

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4726-N-01]

Notice of Funding Availability (NOFA); Fair Share Allocation of Incremental Voucher Funding, Fiscal Year 2002

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

ACTION: Notice of funding availability.

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

Available Funds. Approximately \$103,979,000 in one-year budget authority for approximately 18,000 housing choice vouchers. Prior to the funding of any new applications under this NOFA for FY 2002, \$8,881,265 of this budget authority will be used to fund 1,540 vouchers for 13 PHAs that were erroneously omitted from the selection process under the FY 2001 Fair Share NOFA. See section II(C)(3) of this NOFA regarding the specific PHAs, dollar amounts and corresponding number of vouchers that each of the 13 PHAs will receive. This will leave \$95,097,735 in one-year budget authority available for the funding of approximately 16,460 vouchers for applications submitted in FY 2002 under this NOFA. Also, see the note at the bottom of Appendix A of this NOFA which fully addresses deductions from funding for allocation areas in order to fund these 13 previously unfunded PHAs.

Eligible Applicants. Public housing agencies (PHAs). PHAs that fall into any of the categories in section VII(B)(2) of this NOFA are ineligible to have an application funded under this NOFA. 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 housing choice voucher annual contributions contracts (ACC) with IHAs after September 30, 1997.

Application Due Date. March 25, 2002.

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, Housing Choice Voucher 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 one copy) is due on or before March 25, 2002, at the address shown below. This application deadline is firm. 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.

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.

The Grants Management Center (GMC) is the official place of receipt for all applications in response to this NOFA. Applications not submitted to the GMC will not be considered. A copy of the application is not required to be submitted to the local HUD Field Office. For ease of reference, the term "local HUD Field Office" will be used in this NOFA to mean the local HUD Field Office Hub and local HUD Field Office Program Center.

New Security Procedures. In response to the terrorist attacks in September 2001, HUD has implemented new security procedures that impact on application submission procedures. Please read the following instructions carefully and completely. HUD will not accept hand delivered applications. Applications may be mailed using the United States Postal Service (USPS) or may be shipped via the following delivery services: United Parcel Service (UPS), FedEx, DHL, or Falcon Carrier.

No other delivery services are permitted into HUD Headquarters without escort. You must, therefore, use one of the four carriers listed above.

Mailed Applications. Your application will be considered timely filed if postmarked on or before 12:00 midnight on the application due date and received by the GMC within fifteen (15) days of the application due date. *All applicants must obtain and save a Certificate of Mailing showing the date when you submitted your application to the USPS.* The Certificate of Mailing will be your documentary evidence that your application was timely filed.

Applications Sent By Overnight/Express Mail Delivery. If your application is sent by overnight delivery or express mail, your application will be timely filed if it is received by the GMC before or on the application due date, or when you submit documentary evidence that your application was placed in transit with the overnight delivery/express mail service by no later than the application due date. Due to new security measures, you must use one of four carrier services that do business with HUD Headquarters regularly. These services are UPS, DHL, FedEx, and Falcon Carrier. Delivery by these services must be made during HUD's Headquarters business hours, between 8:30 AM and 5:30 PM, Eastern Time, Monday to Friday. If these companies do not service your area, you should submit your application via the SUPS.

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

For Further Information and Technical Assistance. Prior to the application due date, you may contact George C. Hendrickson, Housing Program Specialist, Room 4216, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, Room 4216, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708-1872, ext. 4064. Subsequent to application submission, you may contact the Grants Management Center at (202) 358-0221. (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 \$103,979,000 in one-year budget authority for housing choice vouchers for low-income families is found in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, FY 2002 (Pub. L. 107-73, approved November 26, 2001), referred to as the FY 2002 HUD Appropriations Act. The allocation of housing assistance budget authority for housing choice vouchers, by allocation area 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 housing choice voucher funding being made available under this NOFA is to provide housing assistance to very low-income families to enable them to access decent, safe, and affordable housing of their choice on the private market.

(C) Fair Share Allocation Amount

This NOFA announces the availability of approximately \$103,979,000 in one-year budget authority for a fair share formula allocation that will provide housing assistance to approximately 18,000 very low-income families. From this funding, \$8,881,265 for 1,540 vouchers for 13 PHAs will first be used to correct a HUD error resulting in the funding selection omission of these 13 PHAs under the FY 2001 Fair Share NOFA. (See section II(C)(3), Unfunded Corrections.)

