Application, which includes the Equal Opportunity Certification, Certification Regarding Lobbying, and Certification Regarding Drug-Free Workplace Requirements.

(5) *PHA Responsibilities and Rental Assistance Requirements.*

(a) *Section 8 Regulations.* PHAs must administer the Section 8 vouchers received under this NOFA in accordance with HUD regulations and requirements governing the Section 8 Housing Choice Voucher Program.

(b) *Section 8 Admission Requirements.* Section 8 assistance must be provided to eligible applicants in conformity with regulations and requirements governing the Section 8 Housing Choice Voucher Program and the PHA's administrative plan.

(c) *Turnover.* When a voucher under this NOFA becomes available for reissue (e.g., the family initially selected for the program drops out of the program or is unsuccessful in the search for a unit), the voucher may be used only for the next eligible family on the PHA's Section 8 waiting list.

#### IV. Fair Share Application Rating Process

(A) *Selection Criteria.* The GMC will use the Selection Criteria shown below for the rating of applications submitted in response to this NOFA. The maximum score under the selection criteria for fair share funding is 160 points.

(1) Selection Criterion 1: Housing Needs (30 points).

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

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

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

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

- 30 points. If the PHA's housing need is 3 percent or more of the State's need.

- 25 points. If the PHA's housing need is equal to or less than 2.99 percent but equal to or greater than 1 percent of the State's need.

- 20 points. If the PHA's housing need is less than 1 percent of the State's need.

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

and/or localities comprising its primary market area.

(3) A PHA with a primary market area that is a community with a population of 10,000 or less, or a PHA for which housing needs data are not available, will receive 20 points.

(2) Selection Criterion 2: Efforts of PHA to Provide Area-Wide Housing Opportunities for Families (60 points).

(a) Description: Many PHAs have undertaken voluntary efforts to provide area-wide housing opportunities for families. The efforts described in response to this selection criterion must be beyond those required by federal law or regulation such as the portability provisions of the Section 8 voucher program. The GMC will assign points to PHAs that have established cooperative agreements with other PHAs or created a consortium of PHAs in order to facilitate the transfer of families and their rental assistance between PHA jurisdictions. In addition, the GMC will assign points to PHAs that have established relationships with non-profit groups to provide families with additional counseling, or have directly provided counseling, to increase the likelihood of a successful move by the families to areas that do not have large concentrations of poverty.

(b) Rating and Assessment: The GMC will assign point values for any of the following assessments for which the PHA qualifies and add the points for all the assessments (maximum of 60 points) to determine the total points for this Selection Criterion:

- 10 Points—Assign 10 points if the PHA documents that it participates in an area wide exchange program where all PHAs absorb portable Section 8 families.

- 10 Points—Assign 10 points if the PHA certifies that its administrative plan does not include a "residency preference" for selection of families to participate in its voucher program or the PHA certifies that it will eliminate immediately any "residency preference" currently in its administrative plan.

- 10 Points—Assign 10 points if the PHA documents that it has established a contractual relationship with a non-profit agency or the local governmental entity to provide housing counseling for families that want to move to low-poverty or non-minority areas. The five PHAs approved for the FY 93 Moving to Opportunity (MTO) for Fair Housing Demonstration, PHAs participating in the Regional Opportunity Counseling (ROC) Program, and any other PHAs that receive counseling funds from HUD in connection with the demolition of public housing, public housing vacancy consolidation, or settlement of litigation

involving desegregation may qualify for points under this assessment. However, these PHAs must identify all activities undertaken, other than those funded and required under the MTO Demonstration, ROC Program, or the court-ordered plans or plans for relocating public housing families, to expand housing opportunities.

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

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

- 10 Points—Assign 10 points if the PHA has formed a consortium or joint venture with other PHAs to administer its voucher program.

(3) Selection Criterion 3: Local Initiatives (20 points).

