

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

**Office of Assistant Secretary for  
Public and Indian Housing**

[Docket No. N-95-3882; FR-3867-N-01]

**Notice of Funding Availability for FY  
1995; Invitation for Applications:  
Public Housing Development**

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

**ACTION:** Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1995 for public housing development; invitation for applications.

**SUMMARY:** This NOFA announces the availability of FY 1995 funding, and invites eligible public housing agencies (PHAs) to submit applications for public housing development. Applications are limited to the following Categories:

(1) Replacements for demolition/disposition subject to section 18 of the United States Housing Act of 1937 (USHA);

(2) Replacements for homeownership transfers under the HOPE I Program, and homeownership sales under section 5(h) of the USHA;

(3) Headquarters Reserve: Unforeseen housing needs resulting from natural and other disasters; housing needs resulting from emergencies, as certified by the Secretary, other than such disasters; housing needs resulting from the settlement of litigation; and housing in support of desegregation efforts; and

(4) "Other" applications.

All successful applicants for categories (3) and (4) above will be required to participate in the Family Self-Sufficiency (FSS) program, unless granted an exception. This NOFA also provides instructions regarding the preparation and processing of applications. The Department is also encouraging applicants to form "partnerships" consisting of cooperative arrangements with community-based entities to provide housing, and is encouraging PHAs to engage in "mixed income" development (wherein public housing units are integrated within market-rate developments). This is being done by providing additional points for such efforts with respect to "other" applications (see sections III.E.5 and IV.E. of this NOFA).

This NOFA is not applicable to the Indian housing program.

**DATES:** Applications are due at the HUD Field Office on or before 3 p.m., local time, on July 31, 1995. See Section III of this NOFA for further information on application submission. If an

application is mailed to the Field Office, the PHA must clearly write "PUBLIC HOUSING DEVELOPMENT APPLICATION" on the outside of the envelope and obtain a return receipt indicating the date and time of delivery. Hand delivered applications shall be date/time stamped and initialed by the employee receiving the application upon delivery.

The application deadline is firm as to date and hour. In the interest of fairness to all applicants, HUD will not consider any application that is received after the deadline. PHAs should take this into account and submit applications as early as possible to avoid 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. Acceptance by a Post Office or private mailer does not constitute delivery. Facsimile (Fax), COD, and postage due applications will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Kevin Emanuel Marchman, Deputy Assistant Secretary, Office of Distressed and Troubled Housing Recovery, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4138, Washington, DC 20410. Telephone (202) 401-8812 (Voice) or (202) 708-4594 (TDD). (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:**

**Paperwork Reduction Act Statement**

The information collection requirements contained in this NOFA have been approved by the OMB under the Paperwork Reduction Act of 1980 and have been assigned OMB control numbers 2577-0033 and 3577-0036.

**I. Introduction**

*A. Authority*

Sections 5 and 23 of the United States Housing Act of 1937 (USHA) (42 U.S.C. 1437c and 1437u); and sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Public housing development regulations are published at 24 CFR part 941; demolition/disposition regulations are published at 24 CFR part 970; section 5(h) regulations are published at 24 CFR part 906.

The regulations for the public housing FSS program are codified at 24 CFR part 962.

The Notice of Program Guidelines for the HOPE-1 program was published on January 14, 1992 (57 FR 1522) and codified as 24 CFR Subtitle A, Appendix A. The Catalog of Federal

Domestic Assistance Program number is 14.850.

*B. Fund Availability*

The Department of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriation Act of 1995 [(Pub.L. 103-327, approved September 28, 1994) (1995 Appropriations Act)] makes available \$598 million of budget authority for Public Housing Development under section 5(a)(2) of the USHA. Some of the appropriated funds for annual contributions are to be derived from the recapture of prior year obligations or funds carried over from last year. Other adjustments within the Annual Contributions Account in 1995, including the addition of carryover funds, abate somewhat the impact of these factors. After these adjustments the amount available is \$600,278,866. Of that amount, \$74,126,542 already has been obligated to meet litigation needs, including replacement housing related to litigation. The Department expects to reserve or has reserved an approximately additional \$145 million to meet litigation needs, including replacement housing related to litigation, or to redress mistakes in prior year awards. This would leave approximately \$381 million available for commitments under this NOFA. The Department reserves the right to reserve additional funds prior to awards made under this NOFA for replacement housing proposals which clearly are essential to ending the isolation of large family public housing communities.

The Senate and the House of Representatives have passed legislation which would rescind part or all of the funding made available for public housing development by the 1995 Appropriations Act. The President vetoed this legislation on June 7, 1995. In the event rescissions become law, the Department will publish prompt notice of the impact on this NOFA.

Subject to any changes resulting from enactment of rescission legislation, the Department will make available at least \$100 million for "other" applications. Up to .67 percent of the appropriated amount (up to \$4,006,600) has been set aside for technical assistance and inspections. The Department expects all of the remaining funds to be needed and used for replacement housing (categories 1 and 2 above). Additional funds may be made available for "other" applications if the Department determines that funds remain after replacement housing and Headquarters Reserve needs are met. For additional details see the next sections below.

**C. Fund Assignments**

Section 213(d) of the Housing and Community Development Act of 1974 (HCD Act of 1974) requires that funds be allocated on a fair share basis, except for (a) amounts identified as Headquarters Reserve and (b) amounts determined incapable of geographic allocation.

**1. Headquarters Reserve**

Threshold-approvable applications for housing resulting from unforeseen housing needs resulting from natural and other disasters; housing needs resulting from emergencies, as certified by the Secretary, other than such disasters; housing needs resulting from the settlement of litigation; and housing in support of desegregation efforts shall be assigned Headquarters Reserve funding if available. (Headquarters Reserve amounts are limited in accordance with section 104 of the Department of Housing and Urban Development Reform Act of 1989 (Pub.L. 101-235, approved December 15, 1989), to five percent of the financial assistance that becomes available under the USHA and section 101 of the HUD Act of 1965. Thus, Headquarters Reserve funding decisions will be made by Headquarters and may affect the distribution of grant authority shown above.)