(1) *Fair Share Allocation For Each Allocation Area.* Appendix A of this NOFA lists the allocation of housing assistance budget authority for vouchers for each allocation area, based on fair share factors. Appendix A also provides an estimate of the total number of vouchers that could be funded from the housing assistance available for each allocation area based on the weighted local average costs of voucher assistance for a two-bedroom unit. The actual number of units assisted within each allocation area 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 2002, HUD plans to distribute any

additional funding to allocation areas using the same percentage distribution as reflected in Appendix A 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) *Unfunded Corrections.* Prior to the issuance of this NOFA, HUD determined that 13 PHA applicants under the FY 2001 Fair Share NOFA were not funded due to an error on the part of HUD. Funding in the amount of \$8,881,265 will be subtracted from the Fair Share funding available under this NOFA to fund these 13 PHAs as follows: County of Merced, California Housing Authority—\$2,385,412 for 532 vouchers; Sonoma County, California Housing Authority—\$1,847,490 for 260 vouchers; Fort Collins, Colorado Housing Authority—\$524,170 for 65 vouchers; Plant City, Florida Housing Authority—\$71,195 for 15 vouchers; City of Stuart, Florida Housing Authority—\$71,156 for 15 vouchers; County of DeKalb, Georgia Housing Authority—\$1,303,604 for 197 vouchers; Scott, Minnesota Housing Authority—\$285,765 for 48 vouchers; Camden, New Jersey Housing Authority—\$1,377,456 for 200 vouchers; Village of Kiryas Joel, New York Housing Authority—\$415,614 for 50 vouchers; Fargo, North Dakota Housing and Redevelopment Agency—\$165,079 for 44 vouchers; Beaver City, Utah Housing Authority—\$27,836 for 4 vouchers; Vermont State Housing Authority—\$194,492 for 45 vouchers; and Winnebago County, Wisconsin Housing Authority—\$211,996 for 65 vouchers.

(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, as provided by the Office of Public and Indian Housing's Section 8 Finance Division {except for Moving to Work (MTW) agencies the per unit cost will be calculated in accordance with the agency's MTW Agreement, using the following two step process (as may be modified based upon a percentage of annual per unit cost if necessary to produce the approximately 18,000 vouchers provided for under this NOFA):

(a) HUD will extract the total expenditures for all the PHA's housing

choice voucher and certificate 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 housing choice voucher and certificate 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.

(E) Eligible Applicants

Any PHA currently administering the Housing Choice Voucher Program under an annual contributions contract (ACC) with HUD for at least one full year prior to the application deadline date shall be eligible to apply for funding under this NOFA. Any such PHA; however, falling into one or more of the categories in section VII(B)(2) of this NOFA, is ineligible to have an application funded under this NOFA.

A PHA may submit only one application under this NOFA. This one application per PHA limit applies regardless of whether or not the PHA is a State or regional PHA, except in those instances where such a PHA has more than one PHA code number due to its operating under the jurisdiction of more than one HUD Field Office. In such an instance, a separate application under each code shall be considered for funding, with the cumulative total of vouchers applied for under the applications not to exceed the maximum number of vouchers the PHA is eligible to apply for under section V(A) of this NOFA; *i.e.*, no more than the number of vouchers the same PHA would be eligible to apply for if it only had one PHA code number.

A contract administrator which does not have an annual contributions contract (ACC) with HUD for housing choice vouchers, but which constitutes a PHA under 24 CFR 791.102 by reason of its administering housing choice tenant-based assistance on behalf of another PHA on October 21, 1998, shall not be eligible to submit an application under this NOFA.

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 housing choice voucher annual contributions contracts (ACC) with IHAs after September 30, 1997.

In some cases a PHA currently administering the housing choice voucher program has, at the time of

publication of this NOFA, been designated by HUD as a troubled PHA under the Section 8 Management Assessment Program (SEMAP), or has major program management findings from Inspector General audits that are unresolved. HUD will not accept an application from such a PHA as a contract administrator if, on the application due date, the troubled PHA designation has not been removed by HUD, or the findings are not resolved. If the PHA wants to apply for funding under this NOFA, the PHA must submit an application that designates another contractor that is acceptable to HUD. The PHA's application must include an agreement by the other contractor to administer the new funding increment on behalf of the PHA, and (in the instance of a PHA with unresolved major program management findings) a statement that outlines the steps the PHA is taking to resolve the program findings.

Immediately after the publication of this NOFA, the local HUD Field Office will notify, in writing, those PHAs that have been designated by HUD as troubled under SEMAP, and those PHAs with unresolved major program management findings 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 Director of the GMC. The PHA may appeal the decision, in writing, if HUD has mistakenly classified the PHA as having unresolved major program management findings. The PHA may not appeal its designation as a troubled PHA under SEMAP. Any appeal with respect to unresolved major program management findings must be accompanied by conclusive evidence of HUD's error (i.e., documentation showing that the finding has been cleared) and must be received prior to the application deadline. The appeal should be submitted to the local HUD Field Office where a final determination shall be made. Concurrently, the local HUD Field Office shall provide the GMC with a copy of the PHA's written appeal and the Field Office's written response to the appeal. Major program management findings are those that would cast doubt on the capacity of the PHA to effectively administer any new housing choice voucher funding in accordance with applicable HUD regulatory and statutory requirements.

(F) Eligible Participants

Information on those families and individuals eligible to receive a voucher is located at the following HUD Web

site: www.hud.gov/offices/pih/programs/hcv.

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 letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken 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 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) Examine the PHA's own programs or proposed programs, including an identification of any impediments to fair housing (identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice—in its Consolidated Plan); in a reasonable fashion in view of the resources available, and the work to be done in connection with the local jurisdiction's initiatives to affirmatively

further fair housing that requires the PHA's involvement, as well as maintaining records reflecting these analyses and actions; develop a plan to (i) address those impediments in a reasonable fashion in view of the resources available; (ii) work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and (iii) maintain records reflecting this analysis and actions.

