

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR-4037-N-01]

Notice of Funding Availability (NOFA) for Comprehensive Improvement Assistance Program (CIAP)

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

ACTION: Notice of Funding Availability for Fiscal Year (FY) 1996.

SUMMARY: This Notice informs Public Housing Agencies and Indian Housing Authorities (herein referred to as HAs) that own or operate fewer than 250 public housing units and, therefore, are eligible to apply and compete for CIAP funds, of the requirements and application deadline date for FY 1996 CIAP funding and the expected availability of up to \$257 million of CIAP funds. HAs with 250 or more public housing units are entitled to receive a formula grant under the Comprehensive Grant Program (CGP) and are not eligible to apply for CIAP funds.

DATES: The CIAP Application is due on or before 3:00 p.m. local time on June 17, 1996 at the HUD Field Office with jurisdiction over the HA, Attention: Director, Office of Public Housing (OPH), or Administrator, Office of Native American Programs (ONAP).

FOR FURTHER INFORMATION CONTACT: William J. Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4134, Washington, DC 20410. Telephone (202) 708-1640. (This is not a toll free number.)

IHAs may contact Deborah M. LaLancette, Director, Housing Management Division, Office of Native American Programs (ONAP), Department of Housing and Urban Development, 451 Seventh Street, SW., B-133, Washington, DC 20410. Telephone (202) 755-0088. (This is not a toll free number.)

Hearing or speech impaired individuals may call HUD's TTY number (202) 708-4595. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Allocation Amounts

(a) The Congress has not yet enacted the FY 1996 appropriations for HUD. However, HUD is publishing this notice in order to give potential applicants

adequate time to prepare applications. The amount of funds announced in this NOFA is an estimate of the amount that may be enacted in 1996. HUD is not bound by the estimate set forth in this notice. The estimated amount may be adjusted downward based on the enacted 1996 appropriation.

(1) Modernization funds are allocated between CIAP and CGP agencies based on the relative shares of backlog needs (weighted at 50%) and accrual needs (weighted at 50%), as determined by the field inspections conducted for the HUD-funded ABT study of modernization needs. This allocation results in CIAP agencies receiving approximately 10.49% and CGP agencies receiving approximately 89.51% of the total funds available.

(i) *Backlog needs* are needed repairs and replacements of existing physical systems, items that must be added to meet the HUD modernization and energy conservation standards and State or local/tribal codes, and items that are necessary for the long-term viability of a specific housing development.

(ii) *Accrual needs* are needs that arise over time and include needed repairs and replacements of existing physical systems and items that must be added to meet the HUD modernization and energy conservation standards and State or local/tribal codes.

(2) The modernization funds available to CIAP agencies are allocated between Public Housing at approximately 91.8505% and Indian Housing at approximately 8.1495%. This allocation also is based on the relative shares of backlog needs (weighted at 50%) and accrual needs (weighted at 50%).

(b) *Sub-assignment of Funds to Field Offices of Public Housing (OPH).* Headquarters has determined the distribution of Public Housing CIAP funds for each Field OPH, based on the relative shares of backlog and accrual needs for CIAP PHAs, adjusted as necessary.

(1) The Field OPH Director shall have authority to make Joint Review selections and CIAP funding decisions.

(2) If additional funds for Public Housing CIAP become available, Headquarters will allocate the funds to one or more Field OPHs based on their relative shares of modernization need, approvable applications, and PHA capability to carry out the modernization.

(3) If a Field OPH does not receive sufficient fundable applications to use its allocation, Headquarters will reallocate the remaining funds to one or more Field OPHs based on approvable applications and PHA capability to carry out the modernization.

Of the amount available for Public Housing, 1% will be set aside to carry out goals related to pending civil rights litigation (e.g., Young v. Cisneros), which is subject to judicial oversight. The following table shows the percentage distribution of CIAP funds for PHAs, excluding IHAs, assigned by Headquarters to each Field OPH:

Office of Public Housing (OPH)	Percent of public housing funds
New England:	
Massachusetts State Office	2.6187
Connecticut State Office .....	.9266
New Hampshire State Office	1.5066
Rhode Island State Office .....	.7365
New York/New Jersey:	
Buffalo Area Office	2.1551
New Jersey State Office	2.7271
New York State Office	1.1576
Mid-Atlantic:	
Maryland State Office .....	.4142
West Virginia State Office	1.4359
Pennsylvania State Office	1.1444
Pittsburgh Area Office	1.2048
Virginia State Office .....	.5756
District of Columbia Office .....	.1686
Southeast:	
Georgia State Office	5.3561
Alabama State Office	4.7698
South Carolina State Office .....	.9216
North Carolina State Office	3.0244
Mississippi State Office	1.7112
Jacksonville Area Office	2.9639
Knoxville Area Office .....	.9171
Kentucky State Office	4.7691
Tennessee State Office	1.8640
Midwest:	
Illinois State Office	3.5943
Cincinnati Area Office .....	.4374
Cleveland Area Office .....	.5098
Ohio State Office	1.1247
Michigan State Office	2.0393
Grand Rapids Area Office	3.0354
Indiana State Office	1.2262
Wisconsin State Office	2.8249
Minnesota State Office	2.9713
Southwest:	
New Mexico State Office	1.3454
Texas State Office	5.4523
Houston Area Office	1.1773
Arkansas State Office	3.0053
Louisiana State Office	3.9795
Oklahoma State Office	1.9327
San Antonio Area Office	2.6835
Great Plains:	
Iowa State Office	1.4211
Kansas/Missouri State Office	3.8535
Nebraska State Office	1.2155
St. Louis Area Office	2.2640
Rocky Mountain:	
Colorado State Office	3.5448
Pacific/Hawaii:	
Los Angeles Area Office	1.2057
Arizona State Office	1.2634
Sacramento Area Office .....	.2747
California State Office	1.5927
Northwest/Alaska:	
Oregon State Office	1.2688
Washington State Office	1.6876

Office of Public Housing (OPH)	Percent of public housing funds
Total	100.0000

(c) *Sub-assignment of Funds to Offices of Native American Programs (ONAP).* Headquarters has determined the distribution of Indian Housing CIAP funds for each ONAP, based on the relative shares of backlog and accrual needs for CIAP IHAs, adjusted as necessary. The fund assignment will cover Indian Housing and any Public Housing owned and operated by IHAs.

(1) The ONAP Administrator shall have authority to make Joint Review selections and CIAP funding decisions.

(2) If additional funds for Indian Housing CIAP become available, Headquarters will allocate the funds to one or more ONAPs based on their relative shares of modernization need, approvable applications, and IHA capability to carry out the modernization.

(3) If an ONAP does not receive sufficient fundable applications to use its allocation, Headquarters will reallocate the remaining funds to one or more ONAPs based on approvable applications and IHA capability to carry out the modernization.

The following table shows the percentage distribution of CIAP funds for IHAs, assigned by Headquarters to each ONAP:

Office of Native American Programs (ONAP)	Percent of Indian housing funds
Eastern/Woodlands	14.8444
Southern Plains	12.3324
Northern Plains	13.3174
Southwest	29.9263
Northwest	24.4868
Alaska	5.0927
Total	100.0000

II. Purpose and Substantive Description

(a) *Authority.* Sec. 14, United States Housing Act of 1937 (42 U.S.C. 14371); Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). A final rule further streamlining the CIAP regulation, 24 CFR Part 968, Subparts A and B, for PHAs and 24 CFR Part 950, Subpart I, for IHAs, was published on March 5, 1996.

(b) *Program Highlights.*

(1) *Departmental Priority.* Improving Public and Indian Housing is one of the Department's major priorities. Accordingly, a review has been made of the entire Public and Indian Housing

Program. Specifically, the Department is very concerned about several aspects of the Modernization Program, as follows:

(i) *Design.* When identifying physical improvement needs to meet the modernization standards, HAs are encouraged to consider design which supports the integration of public housing into the broader community. Although high priority needs, such as those related to health and safety, vacant, substandard units, structural or system integrity, and compliance with statutory, regulatory or court-ordered deadlines, will receive funding priority, HAs should plan their modernization in a way which promotes good design, but maintains the modest nature of public housing. The HA should pay particular attention to design, which is sensitive to traditional cultural values, and be receptive to creative, but cost-effective approaches suggested by architects, residents, HA staff, and other local entities. Such approaches may complement the planning for basic rehabilitation needs. It should be noted that there will be no increase in operating subsidy due to improved design promoting the blend of public housing into the surrounding neighborhood or to additional amenities improving the quality of life.

(ii) *Expediting the Program.* HAs are reminded that they are expected to obligate all funds within two years and to expend all funds within three years of program approval (Annual Contributions Contract (ACC) Amendment execution) unless a longer implementation schedule (Part III of the CIAP Budget) is approved by the Field Office due to the size or complexity of the program. Failure to obligate funds in a timely manner may result in the termination of the program and recapture of the funds.

(iii) *Resident Involvement and Economic Uplift.* HAs are required to explore and implement through all feasible means the involvement of residents, including duly-elected resident councils, in every aspect of the CIAP, from planning through implementation. HAs shall use Section 3 provisions to the maximum feasible extent. HAs are encouraged to seek ways to employ Section 3 residents in all aspects of the CIAP's operation and to develop means to promote contracting opportunities for businesses in Section 3 areas. Refer to 24 CFR 85.36(e) regarding the provision of such opportunities.

(iv) *Elimination of Vacant Units.* HAs are encouraged to apply for CIAP funds to address vacant units where the work does not involve routine maintenance, but will result in re-occupancy.

