

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

[Docket No. FR-4045-N-01]

**Office of the Assistant Secretary for
Public and Indian Housing; NOFA for
the Family Unification Program, Fiscal
Year 1996**

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

ACTION: Notice of funding availability (NOFA) for FY 1996.

SUMMARY: This notice announces the availability of up to \$32 million (approximately) in 2-year budget authority for FY 1996 for section 8 rental certificates under the Family Unification Program, which will support approximately 1,600 families. Public housing agencies (PHAs) and Indian Housing Authorities (IHAs), herein referred to as housing agencies (HAs), are invited to submit applications for housing assistance.

The purpose of the Family Unification Program is to provide housing assistance to families for whom the lack of adequate housing is a primary factor in the separation, or imminent separation, of children from their families. As was the case in prior years, participation in the Family Unification Program is limited to HAs in 16 States. The 16 States are: California, Florida, Georgia, Illinois, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, and Virginia.

DATES: The application deadline for the Family Unification program NOFA is July 1, 1996, 3:00 p.m., local time.

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing HAs, HUD will treat as ineligible for consideration any application that is not received before 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.

ADDRESSES: The local HUD State or Area Office, Attention: Director, Office of Public Housing, is the official place of receipt for all applications, except applications from Indian Housing Authorities (IHAs). The local HUD Native American Programs Office, Attention: Administrator, Office of

Native American Programs, is the place of official receipt for IHA applications. For ease of reference, the term "HUD Office" will be used throughout this NOFA to mean the HUD State Office, HUD Area Office, and the HUD Native American Programs Office. If a particular type of HUD Office needs to be identified, e.g., the HUD Native American Programs Office, the appropriate office will be used.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000, telephone number (202) 708-0477 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

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

Family Self-Sufficiency (FSS) Program Requirement

Unless specifically exempted by HUD, all rental voucher or rental certificate funding reserved in FY 1996 (except funding for renewals or amendments) will be used to establish the minimum size of an HA's FSS program.

A. Purpose and Substantive Description of Family Unification Program

(1) *Authority.* The Family Unification Program is authorized by Section 8(x) of the United States Housing Act of 1937, 42 U.S.C. 1437f(x).

(2) *Background.* The Family Unification Program is a program under which Section 8 rental assistance is provided to families for whom the lack of adequate housing is a primary factor which would result in:

(a) The imminent placement of the family's child, or children, in out-of-home care; or

(b) The delay in the discharge of the child, or children, to the family from out-of-home care.

The purpose of the Family Unification Program is to promote family

unification by providing rental assistance to families for whom the lack of adequate housing is a primary factor in the separation, or the threat of imminent separation, of children from their families.

Rental certificates awarded under the Family Unification Program are to be administered by HAs under HUD's regulations for the Section 8 rental certificate program (24 CFR parts 882 and 982). The HA may issue a rental voucher (24 CFR parts 887 and 982) to a family selected for participation in the Family Unification Program if the family requests a rental voucher and the HA has one available.

(3) Eligibility of HAs.—(a) Family Unification Program Eligibility.

Consistent with previous NOFAs, HAs currently administering a rental voucher or certificate program in the following 16 States are eligible to apply (except those HAs determined unacceptable under section A.(3)(b) of this NOFA): California, Florida, Georgia, Illinois, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, and Virginia.

(b) *Eligibility for HUD-Designated Housing Agencies with Major Program Findings.* HUD will establish a pass or fail threshold for all HAs. An HA that fails the threshold will not be eligible to apply without another entity to administer the program. Some housing agencies currently administering the Section 8 rental voucher and certificate programs have, at the time of publication of this NOFA, major program management findings that are open and unresolved or other significant program compliance problems (e.g., HA has not implemented mandatory FSS program). HUD will not accept applications for additional funding from these HAs as contract administrators if, on the application deadline date, the findings are not closed to HUD's satisfaction. If these HAs want to apply for the Family Unification Program, the HA must submit an application that designates another housing agency, nonprofit agency, or contractor that is acceptable to HUD and includes an agreement with the other housing agency or contractor to administer the new funding increment on behalf of the HA. The Office of Public Housing in the local HUD Office will notify, immediately after the publication of this NOFA, those HAs that are not eligible to apply. Applications submitted by these HAs without an agreement from another housing agency or contractor, approved by HUD, to serve as contract administrator will be rejected. Other

agencies may be notified by HUD at other times as HUD deems appropriate.