(a) Description: The application must describe the extent to which the PHA demonstrates locally initiated efforts in support of its voucher and certificate programs or comparable tenant-based rental assistance programs. Evaluation of a locality's contribution is measured competitively by whether the locality is able to provide services, cash contributions, or tax abatements to rental property owners leasing to Section 8 families, or demonstrates its intention to provide this kind of support in the future.

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

- 20 points: The State or locality provides local support (e.g., financial, manpower for inspection services) to its voucher or certificate program.

- 0 points: The State or locality does not provide support to the PHA's voucher or certificate program.

(4) Selection Criterion 4: Disabled Families (20 points).

(a) Description: The GMC will assign 20 points to PHAs that indicate at least 15 percent or more of the vouchers they are requesting (or funded by HUD) under this NOFA will be used to house disabled families. The PHA's application must be specific as to the exact percentage of vouchers that will be issued solely to disabled families. Disabled families are defined as follows:

(i) *Disabled Family*. A family whose head, spouse, or sole member is a person with disabilities. The term "disabled family" may include two or more such persons with disabilities living together, and one or more such

persons with disabilities living with one or more persons who are determined essential to the care and well-being of the person or persons with disabilities (live-in aides).

(ii) *Person with disabilities*. A person who—

- a. Has a disability as defined in section 223 of the Social Security Act (42 U.S.C. 423), or

- b. Is determined to have a physical, mental or emotional impairment that:

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

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

- 3. Is of such a nature that such ability could be improved by more suitable housing conditions, or

- c. Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5)).

The term "person with disabilities" does not exclude persons who have the disease of acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome (HIV).

(Note: While the above definition of a "person with disabilities" is to be used for purposes of determining a family's eligibility for a Section 8 voucher designated as being for a disabled family under this NOFA, the definition of a person with disabilities contained in section 504 of the Rehabilitation Act of 1973 and its implementing regulations must be used for purposes of meeting the requirements of Fair Housing laws, including providing reasonable accommodations.)

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

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

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

- 0 points: The PHA will use less than 15 percent of the vouchers it is requesting (or funded by HUD) to house disabled families.

(5) Selection Criterion 5: Medicaid Home and Community Based Services Waivers Under Section 1915(c) of the Social Security Act (10 points).

(a) Description: This selection criterion is for PHAs interested in the provision of Section 8 voucher assistance to families within their jurisdiction who are disabled and also covered under a waiver of Section 1915(c) of the Social Security Act.

Section 1915(c) waivers are approved by the Health Care Financing Administration within the Department of Health and Human Services (HHS) for the agency within each State responsible for the administration of the medicaid program. Contacting the responsible State agency (for example, the Agency for Health Care Administration in the State of Florida) will assist the PHA in determining how many, if any, individuals are covered by a Section 1915(c) waiver in the PHA's legal area of operation. These waivers allow medicaid-eligible individuals at risk of being placed in hospitals, nursing facilities or intermediate care facilities the alternative of being cared for in their homes and communities. These individuals are thereby assisted in preserving their independence and ties to family and friends at a cost no higher than that of institutional care.

While a Section 1915(c) waiver may cover individuals other than those who are disabled, the focus of Selection Criterion 5 is on disabled families only. The definition of disabled families listed under Selection Criterion 4 will be used by PHAs for purposes of the issuance of vouchers to disabled families in connection with Selection Criterion 5; i.e., only those individuals that meet the definition of a disabled family in this announcement are to be considered in connection with a PHA determining how many such disabled families are covered by a Section 1915(c) waiver in their legal area of operation and whether to try to qualify for the 10 points available under Selection Criterion 5. The PHA's application must be specific as to the percentage of vouchers that will be issued to such disabled families.

Any PHA attempting to qualify for the 10 points available under Selection Criterion 5 should also include information within its application indicating the collaborative efforts already undertaken with the responsible State agency to identify eligible families, as well as agreements reached with that agency for future referrals of such families. HUD reserves the right at some future point in time to conduct an evaluation of the success of the PHA's efforts to collaborate with the State agency and to successfully house individuals that meet the requirements of being covered by a Section 1915(c) waiver, qualify as a disabled family under this announcement, and are otherwise eligible for a Section 8 voucher.

