

Applying for New Housing Choice Vouchers for Non-Elderly Disabled Households

On April 7, 2010 the U.S. Department of Housing and Urban Development (HUD) announced the availability of \$40 million in funding for approximately 5,300 Section 8 Housing Choice Vouchers (HCV) for non-elderly disabled households. HUD's federal partner in this initiative, the U.S. Department of Health and Human Services (HHS) will use its network of state Medicaid agencies and local human service organizations to link eligible households to Public Housing Agencies (PHAs) who will administer these vouchers. A complete copy of HUD's Notice of Funding Availability (NOFA), *Rental Assistance for Non-Elderly Persons with Disabilities*, is available online at http://portal.hud.gov/portal/page/portal/HUD/program_offices/administration/grants/fundsavail/nedn_ofa.pdf.

This special NOFA represents one of the first collaborations between HUD and HHS as part of President Obama's *Year of Community Living* initiative. The *Year of Community Living* is an outgrowth of the 1999 Supreme Court decision *Olmstead v. L.C.*, in which the Supreme Court ruled that under the Americans with Disabilities Act (ADA), placing a person with a disability in a restrictive setting such as a nursing home or state hospital can amount to discrimination, if that person can, with proper support, live in an integrated community setting. Through this NOFA, HUD is making available rental vouchers to non-elderly disabled households, including those disabled households participating in HHS's Money Follows the Person (MFP) Demonstration Program. The MFP Demonstration Program is an initiative to assist states in their efforts to reduce their reliance on institutional health care (e.g. nursing homes), while developing community-based long-term care opportunities. PHAs and disability advocates should pay special attention to the Supportive Service requirements of the NOFA highlighted on page six.

FUNDING CATEGORIES

The NOFA includes two categories of voucher funding:

- **Category 1:** Approximately \$32.5 million that will support an estimated 4,300 vouchers for non-elderly disabled households on PHA waiting lists; and
- **Category 2:** Approximately \$7.5 million that will support an estimated 1,000 vouchers to enable non-elderly households with disabilities to transition from nursing homes and other health care institutions into the community.

A PHA may submit applications for funding under Category 1, Category 2, or both categories. However, each Category requires a separate PHA application.

The chart below illustrates the maximum number of vouchers that will be awarded to a PHA. The maximum is related to the current size of the PHA's HCV Program.

| Number of Vouchers in PHA 's Current HCV Program | Maximum Number HCV Permitted under both Category 1 and/or 2 Applications |
|--|--|
| 2000 or more | 200 |
| 500 to 1,9999 | 100 |
| Less than 500 | 50 |

Under the NOFA, a PHA is limited to the maximum number of vouchers in the chart above whether it submits an application for only one or both categories of vouchers. For example, a PHA with a current HCV program size of 650 units could apply for 100 vouchers under Category 1, **or** 100 vouchers under Category 2, **or** 50 vouchers under Category 1 **and** 50 vouchers under Category 2 (totaling the maximum of 100 vouchers).

The NOFA also states that for Category 2, the number of vouchers requested by a PHA may not exceed the number of vouchers that the partnering service resource agency (see below) projects will be needed to assist transitioning individuals over a 12-month period.

No more than one application per Category will be funded by HUD. This limit applies regardless of whether the PHA is a State or regional PHA.

ELIGIBLE APPLICANTS

PHAs that currently administer the HCV program and meet the threshold criteria below are the only eligible applicants for this funding.

PHA THRESHOLD CRITERIA

To be considered eligible for funding, a PHA applicant must meet the seven threshold criteria below described in the NOFA:

- 1. PIC Reporting Requirements.** Each PHA applicant must meet the PIC reporting requirements of 95 percent under *PIH Notice 2007-29* that will be assessed for the month immediately preceding the month in which the applications under this NOFA are due. MTW agencies must meet a reporting requirement of 85 percent, consistent with existing MTW reporting requirements.
- 2. Section 8 Management Assessment Program (SEMAP).** Each PHA applicant must have achieved at least 15 points under the SEMAP leasing indicator (24 CFR 985.3(n)) and not be designated as troubled for its most recent assessed fiscal year. MTW agencies that are not required to report under SEMAP shall be held to the 95 percent lease-up and budget authority utilization requirements referenced above. These MTW agencies are required to submit a certification with their application certifying that they are not required to report under SEMAP, and that they meet the 95 percent lease-up or budget authority utilization requirements.