(4) *Program Guidelines.*—(a)

Eligibility.—(i) *Family Unification eligible families.* Each HA must modify, in accordance with program rules, its selection preference system to permit the selection of Family Unification eligible families for the program based on available funding provided by HUD for this purpose. The term “Family Unification eligible family” means a family that:

(A) The public child welfare agency has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family’s child, or children, in out-of-home care, or in the delay of discharge of a child, or children, to the family from out-of-home care; and

(B) The HA has determined is eligible for Section 8 rental assistance.

(ii) *Lack of Adequate Housing.* The lack of adequate housing means:

(A) A family is living in substandard housing; or

(B) A family is homeless; or

(C) A family is displaced by domestic violence; or

(D) A family is living in an overcrowded unit.

(iii) *Substandard Housing.* A family is living in substandard housing if the unit where the family lives:

(A) Is dilapidated;

(B) Does not have operable indoor plumbing;

(C) Does not have a usable flush toilet inside the unit for the exclusive use of a family;

(D) Does not have a usable bathtub or shower inside the unit for the exclusive use of a family;

(E) Does not have electricity, or has inadequate or unsafe electrical service;

(F) Does not have a safe or adequate source of heat;

(G) Should, but does not, have a kitchen; or

(H) Has been declared unfit for habitation by an agency or unit or government.

(iv) *Dilapidated Housing.* A family is living in a housing unit that is dilapidated if it does not provide safe and adequate shelter, and in its present condition endangers the health, safety, or well-being of a family, or it has one or more critical defects, or a combination of intermediate defects in sufficient number or extent to require considerable repair or rebuilding. The defects may involve original construction, or they may result from continued neglect or lack of repair or from serious damage to the structure.

(v) *Homeless.* A homeless family includes any person or family that:

(A) Lacks a fixed, regular, and adequate nighttime residence; and

(B) Has a primary nighttime residence that is:

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing);

(2) An institution that provides a temporary residence for persons intended to be institutionalized; or

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(vi) *Detained Family.* A Family Unification eligible family does not include any person imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

(vii) *Displaced by Domestic Violence.* A family is displaced by domestic violence if:

(A) The applicant has vacated a housing unit because of domestic violence; or

(B) The applicant lives in a housing unit with a person who engages in domestic violence.

(C) “Domestic violence” means actual or threatened physical violence directed against one or more members of the applicant family by a spouse or other member of the applicant’s household.

(viii) *Qualify as Involuntarily Displaced.* For an applicant to qualify as involuntarily displaced because of domestic violence:

(A) The HA must determine that the domestic violence occurred recently or is of a continuing nature; and

(B) The applicant must certify that the person who engaged in such violence will not reside with the applicant family unless the HA has given advance written approval. If the family is admitted, the HA may deny or terminate assistance to the family for breach of this certification.

(ix) *Overcrowded Housing.* A family is considered to be living in an overcrowded unit if:

(A) The family is separated from its children and the parent(s) are living in an otherwise standard housing unit, but, after the family is re-united, the parents’ housing unit would be overcrowded for the entire family and would be considered substandard.

(B) The family is living with its children in a unit that is overcrowded for the entire family and this overcrowded condition may result in the imminent placement of a child or children in out-of-home care.

(C) For purpose of this paragraph (ix), the HA shall have discretion to determine whether the unit is

“overcrowded” in accordance with HA occupancy standards.