(2) *Relationship to Technical Review Factors.* The Departmental goal of improving Public and Indian Housing is reflected in the technical review factors, set forth in section IV(c)(5), on which the Field Office scores each HA's CIAP Application. Based on the HA's total score, the Field Office then ranks each HA to determine selection for Joint Review. The technical review factors emphasize the following Departmental initiatives to improve Public and Indian Housing:

- (i) Restoration of vacant units to occupancy;
- (ii) Resident capacity-building and resident involvement in HA operations, including opportunities for resident management and homeownership;
- (iii) Job training and employment opportunities for residents and contracting opportunities for Section 3 businesses;
- (iv) Drug elimination initiatives;
- (v) Partnership with local government; and
- (vi) Provision of appropriate replacement housing, as described in paragraph (c) below.

(c) *Expansion of Eligible Activities.*

(1) *FY 1995 and Prior FY Modernization Funds.* The FY 1995 Rescissions Act expanded the eligible activities that may be funded with CIAP or CGP assistance provided from FY 1995 and prior FY funds. These activities include: new construction or acquisition of additional public housing units, including replacement units; modernization activities related to the public housing portion of housing developments held in partnership or cooperation with non-public housing entities; and other activities related to public housing, including activities eligible under the Urban Revitalization Demonstration (HOPE VI), such as community services.

(2) *FY 1996 Modernization Funds.* The Continuing Resolution provides for the continuation of the Department's programs and activities. Funding provided under the Continuing Resolution is subject to the authority and conditions of the 1995 appropriation, including the FY 1995 Rescissions Act. Therefore, FY 1996 funds provided under the Continuing Resolution may be used for the eligible activities set forth in subparagraph (1) of this paragraph with prior HUD approval.

III. Application Preparation and Submission by HA

(a) *Planning.* In preparing its CIAP Application, the HA is encouraged to assess all its physical and management improvement needs. Physical

improvement needs should be reviewed against the modernization standards, as set forth in HUD Handbook 7485.2, as revised, and any cost-effective energy conservation measures, identified in updated energy audits. The modernization standards include development specific work to ensure the long-term viability of the developments, such as amenities and design changes to promote the integration of low-income housing into the broader community. See section II(b)(1)(i). In addition, the HA is strongly encouraged to contact the Field Office to discuss its modernization needs and obtain information. The term "Field Office" includes the ONAP.

(b) *Resident Involvement and Local/Tribal Official Consultation Requirements.*

(1) *Residents/Homebuyers.* The CIAP regulations at §§ 968.215 or 950.624 require the HA to establish a Partnership Process to ensure full resident participation in the planning, implementation and monitoring of the modernization program, as follows:

(i) Before submission of the CIAP Application, consultation with the residents, resident organization, and resident management corporation (herein referred to as residents) of the development(s) being proposed for modernization regarding its intent to submit an application and to solicit resident comments;

(ii) Reasonable opportunity for residents to present their views on the proposed modernization and alternatives to it, and full and serious consideration of resident recommendations;

(iii) Written response to residents indicating acceptance or rejection of resident recommendations, consistent with HUD requirements and the HA's own determination of efficiency, economy and need, with a copy to the Field Office at Joint Review. If the Joint Review is conducted off-site, a copy is mailed to the Field Office;

(iv) After HUD funding decisions, notification to residents of the approval or disapproval and, where requested, provision to residents of a copy of the HUD-approved CIAP Budget; and

(v) During implementation, periodic notification to residents of work status and progress and maximum feasible employment of residents in the modernization effort.

(2) *Local/Tribal Officials.* Before submission of the CIAP Application, consultation with appropriate local/tribal officials regarding how the proposed modernization may be coordinated with any local plans for neighborhood revitalization, economic development, drug elimination and

expenditure of local funds, such as Community Development Block Grant funds.

(c) *Contents of CIAP Application.* Within the established deadline date, the HA shall submit the CIAP Application to the Field Office, with a copy to appropriate local/tribal officials. The HA may obtain the necessary forms from the Field Office. The CIAP Application is comprised of the following documents:

(1) *Form HUD-52822, CIAP Application*, in an original and two copies, which includes:

(i) A general description of HA development(s), in priority order, (including the current physical condition, for each development for which the HA is requesting funds, or for all developments in the HA's inventory) and physical and management improvement needs to meet the Secretary's standards in § 968.115 or § 950.603; description of work items required to correct identified deficiencies; and the estimated cost.

Where the HA has not included some of its developments in the CIAP Application, the Field Office may not consider funding any nonemergency work at excluded developments or subsequently approve use of leftover funds at excluded developments. Therefore, to provide maximum flexibility, the HA may wish to include all of its developments in the CIAP Application, even though there are no known current needs. Following is an example of the general description:

Development 1-1: 50 units of low-rent; 25 years old; physical needs are: new roofs; storm windows and doors; and electrical upgrading at estimated cost of \$150,000.