3. **Program Management Findings.** The PHA applicant must not have any major unresolved program management findings from an Inspector General audit, HUD management review or Independent Public Accountant (IPA) audit for the PHA's HCV program, or other significant program compliance problems that were not resolved or in the process of being resolved (as determined by the local HUD Field Office) prior to this NOFA's application deadline. Major program management findings, or significant program compliance problems, are those that would cast doubt on the capacity of the applicant to effectively administer any new HCV funding in accordance with applicable HUD regulatory and statutory requirements.
4. **Litigation with HUD.** The PHA applicant must not be involved in litigation where HUD determines that the litigation may seriously impede the ability of the applicant to administer the vouchers.
5. **Code of Conduct.** To reflect core values, all PHA applicants awarded under this NOFA shall develop and maintain a written code of conduct in the PHA's Administrative Plan that:
 - a. Requires compliance with the conflict of interest requirements of the HCV program cited in 24 CFR 982.161; and
 - b. Prohibits the solicitation or acceptance of gifts or gratuities in excess of a nominal value by an officer or employee of the PHA or any contractor, subcontractor, or agent of the PHA.

The PHA's Administrative Plan shall state the PHA policies concerning PHA administrative and disciplinary remedies for violation of the PHA Code of Conduct. The PHA shall inform all officers, employees, and agents of its organization of the PHA's Code of Conduct.

Many PHA applicants may already have developed a Code of Conduct and submitted it to HUD. A complete listing of HUD-approved Codes of Conduct can be found online at www.hud.gov/offices/adm/grants/codeofconduct/cconduct.cfm. PHA applicants should check this website to determine if a Code of Conduct has already been submitted to HUD for the agency.

If the PHA applicant does not currently have a Code of Conduct, it is good administrative and financial practice to develop one; however, according to the NOFA, the Code of Conduct is not required to be submitted to HUD until a successful applicant is awarded funds. The Code of Conduct is not a required part of the application package, but PHAs that do not currently have one, should begin the process of creating a Code of Conduct and having it incorporated into the agency's Administrative Plan. A comprehensive Code of Conduct will:

- Prohibit the solicitation and acceptance of gifts or gratuities by officers, employees, and agents for their personal benefit in excess of minimal value;
- Outline administrative and disciplinary actions available to remedy violations of such standards,

- Describe the method to be used to ensure that all officers, employees and agents of the organization are aware of the Code of Conduct, and
- Be written on company letterhead that provides a mailing address, authorized official name, and telephone number.

6. Administrative Plan Addendum on Affirmatively Furthering Fair Housing. Prior to the application due date each applicant must submit to the Public Housing Director in the applicant's local HUD Field Office, an addendum to the applicant's HCV Administrative Plan that outlines reasonable steps the applicant will take to affirmatively further fair housing in regard to the vouchers awarded under this NOFA. The NOFA indicates that reasonable steps **must** include informing affected applicants on how to file a fair housing complaint including the provision of the toll free number for the Housing Discrimination Hotline: 1-800-669-9777 and the Federal Information Relay Service at (800) 887-8339.

Further, an applicant **must** comply with the affirmatively furthering fair housing requirements of 24CFR Section 903.7(o) by:

- a) Examining its programs or proposed programs;
- b) Identifying any impediments to fair housing choice within those programs;
- c) Addressing those impediments in a reasonable fashion in view of the resources available;
- d) Working with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement; and
- e) Maintaining records reflecting these analyses and actions.

Applicant PHAs are also **encouraged** (*but not required*) to take the following proactive steps in addressing accessibility problems for persons with disabilities:

- f) Where requested by an individual, assist program applicants and participants gain access to supportive services available within the community, but not require eligible applicants or participants to accept supportive services as a condition of continued participation in the program;
- g) Identify public and private funding sources to assist participants with disabilities in covering the costs of structural alterations and other accessibility features that are needed as accommodations for their disabilities;
- h) Not deny persons who qualify for a HCV under this program other housing opportunities, or otherwise restrict access to PHA programs to eligible applicants who choose not to participate;
- i) Provide housing search assistance;
- j) In accordance with rent reasonableness requirements, approve higher rents to owners that provide accessible units with structural modifications for persons with disabilities; and

- k) Provide technical assistance, through referrals to local fair housing and equal opportunity offices, to owners interested in making reasonable accommodations or units accessible to persons with disabilities.