(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 under this NOFA to address affirmatively furthering fair housing.

(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) *Increasing the Participation of Faith-Based and Community-Based Organizations in HUD Program Implementation.* HUD believes that grassroots organizations; e.g., civic organizations, congregations and other community-based and faith-based organizations, have not been effectively utilized. These grassroots organizations have a strong history of providing vital community services such as assisting the homeless and preventing homelessness; counseling individuals and families on fair housing rights; providing elderly housing opportunities; developing first time homeownership programs; increasing homeownership and rental housing opportunities; developing affordable and accessible housing in neighborhoods across the country; and creating economic development programs. The goal of this policy priority is to make HUD's housing choice voucher program more effective, efficient, and accessible by expanding opportunities for faith-based and community-based organizations to participate in developing solutions for their own neighborhoods. PHAs are encouraged to coordinate with and otherwise involve faith-based and other community-based organizations in those activities under the housing choice voucher program where their services, expertise and knowledge may be most effective.

(6) *Conducting Business In Accordance With Core Values and Ethical Standards.* To reflect core values, all applicants shall develop and maintain a written code of conduct in the PHA administrative plan that (1) requires compliance with the conflict of interest requirements of the Housing Choice Voucher Program at 24 CFR 982.161, and (2) prohibits the solicitation or acceptance of gifts or gratuities, in excess of a nominal value, by any officer or employee of the PHA, or any contractor, subcontractor or agent of the PHA. The PHA's administrative plan shall state PHA policies concerning PHA administrative and disciplinary remedies for violation of the PHA code of conduct. The PHA should inform all officers, employees and agents of its organization of the PHA's code of conduct.

(B) PHA Responsibilities and Housing Assistance Requirements

(1) *Housing Choice Voucher Regulations.* PHAs must administer the housing choice vouchers received under this NOFA in accordance with HUD regulations at 24 CFR part 982 governing the Housing Choice Voucher Program.

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

(3) *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 housing choice voucher waiting list.

(4) *Vouchers for Disabled Families.* In those instances where the PHA indicated in its application (in connection with Selection Criterion 4 and/or Selection Criterion 5 of this NOFA) that it would use a specified percentage of its vouchers awarded under the NOFA solely for disabled families, that specified percentage of vouchers must be used for disabled families for not less than one year from the date the rental assistance is placed under an annual contributions contract (ACC). If there is an insufficient pool of disabled families on the PHA's housing choice voucher waiting list, the PHA shall conduct outreach to encourage eligible disabled families to apply. Outreach may include contacting independent living centers, advocacy organizations for persons with disabilities, and medical, mental health,

and social service providers for referrals of persons with disabilities who would benefit from housing choice voucher assistance. If the PHA's housing choice voucher waiting list is closed, and if the PHA has an insufficient number of disabled families on that waiting list to use all the vouchers earmarked for the disabled, the PHA should open the waiting list for applications from disabled families. PHAs must take care to keep track of the number of disabled family vouchers that have been awarded versus the number of such vouchers actually issued to disabled families.

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 100 points.

(1) Selection Criterion 1: Housing Needs (40 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 housing choice voucher 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.

Note: Use of 1990 census data was necessary, in lieu of the use of 2000 census data, due to the lack of complete 2000 census data.

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. Housing needs information will be posted at the following HUD Web site: www.hud.gov/offices/adm/grants/otherhud.cfm, 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 legally authorized to

operate and where the vouchers will be issued, as described in its application. (See Section VI(C) of this NOFA regarding the description of the primary market area required to be included in each PHA's application.) The GMC will assign one of the following point totals (40 points maximum even in those instances where the percentage of housing need in a PHA's primary market area when multiplied times three points would equal a total in excess of 40 points; i.e., no PHA shall receive more than 40 points for housing needs):

(1) For each percentage point of the State's housing need in the PHA's primary market area (rounded to the nearest percentage point) the PHA will receive three points.

(2) A State or regional (multi-county) PHA will receive points based on the areas it serves where the vouchers will be issued; i.e., the sum of the housing needs for the counties and/or localities comprising its primary market area. For each percentage point of the State's housing need in the State or regional PHA's primary market area (rounded to the nearest percentage point), the PHA will receive three points.

(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 three points.

(2) Selection Criterion 2: Lease-Up and Budget Authority Utilization (15 points).