Development 1-2: 40 units of low-rent; 20 years old; physical needs are: physical accessibility in 2 units; kitchen floors; shower/bathtub surrounds; fencing; and exterior lighting at estimated cost of \$90,000.

Development 1-3: 35 units of Turnkey III; 15 years old; physical needs are: physical accessibility in 3 units; and roof insulation at estimated cost of \$50,000.

Development 1-4: 20 units of low-rent; 5 years old; no physical needs; no funding requested.

(ii) Where funding is being requested for management improvements, an identification of the deficiency, a description of the work required for correction, and estimated cost. Examples of management improvements include, but are not limited to the following areas:

(A) the management, financial, and accounting control systems of the HA;

(B) the adequacy and qualifications of personnel employed by the HA in the management and operation of its developments by category of employment; and

(C) the adequacy and efficacy of resident programs and services, resident and development security, resident selection and eviction, occupancy and vacant unit turnaround, rent collection, routine and preventive maintenance, equal opportunity, and other HA policies and procedures.

(iii) a certification that the HA has met the requirements for consultation with local/tribal officials and residents/homebuyers and that all developments included in the application have long-term physical and social viability, including prospects for full occupancy. If the HA cannot make this certification with respect to long-term viability, the HA shall attach a narrative, explaining its viability concerns.

(2) *A narrative statement*, in an original and two copies, addressing each of the technical review factors in section IV(c)(5) and, where applicable for Public Housing, the bonus points in section IV(c)(6).

(3) *Form HUD-50071, Certification for Contracts, Grants, Loans and Cooperative Agreements*, in an original only, required of HAs established under State law, applying for grants exceeding \$100,000.

(4) *SF-LLL, Disclosure of Lobbying Activities*, in an original only, required of HAs established under State law, only where any funds, other than federally appropriated funds, will be or have been used to influence Federal workers, Members of Congress and their staff regarding specific grants or contracts. The HA determines if the submission of the SF-LLL is applicable.

(5) *Form HUD-2880, Applicant/Recipient Update/Disclosure Report*, in an original only, required of HAs established under State law.

(6) *At the option of the HA*, photographs or video cassettes showing the physical condition of the developments.

IV. Application Processing by Field Office

(a) *Completeness Review (Corrections to Deficient Applications).* To be eligible for processing, the CIAP Application must be physically received by the Field Office by the time and date specified in this NOFA. Immediately after the application deadline, the Field Office shall perform a completeness review to determine whether an application is complete, responsive to the NOFA, and acceptable for technical processing.

(1) If either Form HUD-52822, CIAP Application, or the narrative statement on the technical review factors is missing, the HA's application will be considered substantially incomplete and, therefore, ineligible for further processing. The Field Office shall immediately notify the HA in writing.

(2) If Form HUD-50071, Certification for Contracts, Grants, Loans, and Cooperative Agreements, or SF-LLL, Disclosure of Lobbying Activities, are required, but missing, or Form HUD-2880, Applicant/Recipient Update/Disclosure Form, is missing, or there is a technical mistake, such as no signature on a submitted form or the HA failed to address all of the technical review factors, the Field Office shall immediately notify the HA in writing to submit or correct the deficiency within 14 calendar days from the date of HUD's written notification. This is not additional time to substantially revise the application. Deficiencies which may be corrected at this time are inadvertently omitted documents, as specified in this subparagraph, or clarifications of previously submitted material and other changes which are not of such a nature as to improve the competitive position of the application.

(3) If the HA fails to submit or correct the items within the required time period, the HA's application will be ineligible for further processing. The Field Office shall immediately notify the HA in writing after this occurs.

(4) The HA may submit a CIAP Application for Emergency Modernization whenever needed. See section IV(j).

(b) *Eligibility Review.* After the HA's CIAP Application is determined to be complete and accepted for review, the Field Office eligibility review shall determine if the application is eligible for full processing or processing on a reduced scope.

(1) *Eligibility for Full Processing.* To be eligible for full processing:

(i) Each eligible development for which work is proposed has reached the Date of Full Availability (DOFA) and is under ACC at the time of CIAP Application submission; and

(ii) Where funded under Major Reconstruction of Obsolete Projects (MROP) after FY 1988, the development/building has reached DOFA or, where funded during FYs 1986-1988, all MROP funds for the development/building have been expended.

(2) *Eligibility for Processing on Reduced Scope.* When the following conditions exist, the HA's application will be reviewed on a reduced scope:

(i) *Section 504 Compliance.* Where the HA has not completed all required structural changes to meet the need for accessible units, as identified in the HA's Section 504 needs assessment, the HA is eligible for processing only for Emergency Modernization or physical work needed to meet Section 504 requirements.

(ii) *Lead-Based Paint (LBP) Testing Compliance.* Where the HA has not complied with the statutory requirement to complete LBP testing on all pre-1978 family units, the HA is eligible for processing only for Emergency Modernization or work needed to complete the testing.