It is important to note that many of the components of this addendum are likely already part of the PHA HCV Administrative Plan. This includes the requirement of informing applicants how to file discrimination complaints and all of the 24 CFR Section 903.7(o) requirements since these elements are already a required part of the PHA Plan. The PHA can confirm whether these items are already part of official PHA policy through a review of the PHA Plan and HCV Administrative Plan.

It is also important to note that many of the steps the NOFA **encourages** PHAs to undertake would likely be considered reasonable accommodations under Section 504 of the Rehabilitation Act of 1973. For example, 24 CFR Part 982.505(d) already requires that if the family includes a person with disabilities and requires a higher payment standard for the family, as a reasonable accommodation for such person, the PHA may establish a higher payment standard for the family.

Prior to submitting a HCV Administrative Plan Amendment, the PHA Board of Commissioners or other governing body must formally adopt the Administrative Plan and any revisions. In most cases, this will have to be done in a public meeting and may require a public posting of the changes, depending on the PHA requirements. If a public meeting or posting is required, the PHA will want to leave sufficient time to ensure the Board approval is in place in time for the Addendum to be submitted prior to the submission of the application.

The revised Administrative Plan becomes the PHA's "official" policy when it is approved by the Board. HUD must receive a copy of the plan, and may require changes if the policies adopted are inconsistent with program regulation requirements. However, HUD approval of the revised Administrative Plan is not required prior to its implementation or prior to the submission of the application.

Note that even if the NOFA required Affirmative Fair Housing policies are already in place at a PHA, it appears that the PHA must nonetheless submit an addendum to the Field Office. Under these circumstances, however, the PHA can probably submit such an addendum without any Board approval because the policies are already in place.

- 7. Experience and Resources for Supportive Services.** The PHA must demonstrate both experience and resources for supportive services.

Experience

The NOFA provides that PHAs must demonstrate experience in one of the following three ways:

- (1) PHA must confirm that at least 20% of the PHA's HCVs are used by non-elderly disabled families as reflected in PIC for the 6-month period prior to the submission date; **OR**

- (2) The PHA must confirm that it operates a non-HCV program that serves non-elderly disabled families and fully describe that program; **OR**
- (3) The PHA must confirm that it has previously been awarded one of the special purpose voucher allocations listed below. A list of PHAs that administer these special purpose vouchers can be found on TAC's website at <http://vouchers.tacinc.org>.
- *Rental Assistance for Non-Elderly Persons with Disabilities in Support of Designated Housing Plans*
 - *Rental Assistance for Non-Elderly Persons with Disabilities Related to Certain Types of Section-8 Project Based Developments*
 - *Mainstream Housing Opportunities for Persons with Disabilities*
 - *Project Access Pilot Program*

This information must be included in Section D of Form HUD-52515. Applications from PHAs that cannot demonstrate one of the three experience criteria above will not meet the NOFA's threshold standards.

Support Services Resources

Both housing and support services are critical components of this NOFA. While program participants must not be required to use support services, the NOFA requires that support services be available in the event they are necessary. Below is a description of the support services requirements for Category 1 and Category 2 applications.

Category 1 Applications: According to the NOFA, for Category 1 applications, the PHA is required to describe the resources in full detail to demonstrate that the PHA has resources for support services for non-elderly disabled families.

PHAs are not expected to provide these services with their own resources but may want to look to community-based organizations with experience providing the relevant support services. Some PHAs already have relationships in place with service agencies and can draw or expand upon these relationships for this NOFA. Other PHAs will want to consider outreach to community agencies. Examples of local organizations likely to offer relevant services include visiting nurse programs, providers of services for people with mental illness, intellectual or developmental disabilities, or physical disabilities, an independent living center and others. While the NOFA requires the PHA to explicitly identify a partnering agency (see below) only for Category 2 applications, identifying such an entity even for a Category 1 application would provide evidence of the availability of supportive services and potentially assist the PHA in effectively implementing the program.

Additional technical assistance for PHAs interested in applying for Category 1 vouchers is available from TAC at www.tacinc.org/Program_Policy/NonElderlyPWDNOFA.html.

Category 2 Applications ONLY: According to the NOFA, for Category 2 applications, the PHA is also required to describe the resources in full detail to demonstrate that the PHA has resources for support services for non-elderly disabled families. In addition, Category 2 Applications must identify the partnering resources agency and describe the provision of supportive services for a transitioned person (i.e., once the individual is in the community). The NOFA describes the partnering agency as a state-level Medicaid or health and human services agency responsible for the state's institutional transfer program.