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

- 10 points: The PHA will use not less than 3 percent of the vouchers being requested (or funded by HUD) to house Section 8 eligible, disabled families covered by a waiver under Section 1915(c) of the Social Security Act.

- 0 points: The PHA will use less than 3 percent of the vouchers it is requesting (or funded by HUD) to house Section 8 eligible, disabled families covered by a waiver under Section 1915(c) of the Social Security Act.

(c) **Prohibition Against Double Counting.** The number (percentage) of disabled families that a PHA indicates it will issue vouchers to when qualifying for the 10 points available under Selection Criterion 5 cannot be used to also qualify for the 20 points available under Selection Criterion 4 or conversely.

(6) **Selection Criterion 6: Portability (20 Points).**

(a) **Description:** The GMC will assign 20 points to a PHA certifying that it is billing another PHA(s) for portable families comprising not less than 5 percent of the certificates and vouchers being administered by it and will use 20 percent of the funds it is requesting (or funded by HUD) to absorb portable families for which it is currently billing another PHA(s).

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

- 20 points: The PHA certifies that it is billing another PHA(s) for portable families for not less than 5 percent of the certificates and vouchers it administers and will use 20 percent of the funds being requested (or funded by HUD) to absorb portable families for which it is currently billing another PHA(s).

- 0 points: The PHA has no portables for which it is billing another PHA, or is billing another PHA(s) for less than 5 percent of the certificates and vouchers it administers and will use less than 20 percent of the funds being requested (or funded by HUD) to absorb portable families for which it is currently billing another PHA(s).

## V. Fair Share Application Selection Process

(A) **Maximum Funding Allowed.** The GMC may recommend for approval the maximum funding for a PHA under this NOFA that does not exceed the lesser of 25 percent of the PHA vouchers and certificates on the latest HUD-approved budget or 25 percent of the number of vouchers available in the State, whichever is less.

(B) **Funding Procedure.** HUD seeks to maximize, insofar as practical, the

number of PHAs awarded funding under this NOFA. The GMC will recommend applications for approval in rank order (highest to lowest score) within each State. No PHA shall be eligible to request or be funded at more than the lesser of 25 percent of the units in its latest HUD-approved budget for certificates and vouchers or 25 percent of the vouchers available for the State. The number of vouchers for which a PHA will first receive consideration by the GMC for funding will be based upon initially using the lesser of a 10 percent calculation for those units in the PHA's latest HUD-approved budget or 25 percent of the vouchers available for the State, whichever is lesser. If funding remains available within the State, the percentage used for the units in the PHAs' latest HUD-approved budget will increase to the percent required to use all funding within the State, not to exceed 25 percent.

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

### (C) *Reallocations Between States.*

The GMC will make every reasonable effort to use all available funds. It may be necessary, however, to reallocate funds from one State to another when the funds cannot be used in the State to which they were initially assigned. In such cases, the GMC will re-allocate funds to the State having the largest number of approvable vouchers remaining unfunded due to lack of sufficient fair share funding.

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

## VI. Fair Share Application Submission Requirements

(A) **Form HUD-52515.** All PHAs must complete and submit form HUD-52515, Funding Application, for Section 8 tenant-based assistance (dated January 1996). This form includes all necessary certifications for Fair Housing, Drug Free Workplace and Lobbying Activities. Attachment 1 to this notice lists the estimate of the number of vouchers and budget authority available for each State. PHAs should limit their applications for the "fair share" program to a reasonable number of vouchers based on the capacity of the PHA to lease-up within 12 months of ACC execution. The number of vouchers on the PHA application may not exceed the lesser of: (a) Twenty-five percent (25%) of the total vouchers and certificates on the most recent HUD-approved budget for the PHA; or (b) twenty-five percent (25%) of the number of units available for the State. Section C of the form should be left blank. Copies of form HUD-52515 may be obtained from the local HUD Field Office or may be downloaded from the HUD Home Page site on the Internet's world wide web (<http://www.hud.gov>). (On the HUD website click on "handbooks and forms," then click on "forms", then click on "HUD-5" and click on "HUD-52515".) The form must be completed in its entirety, with the exception of Section C, signed and dated.