(iii) *Fair Housing and Equal Opportunity (FHEO) Compliance.* Where the HA has not complied with FHEO requirements as evidenced by an enforcement action, finding or determination, the HA is eligible for processing only for Emergency Modernization or work needed to remedy civil rights deficiencies—unless the HA is implementing a voluntary compliance agreement or settlement agreement designed to correct the area(s) of noncompliance. The enforcement actions, findings or determinations that trigger limited eligibility are described in paragraphs (A) through (E) below:

(A) A pending proceeding against the HA based upon a Charge of Discrimination issued under the Fair Housing Act. A Charge of Discrimination is a charge under Section 810(g)(2) of the Fair Housing Act, issued by the Department's Assistant Secretary for FHEO or legally authorized designee;

(B) A pending civil rights suit against the HA, referred by the Department's Assistant Secretary for FHEO and instituted by the Department of Justice;

(C) Outstanding HUD findings of HA noncompliance with civil rights statutes and executive orders under 24 CFR Part 5 and 24 CFR 968.110 or 24 CFR 950.115, or implementing regulations, as a result of formal administrative proceedings;

(D) A deferral of the processing of applications from the HA imposed by HUD under Title VI of the Civil Rights Act of 1964 and HUD implementing regulations (24 CFR 1.8), the Attorney General's Guidelines (28 CFR 50.3), and procedures (HUD Handbook 8040.1), or under Section 504 of the Rehabilitation Act of 1973 and HUD implementing regulations (24 CFR 8.57); or

(E) An adjudication of a violation under any of the authorities specified in 24 CFR Part 5 and 24 CFR 968.110 or 24 CFR 950.115 in a civil action filed against the HA by a private individual.

(c) *Selection Criteria and Ranking Factors.* After all CIAP Applications are reviewed for eligibility, the Field Office shall categorize the eligible HAs and their developments into two processing groups, as defined in subparagraph (1) of this paragraph: Group 1 for Emergency Modernization; and Group 2 for Other Modernization. HA developments may be included in both groups and the same development may be in each group. However, the HA is only required to submit one CIAP Application.

(1) *Grouping Modernization Types.*

(i) *Group 1, Emergency Modernization.* This is a type of modernization program for a development that is limited to physical work items of an emergency nature to correct conditions that pose an immediate threat to the health or safety of residents or are related to fire safety, and that must be corrected within one year of CIAP funding approval. Funding may not be used for management improvements. Emergency Modernization includes all LBP testing and abatement of units housing children under six years old with elevated blood lead levels (EBLs) and all LBP testing and abatement of HA-owned day care facilities used by children under six years old with EBLs. Group 1 developments are not subject to the technical review rating and ranking in subparagraphs (5), (6) and (7) of this paragraph and the long-term viability and reasonable cost determinations in section V(a).

(ii) *Group 2, Other Modernization.* This is a type of modernization program for a development that includes one or more physical work items, where the Field Office determines that the physical improvements are necessary and sufficient to extend substantially the useful life of the development, and/or one or more development specific or HA-wide management work items (including planning costs), and/or LBP testing, professional risk assessment, interim containment, and abatement. Therefore, eligibility of work under Other Modernization ranges from a single work item to the complete rehabilitation of a development. Refer to section II(b)(1)(i) regarding modest amenities and improved design. Group 2 developments are subject to the technical review rating and ranking in subparagraphs (5), (6) and (7) of this paragraph and the long-term viability and reasonable cost determinations in section V(a).

(2) *Assessment of HA's Management Capability.* As part of its technical review of the CIAP Application, the Field Office shall evaluate the HA's

management capability. Particular attention shall be given to the adequacy of the HA's maintenance in determining the HA's management capability. This assessment shall be based on the compliance aspects of on-site monitoring, such as audits, reviews or surveys which are currently available within the Field Office, and on the performance review under the Public Housing Management Assessment Program (PHMAP) for PHAs or the Administrative Capability Assessment for IHAs, and other information sources, as follows:

(i) *Public Housing.* A PHA has management capability if it is (A) not designated as Troubled under Part 901, PHMAP, or (B) designated as Troubled, but has a reasonable prospect of acquiring management capability through CIAP-funded management improvements and administrative support. A Troubled PHA is eligible for Emergency Modernization only, unless it is making reasonable progress toward meeting the performance targets established in its memorandum of agreement or equivalent under 24 CFR 901.140 or has obtained alternative oversight of its management functions.

(ii) *Indian Housing.* An IHA has management capability if it is (A) not designated as High Risk under 24 CFR 950.135 or (B) designated as High Risk, but has a reasonable prospect of acquiring management capability through CIAP-funded management improvements and administrative support. A High Risk IHA is eligible for Emergency Modernization only, unless it is making reasonable progress toward meeting the performance targets

established in its management improvement plan under 24 CFR 950.135.