In the case of the MFP states, this would include the MFP Program within the State Medicaid program. Support services for Category 2 vouchers must include care/case management, in addition to the needed health and social services. As described above, the PHA must also specify the number of vouchers that the partnering resource agency is projecting will be needed to assist the transitional individuals over a 12-month period and how this estimated was calculated.

For those PHAs in the 29 states participating in the MFP Demonstration Program, the only supportive service resource documentation required by the NOFA for Category 2 applications is evidence of MFP participation by the partnering agency and a description of how individual referrals will be made to the PHA. The 29 states participating in MFP include: Arkansas, California, Connecticut, Delaware, District of Columbia, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, Virginia, Washington, Wisconsin.

For PHAs in the other 21 non-MFP states that desire to apply for Category 2 vouchers, the partnering agency for the PHA must be the relevant state health and human service or Medicaid agency responsible for carrying out a state sponsored institutional transitional program comparable to MFP that includes dedicated supportive services funded through the State Medicaid program and/or state appropriations. A list of some of these agencies in each state is available on the HUD website at www.hud.gov/offices/pih/programs/hcv/pwd/ned.cfm. The Category 2 Application for PHAs in these non-MFP states must identify the partnering agency and describe how individual referrals will be made to the PHA and the supportive services resources that will be made available to the transitioned individual by the partnering resource agency.

It is important to note that many states that are not MFP states have formal programs to transition persons with disabilities from institutional settings and nursing facilities and therefore will be willing and able partners for PHAs.

Additional technical assistance for PHAs interested in applying for Category 2 vouchers in non-MFP states or for Category 2 vouchers for non-MFP-eligible persons in MFP states is available from TAC at www.tacinc.org/Program_Policy/NonElderlyPWDNOFA.html.

ELECTRONIC SUBMISSION OF APPLICATION

Applicants are required to submit applications through the online **www.grants.gov system**.

The application deadline for receipt of HUD applications via Grants.gov is 11:59:59 p.m. on July 7, 2010. 'Received' means that the application has been successfully uploaded to the Grants.gov server and the applicant has received confirmation of successful submission to Grants.gov. Applicants should be aware that hitting the 'sign and submit' button to transmit the application does not mean the application has been successfully uploaded to Grants.gov. Only when the upload is complete is the application date and time stamped by the Grants.gov system. See TAC's *Using Grants.Gov: Helpful Hints* (available at www.tacinc.org) for more guidance for submitting the application online. Note that the final NOFA provides a one-day grace period for applications rejected by the Grants.gov system. Please review the NOFA carefully for the limitations of this grace period.

Waivers to Electronic Submission

Applications under this NOFA must be received electronically through the Federal Web site Grants.gov, unless a waiver of this requirement is granted in accordance with the instructions below. Applicants requesting a waiver should submit their waiver requests in writing using e-mail or fax. Waiver requests must be submitted no later than 15 days prior to the application deadline date.

Waiver requests must be submitted in writing or by e-mail to:

Phyllis A. Smelkinson
Housing Program Specialist
Housing Voucher Management
Office of Public and Indian Housing
U.S. Department of Housing and Urban Development
451 7th Street, SW.
Washington, DC 20410
Phyllis.A.Smelkinson@hud.gov

E-mail requests should include a subject line '(insert applicant name) FY09 Rental Assistance for Non-Elderly Persons with Disabilities Waiver Request.'

If an applicant is granted a waiver, then the approval will provide instructions for submitting paper copies to the appropriate HUD office. All paper applications must be received by the application deadline date to meet the requirements for timely receipt. Paper applications will not be accepted from applicants that have not been granted a waiver.

APPLICATION COMPONENTS

The application is made up of 9 standard forms. These forms can be found online as part of the Grants.gov application package.