(x) *Public child welfare agency (PCWA)* means the public agency that is responsible under applicable State or Tribal law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

(b) *HA Responsibilities.* HAs must:

(i) Accept families certified by the PCWA as eligible for the Family Unification Program. If the HA has a closed waiting list, it must reopen the waiting list to accept Family Unification Program applicant families. The HA is not required to review its waiting list for eligible families. The HA upon receipt of the PCWA list of families currently in the PCWA caseload must compare the names with those of families already on the HA’s Section 8 waiting list. Any family on the HA’s Section 8 waiting list that matches with the PCWA’s list must be assisted in order of their position on the waiting list in accordance with HA admission policies;

(ii) Determine if any families with children on its waiting list are living in temporary shelters or on the street and may qualify for the Family Unification Program, and refer such applicants to the PCWA;

(iii) Determine if families referred by the PCWA are eligible for Section 8 assistance and place eligible families on the Section 8 waiting list;

(iv) Amend the administrative plan in accordance with applicable program regulations and requirements;

(v) Administer the rental assistance in accordance with applicable program regulations and requirements; and

(vi) Assure the quality of the evaluation that HUD intends to conduct on the Family Unification Program and cooperate with and provide requested data to the HUD office or HUD-approved contractor responsible for program evaluation.

(c) *Public Child Welfare Agency (PCWA) Responsibilities.* Public child welfare agencies must:

(i) Establish and implement a system to identify Family Unification eligible families within the agency’s caseload and to review referrals from the HA;

(ii) Provide written certification to the HA that a family qualifies as a Family Unification eligible family based upon the criteria established in Section 8(x) of the United States Housing Act of 1937, HUD regulations, and the HA policies implementing the regulations;

(iii) Commit sufficient staff resources to ensure that Family Unification eligible families are identified and

certified in a timely manner and to provide follow-up supportive services after the families lease units; and

(iv) Cooperate with the evaluation that HUD intends to conduct on the Family Unification Program, and submit a certification with the HA's application for Family Unification funding that the PCWA will agree to cooperate with and provide requested data to the HUD office or HUD-approved contractor having responsibility for program evaluation.

(d) *Section 8 Rental Certificate Assistance.* The Family Unification Program provides assistance under the Section 8 rental assistance programs. Although HUD is providing a special allocation of rental certificates, the HA may use both rental vouchers and certificates to assist families under this program.

HAs must administer this program in accordance with HUD's regulations governing the Section 8 rental certificate and rental voucher programs. The HA may issue a rental voucher to a family selected to participate in the Family Unification Program if the family requests a rental voucher and the HA has one available. If Section 8 assistance for a family under this program is terminated, the rental assistance must be reissued to another Family Unification eligible family during the 2-year term of the Annual Contributions Contract (ACC) for the Section 8 rental certificates provided under this program.

B. Family Unification Allocation Amounts

This NOFA announces the availability of up to \$32 million for the Family Unification Program which will support assistance for about 1,600 families. Each HA may apply for funding for a maximum of 50 units.

The amounts allocated under this NOFA will be awarded under a national competition, based on the threshold criteria and a lottery for selection from all approvable applications. The Family Unification Program is exempt from the fair share allocation requirements of section 213(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)) and the implementing regulations at 24 CFR part 791, subpart D. Applications that meet the requirements of this NOFA and are included in the FY 1996 lottery, but that are not selected, may be considered for funding from funds available, if any, in FY 1997 appropriations designated for the Family Unification Program.

C. Family Unification Application Submission Requirements

(1) *Forms.* Application forms may be obtained from the local HUD Office. Applications must include the following, unless otherwise specifically excepted:

(a) *Form HUD-52515.* An Application for Existing Housing, Form HUD-52515, must be completed in accordance with the program regulations (24 CFR 982.102). An application must include the information in Section C, Average Monthly Adjusted Income, of Form HUD-52515 in order for HUD to calculate the amount of Section 8 budget authority necessary to fund the requested number of units. HAs may obtain a copy of Form HUD-52515 from the local HUD Office.