(1) A PHA may submit only one application (Form HUD-52515) for a State.

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

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

(C) **Description of Primary Market Area.** A Regional (multi-county) or State PHA must specify in the application its primary market area; *i.e.*, the area in which it is authorized to operate and in which the Section 8 vouchers will be

used. This information may be different than that entered by such a PHA on the form HUD-52515, as the form calls for the PHA to identify its "legal area of operation" which may be far more geographically expansive than the specific city, county, or area within a State where a regional or State PHA intends to use the fair share vouchers.

(D) *Statement Regarding the Steps the PHA Will Take to Affirmatively Further Fair Housing.* The areas to be addressed in the PHA's statement should include, but not necessarily be limited to: (a) Elimination of impediments to fair housing that were identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice; (b) remedy discrimination in housing; or (c) promote fair housing rights and fair housing choice.

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

(F) *Application Checklist.* Attachment 2 to this NOFA is an Application Checklist to assist applicants in assembling complete applications. The Application Checklist must be submitted as part of the PHA's application.

## VII. Corrections to Deficient Applications

(A) *Acceptable Applications.* An acceptable application is one which meets all of the application submission requirements in Section VI of this NOFA and does not fall into any of the categories listed in Section VII(B) of this NOFA. The GMC will initially screen all applications and notify PHAs of technical deficiencies by letter.

With respect to correction of deficient applications, HUD may not, after the application due date and consistent with HUD's regulations in 24 CFR part 4, subpart B, consider any unsolicited information an applicant may want to provide. HUD may contact an applicant to clarify an item in the application or to correct technical deficiencies. Please note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of a

response to any selection factors. In order not to unreasonably exclude applications from being rated and ranked, HUD may contact applicants to ensure proper completion of the application and will do so on a uniform basis for all applicants. *Examples* of curable (correctable) technical deficiencies include failure to submit the proper certifications or failure to submit an application that contains an original signature by an authorized official. In each case under this NOFA, the GMC will notify the applicant in writing by describing the clarification or technical deficiency. The applicant must submit clarifications or corrections of technical deficiencies in accordance with the information provided by the GMC within 14 calendar days of the date of receipt of the HUD notification. (If the due date falls on a Saturday, Sunday, or Federal holiday, your correction must be received by HUD on the next day that is not a Saturday, Sunday, or Federal holiday.) If the deficiency is not corrected within this time period, HUD will reject the application as incomplete, and it will not be considered for funding.

### (B) *Unacceptable Applications.*

(1) After the 14-calendar day technical deficiency correction period, the GMC will disapprove all PHA applications that it determines are not acceptable for processing. The GMC's notification of rejection letter must state the basis for the decision.

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

(a) Applications from PHAs that do not meet the requirements of Section III(A)(1) of this NOFA, Compliance With Fair Housing and Civil Rights Laws.

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

(c) The PHA has failed to achieve a lease-up rate of 90 percent for its combined certificate and voucher units under contract for its fiscal year ending in 1998. Category (c) may be passed, however, if the PHA achieved a combined certificate and voucher budget authority utilization rate of 90 percent or greater for its fiscal year ending in 1998. In the event the PHA is unable to meet either of these percentage requirements, it may still pass category (c) if it submits information to the GMC, as part of its application, demonstrating that it was able to either increase its combined certificate and voucher lease-up rate to 90 percent or greater for its fiscal year ending in 1999, or was able to increase combined certificate and voucher budget authority utilization to 90 percent or more for its fiscal year ending in 1999. PHAs that have been determined by HUD to have passed either the 90 percent lease-up, or 90 percent budget authority utilization requirement for their fiscal year ending in 1998 will be listed on the HUD Home Page site on the Internet's world wide web (<http://www.hud.gov>). A PHA not listed must either submit information in its application supportive of its 90 percent lease-up or 90 percent budget authority utilization performance for its fiscal year ending in 1999, or submit information as part of its application supportive of its contention that it should have been included among those PHAs HUD listed on the HUD Home Page as having achieved either a 90 percent lease-up rate or 90 percent funding utilization rate for fiscal years ending in 1998. Attachment 3 of this NOFA indicates the methodology and data sources used by HUD to calculate the lease-up and budget authority utilization percentage rates for PHAs with fiscal years ending in 1998. Any PHA wishing to submit information to the GMC in connection with its 1998 fiscal year or 1999 fiscal year for the purposes described immediately above (so as to be eligible under category (c) to submit an application) will be required to use the same methodology and data sources indicated in Attachment 3.