**2. Fair Share**

Subject to changes which may result from enactment of a rescission law, which could affect the requirement to fair share funds, at least \$100 million will be fair shared to approve category 4 ("other") applications. These fair share funds will be distributed to Areas (formerly Regions) on the basis of the following fair share factors, which reflect the most recent decennial census data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, and other measurable conditions. Any unused assignments will be redistributed, proportional to need, among remaining Areas with approvable unfunded "other" applications. The Department may fair share additional funds later in the fiscal year to fund additional approvable "other" applications submitted in response to this NOFA if the Department determines that such funds will not be required for replacement housing and Headquarters Reserve needs.

Fair share and Headquarters Reserve funds are also subject to the requirement of section 213 of the HCD Act of 1974 that not less than 20 percent nor more than 25 percent of the HUD aggregate program funds covered by the statute be

allocated for use in nonmetropolitan areas. Therefore, public housing development fund allocations to select "other" applications may be modified before assignment in order to ensure Departmental compliance with this statutory and regulatory requirement (see 24 CFR 791.403(a)).

Area	Fair-share factors (%)
New England .....	6.5
New York/New Jersey .....	18.1
Mid-Atlantic .....	8.8
Southeast .....	13.8
Midwest .....	15.7
Southwest .....	8.3
Great Plains .....	3.8
Rocky Mountain .....	2.6
Pacific/Hawaii .....	18.5
Northwest/Alaska .....	3.9
Total .....	100.0

**3. Non-Fair Share**

The Department expects that there will be a substantial demand during the fiscal year for Category 1, replacements for demolition/disposition subject to section 18 of the USHA, and category 2, replacements for homeownership transfers under the Hope I program and homeownership sales under section 5(h) of the USHA. This is projected to occur based on applications for demolition/disposition and homeownership replacement already received, because the Department and a number of PHAs are placing additional emphasis on the demolition and replacement of obsolete family housing which cannot provide a suitable living environment (e.g., obsolete family highrise developments or partial demolition of excessively dense, large and isolated lowrise developments), and because the future availability of a separate allocation of public housing development funding for replacement housing is uncertain. The Department will make all remaining public housing development funds, after subtracting funding for the Headquarters Reserve, \$100 million for "other" applications if these applications are still to be funded (see above) and \$4,066,600 for technical assistance, available as needed for categories 1 and 2. Various conditions regarding commitment of funding for replacement housing are listed in Section III of this NOFA below.

**4. Remaining Balances**

Any residual funds not reserved under categories 1, 2, 3, and 4 as described above will be added to the funds to be fair shared for any priority "other" approvable applications as determined by the Department.

**D. Conformity to Regulations and NOFA Requirements**

While conformity with 24 CFR part 941 is required, this funding effort is also subject to the additional specific requirements, consistent with the regulations, that are set forth in this NOFA. Applicants also should consult Handbook 7417.1 REV-1, and the FSS regulations codified at 24 CFR part 962. The selection criteria specified in this NOFA may not be added to or modified.

**II. Application Process Overview**

**A. General**

All applications shall be submitted to the appropriate Field Office by the application deadline date. The Field Office shall screen each application for completeness and will provide the PHA a 14-day opportunity to furnish missing technical information or exhibits, or to correct technical mistakes. Each application will then be subjected to a "pass/fail" threshold examination. Approvable category 1, 2, and 3 applications will be reported to Headquarters for further action.

Category 4 passing applications will be forwarded for rating to Rating Panel(s). One or more Rating Panels, comprised of HUD Field representatives appointed by Headquarters, shall be convened for the purpose. Category 4 applications will be rated by the Rating Panel(s) based on Field Office analyses. Headquarters will determine the funds required to approve category 1, 2, and 3 applications and select category 4 applications based on Rating Panel ratings and recommendations.

**B. Categories of Applications**

Each application must be for one of the following categories:

1. Replacement units for demolition/disposition approvals, subject to section 18 of the USHA (Category 1);
2. Replacement units for HOPE I or section 5(h) homeownership transfers or sales (Category 2);
3. Public housing to be funded from Headquarters Reserve (Category 3); or
4. "Other" development applications intended to increase the public housing stock (Category 4). Category 4 applicants are limited to no more than one application per locality, which may cover multiple sites.

**C. Application Approval**

1. All category 3 approvable applications will be funded, to the extent the required funds do not exceed statutorily set limits.
2. If there are insufficient funds to fund all category 1 and category 2 approvable applications, the

Department shall endeavor to fund category 1 and category 2 applications meeting the following descriptions: replacement related to litigation settlements or court orders, if the necessary funds have not yet been reserved; replacement for emergency demolition/disposition, if any; replacement for demolition/disposition to complete treatment of sites partially funded under the Urban Revitalization Demonstration Program authorized by the HUD Appropriations Acts of 1993, 1994 and 1995 or partially funded for comprehensive modernization or major reconstruction activities; replacement for obsolete family highrises; replacement for essential public housing density reduction at large family lowrises or as part of other efforts to end the isolation of large family public housing communities; prior replacement housing obligations; and category 2 replacement applications for homeownership, particularly where the transfer of property will occur this fiscal year and the units in question have not yet been replaced. Of these categories, replacement related to litigation settlements or court orders will be funded first.

3. Category 4 (other) applications will be funded up to the fair share amounts for each Area.

4. Any funds not required for categories 1, 2, or 3 or initially allocated to categories 4 or technical assistance as outlined above will be utilized for any additional "other" approvable applications as determined by the Department.

#### *D. Disclosure of Information*

The Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) prohibits advance disclosure of funding decisions (see 24 CFR part 4); civil penalties related to advance disclosure are set out in 24 CFR part 30. Application approval/non-approval notifications shall not occur until the Congressional notification process is completed.