(b) *Certification Regarding Drug-Free Workplace.* The Drug-Free Workplace Act of 1988 requires grantees of Federal agencies to certify that they will provide a drug-free workplace. Thus, each HA must certify (even though it has done so previously) that it will comply with the drug-free workplace requirements in accordance with CFR part 24, subpart F. HAs may obtain a copy of this form from the local HUD Office.

(c) *Certification Regarding Lobbying.* Any HA submitting an application under this announcement for more than \$100,000 of budget authority must submit a certification and, if applicable, a Disclosure of Lobbying Activities (SF-LLL). IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage, but IHAs established under State law are not excluded from the coverage. HAs may obtain a copy of the certification and the Form SF-LLL from the local HUD Office.

(2) *Local government comments.* Section 213 of the Housing and Community Development Act of 1974 requires that HUD independently determine that there is a need for the housing assistance requested in applications and solicit and consider comments relevant to this determination from the chief executive officer of the unit of general local government. The HUD Office will obtain Section 213 comments from the unit of general local government in accordance with 24 CFR part 791, subpart C, Applications for Housing Assistance in Areas Without Housing Assistance Plans. Comments submitted by the unit of general local government must be considered before an application can be approved.

For purposes of expediting the application process, the HA should encourage the chief executive officer of the unit of general local government to

submit a letter with the HA application commenting on the HA application in accordance with Section 213. Because HUD cannot approve an application until the 30-day comment period is closed, the Section 213 letter should not only comment on the application, but also state that HUD may consider the letter to be the final comments and that no additional comments will be forthcoming from the unit of general local government.

(3) *Letter of Intent and Narrative.* All the items in this Section must be included in the application submitted to the HUD Office. The HA must state in its cover letter to the application whether it will accept a reduction in the number of rental certificates and the minimum number of rental certificates it will accept, since the funding is limited and HUD may only have enough funds to approve a smaller amount than the number of rental certificates requested. The application must include an explanation of how the application meets, or will meet, Threshold Criteria 1 through 4 in Section D of this NOFA, below.

The application must also include a letter of intent from the PCWA stating its commitment to provide resources and support for the Family Unification Program. The PCWA letter of intent must explain:

- (i) The definition of eligible families;
- (ii) The method used to identify eligible families;
- (iii) The process to certify eligible families;
- (iv) The PCWA assistance to families to locate suitable housing;
- (v) The staff resources committed to the program; and
- (vi) PCWA experience with the administration of similar programs including cooperation with a HA.

The PCWA serving the jurisdiction of the HA is responsible for providing the information for Threshold Criterion 4, PCWA Statement of Need for Family Unification Program, to the HA for submission with the HA application. The application must include a statement by the PCWA describing the need for a Family Unification Program. This should include a discussion of the case-load of the PCWA and information about homelessness, family violence resulting in involuntary displacement, number and characteristics of families who are experiencing the placement of children in out-of-home care as a result of inadequate housing, and the PCWA's experience in obtaining housing through HUD assisted housing programs and other sources for families lacking adequate housing. A State-wide Public Child Welfare Agency must provide

information on Threshold Criterion 4, PCWA Statement of Need for Family Unification Program, to all HAs that request data; otherwise, HUD will not consider applications from any HAs with the State-wide PCWA as a participant in its program.

(4) *Evaluation Certifications.* The HA and the PCWA, in separate certifications, must state that the HA and Public Child Welfare Agency agree to cooperate with HUD and provide requested data to the HUD office or HUD-approved contractor delegated the responsibility for the program evaluation. No specific language for this certification is prescribed by HUD.

D. Family Unification Application Rating Process

(1) *General.* The HUD Office is responsible for rating the applications for the selection criteria established in this NOFA, and HUD Headquarters is responsible for selection of applications (including applications rated by the Native American Programs Office) that will receive assistance under the Family Unification Program. The HUD Office will initially screen all applications and determine any technical deficiencies based on the application submission requirements.

