

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

[Docket No. FR-4340-N-03]

**Notice of Application Kit Clarification
Concerning HOPE VI Revitalization**

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

ACTION: Notice.

SUMMARY: On March 31, 1998, HUD published a Super Notice of Funding Availability (SuperNOFA) for Housing and Community Development Programs (63 FR 15489). This SuperNOFA contained a component for Revitalization of Severely Distressed Public Housing (HOPE VI Revitalization NOFA) at 63 FR 15577. In order to help public housing agencies (PHAs) in preparing their applications for HOPE VI Revitalization funds, HUD also made available an Application Kit. The purpose of this Notice is to advise applicants of a discrepancy between the HOPE VI Revitalization NOFA and the Application Kit and to allow them to clarify their applications with respect to this discrepancy.

CLARIFICATION DUE DATE: Clarifications to the HOPE VI application must be received at HUD Headquarters on or before 12:00 Noon Eastern time on August 17, 1998.

ADDRESSES AND CLARIFICATION

SUBMISSION PROCEDURES: *Addresses:* Clarifications must be submitted to: Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4138, Washington, D.C. 20410.

Submission Procedures: Applicants are advised that all clarifications must be received by HUD by the date and time specified in this Notice. No information provided after that date and time will be considered in review of the application. Applicants may send clarifying information by facsimile (fax) to (202) 401-2370. Applicants should contact the Office of Urban Revitalization at the telephone number given below to verify the receipt of any information sent by fax. Because of the importance of timely submission of clarifying information, applicants are advised to submit such information at the earliest time possible to avoid the risks brought about by unanticipated delays or delivery-related problems.

FOR FURTHER INFORMATION CONTACT: For further information you may call Mr. Milan Ozdinec, Office of Urban Revitalization, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 4142, Washington D.C. 20410; telephone (202) 401-8812

(this is not a toll free number.) Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 1-800-877-8399.

SUPPLEMENTARY INFORMATION: This Notice informs the public about a discrepancy between the HOPE VI Revitalization NOFA and the Application Kit with respect to the requirement that an application that proposes new construction of replacement public housing must comply with the requirements of section 6(h) of the U.S. Housing Act of 1937.

Section 6(h) provides that the Secretary may enter into a contract involving new construction only if the PHA demonstrates to the satisfaction of the Secretary that the cost of new construction in the neighborhood where the housing is needed is less than the cost of acquisition or acquisition and rehabilitation in such neighborhood. Section III.A.(4) of the HOPE VI Revitalization NOFA provided that an applicant could satisfy the section 6(h) requirement by "submitting the information described in paragraphs (a) or (b) of this section:

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

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

In an effort to help applicants address this section 6(h) requirement, the Application Kit provided instructions that may have confused applicants with respect to satisfaction of the NOFA requirement. Section D.8 of the Application Kit instructed the applicants to "include a narrative that contains information described in paragraphs a or b below. If the application involves new construction, provide evidence of compliance with section 6(h) of the 1937 Act in one of the following two ways:

"a. Compare the cost of construction in the neighborhood where the applicant proposes to construct housing and the cost of acquisition and rehabilitation in the same neighborhood.

"b. State that there is insufficient existing housing in the neighborhood to develop public housing through

acquisition and/or acquisition and rehabilitation where such cost would be least (sic) than new construction. Describe how you came to that conclusion."

In the event of discrepancies between the NOFA and the Application Kit, or between the NOFA and any other supplemental information issued by HUD, the language of the NOFA supersedes and prevails over any inconsistency in the Application Kit. However, HUD believes that the differences between the text in the HOPE VI Revitalization NOFA and the text in the Application Kit with respect to the 6(h) requirement caused confusion in a couple of different ways. First, with respect to the cost comparison method in (a), the Application Kit does not describe with the precision of the NOFA the cost comparison that HUD was seeking. Some of the detail in the NOFA description is not contained in the Application Kit. For instance, the NOFA cites the costs of lead-based paint testing and abatement in connection with acquisition and rehabilitation and the Application Kit fails to do so. In addition, the Application Kit in paragraph (b) discusses the cost of rehabilitation and new construction, thus confusing the differences between method (a) and method (b). This discrepancy between the NOFA and Application Kit language created ambiguities in a number of applications which need to be clarified.

With respect to method (b), the NOFA required a PHA certification, accompanied by supporting documentation, that there is insufficient existing housing in the neighborhood to develop housing through acquisition of existing housing or acquisition and rehabilitation. The Application Kit fails to use the words "accompanied by supporting documentation". The Application Kit merely requests that applicants state that there is insufficient existing housing and describe how the applicant came to that conclusion. We think that this discrepancy between the NOFA and the Application Kit caused confusion among applicants as to what the applicant had to submit in order to support the applicant's contention that there is insufficient existing housing in the neighborhood.

In addition, the Application Kit introduced into method (b) a cost factor that is totally lacking in the NOFA. This further confused applicants as to the kind of information that was needed to support the applicant's contention that there is insufficient existing housing in the neighborhood for acquisition or acquisition and rehabilitation. And, as

indicated above, by introducing a cost element into method (b) the Application Kit confused the distinction between the two methods. Under method (b) in the NOFA, the application only had to provide supporting documentation that there was an insufficient supply of existing housing in the neighborhood to acquire for replacement public housing. The cost of acquiring or acquiring and rehabilitating the insufficient supply of existing housing is irrelevant to the determination to be made under method (b).

For these reasons, the Department has determined that the discrepancy between the HOPE VI Revitalization

NOFA and the Application Kit has caused a need for some applications to be clarified. Therefore, HUD has determined, in order to provide fundamental fairness to all applicants, that a number of HOPE VI applicants should be requested to clarify their applications with respect to the section 6(h) requirement. In addition to the publication of this Notice, HUD will be contacting these applicants by telephone to advise them that their applications need clarification with respect to the satisfaction of the section 6(h) requirement. In accordance with section III of the HOPE VI Revitalization NOFA and this Notice, HUD will advise

the applicants that the applicant must submit either a comparison of costs in accordance with section III.(A)(4)(a) of the HOPE VI Revitalization NOFA, or supporting documentation with respect to the certification that there is insufficient existing housing in the neighborhood in accordance with section III.(A)(4)(b) of the HOPE VI Revitalization NOFA.

Dated: July 30, 1998.

Deborah Vincent,

General Deputy Assistant Secretary for Public and Indian Housing.

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