(a) *Description:* This criterion focuses on a PHA's success in leasing its housing choice vouchers and certificates, and using the budget authority associated with its vouchers and certificates. While a PHA must have either a lease-up or budget authority utilization rate of at least 97 percent under section VII(B)(2)(c) of this NOFA in order to have an acceptable application, Selection Criterion 2 provides for the award of selection points to those PHAs having either a voucher and certificate lease-up rate or a budget authority utilization rate of 99 percent or higher. The lease-up and budget authority utilization percentages for a PHA's combined certificate and voucher program will be calculated by HUD based upon the methodology indicated in Appendix B of this NOFA, and shall cover PHA fiscal years ending September 30, 2000; December 31, 2000; March 31, 2001; and June 30, 2001. Lease-up or budget authority utilization rates of a half or more of one percentage point will be rounded to the next highest percentage point for purposes of qualifying for the points available under

Selection Criterion 2 (for example, 98.5 percent will be rounded up to 99 percent). PHAs that meet either the 97 percent lease-up or budget authority utilization threshold requirement in section VII(B)(2) of this NOFA, or that have a 99 percent or higher lease-up or budget authority utilization rate and qualify for the points available under Selection Criterion 2 will be listed with the Fair Share NOFA at the following HUD Web site: www.hud.gov/offices/adm/grants/otherhud.cfm. A PHA not listed may submit information with its application, following the methodology of Appendix B and using the format of Appendix C which includes a completed example and the blank form format to be filled out and submitted with the PHA's application, for its fiscal year ending September 30, 2000; December 31, 2000; March 31, 2001; June 30, 2001; or subsequent fiscal year not yet processed by HUD but certified by the PHA.

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

* *15 points*: The PHA has a lease-up or budget authority utilization rate for its combined voucher and certificate program of 99 percent.

* *0 points*: The PHA has less than a 99 percent lease-up and budget authority utilization rate for its combined voucher and certificate program.

(3) *Selection Criterion 3: Expanding Housing Opportunities (10 points)*.

(a) *Description*: This criterion is based upon the Section 8 Management Assessment Program (SEMAP) performance indicator of the same title located at 24 CFR 985.3(g). The sole difference being that Selection Criterion 3 shall apply to all PHAs (not only to PHAs with jurisdiction in metropolitan fair market rent (FMR) areas, but also to PHAs with jurisdiction in non-metropolitan FMR areas). This selection criterion addresses whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units, including units outside areas of poverty or minority concentration.

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

* *10 points*: The PHA certifies to HUD in its application for funding under this NOFA that it is eligible for

the points under the SEMAP indicator entitled "Expanding housing opportunities" (see 24 CFR 985.3(g)) as of the date it is submitting its application to HUD for funding under this NOFA.

Note: As indicated above, Selection Criterion 3 also includes PHAs with jurisdiction in non-metropolitan FMR areas. Consequently, such PHAs may also qualify for the 10 points available under Selection Criterion 3.

* *0 points*: The PHA does not certify to HUD in its application for funding under this NOFA that it is eligible for the points under the SEMAP indicator entitled "Expanding housing opportunities" (see 24 CFR 985.3(g)).

(4) *Selection Criterion 4: Disabled Families (10 points)*.

(a) *Description*: The GMC will assign 10 points to PHAs that certify in their application to HUD that at least 15 percent or more of the vouchers they are funded for under this NOFA will be used to house disabled families, and that there is a sufficient number of disabled families on the PHA's waiting list or otherwise in the community to utilize all such vouchers designated for the disabled. Disabled families are defined as follows:

(i) *Disabled Family*. Disabled family means a family whose head, spouse, or sole member is a person with disabilities. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

(ii) *Person with disabilities*. Means a person who:

a. Has a disability, as defined in 42 U.S.C. 423;

b. Is determined, pursuant to HUD regulations, 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 the ability to live independently could be improved by more suitable housing conditions; or

4. Has a developmental disability as defined in 42 U.S.C. 6001.

5. Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome; and

6. For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence.

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

* *10 points*: The PHA submits a certification with its application certifying that it will use not less than 15 percent of the vouchers it is funded for by HUD under this NOFA to house disabled families, and that there are a sufficient number of disabled families on its waiting list or otherwise in the community to utilize all such vouchers designated for the disabled.

* *0 points*: The PHA fails to submit in its application the certification called for immediately above regarding its use of not less than 15 percent of the vouchers it is funded for by HUD under this NOFA to house disabled families.

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

(a) *Description*: This selection criterion is for PHAs interested in the provision of housing choice voucher assistance to families within their primary market area 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 primary market area. 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 families that meet the definition of a disabled family in this NOFA 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 primary market area and whether to try to qualify for the 5 points available under Selection Criterion 5.

Any PHA attempting to qualify for the 5 points available under Selection Criterion 5 must provide a certification in its application to HUD for funding under this NOFA. The certification must indicate that not less than 3 percent of the vouchers it is awarded under this NOFA will be used to house eligible disabled families covered by a waiver under Section 1915(c) of the Social Security Act, and that collaborative efforts already undertaken with the responsible State agency have identified a sufficient number of such families within the PHA's primary market area, and an agreement has been reached with that agency for future referrals of such families.

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

* *5 points:* The PHA provided a certification in its application for funding under this NOFA indicating that it will use not less than 3 percent of the vouchers it is funded for by HUD to house voucher eligible, disabled families covered by a waiver under Section 1915(c) of the Social Security Act, and that collaborative efforts already undertaken with the responsible State agency have identified a sufficient number of such families within the PHA's primary market area and an agreement has been reached with that agency for future referrals of such families.