Each application submitted in response to the NOFA, in order to be eligible for funding, must receive at least 30 points for Threshold Criterion 1, Unmet Housing Needs, and at least 20 points for Threshold Criterion 2, Efforts of HA to Provide Area-Wide Housing Opportunities for Families, and must meet the requirements for Threshold Criterion 3, Coordination between HA and Public Child Welfare Agency, and Threshold Criterion 4, Public Child Welfare Agency Statement of Need for Family Unification Program.

(2) *Threshold Criteria.*

(a) **THRESHOLD CRITERION 1: UNMET HOUSING NEEDS (50 POINTS).**

(i) *Description:* This criterion assesses the unmet housing need in the primary area specified in the HA's application compared to the unmet housing need for the allocation area. Unmet housing need is defined as the number of very low-income renter households with housing problems based on 1990 Census, minus the number of federally assisted housing units provided since the 1990 Census.

In awarding points under this criterion, HUD will, to the extent practicable, consider all units provided since the 1990 Census under the Section 8 Rental Voucher and Certificate programs, any other Section 8 programs, the Public and Indian Housing programs, the Section 202 program, and

the Farmers Home Administration's Section 515 Rural Rental Housing program.

(ii) *Rating and Assessment:* The number of points assigned is based on the percentage of the allocation area's unmet housing need that is within the HA's primary area. State or Regional Housing Agencies will receive points based on the areas they intend to serve with this allocation, e.g., the entire allocation area or the localities within the allocation area specified in the application. The HUD Office will assign one of the following point totals:

- *50 points.* If the HA's percentage of unmet housing need is greater than 50 percent of the allocation area's unmet need.

- *45 points.* If the HA's percentage of unmet housing need is equal to or less than 50 percent but greater than 40 percent of the allocation area's unmet need.

- *40 points.* If the HA's percentage of unmet housing need is equal to or less than 40 percent but greater than 30 percent of the allocation area's unmet need.

- *35 points.* If the HA's percentage of unmet housing need is equal to or less than 30 percent but greater than 20 percent of the allocation area's unmet need.

- *30 points.* If the HA's percentage of unmet housing need is equal to or less than 20 percent but greater than 10 percent of the allocation area's unmet need.

- *0 points.* If the HA's percentage of unmet housing need is equal to or less than 10 percent of the allocation area's unmet need.

The HUD Office will not consider for funding any HA application receiving zero (0) points.

In accordance with Notice PIH 91-45, the HUD Office will notify the Farmers Home Administration, or its successor agency under Public Law 103-354 (FmHA), of applications it receives and ask that FmHA provide advisory comments concerning the market for additional assisted housing or the possible impact the proposed units may have on FmHA projects. Applications for which FmHA has provided comments expressing concerns about market need or the continued stability of existing FmHA projects, with which HUD agrees, will receive zero points for this criterion.

(b) **THRESHOLD CRITERION 2: EFFORTS OF HA TO PROVIDE AREA-WIDE HOUSING OPPORTUNITIES FOR FAMILIES (60 POINTS).**

(i) *Description:* Many HAs have undertaken voluntary efforts to provide area-wide housing opportunities for

families. The efforts described in response to this selection criterion must be beyond those required by federal law or regulation such as the portability provisions of the Section 8 rental voucher and certificate programs. HAs in metropolitan and non-metropolitan areas are eligible for points under this criterion. The HUD Office will assign points to HAs that have established cooperative agreements with other HAs or created a consortium of HAs in order to facilitate the transfer of families and their rental assistance between HA jurisdictions. In addition, the HUD Office will assign points to HAs that have established relationships with nonprofit groups to provide families with additional counseling, or have directly provided counseling, to increase the likelihood of a successful move by the families to areas that do not have large concentrations of poverty.

(ii) *Rating and Assessment:* The HUD Office will assign point values for any of the following assessments for which the HA qualifies and add the points for all the assessments (maximum of 60 points) to determine the total points for this Selection Criterion:

- *10 points*—Assign 10 points if the HA documents that it participates in an area-wide rental voucher and certificate exchange program where all HAs absorb portable Section 8 families.