1. *Form SF-424, Application for Federal Assistance.* Every application must contain a SF-424 as the cover page to the application.
2. *Form HUD-52515, Funding Application, Section 8 Tenant-Based Assistance, Rental Certificate Program, Rental Voucher Program.* A separate *Form HUD-52515, Funding Application* must be submitted for Category 1 and Category 2 if the PHA wants to request HCVs under both categories.
3. *Form HUD-2880, Applicant/Recipient Disclosure/Update Report;*
4. *Form HUD-2993, Acknowledgment of Application Receipt* only required if paper application;
5. *Form HUD-2991, Certification of Consistency with the Consolidated Plan,* or a copy of the signed PHA Certification of Compliance for its current Annual PHA Plan;
6. *SF-LLL, Disclosure of Lobbying Activities,* if applicable;
7. *MTW Certification,* if applicable;
8. *You Are Our Client Grant Application Survey HUD-2994-A* (optional); and
9. *HUD Facsimile Transmittal (HUD-96011, Third Party Documentation Facsimile Transmittal).*

FUNDING AWARDS

All technically acceptable applications that meet the seven threshold criteria described earlier will be funded to the extent funds are available. If more vouchers are requested than funds available, a lottery will be used until all funding is exhausted.

HUD estimates that funding awards will be made in October, 2010. Successful applicants in each category will receive an award letter from HUD. Funding will be provided to successful applicants as an amendment to the Annual Contributions Contract (ACC) of the applicant PHA.

Unsuccessful applicants will receive a notification of rejection letter from the GMC that will state the basis for the decision. The applicant may request an applicant debriefing. Beginning not less than 30 days after the awards for assistance are announced publicly, upon receiving a written request, HUD will provide a debriefing to the requesting applicant. Applicants requesting to be debriefed must send a written request to:

Cedric Brown
Acting Director
Grants Management Center, at the Grants.gov

ELIGIBLE PARTICIPANTS

Non-elderly disabled families that are income eligible under 24 CFR 982.201(b)(1) are the only eligible participants for HCV assistance awarded through this NOFA (see below for key definitions).

- **Elderly Family:** An elderly family is one whose head, spouse, or sole member is 62 years or older. It may include two or more elderly persons living together, or one or more elderly persons living with one or more persons determined under the public housing agency plan to be essential to their care or well being.

- **Non-Elderly Disabled Family:** A family that does not meet the definition of an elderly family whose head, spouse, or sole member is a person with disabilities.
- **Person With Disabilities:** A person who:
 - Has a disability, as defined in 42 U.S.C. 423;
 - Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
 - Is expected to be of long-continued and indefinite duration;
 - Substantially impedes his or her ability to live independently, and
 - Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
 - Has a developmental disability as defined in 42 U.S.C. 6001.

This definition includes persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

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

This definition also means "individual with handicaps" (as defined in Sec. 8.3 of this title) for purposes of reasonable accommodation and program accessibility for persons with disabilities.

For Category 2 vouchers, eligible participants must be those non-elderly disabled families that are income eligible under 24 CFR 982.201(b)(1) and are currently residing in a nursing home or other health care institution defined as:

- **Nursing Homes and Other Institutions:** This definition includes intermediate care facilities and specialized institutions that care for the mentally retarded, developmentally disabled or mentally ill, but excludes board and care facilities (e.g. adult homes, adult day care, adult congregate living), residential services, and community-based congregate settings. For **full definitions of these eligible** facilities, please reference Chapter 2 of Handbook 4600.1 REV-1: Section 232 Mortgage Insurance for Residential Care Facilities. <http://www.hud.gov/offices/adm/hudclips/handbooks/hsg/4600.1/46001tochSGH.pdf>

OTHER IMPORTANT REQUIREMENTS

HCVs awarded under this NOFA will be subject to all of the requirements of 24 CFR Part 982.

MTW agencies may administer these vouchers in accordance with their MTW agreements unless they are inconsistent with Appropriations Act requirements or the requirements of this NOFA.

The Omnibus Appropriations Act of 2009 states that assistance made available under this section of the Act shall continue to remain available for non-elderly families upon turnover. Therefore, upon turnover, these vouchers (both Category 1 and Category 2) must be made available only to non-elderly disabled families on the PHA's waiting list. Furthermore, Category 2 vouchers must be issued to another Category 2 family upon turnover, if there is such a family on the waiting list. Otherwise, the voucher may be re-issued to a non-elderly disabled family; when the next non-elderly disabled voucher turns over, the voucher must be re-issued to a Category 2 family.

Successful applicants (including MTW agencies) must report the usage of voucher funds under this NOFA through required submissions of the form *HUD-50058, Family Report*. PHAs must enter the program code 'NED' on line 2n of the HUD-50058 for non-elderly families served under this NOFA and 'NHT' for those non-elderly families transitioning from nursing homes and other institutions into the community. PHAs must maintain these codes for the duration of the family's participation in the HCV program. HUD's assessment of PHA compliance under this NOFA will be based on PIC system data.