* *0 points:* The PHA does not provide in its application for funding under this NOFA the certification called for immediately above.

(c) *Prohibition Against Double Counting.* The number (percentage) of disabled families that a PHA indicates it will issue vouchers to when qualifying for the 5 points available under Selection Criterion 5 cannot be used to also qualify for the 15 points available under Selection Criterion 4 or conversely.

(6) *Selection Criterion 6: Homeownership Option Under Housing Choice Voucher Program (10 points)*

(a) *Description:* PHAs are encouraged, consistent with 24 CFR 982.625—982.641, to establish a homeownership component or to expand upon an existing component within their housing choice voucher program. Points will be awarded under this NOFA to PHAs that are able to submit specific types of documentation verifying the establishment of a housing choice voucher homeownership program, and homeownership closings.

(b) *Rating and Assessment:* The GMC will assign points under Selection Criterion 6 as follows:

(i) *5 points:* The PHA has established a housing choice voucher homeownership program as evidenced by its submission with its application of a copy of the PHA Board resolution approving changes to the PHA's administrative plan for the implementation of the homeownership option under its housing choice voucher program.

(ii) *5 points:* The PHA qualifies for the five points under paragraph (i) immediately above and has had one or more closings under its homeownership program, as evidenced by the PHA's submission of documentation with its application supportive of at least one homeownership unit that has completed the closing process. Such documentation may include a copy of a fully executed deed, title, recapture agreement, etc.

Note: The PHA can only qualify for the five points under this paragraph (ii) if it has first qualified for the five points under paragraph (i) immediately above.

(iii) *0 points:* The PHA fails to submit the appropriate information in its application documenting the establishment of a housing choice voucher homeownership program, and fails to provide the appropriate information related to the closing of a homeownership unit.

(7) *Selection Criterion 7: Family Self-Sufficiency (FSS) Slots Filled (10 points)*

(a) *Description:* PHAs are encouraged, consistent with 24 CFR 984, to fill the slots required under a mandatory FSS program, and to establish a voluntary FSS program and fill slots under that program where a mandatory FSS program is not required. Points will be awarded under this NOFA to PHAs submitting a certification with their application certifying that they have filled 60 percent or more of the required slots under a mandatory FSS program, or that have filled one or more slots under a voluntary FSS program. Prior to calculating the percentage of mandatory FSS slots filled, HUD will reduce the number of mandatory slots to reflect any HUD-approved exception and/or program graduates.

(b) *Rating and Assessment:* The GMC will assign rating points under Selection Criterion 7 as follows (PHAs may receive a maximum of 10 points under the Mandatory FSS Program category or 10 points under the Voluntary FSS Program category, but shall not receive more than a combined maximum total of 10 points under Selection Criterion 7):

(i) *Mandatory FSS Program* (percentages rounded to the nearest whole percent)

a. *10 points:* 80 percent or more of the PHA's FSS slots are filled.

b. *5 points:* 60—79 percent of the PHA's FSS slots are filled.

c. *0 points:* less than 60 percent of the PHA's FSS slots are filled.

(ii) *Voluntary FSS Program*

a. *10 points:* 25 or more of the PHA's FSS slots are filled.

b. *5 points:* 1 to 24 of the PHA's FSS slots are filled.

c. *0 points:* none of the PHA's FSS slots are filled.

V. Fair Share Application Selection Process

(A) Maximum and Minimum 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 [including Moving to Work (MTW) units] reserved; *i.e.*, the number of units in its adjusted baseline (see 24 CFR 982.102(d)(ii)), as of the due date for applications under this NOFA, or 25 percent of the number of vouchers available in the allocation area (see Appendix A). If, however, all the funds for an allocation area cannot be obligated under the 25 percent/25 percent policy described above, PHAs within the allocation area may be funded in order of highest to lowest score for up to 25 percent of their reserved vouchers. (See section VI(B) of this NOFA regarding the PHA statement required in this regard.) In addition to these requirements regarding the maximum number of vouchers a PHA may request funding for under this NOFA, a limitation on the minimum number of vouchers a PHA may apply for shall also apply; *i.e.*, no PHA shall apply for or be funded for less than 24 vouchers. PHAs who do not have the need for, or who would have difficulty with the lease-up of this minimum number of vouchers should not submit an application under this NOFA.

(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 allocation area. No PHA shall be eligible to request or be funded at more than the maximum funding indicated under section V (A) above of this NOFA. 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 5 percent of a PHA's reserved units (any result less than 24

units will be rounded up to the minimum of 24 units), or 25 percent of the vouchers available for the allocation area. If funding remains available within the allocation area, the percentage used for the PHAs' reserved units will increase to the percent, not to exceed 25 percent, required to use as much of the funding as possible within the allocation area.

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 Allocation Areas

The GMC will make every reasonable effort to use all funds allocated to an allocation area within that area. It may be necessary, however, to reallocate funds from one allocation area to another when the funds cannot be used in the area to which they were initially allocated. (See 24 CFR 791.405(d)). In such cases, the GMC will re-allocate funds to the allocation area 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 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 housing choice vouchers, (dated January 1996). Section C of the form

should be left blank. PHAs are requested to enter their housing authority code number, as well as their electronic mail address, telephone number, and facsimile telephone number in the same space at the top of the form where they are also to enter the PHA's name and mailing address. This form includes all the necessary certifications for Fair Housing, Drug Free Workplace and Lobbying Activities.