#### *E. Records Retention*

Applications and materials related to applications (e.g., Field Office analyses, application scoring sheets, and notifications of selection/non-selection) will be retained in the appropriate Field Office for five years, and be available for public inspection in accordance with 24 CFR part 12.

### **III. Application Requirements**

#### *A. All Applicants*

Each application must specify the housing type (new construction,

rehabilitation, or acquisition), development method (conventional, turnkey, or acquisition), and community for which the project is proposed. No more than one housing type, development method, and locality may be proposed for an application. Each such application shall consist of an original and two copies, and must include the following:

1. Cover Letter. The cover letter must identify the category of application (see Section II.B. of this NOFA for a description of the categories; see also subparagraph 6 of Section III.A. of this NOFA).

2. Application-Form HUD 52470. The application must be signed by the person authorized and dated and include the information as specified in the form.

3. Evidence of Legal Eligibility. If it has not previously done so, the PHA must document that it is legally organized. A current General Certificate (Form HUD 9009) must be submitted.

4. Cooperation Agreement (Form HUD 52481). The PHA must document that the number of units requested, along with units in management and other units in development, are covered by Cooperation Agreements.

5. PHA Resolution In Support of the Application (Form HUD-52471). Under this resolution, the PHA agrees to comply with all requirements of 24 CFR part 941 (see also paragraph 6 of this Section III.A.). By executing the PHA Resolution, the PHA also certifies that it will comply with Title II of the Americans with Disabilities Act (42 U.S.C. 12131) and the implementing regulations at 28 CFR part 35.

6. Front-End Funds. If front-end funds are being requested, the PHA must so state in its cover letter; should the PHA desire the project only if front-end funds can be approved, the PHA must so state. The Form HUD-52471 (PHA Resolution) must refer to the request, and include Form HUD-52472 (Local Governing Body Resolution/Transcript of Proceedings) approving the request.

7. Drug-Free Workplace. The PHA must submit the Certification for a Drug-Free Workplace (Form HUD-50070) in accordance with 24 CFR 24.630.

8. Certification for Contracts, Grants, Loans and Cooperative Agreement (Form HUD-50071). In accordance with section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the "Byrd Amendment") and the implementing regulations at 24 CFR part 87, the PHA must certify that no federally appropriated funds have been paid or will be paid, by or on behalf of the PHA, for influencing or attempting

to influence an officer or employee of any agency, or a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant or loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modifications of any Federal contract, grant, loan, or cooperative agreement.

9. Form SF-LLL, Disclosure of Lobbying Activities. Also in accordance with the Byrd Amendment and the regulations at 24 CFR part 87, the PHA must complete and submit Form SF-LLL if funds other than federally appropriated funds have been paid or will be paid by or on behalf of the PHA for influencing or attempting to influence an officer or employee of any agency, or a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant or loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modifications of any Federal contract, grant, loan, or cooperative agreement.

10. Disclosure of Government Assistance and Identity of Interested Parties (Form HUD 2880). The PHA must submit the Applicant/Recipient Disclosure/Update Report (Form HUD-2880) in accordance with the requirements of 24 CFR part 12, subpart C.

11. Family Self-Sufficiency (FSS). Section 23 of the USHA requires PHAs that are awarded new public housing units to implement an FSS program. Applicants for Category 3 (Headquarters Reserve) or Category 4 (Other) funds must certify that they will comply with 24 CFR part 962, which requires successful applicants to initiate or expand an FSS program for the number of families that equals the total number of units they have been awarded (unless otherwise excepted).

#### *B. Applications for New Construction*

In accordance with section 6(h) of the USHA, new construction may be engaged in only if the PHA demonstrates to the satisfaction of the Secretary that the cost of new construction in the neighborhood where the PHA determines the housing is needed is less than the cost of acquisition or acquisition and rehabilitation in such neighborhood. Therefore, every application for a new construction project (conventional or turnkey) must be accompanied by either the information described in paragraphs B.1 and B.3 of this section, or, at the applicant's option, the information

described in paragraphs B.2 and B.3 of this section:

1. A PHA comparison of the costs of new construction (in the neighborhood where the PHA proposes to construct the housing) and the costs of acquisition of existing housing or rehabilitation in the same neighborhood (including estimated costs of lead-based paint testing and abatement); or

2. A PHA certification, accompanied by supporting documentation, that there is insufficient existing housing in the neighborhood to develop housing through acquisition of existing housing or rehabilitation; and

3. A statement that:

(a) Although the application is for new construction, the PHA will accept acquisition of existing housing or rehabilitation, if HUD determines the PHA cost comparison or certification of insufficient housing does not support approval of new construction; or

(b) The application is for new construction only. (In any such case, if HUD cannot approve new construction under section 6(h) of the USHA, the application will be rejected.)

#### C. Replacement Housing Applications

1. Cover Letter. For both category 1 and category 2 applications, the cover letter must state whether the demo/diso or transfer/sale application (to demolish/didispose of units, or to transfer/sell units) (hereinafter referred to as the "underlying application") has been approved; the date of approval; the project number and the name of the project being replaced; and whether it is being replaced in whole or in part. If the underlying application was not approved at the time the replacement housing application is filed, the cover letter must state the date the underlying application was submitted or the estimated date the underlying application will be submitted for consideration. Category 1 or 2 applications will not be funded unless the underlying application is submitted by the time funding selections are made. The Department may make a funding award if the underlying application has not yet been approved, if all aspects of the underlying application other than compliance with section 412 of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, are approvable by August 1, 1995.

2. Section 5(j) Certification. The PHA must certify that the units requested are specifically required in FY 1995 either to meet the one-for-one replacement requirement of section 18 of the USHA to replace public housing demolition/disposition; or to meet the requirements of section 304(g) of the USHA to replace

existing public housing approved in FY 1995 or earlier for homeownership transfer under HOPE 1, or for sale under section 5(h) of the USHA.