(3) *Assessment of HA's Modernization Capability.* As part of its technical review of the CIAP Application, the Field Office shall evaluate the HA's modernization capability, including the progress of previously approved modernization and the status of any outstanding findings from CIAP monitoring visits, as follows:

(i) *Public Housing.* A PHA has modernization capability if it is (A) not designated as Modernization Troubled under Part 901, PHMAP, or (B) designated as Modernization Troubled, but has a reasonable prospect of acquiring modernization capability through CIAP-funded management improvements and administrative support, such as hiring staff or contracting for assistance. A Modernization Troubled PHA is eligible for Emergency Modernization only, unless it is making reasonable progress toward meeting the performance targets established in its memorandum of agreement or equivalent under 24 CFR 901.140 or has obtained alternative oversight of its modernization functions. Where a PHA does not have a funded modernization program in progress, the Field Office shall determine whether the PHA has a reasonable prospect of acquiring modernization capability through hiring staff or contracting for assistance.

(ii) *Indian Housing.* An IHA has modernization capability if it is (A) not designated as High Risk under 24 CFR 950.135, or (B) designated as High Risk, but has a reasonable prospect of

acquiring modernization capability through CIAP-funded management improvements and administrative support, such as hiring staff or contracting for assistance. An IHA that has been classified High Risk with regard to modernization is eligible for Emergency Modernization only, unless it is making reasonable progress toward meeting the performance targets established in its management improvement plan under 24 CFR 950.135(f)(2) or has obtained alternative oversight of its modernization functions. Where an IHA does not have a funded modernization program in progress, the ONAP shall determine whether the IHA has a reasonable prospect of acquiring modernization capability through hiring staff or contracting for assistance.

(4) *Technical Processing.* After categorizing the eligible HAs and their developments into Group 1 and Group 2, the Field Office shall review and rate each Group 2 HA on each of the technical review factors in subparagraph (5) of this paragraph. With the exception of the technical review factor of "extent and urgency of need," a Group 2 HA is rated on its overall HA application and not on each development. For the technical review factor of "extent and urgency of need," each development for which funding is requested in the CIAP Application by a Group 2 HA is scored; the development with the highest priority needs is scored the highest number of points, which are then used for the overall HA score on that factor.

(5) *Technical Review Factors.* The technical review factors for assistance are:

Technical review factors	Maximum points
Extent and urgency of need, including need to comply with statutory, regulatory or court-ordered deadlines, to complete previously funded modernization work, or to provide appropriate replacement housing for HUD- approved demolition/disposition	40
HA's modernization capability	15
HA's management capability	15
Extent of vacancies, where the vacancies are not due to insufficient demand	10
Degree of resident involvement in HA operations	5
Degree of HA activity in resident initiatives, including resident management, economic development, and drug elimination efforts	5
Degree of resident employment through direct hiring or contracting or job training initiatives	5
Local government support for proposed modernization	5
Total maximum score	100

(6) *Bonus points.*

(i) For Public Housing only, the Field Office shall provide up to 5 bonus points for any PHA that can demonstrate that it has obtained funds, within the last 12 months, from a non-HUD source to support the modernization activities or improve the general operation of the PHA. Non-HUD sources of funding may include: local

government, over and above what is required under the Cooperation Agreement for municipal services such as police and fire protection and refuse collection; private non-profit organizations; or other public and private entities. To qualify for the bonus points, the PHA shall identify the entity, the amount of funds, the date on which

the funds were or will be provided, and the purpose of the funding.

(ii) For Public Housing only, the Field Office shall provide up to 2 bonus points for any PHA that can demonstrate that it has awarded contracts, including subcontracts, to minority business enterprises (MBEs) or women's business enterprises (WBEs) within the last 12 months. PHAs are

required by 24 CFR 968.110(b) to take every affirmative action to meet Departmental goals for awarding contracts to MBEs and WBES. To qualify for the bonus points, the PHA shall identify the contractor or subcontractor, the dollar value of the contract or subcontract, and the date of award.

(7) *Rating and Ranking.* After rating all Group 2 HAs/developments on each of the technical review factors and providing any bonus points as set forth in subparagraph (6) of this paragraph, the Field Office shall then rank each Group 2 HA based on its total score, list Group 2 HAs in descending order, subject to confirmation of need and cost at Joint Review, and identify for Joint Review selection the highest ranking applications in Group 2 and other Group 2 HAs with lower ranking applications, but with high priority needs. *High priority needs* are non-emergency needs, but related to: health or safety; vacant, substandard units; structural or system integrity; or compliance with statutory, regulatory or court-ordered deadlines. All Group 1 applications are automatically selected for Joint Review. The Field Office shall consult with Headquarters regarding any identified FHEO noncompliance.

(d) *Joint Review.* The purpose of the Joint Review is for the Field Office to discuss with the HA the proposed modernization program, as set forth in the CIAP Application, review long-term viability and cost reasonableness determinations, and determine the size of the grant, if any, to be awarded.