Appendix A to this NOFA lists the estimate of the number of vouchers and budget authority available for each allocation area. PHAs must 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 that allowed under section V(A) of this NOFA. The form must be completed in its entirety, with the exception of section C, signed and dated. Copies of form HUD-52515 may be obtained from the local HUD Field Office or may be downloaded from the following HUD Web site: www.hud.gov. On the HUD Web site click on "handbooks and forms," then click on "HUD-5" and click on "HUD-52515." The Form HUD-52515 will also be located with this NOFA at the following HUD Web site: www.hud.gov/offices/adm/grants/otherhud.cfm.

A PHA may submit only one application (form HUD-52515). (See section II(E), Eligible Applicants, of this NOFA which fully addresses this one application per eligible applicant requirement and the one very limited exception allowed under that requirement.)

The GMC will reduce the number of vouchers requested in any application exceeding the maximum number that may be funded under section V(A) of this NOFA.

(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 (not less than 24) 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 PHA must also indicate whether it will accept and can lease within 12 months an allocation of vouchers numbering as many as 25 percent of its reserved vouchers. (See section V(A) of this NOFA).

The application should include a narrative description of how the application meets the application selection criteria in section IV(A) of this

NOFA. This narrative description must include the certifications specifically called for under Selection Criteria 3, 4, 5 and 7 in order for the PHA to receive the points available under each of these criteria. The narrative description should also address how the PHA meets Criterion 2, and the basis for the number of points the PHA claims it is entitled to under Selection Criteria 1 and 6.

Failure to submit the certifications called for under Selection Criteria 3, 4, 5, and 7 will result in the PHA receiving zero points for each Selection Criterion for which the certification is absent. Failure to submit these certifications shall not be considered a curable (correctable) technical deficiency under this NOFA. Failure of the PHA to submit information under Selection Criterion 6 shall also not be considered to be a curable (correctable) technical deficiency under this NOFA.

Failure to submit information addressing the basis upon which the PHA is eligible for the points under Selection Criterion 1, or the points it feels it is eligible for under Selection Criterion 2 shall result in the GMC scoring the PHA solely on the basis of information already on-hand.

(C) Description of Primary Market Area

Each 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 housing choice vouchers will be issued. 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 PHA, particularly a regional or State PHA, intends to issue the fair share vouchers. This information is critical because, as indicated in section IV(A)(1)(c) of this NOFA, the geographic area in which the vouchers are intended to be issued and in which the PHA is legally authorized to operate a Housing Choice Voucher Program will be used to determine the percentage of the state's housing needs that are within the PHA's primary market area under Selection Criterion 1. For example, although a PHA may be legally authorized to operate throughout the entire county in which it is located, if the vouchers will be issued only in two cities within that county then the primary market area is those two cities and not the entire county. Likewise, for a State PHA which may be legally authorized to operate throughout the entire State, but which intends to issue the fair share vouchers in only one

county, the primary market area is solely that county. In addition, the primary market area shall not include a geographic area in which the PHA is issuing vouchers, outside its normal, legally authorized area of operation, based upon an agreement with another PHA(s) to issue vouchers in the other PHA's jurisdiction.

(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:

(1) An examination of the PHA's own programs or proposed programs, including an identification of any impediments to fair housing (identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice in its Consolidated Plan); and a description of a plan developed to (a) address those impediments in a reasonable fashion in view of the resources available; (b) work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and (c) the maintenance of records reflecting this analysis and actions;

(2) Remedy discrimination in housing; or

(3) Promote fair housing rights and fair housing choice.

The PHA's statement must fully address the above areas. A general statement that the PHA will promote fair housing choice by reason of not discriminating on the basis of race, color, religion, etc. will not be sufficient.

(E) Moving to Work (MTW) PHA Certification

See section VII(B)(2)(c) regarding the 97 percent lease-up or budget authority utilization certification to be submitted by an MTW PHA not required to report under SEMAP.

(F) Form HUD-2993

All PHAs must complete and submit form HUD-2993, Acknowledgement of Application Receipt. In addition to the PHA entering its name and address on the form, the full title of the program under which the PHA is seeking funding must also be entered. This form is located in the General Section of the SuperNOFA and is also available at the following HUD Web site: www.hud.gov. On this Web site click on "handbooks and forms."

VII. Corrections to Deficient Applications

(A) Acceptable Applications

An acceptable application is one that 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 (with the exception that failure to submit the certifications called for under Selection Criteria 3, 4, 5, and 7 shall not be considered curable) 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 or by facsimile (fax) transmission 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 7 calendar days of the date of receipt of the HUD notification. Where the HUD notification indicates that the PHA response is to be sent by fax, the PHA must fax its response to (202) 358-0345 and maintain its fax receipt as proof of meeting the 7 calendar day deadline. 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 7 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 is designated as troubled by HUD under SEMAP, or has major program management findings in an Inspector General audit for its voucher or certificate programs that are unresolved. 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 housing choice voucher funding in accordance with applicable HUD regulatory and statutory requirements.