3. Replacement Application Under Section 18. A PHA submitting a replacement housing application under section 18 (category 1) must demonstrate that the replacement units, alone or together with other identified replacement units, will implement the PHA's Replacement Housing Plan submitted and approved or expected to be submitted and approved under 24 CFR 970.11, including requirements that such units:

(a) Are for no fewer units (or portion thereof approved by HUD) than the number of units to be demolished or disposed of; and

(b) Will house at least the same number of individuals and families that could be served by the housing to be demolished or disposed of.

4. Replacement Application for Homeownership Transfers or sales. Applicants submitting applications to meet the requirements of section 304(g) of the USHA to replace existing public housing approved in FY 1995 or earlier for homeownership transfer under HOPE 1, or for sale under section 5(h) of the USHA, must provide the following: a schedule, by federal fiscal year, of the number of units previously transferred and/or expected to be transferred consistent with the actual progress achieved under the approved HOPE 1 or Section 5(h) plan; a listing of the number of replacement housing units already received and accounted for under all the allowable replacement housing options as well as the balance of units not yet replaced; and the number of public housing development units and/or Section 8 units now being requested for homeownership replacement. (The Section 8 units will not be awarded under this NOFA.)

5. Statement Regarding Consistency with HUD Priorities. Appropriations for replacement housing are encouraged to include a statement describing consistency of the application with the replacement housing categories described in paragraph II. C. 2. of this NOFA.

6. Impact of Pending Legislation. The Congressionally approved rescission bill includes a proposal to repeal replacement housing requirements for underlying applications approved on or prior to September 30, 1995. In the event this proposal becomes law, the Department will issue notice of any changes required or authorized for replacement housing applications to be submitted in response to this NOFA.

#### D. Applications for Units to be Funded from Headquarters Reserve

1. Cover Letter. A PHA submitting a category 3 application shall identify the purpose of the application (see Section I.C.1 of this NOFA).

2. Section 5(j) Certification. The PHA may certify that the units requested are required to comply with court orders or directions of the Secretary; or, as appropriate, the section 5(j) certification applicable to category 4 (Other) applications (see Section III.E.2. below). Court orders must be identified.

(Note: Category 3 needs typically are not fulfilled through the application process.)

#### E. "Other" Applications

Applicants are encouraged to review the rating criteria (Section IV.E. of this NOFA) to ensure rating factors have been addressed in the application. "Curable technical deficiencies" (Section IV.B. of this NOFA) relate only to items that would not improve the substantive quality of applications relative to rating factors. A PHA may file only one application per locality under this category.

1. Cover Letter. Applicants for "other" public housing development units (category 4), must state whether they will accept fewer units than applied for. Refusal to accept fewer units may result in an application not being selected if funds are not sufficient for the full number of units.

2. Section 5(j) Certification. The PHA must certify to one of the following, pursuant to section 5(j) of the USHA (select E.2.a or E.2.b.):

(a) The units requested (limited to 100 or fewer) are needed for family housing to satisfy demands not being met by the section 8 existing or voucher rental assistance programs; or

(b) 85 percent of the PHA's dwelling units (select (1), (2), or (3)):

(1) Are maintained in substantial compliance with the section 8 housing quality standards (24 CFR 882.109); or

(2) Will be so maintained upon completion of modernization for which funding has been awarded; or

(3) Will be so maintained upon completion of modernization for which applications are pending that have been submitted in good faith under section 14 of the USHA (or a comparable State or local government program), and that there is a reasonable expectation, as determined in writing by HUD, that such application would be approvable; or will be so maintained upon completion of modernization under the Comprehensive Grant program.

3. Funding Preference in Accordance With Section 6(p). Section 6(p) of the USHA requires HUD to provide a

funding preference for applications in areas with an inadequate supply of housing for use by low-income families (i.e., a "tight" housing rental market). The implementation of this preference shall be in accordance with the process described in Section V.A.2 of this NOFA.

(a) The PHA must furnish data relative to rental vacancy rates in the market area where the project is proposed. This data should include a description of the data sources and methods used to obtain survey information. (It is recommended that PHAs consult with local community development agencies relative to their housing needs before submitting applications under this NOFA, since most of these agencies will have participated in the development of a Comprehensive Housing Affordability Strategy (CHAS) or Consolidated Plan.)

(b) Factors such as the following will provide evidence of conditions which, when taken together, will demonstrate a pattern of inadequate supply (generally, no one factor, taken alone, is conclusive):

(1) The current rental housing vacancy rate is at a low level (typically six percent or lower) which results in housing not being available for families seeking rental units (unless the housing market area is not growing and, as a result, is experiencing low levels of demand);

(2) The annual production of rental housing units is insufficient to meet the demand arising from the increase in households, or, where there is little or no growth, is insufficient to meet the demand arising from net losses to the available inventory;

(3) The shortage of housing is resulting in rent increases exceeding those increases commensurate with rental housing operating costs; and

(4) A significant number or proportion of section 8 certificate/voucher holders are unable to find adequate housing because of the shortage of rental housing, as evidenced by PHA data showing a lower-than-average percentage of units under lease and a longer-than-average time required to find units (typically, less than 85 percent lease up within 60 days).

4. Documentation to Demonstrate Need. The PHA must submit documentation, such as waiting list description or PHA vacancy rate data, to demonstrate need for the proposed public housing, to assist the HUD Field Office in its determination of need and market in accordance with Section IV.C.8.b of this NOFA.