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

(e) A PHA's application that does not comply with the requirements of 24 CFR 982.102 and this NOFA after the expiration of the 14-calendar day technical deficiency correction period will be rejected from processing.

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

(g) The application was not submitted to the official place of receipt as indicated in the paragraph entitled "Official Place of Application Receipt" at the beginning of this NOFA.

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

### VIII. Findings and Certifications

#### (A) Paperwork Reduction Act Statement

The Section 8 information collection requirements contained in this NOFA have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0169. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

#### (B) Environmental Impact

In accordance with 24 CFR 50.19(b)(11) of the HUD regulations, tenant-based rental activities under this program are categorically excluded from the requirements of the National Environmental Policy Act of 1969 (NEPA) and are not subject to environmental review under the related laws and authorities. This NOFA provides funding for these activities under 24 CFR part 982, which does not contain environmental review provisions because of the categorical exclusion of these activities from environmental review. Accordingly, under 24 CFR 50.19(c)(5), issuance of this NOFA is also categorically excluded from environmental review under NEPA.

#### (C) Catalog of Federal Domestic Assistance Numbers

The Federal Domestic Assistance number for this program is 14.857.

#### (D) Federalism Impact

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

Order. As a result, the notice is not subject to review under the Order.

#### (E) Accountability in the Provision of HUD Assistance

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

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

(2) *Disclosures.* HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

#### (F) Section 103 HUD Reform Act

HUD will comply with section 103 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's implementing regulations in subpart B of 24 CFR part 4 with regard to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of

applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

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

#### (G) Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991 (31 U.S.C. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment, or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF-LLL disclosing such payments must be submitted.

The Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995), which repealed section 112 of the HUD Reform Act, requires all persons and entities who lobby covered executive or legislative branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

Dated: March 7, 2000.

**Harold Lucas,**

*Assistant Secretary for Public and Indian Housing.*

**ATTACHMENT 1.—FAIR SHARE ALLOCATIONS TO STATES BASED UPON HOUSING NEEDS**

State	Amount	Units
Alabama .....	\$2,998,660	754
Alaska & Washington .....	7,431,525	1,241
Arizona .....	3,891,871	713
Arkansas .....	1,685,154	453
California .....	59,653,051	8,428
Colorado .....	4,344,651	717
Connecticut .....	4,676,595	708
Delaware .....	663,416	112
District of Columbia & Maryland .....	7,250,808	1,221
Florida .....	13,396,457	2,397
Georgia .....	6,522,548	1,271
Hawaii & Pacific Island .....	2,395,085	315
Idaho .....	790,875	188
Illinois .....	16,635,009	2,797
Indiana .....	4,820,548	1,038
Iowa .....	2,636,009	623
Kansas .....	1,964,068	481
Kentucky .....	3,003,250	777
Louisiana .....	4,117,360	1,002
Maine .....	1,304,156	263
Massachusetts .....	12,456,208	1,754
Michigan .....	10,673,680	2,041
Minnesota .....	4,248,602	794
Mississippi .....	1,894,043	515
Missouri .....	4,419,025	1,028
Montana .....	799,469	186
Nebraska .....	1,509,926	343
Nevada .....	1,611,636	262
New Hampshire .....	1,162,548	186
New Jersey .....	12,981,233	1,716
New Mexico .....	1,276,507	283
New York .....	57,048,267	7,707
North Carolina .....	5,908,423	1,232
North Dakota .....	584,150	139
Ohio .....	12,346,480	2,570
Oklahoma .....	2,370,698	610
Oregon .....	4,050,157	732
Pennsylvania .....	14,791,053	2,786
Puerto Rico & Virgin Islands .....	2,902,466	765
Rhode Island .....	1,753,494	284
South Carolina .....	2,713,819	614
South Dakota .....	729,568	166
Tennessee .....	4,026,565	922
Texas .....	18,465,474	3,598
Utah .....	1,525,394	284
Vermont .....	771,380	138
Virginia .....	5,404,073	1,113
West Virginia .....	1,430,622	385
Wisconsin .....	6,178,218	1,267
Wyoming .....	349,048	81