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

- *10 Points*—Assign 10 points if the HA documents that it has established a contractual relationship with a nonprofit agency or the local governmental entity to provide housing counseling for families that want to move to low-poverty or non-minority areas. The five HAs approved for the FY 1993 Moving to Opportunity (MTO) for Fair Housing Demonstration and any other HAs that receive counseling funds from HUD (e.g., in settlement of litigation involving desegregation or demolition of public housing, mixed population projects) may qualify for points under this assessment, but these HAs must identify all activities undertaken, other than those funded by HUD, to expand housing opportunities.

- *10 Points*—Assign 10 points if the HA documents that it requested from HUD, and HUD approved, the authority to utilize exceptions to the fair market rent limitations as allowed under 24 CFR 882.106(a)(4) to allow families to

select units in low-poverty or non-minority areas.

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

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

(c) **THRESHOLD CRITERION 3: COORDINATION BETWEEN HA AND PUBLIC CHILD WELFARE AGENCY TO IDENTIFY AND ASSIST ELIGIBLE FAMILIES.**

The application must describe the method that the HA and the PCWA will use to identify and assist Family Unification eligible families. The application must include a letter of intent from the PCWA stating its commitment to provide resources and support for the program. The PCWA letter of intent and other information must be comprehensive and must include an explanation of: the method used to identify eligible families, the PCWA's certification process for determining Family Unification eligible families, the responsibilities of each agency, the PCWA assistance provided to families in locating housing units, the PCWA staff resources committed to the program, the past PCWA experience administering a similar program, and the PCWA/HA cooperation in administering a similar program.

(d) **THRESHOLD CRITERION 4: PUBLIC CHILD WELFARE AGENCY STATEMENT OF NEED FOR FAMILY UNIFICATION PROGRAM.**

The application must include a statement by the PCWA describing the need for a program providing assistance to families for whom lack of adequate housing is a primary factor in the placement of the family's children in out-of-home care or in the delay of discharge of the children to the family from out-of-home care in the area to be served, as evidenced by the caseload of the public child welfare agency. The PCWA must adequately demonstrate that there is a need in the HA's jurisdiction for the Family Unification program that is not being met through existing programs. The narrative must include specific information relevant to the area to be served, about homelessness, family violence resulting in involuntary displacement, number and characteristics of families who are experiencing the placement of children in out-of-home care or the delayed discharge of children from out-of-home

care as the result of inadequate housing, and the PCWA's past experience in obtaining housing through HUD assisted programs and other sources for families lacking adequate housing.

E. Corrections to Deficient Family Unification Applications

(1) *Acceptable Applications.* To be eligible for processing, an application must be received by the appropriate HUD Office no later than the date and time specified in this NOFA. The HUD Office will initially screen all applications and notify HAs of technical deficiencies by letter.

If an application has technical deficiencies, the HA will have 14 calendar days from the date of the issuance of the HUD notification letter to submit the missing or corrected information to the HUD Office. Curable technical deficiencies relate only to items that do not improve the substantive quality of the application relative to the rating factors.

All HAs must submit corrections within 14 calendar days from the date of the HUD letter notifying the applicant of any such deficiency. Information received after 3 p.m. local time (i.e., the time in the appropriate HUD Office), of the 14th calendar day of the correction period will not be accepted and the application will be rejected as incomplete.

(2) *Unacceptable Applications.* (a) After the 14-calendar day technical deficiency correction period, the HUD Office will disapprove HA applications that it determines are not acceptable for processing. The HUD Office notification of rejection letter must state the basis for the decision.

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

(i) There is a pending civil rights suit against the HA instituted by the Department of Justice or there is a pending administrative action for civil rights violations instituted by HUD (including a charge of discrimination under the Fair Housing Act).

(ii) There has been an adjudication of a civil rights violation in a civil action brought against the HA by a private individual, unless the HA is operating in compliance with a court order or implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the areas of noncompliance.