5. Additional Rating Points. Category 4 (other) applications may obtain

additional rating points (see Section IV.E.8 of this NOFA) if the PHA furnishes additional data regarding any of the following:

(a) "Partnerships." PHAs are encouraged to form "partnerships" consisting of cooperative or contractual arrangements with community-based entities for the purpose of developing housing so that the housing fits into the community and is seen as an integral part of it. "Community-based entities" include private non-profit or for-profit entities with experience in the development of low and moderate income housing, or that are skilled in the delivery of services to families who are residents of public housing. "Cooperative or contractual arrangements" include those that will facilitate development (including management of the units) that will enhance the long-term viability of the development; and those arrangements that the PHA has for the delivery of services (such as child care, education, and economic opportunities) made available to residents of public housing. The PHA should indicate who the entity (or entities) are, the qualifications of the entity and its principals, and the role they play or will play in the development, management, or service delivery process which will lead to better acceptance of public housing in the community. Such cooperative arrangements require substantial involvement by the non-PHA partner in at least one of the following areas: design, management, development, site selection, representation to the community, or service delivery. 24 CFR Part 85, regarding procurement, applies to any such cooperative arrangement. With respect to the delivery of services, costs for such services are not eligible to be paid from public housing development funds. The PHA must also certify that its selection of the cooperative entity (or entities) was in compliance with State and local law.

[Note: If procurement requirements cannot be complied with before the application deadline date, the PHA may submit a statement with its application describing the anticipated arrangement and certifying that it will undertake such a cooperative relationship and that such a relationship will comply with federal/state and local law.]

(b) Mixed Income Development. In order to encourage the development of public housing in metropolitan areas that will be less identifiable as public housing, PHAs are encouraged to develop units whereby public housing would be mixed with market-rate dwellings so that they are indistinguishable. Specifically, in order to receive the maximum points for this

factor, a PHA must propose to develop or acquire units or sites in developments where the non-public housing units require incomes that, on average, are at or above 80 percent of median. A PHA also may receive points for acquisitions of units or sites in developments where the non-public housing units require incomes that, on average, are at or above 50 percent of median.

(c) Past compliance with section 3. The PHA may submit evidence that over the past five years it has met any commitments made under the provisions of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C., 1701u), as amended from time to time, and the implementing regulations for section 3 at 24 CFR part 135. If the PHA does not have development experience, it may instead submit evidence related to such experience with the modernization program.

(d) Proposed compliance with section 3. The PHA may submit its goals for complying with section 3 employment and training with regard to the public housing development application being filed under this NOFA.

(e) Support for local initiatives. If the application proposes a project which, as evidenced by a letter from local officials, actively supports an area of local initiative such as a Community Development Block Grant, urban revitalization, Empowerment Zone/Enterprise Community, or other similar local activity, or includes a commitment for a donation to the project in the event it is selected for funding, the PHA should describe the activity.

(f) Resident Initiatives. If the PHA is working with residents to establish and/or foster resident empowerment activities (such as establishing Resident Corporations or Resident Management Corporations), the activities should be described.

(g) Preservation of Low-Income Housing. The PHA should describe any means by which use of public housing development funds will preserve low-income housing resources currently available to the community.

#### *F. Applications Covering State or Locally-Assisted Units*

Applications for conversion of State- or locally-assisted units or federally assisted public housing are eligible for assistance under this NOFA.

#### *G. Major Reconstruction of Obsolete Projects (MROP).*

The Department will fund no MROP in fiscal 1995, unless the Department determines that such funding is necessary from Headquarters Reserve in

relation to litigation settlements, court orders or litigation avoidance.

#### H. Ineligible Applications

Applications for intermediate care facilities and nursing homes may not be approved under this NOFA.

### IV. Field Office Processing of Applications

#### A. Submission of Applications

The cover letter of all applications must be marked with the date and time of receipt, along with the initials of the Field Office employee accepting the application. Applications received after the date and time specified at the beginning of this NOFA will be returned to the applicant. The PHA should obtain a "Return receipt" or similar evidence of delivery when applications are delivered via other means (U.S. Mail, private mailing firms, etc.).

#### B. Initial Screening

1. Immediately after the deadline for receipt of applications, the Field Office will screen each application to determine whether all information and exhibits have been submitted.

(a) If any application lacks any technical information or exhibit, or contains a technical mistake, the PHA will be advised in writing and will have 14 calendar days from the date of the issuance of HUD's notification to deliver the missing or corrected information or documentation to the Field Office.

(b) Curable technical deficiencies relate only to items that would not improve the substantive quality of a category 4 application, relative to the ranking factors.

(c) If Form HUD 52470 (Application) is missing, the PHA's application will be considered substantively incomplete, and therefore ineligible for further processing. If other forms are missing, such as Form HUD 50070 (Drug Free Workplace Certification) or if there is a technical mistake, such as no signature, or an unauthorized signatory on a submitted form, the PHA will be given an opportunity to correct the deficiency.

2. An application that does not meet the applicable threshold and NOFA requirements after the 14-day technical deficiency period will be rejected from processing and determined to be unapprovable.

3. Applications proposing housing in areas also served by the Rural Housing and Community Development Service (RHCS) (formerly known as Farmers Home Administration) are subject to coordination with RHCS to assure that assisted housing resources to be provided are not duplicative. The State

RHCS office shall be advised that an application for public housing has been received and is being considered for funding, and be provided an opportunity to comment on the application.

4. The responsibility for submitting a complete application rests with the PHA. The failure of the Field Office to identify and provide a notice of deficiency to the PHA shall not relieve the PHA of the consequences of failure to submit a complete application.