(1) The Field Office shall select HAs, including all Group 1 HAs, for Joint Review so that the total dollar value of all proposed modernization recommended for funding exceeds the Field Office's estimated funding amount by at least 15 percent. This preserves the Field Office's ability to adjust cost estimates and work items as a result of Joint Review.

(2) The Field Office shall notify each HA whose application has been selected for further processing as to whether Joint Review will be conducted on-site or off-site (e.g., by telephone or in-office meeting).

(3) The HA shall prepare for Joint Review by preparing a draft CIAP Budget and reviewing the other items to be covered during Joint Review, as prescribed by the Field Office, such as the need for professional services, method of accomplishment of physical work (contract or force account labor), HA compliance with various Federal statutes and regulations, etc. If conducted on-site, Joint Review may include an inspection of the proposed physical work.

(4) The Field Office shall advise in writing each HA not selected for Joint Review of the reasons for non-selection.

(e) *Funding Decisions.* After all Joint Reviews are completed, the Field Office shall adjust the HAs, developments, and work items to be funded and the amounts to be awarded, on the basis of information obtained from Joint Reviews, FHEO review, and environmental reviews (refer to paragraph (h) of this section) and make the funding decisions. Such adjustments are necessary where Joint Review determines that actual Group 1 emergencies and Group 2 high priority needs, HA priorities, or cost estimates vary from the HA's application. Such adjustments may preclude the Field Office from funding all of the higher ranked HA applications in order to accommodate the funding of high priority needs. However, where the information obtained from Joint Reviews, FHEO review, and environmental reviews does not substantially alter the information used to establish the rankings before Joint Review, the Field Office shall make funding decisions in accordance with its rankings. An HA will not be selected for Joint Review if there is a duplication of funding (refer to section V(c)). After Congressional notifications, the Field Office shall notify the HAs of their funding approval, subject to submission of the CIAP Budget, including an implementation schedule, and other required documents.

(f) *HA Submission of Additional Documents.* After Field Office funding decisions, the HA shall submit the following documents within the time frame prescribed by the Field Office:

(1) *Form HUD-52825, CIAP Budget/Progress Report*, which includes the implementation schedule(s), in an original and two copies.

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

(3) *Form HUD-52820, HA Board Resolution Approving CIAP Budget*, in an original only.

(g) *ACC Amendment.* After HUD approval of the CIAP Budget, the Field Office and the HA shall enter into an ACC amendment in order for the HA to draw down modernization funds. The ACC amendment shall require low-income use of the housing for not less than 20 years from the date of the ACC amendment (subject to sale of homeownership units in accordance with the terms of the ACC). The HA Executive Director, where authorized by the Board of Commissioners and permitted by State/tribal law, may sign the ACC amendment on behalf of the

HA. HUD has the authority to condition an ACC amendment (e.g., to require an HA to hire a modernization coordinator or contract administrator to administer its modernization program).

(h) *Environmental review.*

(1) *Public Housing.* The Field Office shall review the environmental impact of all modernization activities, proposed by PHAs, under 24 CFR Part 50, in accordance with the provisions of Part 968. The Field Office may obtain the information required to conduct the environmental review during Joint Review. The PHA shall provide any documentation to the Field Office that it needs to carry out its review under the National Environmental Policy Act (NEPA). After all Joint Reviews are conducted, the Field Office shall complete the environmental reviews before funding decisions are made and announced and before PHAs are invited to submit CIAP Budgets. Therefore, in requesting CIAP Budgets, the Field Office shall specify any PHA modification or elimination of activities or expenditures that the Field Office has determined, after review under NEPA or related laws, to have an unacceptable environmental impact. Upon approval of the CIAP Budget, the Field Office shall send an approval letter to the PHA which includes notification that HUD has complied with its responsibilities under § 968.110 (c) and (d) before entering into an ACC amendment with the PHA.

(2) *Indian Housing.* For IHAs, the environmental impact of modernization activities is reviewed by a responsible entity under 24 CFR Part 58 in accordance with § 950.120(a). The responsible entity may be an Indian tribe or, in the case of IHAs in Alaska, an Alaska native village, a state, or unit of local government. Under this procedure, the environmental impact of each IHA project will be considered before an IHA obligates or expends funds for physical improvements.

(i) *Declaration of Trust.* Where the Field Office determines that a Declaration of Trust is not in place or is not current, the HA shall execute and file for record a Declaration of Trust, as provided under the ACC, to protect the rights and interests of HUD throughout the 20-year period during which the HA is obligated to operate its developments in accordance with the ACC, the Act, and HUD regulations and requirements. HUD has determined that its interest in Mutual Help units is sufficiently protected without the further requirement of a Declaration of Trust; therefore, a Declaration of Trust is not required for Mutual Help units.