(c) The PHA has failed to achieve a lease-up or budget authority utilization rate of 97 percent for its combined certificate and voucher units under contract for its fiscal year ending in on either September 30, 2000; December 31, 2000; March 31, 2001; or June 30, 2001. PHAs that have been determined by HUD to have passed either the 97 percent lease-up, or 97 percent budget authority utilization requirement for their fiscal year ending on September 30, 2000; December 31, 2000; March 31, 2001; or June 30, 2001, will be listed with the Fair Share NOFA at the following HUD Web site: www.hud.gov/offices/adm/grants/otherhud.cfm. A PHA not listed may submit monthly lease-up and budget authority utilization information (following the methodology of Appendix B and using the format in Appendix C of this NOFA) as part of its application supportive of its contention that it should have been included among those PHAs HUD listed on the HUD web site as having achieved either a 97 percent lease-up rate or 97 percent budget authority utilization rate for fiscal years ending on September 30, 2000; December 31, 2000; March 31, 2001; June 30, 2001; or subsequent full fiscal year not yet processed by HUD but certified by the PHA. Unless utilization information is submitted using the blank format in Appendix C, the application will otherwise be determined ineligible for funding under this NOFA. (Note: The lease-up and budget authority utilization requirement shall not apply to units associated with funding increments obligated during the last PHA fiscal year and units obligated for litigation. In addition, lease-up or budget authority utilization rates of 96.5

percent but less than 97 percent will be rounded up to 97 percent.)

Moving To Work (MTW) agencies that are required to report under the Section 8 Management Assessment Program (SEMAP) shall be held to the 97 percent lease-up and budget authority utilization requirements referenced above. MTW agencies which are not required to report under SEMAP must submit a certification with their application certifying that they are not required to report under SEMAP, and that they meet the 97 percent lease-up or budget authority utilization requirements.

(d) The PHA is involved in litigation and HUD determines that the litigation may seriously impede the ability of the PHA to administer the 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 7 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 "Address for Submitting Applications" at the beginning of this NOFA.

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

(i) The PHA did not have its PHA plans approved by HUD for the FY 2000 plan cycle on the application due date for this NOFA.

VIII. Findings and Certifications

(A) Paperwork Reduction Act Statement

The Housing Choice Voucher Program 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) and 58.35(b)(1) 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. Activities under

the homeownership option of this program are categorically excluded from NEPA requirements and excluded from most other environmental requirements in accordance with 24 CFR 58.35(b)(5), but PHAs are responsible for the environmental requirements in 24 CFR 982.626(c). This NOFA provides funding for both these activities under 24 CFR part 982, and does not alter the environmental requirements in that part. 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 14.871.

(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 for public inspection all applications and related documentation, including letters of support, for 5 years following the award or allocation. 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.

(3) *Applicant Debriefing.* Beginning not less than 30 days after the awards for assistance are announced in the above mentioned **Federal Register** notice, and for not longer than 120 days after awards for assistance are announced, HUD will provide a debriefing to any applicant requesting a debriefing on their application. All requests for debriefings must be made in writing and submitted to the Grants Management Center at the address indicated in Section I of this NOFA, under the paragraph titled "Address for Submitting Applications." Materials provided to you during your debriefing will include the final scores you received for each of the selection criteria, final evaluator comments for each of the selection criteria, and the final assessment indicating the basis upon which assistance was provided or denied.

(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 Ethics Law Division 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: February 14, 2002.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

APPENDIX A

SECTION 8 INCREMENTAL VOUCHERS— FY 2002 FAIR SHARE ALLOCATIONS

Allocation area	Dollars	Units
Alabama	832,781	222

SECTION 8 INCREMENTAL VOUCHERS— FY 2002 FAIR SHARE ALLOCA- TIONS—Continued

Allocation area	Dollars	Units
Alaska & Washington	2,222,989	382
Arizona	1,390,642	247
Arkansas	502,566	135
California	18,874,594	2,517
Colorado	1,467,914	232
Connecticut	1,297,804	202
Delaware	192,562	34
District of Columbia & Maryland	2,047,095	354
Florida	4,160,328	759
Georgia	2,166,426	404
Hawaii & Pacific Is-lands	648,297	92
Idaho	233,272	59
Illinois	5,027,075	819
Indiana	1,360,001	305
Iowa	723,213	181
Kansas	552,154	141
Kentucky	856,898	229
Louisiana	1,207,967	289
Maine	371,200	76
Massachusetts	3,936,760	508
Michigan	3,132,546	595
Minnesota	1,373,359	236
Mississippi	543,302	152
Missouri	1,358,168	302
Montana	259,819	55
Nebraska	417,236	101
Nevada	643,161	106
New Hampshire	334,649	55
New Jersey	3,751,948	501
New Mexico	384,684	87
New York	16,083,712	2,237
North Carolina	1,777,975	381
North Dakota	157,492	40
Ohio	3,506,237	744
Oklahoma	709,171	179
Oregon	1,183,315	225
Pennsylvania	4,188,667	804
Puerto Rico & Virgin Islands	816,843	228
Rhode Island	453,347	82
South Carolina	769,394	185
South Dakota	205,513	49
Tennessee	1,174,639	279
Texas	5,786,829	1,128
Vermont	224,622	40
Utah	484,393	91
Virginia	1,603,074	334
West Virginia	387,725	110
Wisconsin	1,738,387	374
Wyoming	96,684	24
US Total	103,619,429	17,911