#### C. Application Threshold Approvability.

After initial screening and upon expiration of the deficiency "cure" period, complete applications will be examined for threshold approvability. Applications that fail one or more of the threshold criteria will be rejected from processing and determined to be unapprovable. All applications for public housing development funds must meet the following thresholds to be determined approvable:

1. The PHA may not have any litigation pending which would preclude approval of the application.

The PHA must be legally eligible to develop, own, and operate public housing under the USHA and have:

(a) Approved and current PHA organization documents;

(b) Local cooperation agreements to cover units under management, in development, and the units requested (Form HUD 52481), and any other required local authority, or evidence the Department finds sufficient that such cooperation agreements can be obtained in a timely fashion;

(c) A properly executed and complete PHA Resolution (Form HUD 52471), required with respect to all applications and referring to the need for front-end funding, if requested, and a Local Governing Body Resolution (HUD 52472) which approves the request for front-end funds, if front-end funds are requested. (Note: By executing the PHA Resolution, the PHA certifies that it will comply with Title II of the Americans with Disabilities Act (42 U.S.C. 12131) and the implementing regulation at 28 CFR part 35. The PHA Resolution also certifies to the PHA's intent to comply with all requirements of 24 CFR part 941. These requirements include: nondiscrimination under the applicable civil rights laws; the requirements imposed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655); the accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and HUD's implementing regulations at 24 CFR part 8; and section

3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u), and HUD's implementing regulations at 24 CFR part 135.

2. The category of application is eligible under this NOFA (see Section II.B of this NOFA).

3. If new construction (conventional or turnkey) has been applied for, the PHA has provided a cost comparison or a certification with documentation (see Section III.B. of this NOFA), and has stated what is to be done with the application if new construction is not approvable.

4. No application shall be determined to be approvable if the PHA has failed to return excess advances received during development or modernization, or amounts determined by HUD to constitute excess financing based on a HUD-approved Actual Development Cost Certificate (ADCC) or Actual Modernization Cost Certificate (AMCC), unless HUD has approved a pay-back plan.

5. There are no environmental factors, such as sewer moratoriums, precluding development in the requested locality.

6. The following certifications are included in the application and have been executed by the appropriate person(s):

(a) Form HUD-50070, Drug-Free Workplace;

(b) Form HUD-50071, Certification for Contracts, Grants, Loans and Cooperative Agreements;

(c) Form SF-LLL, Disclosure of Lobbying Activities, if applicable;

(d) Form HUD-2880, Applicant/ Recipient Disclosure/Update Report;

(e) FSS certification;

(f) Section 5(j) certification appropriate to the category of application;

(g) Certification that the application is consistent with Environmental Justice Executive Order 12898, in that the proposed public housing will be developed only in environmentally sound and desirable locations and will avoid disproportionately high and adverse environmental effects on minority and low-income communities.

7. The PHA must be in compliance with civil rights laws and equal opportunity requirements. A PHA will be considered to be in compliance if:

(a) As a result of formal administrative proceedings, there are no outstanding findings of noncompliance with civil rights laws unless the PHA is operating in compliance with a HUD-approved compliance agreement designed to correct the area(s) of noncompliance;

(b) There is no adjudication of a civil rights violation in a civil action brought against it by a private individual, unless the applicant demonstrates that it is operating in compliance with a court order designed to correct the area(s) of noncompliance;

(c) There is no deferral of Federal funding based upon civil rights violations;

(d) There is no pending civil rights suit brought against the PHA by the Department of Justice; or

(e) There is no unresolved charge of discrimination against the PHA issued by the Secretary under section 810(g) of the Fair Housing Act, as implemented by 24 CFR 103.400.

8. For "other" applications only:

(a) The Field Office must determine that the PHA has or will have the capability to develop and manage the

proposed housing. The Field Office shall determine capability based upon the PHA's overall score under the Public Housing Management Assessment Program (PHMAP) (see 24 CFR part 901), the PHA's most recent fiscal audit, and outstanding HUD monitoring findings. A PHA shall not be determined to lack administrative or development capability simply because it has no recent experience in developing or managing public/assisted housing.

(b) The Field Office must determine that there is a need and a market for the proposed household type and bedroom sizes, taking into consideration the documentation submitted by the PHA on housing supply and demonstration of need, any local plans, and other assisted housing (e.g., HUD or RHCS) existing

and proposed (including housing funded but not completed).

9. With respect to all applications the Department reserves the right to require the PHA to utilize an alternative administrator to carry out the applicable public housing development program.

*D. Threshold Approvable Applications*

Applications in categories 1, 2, and 3 will be determined approvable if they successfully pass the threshold review. Threshold-approvable applications in category 4 ("other") will be reviewed and analyzed by the Field Office.

*E. "Other" Development Applications*

Threshold approvable "Other" applications will have points assigned by a Rating Panel(s) on the basis of Field Office analysis and PHA documentation relating to the following criteria:

Criteria	Points
1. <i>Relative Need.</i> The application proposes a development for a locality which has been previously under-funded for the household type (family or elderly) requested, relative to the need for housing for the same household type in the respective metropolitan or non-metropolitan portion of the Field Office's jurisdiction. [Select (a), (b) or (c)]:	
(a) Housing need in the locality specified in the application has been severely under-funded. (A locality with a percentage of need served that is equal to or less than one-half the Field Office percentage will be determined to be severely under-funded.); .....	20
or	
(b) Housing need in the locality specified in the application has received a proportionate share of funding or has been moderately under-funded. (A locality with a percentage of need served that is equal to or less than the Field Office percentage, but greater than one-half that percentage will be determined to be moderately under-funded.); .....	10
or	
(c) Housing need in the locality specified in the application has been over-funded. (A locality with a percentage that is greater than the Field Office percentage will be determined to have been over-funded.); .....	0
2. <i>Vacancy Rate.</i> Select (a) or (b):	
(a) The adjusted vacancy rate in public housing developments under management (as such term is defined in the Public Housing Management Assessment Program, 24 CFR 901 <i>et. seq.</i> ) is not greater than 3 percent, indicating that the PHA will and can fully utilize the units for which it applied; .....	10
or	
(b) The adjusted vacancy rate in public housing developments under management is greater than 3 percent but less than 6 percent (or two units if that is greater); .....	5
3. <i>Large-Family Housing.</i> The application is for a public housing development comprising 51 percent or more three bedroom or larger units; .....	15
4. <i>Relocation.</i> The proposed public housing development would primarily assist households displaced or to be displaced by Federal action or a natural disaster in a Federally declared disaster area; .....	15
5. <i>Low Density Family Housing.</i> The application proposes scattered site development to expand housing opportunities; .....	20
6. <i>PHA Development Experience.</i> [Select (a), (b), or (c)]	
(a) The PHA scored at least 90 percent ("A") in Indicator 12 (Development) of PHMAP; .....	15
or	
(b) The PHA's latest PHMAP score for Indicator 12 (Development) is between 80 and 89 percent; or the Field Office has no information on the PHA's previous development experience to rate the PHA under paragraph (a) above; however, the application demonstrates the capability for, and the expectation of, expeditious quality or other development experience, or submitted a development management contract with an experienced development project manager); .....	10
or	
(c) The PHA's latest PHMAP score for Indicator 12 (Development) is between 60 and 79 percent; or the PHA has no development experience under either paragraph (1) or (2) above, but the PHA has evidenced staff capability and organization that demonstrates the PHA has the capability for, and the expectation of, expeditious quality development or has submitted a proposed development management contract; .....	5
7. <i>PHA Management Experience.</i> [Select (a), (b), or (c)]	
(a) The PHA's latest PHMAP score (excluding development) is 90 percent or better; and there were no Inspector General audit findings during the PHA's last fiscal audit; and there are no outstanding HUD monitoring findings; .....	20
or	
(b) The PHA's latest PHMAP score (excluding development) is between 80 and 89; and Inspector General audit findings (if any) have been addressed; and outstanding HUD monitoring findings have been resolved; .....	10
or	
(c) Choose (1) or (2):	
(1) The PHA's latest PHMAP score (excluding development) is between 60 and 79; and Inspector General audit findings (if any) have been addressed; and outstanding HUD monitoring findings have been resolved; .....	5
or	
(2) The PHA has no public housing in management, but has management experience in the section 8 program and management reviews or Inspector General audit findings (if any) are being addressed satisfactorily; .....	5

Criteria	Points
8. <i>Other Criteria.</i> (Select any that apply)	
(a) The PHA has certified that it will form, or submit evidence that it has formed, a "partnership" (i.e., a cooperative relationship) with an entity that will play a substantial role in development, design, management, or representation to the community and has described the partnership's role; or the PHA has certified that it will form, or submit evidence that it has formed, a "partnership" with an entity that plays a substantial role in the delivery of services and that these services will be available to residents of the project under development, and has described the partnership's role. ....	15
(b) Choose (1) or (2) if applicable:	
(1) The PHA has certified that it will develop or acquire units or sites in developments where the non-public housing units require incomes that, on average, are at or above 80 percent of median; .....	15
or	
(2) The PHA has certified that it will develop or acquire units or sites in developments where the non-public housing units require incomes that, on average, are at or above 50 percent of median; .....	10
(c) The PHA has submitted evidence that over the past five years it has met any commitments made under the provisions of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C., 1701u), as amended from time to time, and the implementing regulations for section 3 at 24 CFR part 135. (If the PHA does not have development experience, it may instead submit evidence related to its experience with the modernization program.); .....	10
(d) The application proposes a public housing development which, as evidenced by a letter from local officials, actively supports an area of local initiative such as a Community Development Block Grant, urban revitalization, Empowerment Zone/Enterprise Community, or other similar local activity, or includes a commitment for a donation to the project in the event it is selected for funding; .....	15
(e) The Field Office, based on documentation submitted by the PHA, has determined that the PHA is working with residents to establish and/or foster resident empowerment activities (such as establishing Resident Corporations or Resident Management Corporations); .....	10
(f) Preservation of low-income housing. The PHA demonstrates that commitment of development funds will preserve low-income housing resources currently available to the community. ....	20
Total Possible Points .....	200

**F. Field Office Reports**

1. Category 1, 2, and 3 Applications. Each Field Office shall forward its lists (by category) of fair-share exempt threshold-approvable applications to Headquarters within two weeks of the deficiency "cure" period. The lists shall include the project number, total number of units and units by bedroom size, structure type(s), cost areas, funding required and the metropolitan/non-metropolitan designations for each application. Category 1 and 2 applications shall also identify the underlying project and its current status (e.g., approved (date), under review in Field Office, etc.).

2. Category 4. All Field Office reports to Rating Panels on threshold-approvable "other" applications shall be submitted within three weeks of the deficiency "cure" period and include the information described in paragraph F.1., above, the analysis of each application, and Field Office recommendations for funding.

**V. Rating Panels**

**A. Rating Panels**

1. General. The Rating Panel(s) shall compile data furnished by Field Offices for category 4 (other) applications, and rate each application based on Field Office analyses, comments, and recommendations.

A list of rated applications shall be forwarded to Headquarters, with copies of Field Office reviews and recommendations, and justifications for

Rating Panel rankings. Headquarters shall not modify ratings of category 4 ("other") applications unless a gross error has occurred.

Examples of "gross errors" include, but are not limited to, errors in calculating the vacancy rate in the proposed community, or assigning points for development/management experience based on a PHMAP score that was successfully appealed, or simple errors of arithmetic.

Changes in ratings shall be fully documented, and a copy of the memorandum authorizing the change (and the basis thereof) shall be sent to the Rating Panel and to the Field Office for inclusion in the file and be made available for public inspection. Category 4 applications shall be approved within Areas, to the extent fair share funds are assigned, as follows:

2. "Tight Market" Determination. Headquarters will separate applications (category 4) on the basis of "tight rental housing market" and Rating Panel ratings and Headquarters rankings, and approve them (in the following order) to the extent fair share funds are assigned to their respective Area:

(a) Applications within the same Area in tight rental housing markets which receive 100 or more rating points;

(b) All other applications in the same Area, in rank order, depending on "metropolitan" or "non-metropolitan" funding available.