**Attachment 2.—Fair Share Voucher Application Checklist**

PHA Name:

City/State:

PHA Code #:

Delivered by the due date, or mailed and postmarked before midnight on due date, or placed in transit with overnight delivery service before due date.

Original and one copy of application submitted to Michael E. Diggs, Director of the Grants Management Center, Department of Housing and Urban Development, 501 School St., SW, Suite 800, Washington, D.C., 20024; and one copy sent to local HUD Field Office Hub, Attn: Director, Office of Public Housing, or to the local HUD Field Office Program Center, Attention: Program Center Coordinator.

If applicable, PHA designates another housing agency, nonprofit agency, or contractor to administer new funding.

Copy of letter from local HUD Field Office requiring contract administrator.

Agreement from contract agency to administer funding on behalf of applicant.

Copy of PHA letter to local HUD Field Office appealing requirement for contract administrator.

Copy of written response to appeal from local HUD Field Office.

PHA listed on HUD Home Page Internet site as passing 90% lease-up OR 90% budget authority utilization -or-

PHA *not* listed as meeting 90% thresholds. PHA includes information confirming 90% lease-up or budget authority utilization for 1998 or 1999 using same methodology and data sources indicated in Attachment 3 to the Fair Share NOFA.

PHA is in compliance with all fair housing and civil rights laws (refer to Sect. III. General Program Requirements).

PHA has not been debarred or otherwise disqualified from providing assistance under the Section 8 Housing Choice Voucher Program.

Form HUD-52515, Funding Application (January 1996 version), completed in its entirety, except Section C. (See Section VI.(A) of the NOFA and form HUD-52515 regarding information to be entered thereon.)

Letter of Intent and Narrative

Includes statement of acceptance of a reduction in the number of vouchers.

Includes minimum number of vouchers PHA will accept:

Includes a narrative description of how the application meets, or will meet, the application selection criteria.

Housing Needs (Criterion 1). Areas PHA is authorized to operate in (HUD-52515).

Efforts of PHA to Provide Area-Wide Housing Opportunities for Families (Criterion 2).

Evidence of participation in area-wide exchange program where all PHA absorb portable Section 8 families.

Certification that administrative plan does not include or will immediately eliminate residency preferences.

PHA contract to provide housing counseling for families moving to low-poverty/non-minority areas.

Is an approved PHA for FY 1993 Moving to Opportunity (MTO) Fair Housing Demonstration, or

Is a participant in the Regional Opportunity Counseling (ROC) Program, or.

Receives counseling funds related to public housing demolition, vacancy consolidation, or litigation.

Describes other activities expanding housing opportunities (not MTO, ROC, or litigation efforts).

Documentation of PHA's Participation With Other PHAs in Using Metropolitan-Wide/Combined Waiting List.

Documentation of Other Initiatives Resulting in Expansion of Housing Opportunities.

Documentation of Consortium or Joint Venture with other PHAs to administer its voucher program.

Local Initiatives (Criterion 3).

Narrative description of locally initiated efforts in support of the PHA's voucher and certificate programs.