Note: The "U.S. Total" above for voucher funding/vouchers is the result of a reduction, from the \$103,979,000 (approximately 18,000 vouchers) announced as available at the beginning of this NOFA, to \$103,619,429 (approximately 17,911 vouchers) in order to fund two PHAs; i.e., the Fargo, North Dakota Housing Authority for \$165,079 for 44 vouchers, and the Vermont State Housing Authority for \$194,492 for 45 vouchers. These two PHAs were among 13 PHAs not funded by HUD under the FY 2001 Fair Share NOFA due to HUD error. Because the vouchers allocated to North Dakota and

Vermont (see the allocation table above) are so limited for FY 2002, the funding (\$359,571) needed to correct the FY 2001 HUD error affecting these two PHAs was subtracted from the \$103,979,000 prior to allocating the balance of the funding (\$103,619,429) to all allocation areas. This preserved the limited allocation of vouchers for the States of North Dakota and Vermont for FY 2002. The funding needed to fund the vouchers for the balance of 11 PHAs (those PHAs also not funded under the FY 2001 Fair Share NOFA due to HUD error, see section II(C)(3) of this NOFA) will be subtracted by the GMC from the dollars for the allocation areas above where these 11 PHAs are located. This will be done by the GMC prior to preparing its funding recommendations for FY 2002 applications. Subtracting the funding from these allocation areas at that point will preserve the full allocation of vouchers for each of these allocation areas at the outset so as to provide PHAs in those allocation areas with the fullest opportunity to qualify to be funded for 25 percent of the vouchers available within each of these allocation areas, as appropriate. The result of these cumulative deductions for these 13 PHAs (\$8,881,265 for 1,540 vouchers) shall leave \$95,097,735 for approximately 16,460 vouchers, as indicated at the beginning of this NOFA, available for PHAs to submit applications under this FY 2002 Fair Share NOFA.

APPENDIX B

Methodology for Determining Lease-Up and Budget Authority Utilization Percentage Rates

Using data from the HUDCAPS system, HUD determined which PHAs met the 97% budget authority utilization or 97% lease-up criteria. The data used in the determination was based on PHA fiscal years ending September 30, 2000; December 31, 2000; March 31, 2001; and June 30, 2001. 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 year ending September 30, 2000; December 31, 2000; March 31, 2001; or June 30, 2001 for the PHA's combined certificate and voucher program. Annual budget authority associated with new funding increments obligated during the last PHA fiscal year and annual budget authority for litigation were excluded.

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 that 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 year for each funding increment that

had an active contract term during all or a portion of the PHA year. ABA is adjusted for new funding increments obligated during the

last PHA fiscal year and for litigation funding increments.
Example:

PHA ABC

[Fiscal year 10/1/99 through 9/30/00]

HUD 52681 Approved Data:

HAP	\$2,150,000
Administrative Fee	215,000
Hard to House Fee	1,000
Audit	2,000
Total	2,368,000
Program Receipts other than Annual Contributions	(2,500)
Total contributions required	2,365,500

CALCULATION OF ANNUAL BUDGET AUTHORITY

Increments	Contract term	Total BA	ABA
001	11/01/99–10/31/00	\$1,300,000	\$1,191,667
002	01/01/00–12/31/00	1,200,000	900,000
003	04/01/00–03/31/01	950,000	475,000
004	07/01/00–06/30/01	1,500,000	375,000
Totals .....	.....	4,950,000	2,941,667
ABA associated with litigation .....	.....	.....	475,000
Total ABA .....	.....	.....	(2,466,667)

BUDGET AUTHORITY UTILIZATION

Total contributions required	\$2,365,500
divided by	
Annual budget authority	2,466,667
equals	
Budget Authority Utilization	95.9%

Lease-up Rate
The lease-up rate was determined by comparing the reserved units (funding increments active as of the end of the PHA year) to the unit months leased (divided by

12) reported on the combined HUD 52681, Year End Settlement Statement(s) for September 30, 2000; December 31, 2000; March 31, 2001; or June 30, 2001.

Units associated with new funding increments obligated during the last PHA fiscal year and units obligated for litigation were excluded from the reserved units.
Example:

Increments	Contract term	Units
001	11/01/ 99–10/31/00	242
002	01/01/00–12/31/00	224
003	04/01/00–03/31/01	178
004	07/01/00–06/30/01	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 equal .....	.....	746
Lease-up Rate .....	.....	97.5%

Certification:	
Executive Director	Date
Section 8 Program Administrator	Date

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