(iii) There are outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations, as a result of formal administrative proceedings, or the Secretary has issued a charge against the

applicant under the Fair Housing Act, unless the applicant is operating under a conciliation or compliance agreement designed to correct the areas of noncompliance.

(iv) HUD has denied application processing under Title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3), and the HUD Title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1), or under section 504 of the Rehabilitation Act of 1973 and HUD regulations (24 CFR 8.57).

(v) The HA has serious unaddressed, outstanding Inspector General audit findings, Fair Housing and Equal Opportunity monitoring review findings, or HUD management review findings for one or more of its Rental Voucher, Rental Certificate, or Moderate Rehabilitation Programs, or, in the case of a HA that is not currently administering a Rental Voucher, Rental Certificate, or Moderate Rehabilitation Program, for its Public Housing Program or Indian Housing Program. The only exception to this category is if the HA has been identified under the policy established in section A.(3)(b) of this NOFA and the HA makes application with a designated contract administrator.

(vi) The HA is involved in litigation and HUD determines that the litigation may seriously impede the ability of the HA to administer an additional increment of rental vouchers or rental certificates.

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

(viii) A HA application submitted after the deadline date.

(ix) The application is from a HA that has failed to achieve a lease-up rate of 90 percent of units in its HUD-approved budget for the HA fiscal year prior to application for funding in each of its rental voucher and certificate programs.

F. Family Unification Application Selection Process

After the HUD Office has screened HA applications and disapproved any applications unacceptable for further processing (See Section E.(2) of this NOFA), the HUD Office will review and rate all approvable applications, utilizing the Threshold Criteria and the point assignments listed in this NOFA. Each HUD Office will send to HUD Headquarters the following information on each application that passes the Threshold Criteria:

(1) Name and address of the HA;

(2) Name and address of the Public Child Welfare Agency;

(3) State Office, Area Office, or Native American Programs Office contact person and telephone number;

(4) The number of rental certificates in the HA application and minimum number of rental certificates specified in the HA application, and the corresponding budget authority acceptable to the HA; and

(5) A completed fund reservation worksheet for the number of rental certificates requested in the application.

HUD Headquarters will select eligible HAs to be funded based on a lottery. All HAs identified by the HUD Offices as meeting the Threshold Criteria identified in this NOFA will be eligible for the lottery selection process. As HAs are selected, the costs of funding the applications will be counted against the total funds available for the Family Unification Program. In order to achieve geographic diversity, HUD Headquarters will limit the number of applications selected for funding under the lottery for any State to 10 percent of the budget authority made available under this NOFA.

Applications will be funded in full for the number of rental certificates requested by the HA in accordance with the NOFA. However, when remaining rental certificate funds are insufficient to fund the last HA application in full, HUD Headquarters may fund that application to the extent of the funding available and the applicant's willingness to accept a reduced number of rental certificates. Applicants that do not wish to have the size of their programs reduced may indicate in their applications that they do not wish to be considered for a reduced award of funds. HUD Headquarters will skip over these applicants if assigning the remaining funding would result in a reduced funding level.

G. Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment for all funding available under this NOFA has been made in accordance with the Department's regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW, Washington, D.C. 20410.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this notice 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 notice is not subject to review under the Order. This notice is a funding notice and does not substantially alter the established roles of the Department, the States, and local governments, including HAs.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this notice does not have potential for significant impact on family formation, maintenance, and general well-being within the meaning of the Executive Order and, thus, is not subject to review under the Order. This is a funding notice and does not alter program requirements concerning family eligibility.

Section 102 of the HUD Reform Act: 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 five-year period beginning not less than 30 calendar 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.)

Section 103 of the HUD Reform Act

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a) (Reform Act), 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 restrained 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 (TDD/Voice) (this is not a toll-free number). Any HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact the appropriate Field Office Counsel or Headquarters counsel for the program to which the question pertains.

Prohibition Against Lobbying Activities

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

Dated: April 23, 1996.

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

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