**B. Reservation of Funds**

Funds will be reserved in an amount equal to the total development cost limit for the number, structure type, and size of units being approved. "trended" to take into consideration the anticipated cost of construction at the time the construction/rehabilitation contract is expected to be executed; acquisition reservations will be trended to take into account anticipated cost variations between fund reservation and Date of Full Availability (DOFA). The trend shall be calculated by multiplying the project total development cost limit by 6 percent (1.06), rounded to the nearest \$50. No amendment funds will be available for these projects in the future.

**C. Partial Funding**

Partial funding of highly ranked "other" applications within an Area may occur (so long as such projects are determined viable and the PHA has indicated willingness to accept fewer units) to facilitate the funding in rank order of additional applications for highly ranked projects. With respect to categories 1, 2 and 3, partial funding may be provided where the Department determines this to be appropriate.

**VI. Checklist of Application Submission Requirements**

**A. Submission Requirements**

PHAs may use the following application checklist which enumerates the submission requirements of Section III of this NOFA:

1. Cover letter;
2. Form HUD 52470, Application for Public Housing Development;
3. Evidence of legal eligibility (if not previously evidenced) with a current General Certificate (HUD 9009);
4. Evidence that the number of units in management, in development, and being requested in this application are covered by Cooperation Agreements (HUD 52481) and any other State/local requirements have been met;
5. HUD 52471, PHA Resolution in Support of Public Housing;
6. HUD 52472, Local Governing Body Resolution, if front-end funds are being requested by the PHA. (Note: If front-end funds are requested, the HUD 52471 must be appropriately modified. See Section III.A.6. of this NOFA.);
7. PHA statement identifying its funding preferences for particular sites if an application covering more than one site is being submitted for category 4 (see Section II.B of NOFA). (Note, however, that no more than one application per locality may be filed under category 4.);
8. PHA statement whether it will accept fewer "other" units than applied for (category 4);
9. HUD 50070, PHA Certification for a Drug-Free Workplace;
10. HUD-50071, Certification for Contracts, Grants, Loans and Cooperative Agreements;
11. Form SF-LLL, Byrd Amendment Disclosure and Certification Regarding Lobbying, only if the applicant determines it is applicable;
12. Form HUD 2880, Disclosure of Government Assistance and Identity of Interested Parties;
13. Section 5(j) certification appropriate to the category of application;
14. Certification of consistency with Environmental Justice Executive Order 12898;
15. Evidence of inadequate housing supply (i.e., a "tight" rental housing market), for category 4 ("Other") units;
16. Evidence (such as waiting list information or PHA vacancy rate data) of need and market for the units requested for category 4 applications;
17. Section 6(h) cost comparison justification, if new construction is requested;
18. FSS program certification if for Category 3 (Headquarters Reserve) or Category 4 ("Other") units;
19. Replacement housing exhibits, if applicable (see section III.C);
20. (Optional) For replacement housing applications, documentation how the application addresses HUD priorities (see section II.C.2).

21. (Optional) For "other" applications, documentation to address the rating factors (see section IV.E.).

#### *B. Application Packets*

Forms comprising the application package may be obtained from the HUD Field Office.

### **VIII. Other Matters**

#### *A. Environmental Impact*

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street, S.W., Room 10276, Washington, D.C. 20410.

#### *B. Federalism*

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, on their political subdivisions, or on their relationship with the Federal government, or on the distribution of power and responsibilities between them and other levels of government. The NOFA will provide PHAs with funding for public housing development.

#### *C. Family Impact*

The General Counsel, as the Designated Official for Executive Order 12606, the Family, has determined that the provisions of this NOFA do not have the potential for significant impact on family formation, maintenance and general well-being within the meaning of the Order. To the extent that the funding provided through this NOFA results in additional or improved housing, the effects on the family will be beneficial.

#### *D. Prohibition Against Lobbying Activities: The Byrd Amendment*

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) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with 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. As noted earlier a certification is required, at the time the application for funds is made, that Federally appropriated funds are not being or have not been used in violation of section 319 and that *disclosure* will be made of payments for lobbying with other than Federally appropriated funds. Also, again as noted earlier, there is a standard disclosure form, SF-LLL, "Disclosure Form to Report Lobbying," which must be used to disclose lobbying with other than Federally appropriated funds.

#### *E. Prohibition Against Lobbying of HUD Personnel*

Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department *and* those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

HUD's regulation implementing section 13 is codified at 24 CFR part 86. If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule. Appendix A of this rule contains examples of activities covered by this rule.

Any questions concerning the rule should be directed to the Office of Ethics, Room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington DC 20410. Telephone: (202) 708-3815 (voice/TDD). This is not a toll-free number. Forms necessary for compliance with the rule may be obtained from the local HUD office.

*F. Section 112 of the HUD Reform Act 1989*

A final rule published in the **Federal Register** on September 7, 1993, amended the definition of "person" to exclude from coverage a State or local government, or the officer or employee of a State or local government or housing finance agency thereof who is engaged in the official business of the State or local government.

Any questions concerning the rule should be directed to the Office of Ethics, Room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708-3815 (voice/TDD). This is not a toll-free number. Forms necessary for compliance with the rule may be obtained from the local HUD office.

*G. Prohibition Against Advance Information on Funding Decisions*

Section 103 of the HUD Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance. HUD's regulation implementing section 103 is codified at 24 CFR part 4. That regulation applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24 CFR 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 by 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708-3815 (voice/TDD). (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters Counsel for the program to which the question pertains.

*H. Accountability in the Provision of HUD Assistance*

HUD's regulations at 24 CFR part 12 implement section 102 of the HUD Reform Act. Section 102 contains a number of provisions designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. The following requirements concerning documentation and public access disclosures are applicable to assistance awarded under this NOFA.

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. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

2. Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period of 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. (See 24 CFR part 12, subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Dated: May 30, 1995.

**Joseph Shuldiner,**

*Assistant Secretary for Public and Indian Housing.*

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