Disabled Families (Criterion 4).

Includes a narrative description indicating the PHA will use 15 percent or more of the vouchers being requested/ funded to house disabled families.

Medicaid Home and Community Based Services Waivers Under Section 1915(c) of the Social Security Act (Criterion 5). Includes narrative description indicating the percentage of vouchers to be issued to disabled families covered by a Section 1915(c) waiver, and the collaborative efforts undertaken with the State agency to identify eligible families/agreements for future referrals of such families from that agency.

Portability (Criterion 6). Certification statement from PHA indicating it is billing another PHA(s) for portable families for not less than 5 percent of the certificates and vouchers it administers and will use 20 percent of the funds provided by HUD to absorb portable families for which it is currently billing another PHA(s).

Description of Primary Market Area. Regional (multi-county) and State PHAs clearly identify which cities and counties they will use the vouchers in that are within their legal area of operation.

Statement Regarding Steps PHA Will Take To: (Affirmatively Further Fair Housing)

Eliminate impediments to fair housing identified in local Analysis of Impediments (AI) to Fair Housing Choice,

Remedy discrimination in housing, or Promote fair housing rights and fair housing choice.

Program Summary. Provide a separate, *one paragraph* statement describing how the vouchers being applied for will address the local housing needs of eligible families in renting decent, safe, and affordable housing. Describe, where applicable, how the vouchers will be used to expand existing housing choices, and whether the PHA intends to use the vouchers to establish or expand upon its existing Family Unification Program, partnerships with local government,

nonprofit agencies, or private industry groups. Also address any related notable local program activities, best practices, or accomplishments.

Application Checklist. A copy of this Checklist has been included as part of the PHA's application.

### Attachment 3.—Methodology for Determining Lease-Up and Budget Authority Utilization Percentage Rates

Using data from the HUDCAPS system, HUD determined which PHAs met the 90% budget authority utilization or 90% lease-up criteria. The data used in the determination was based on PHA fiscal years ending in 1998. The budget authority utilization and lease-up rates were determined based upon the methodology indicated below.

### Budget Authority Utilization

Percentage of budget authority utilization was determined by comparing the total contributions required to the annual budget authority (ABA) available for the PHA 1998 year combining the certificate and voucher programs.

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

ABA is the prorated portion applicable to the PHA 1998 year for each funding

increment which had an active contract term during all or a portion of the PHA year.

### Example

PHA ABC

Fiscal year 10/1/97 through 9/30/98

HUD 52681 Approved Data:

HAP .....	\$2,500,000
Administrative Fee .....	250,000
Hard to House Fee .....	1,000
Audit .....	2,000

Total .....	2,753,000
Interest earned on administrative fee .....	(2,500)

Total contributions required ..... 2,750,500

### Calculation of Annual Budget Authority

Increments	Contract term	Total BA	ABA
001 .....	11/01/97–10/31/98	\$1,300,000	\$1,191,667
002 .....	01/01/98–12/31/98	1,200,000	900,000
0030 .....	04/01/98–03/31/99	950,000	475,000
004 .....	07/01/98–06/30/99	1,500,000	375,000
Totals .....	.....	4,950,000	2,941,667

### Budget Authority Utilization

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

### Lease-Up Rate

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

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

relocation/replacement, housing conversions, etc. were excluded from the contract units as the Department recognizes that many of these unit allocations have special requirements which require extended periods of time to achieve lease-up.

### Example

Increments	Contract term	Units
001 .....	11/01/97–10/31/98	242
002 .....	01/01/98–12/31/98	224
003 .....	04/01/98–03/31/99	178
004 .....	07/01/98–06/30/99	280
Totals .....	.....	924
Increment 003 litigation .....	.....	(178)
Adjusted contract units .....	.....	746
Unit months leased reported by PHA .....	.....	8,726
divided by 12 .....	.....	727
Units Leased .....	.....	727

### Lease-Up Rate

Units leased 727  
divided by adjusted contract units 746  
equals  
Lease-Up Rate 97.4%