(j) *"Fast Tracking" Applications.* Emergency applications do not have to be processed within the normal processing time allowed for other applications. Where an immediate hazard must be addressed, HA applications may be submitted and processed at any time during the year when funds are available. The Field Office shall "fast track" the processing of these emergency applications so that fund reservation may occur as soon as possible.

V. Other Program Items

(a) *Long-Term Viability and Reasonable Cost.* On Form HUD-52822, CIAP Application, the HA certifies whether the developments proposed for modernization have long-term physical and social viability, including prospects for full occupancy. During Joint Review, the Field Office will review with the HA the determination of reasonable cost for the proposed modernization to ensure that unfunded hard costs do not exceed 90 percent of the computed total development cost (TDC) for a new development with the same structure type and number and size of units in the market area. The Field Office shall make a final viability determination. Where the estimated per unit unfunded hard cost is equal to or less than the per unit TDC for the smallest bedroom size at the development, no further computation of the TDC limit is required.

(1) If the Field Office determines that completion of the improvements and replacements will not reasonably ensure the long-term physical and social viability of the development at a reasonable cost, the Field Office shall only approve Emergency Modernization or non-emergency funding for essential non-routine maintenance needed to keep the property habitable until the demolition or disposition application is approved and residents are relocated.

(2) Where the Field Office wishes to fund a development with hard costs exceeding 90 percent of computed TDC, the Field Office shall submit written justification to Headquarters for final decision. Such justification shall include:

(i) Any special or unusual conditions have been adequately explained, all work has been justified as necessary to meet the modernization and energy conservation standards, including development specific work necessary to blend the development in with the design and architecture of the neighborhood; and

(ii) Reasonable cost estimates have been provided, and every effort has been made to reduce costs; and

(iii) Rehabilitation of the existing development is more cost-effective in the long-term than construction or acquisition of replacement housing; or

(iv) There are no practical alternatives for replacement housing.

(b) *Use of Dwelling Units for Economic Self-Sufficiency Services and/or Drug Elimination Activities.* CIAP funds may be used to convert dwelling units for purposes related to economic self-sufficiency services and/or drug elimination activities. Regarding the eligibility for funding under the Performance Funding System of dwelling units used for these purposes, refer to 24 CFR 950.108(b)(2) or 24 CFR 950.720(b)(2).

(c) *Duplication of Funding.* The HA shall not receive duplicate funding for the same work item or activity under any circumstance and shall establish controls to assure that an activity, program, or project that is funded under any other HUD program shall not be funded by CIAP.

VI. Application Deadline Date and Summary of FY 1996 CIAP Processing Steps

The deadline date for submission of the FY 1996 CIAP Application is June 17, 1996. Dates for other processing steps will be established by each Field Office to reflect local workload issues.

Summary of Processing Steps

1. HA submits CIAP Application.
2. Field Office conducts completeness review and requests corrections to deficient applications or notifies HAs of ineligible applications.
3. HA submits corrections to deficient applications within 14 calendar days of notification from Field Office.
4. Field Office conducts eligibility review and technical review (rating and ranking) and makes Joint Review selections.
5. Field Office completes Joint Reviews, environmental reviews (for PHAs) and FHEO review.
6. Field Office makes funding decisions and forwards Congressional notifications to Headquarters.
7. Congressional notification is completed and Field Office notifies HA of funding decisions.
8. HA submits additional documents as required in section IV(f).
9. Field Office completes fund reservations and forwards ACC amendment to HA for signature and return.
10. Field Office executes ACC implementation.

VII. 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, DC 20410.

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

(c) *Impact on the Family.* The General Counsel, as the Designated Official for Executive Order 12606, *The Family*, has determined that this NOFA will likely have a beneficial impact on family formation, maintenance and general well-being. Accordingly, since the impact on the family is beneficial, no further review is considered necessary.

(d) *Accountability in the Provision of HUD Assistance.* The Department has promulgated a final rule to implement section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act). The final rule is codified at 24 CFR Part 12. Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by the Department. On January 16, 1992, the Department published at 57 FR 1942, additional information that gave the public (including applicants for, and recipients of, HUD assistance) further information on the implementation, public access, and disclosure requirements of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

(1) *Documentation and Public Access.* The Department 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) *HUD Responsibilities—*

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

(e) *Prohibition Against Advance Information on Funding Decisions.* HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants. HUD

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

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

(f) *Prohibition Against Lobbying Activities.*

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of Section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the HUD 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.

IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but IHAs established under State law are not excluded from the statute's coverage.

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

(g) *Paperwork Reduction Act Statement.* The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and have been assigned OMB control number 2577-0044. 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.

VIII. Catalog of Federal Domestic Assistance Program

The Catalog of Federal Domestic Assistance Program Number is 14.852.

Dated: April 3, 1996.

Michael B. Janis,
General Deputy Assistant Secretary for Public and Indian Housing.

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