



---

Thursday  
July 23, 1998

---

**Part IV**

**Department of  
Housing and Urban  
Development**

---

Office of the Assistant Secretary for  
Public and Indian Housing, Notice of  
Funding Availability for Title VI Loan  
Guarantee Capacity-Building Grants;  
Notice

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

[Docket No. FR-4384-N-02]

**Notice of Funding Availability for Title  
VI Loan Guarantee Capacity-Building  
Grants**

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

**ACTION:** Notice of funding availability (NOFA).

**SUMMARY:** This NOFA announces the availability of \$4 million for assistance to organizations providing capacity building technical assistance to Indian tribes or Tribally Designated Housing Entities (TDHEs) that have been granted a loan guarantee under the Title VI Demonstration Program. Under the demonstration program (which HUD is announcing through a separate notice published elsewhere in today's **Federal Register**), HUD will guarantee the financial obligations issued by Indian tribes and TDHEs to finance affordable housing activities authorized by the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). This document sets forth the application instructions for the grants made available under the NOFA.

**APPLICATION DUE DATES:** Completed applications (an original and one copy) must be submitted no later than 4:00 pm, Mountain time, on August 24, 1998 to the address shown below.

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all applicants, HUD will treat as ineligible for consideration any application that is not received by the application deadline. Applicants should submit their materials as early as possible to avoid any risk of loss of eligibility because of unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent by facsimile (FAX) transmission.

**ADDRESSES AND APPLICATION SUBMISSION PROCEDURES:** *Addresses:* Completed applications (one original and one copy) must be submitted to: National office of Native American Programs—Office of Loan Guarantee, Department of Housing and Urban Development, 1999 Broadway—Suite 3390, Box 90, Denver, CO 80202-3390; ATTN: Title VI Demonstration.

*Application Procedures: Mailed Applications.* Applications will be considered timely filed if post marked on or before 4:00 p.m. on the application due date and received at the

address above on or within five (5) days of the application due date.

*Applications Sent by Overnight/Express Mail Delivery.* Applications sent by overnight delivery or express mail will be considered timely filed if received before or on the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date.

*Hand Carried Applications.* Hand carried applications delivered before and on the application due date must be brought to the specified location and room number between the hours of 8:30 am to 4:00 pm, Mountain time.

**FOR FURTHER INFORMATION AND TECHNICAL ASSISTANCE CONTACT:** Karen Garner-Wing, Director, Office of Loan Guarantee, Department of Housing and Urban Development, 1999 Broadway—Suite 3390, Box 90, Denver, CO 80202-3390; telephone (303) 675-1600 (this is not a toll free number). Persons with speech or hearing impediments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**I. Authority; Background; Purpose; Definitions; Amounts Allocated; and Eligibility**

*(A) Authority*

Title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Pub. L. 105-65, 111 Stat. 1344, 1357; approved October 27, 1997) (FY 1998 HUD Appropriations Act).

*(B) Background*

Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (entitled "Federal Guarantees for Financing for Tribal Housing Activities") authorizes HUD to guarantee financial obligations issued by Indian tribes or their Tribally Designated Housing Entities (TDHEs) to finance affordable housing activities. To assure the repayment of notes or other obligations, NAHASDA requires Title VI applicants to pledge their Indian Housing Block Grant (IHBG) funds and other security as required by HUD. The FY 1998 HUD Appropriations Act provided \$5 million for the funding of a demonstration program which could guarantee up to \$45 million in Title VI loan guarantees. HUD's Title VI Loan Guarantee Demonstration program is being announced through a separate

notice published elsewhere in today's **Federal Register**.

*(C) Purpose*

(1) The FY 1998 HUD Appropriations Act provided \$25 million to test comprehensive approaches for developing jobs through economic development, developing affordable low- and moderate-income rental and homeownership housing, and increasing the investment of both private and nonprofit capital in rural and tribal areas of the United States. Of the \$25 million, \$4 million is being made available under this NOFA.

(2) The funds available under this NOFA will be competitively awarded to one or more technical assistance providers that will use the grant funds to provide capacity-building technical assistance to Indian tribes or TDHEs with an obligation approved under the Title VI Demonstration Program. The purposes of grants awarded under this NOFA are to: (a) strengthen the economic feasibility of projects guaranteed under Title VI of NAHASDA; (b) directly enhance the security of guaranteed loans; (c) finance affordable housing activities and related projects that will provide near-term results; (d) demonstrate economic benefits such as homeownership opportunities, increased housing availability, housing accessibility and visitability, and job creation related to the approved project; and (e) attainment of Indian Housing Plan goals and objectives.

(3) As a technical assistance provider, the organization will:

(a) Act as a pass-through agent to distribute the grant funds to Indian tribes and/or TDHEs that have hired a technical service provider to oversee the successful completion of their Title VI project; and/or;

(b) Act as a technical service provider to Indian tribes and/or TDHEs that request the organization's services in overseeing the successful implementation of their Title VI project, and/or;

(c) Act as a pass-through agent to distribute the grant funds to Indian tribes and/or TDHEs for eligible costs directly related to the approved Title VI project (but which are not specifically covered in NAHASDA) or other related activities as deemed appropriate by HUD. Examples of eligible costs include, but are not limited to: types of creative financing such as payment of private financial guaranty insurance policies, letters of credit or other forms of credit enhancement for obligations to be guaranteed, the payment of interest

due and costs such as underwriting and note servicing.

*(D) Definitions*

*Capacity-building* is the transferring of skills and knowledge in planning, developing and administering activities funded under this NOFA. For purposes of this NOFA, capacity-building may include provision of loans and grants as well as training and technical assistance activities.

*Visitability* means at least one entrance at grade (no steps), approached by an accessible route such as a sidewalk; the entrance door and all interior passage doors provide a minimum 2 feet, 10 inches clear opening. Allowing use of 2'10" doors is consistent with the Fair Housing Act (at least for the interior doors), and may be more acceptable than requiring the 3 foot doors that are required in fully accessible areas under the Uniform Federal Accessibility Standards for a small percentage of units.

*(E) Amounts Allocated*

This NOFA makes available a total of \$4 million in FY 1998 funding on a competitive basis.

*(F) Eligible Applicants*

(1) Eligible applicants are private organizations (for profit and nonprofit) with experience in providing technical assistance and capacity-building skills in planning and developing affordable housing. Applicants must also have experience in assisting Indian tribes, TDHEs, and/or other entities having similar physical, social, or economic conditions to those that exist in Indian country.

(2) A technical assistance provider awarded a grant under this NOFA must demonstrate experience in providing technical assistance in housing development to Indian tribes, TDHEs, or other entities facing similar economic and social conditions to those that exist in Indian country.

*(G) Eligible Activities*

(1) Funding under this NOFA will be used to enhance and strengthen an approved Title VI demonstration project. All applicants must meet and comply with the requirements of this NOFA and the Title VI Demonstration Program (see notice published elsewhere in today's **Federal Register**). HUD desires to see the funds used to finance affordable housing activities and projects that will provide near-term results and demonstrate economic benefits (such as homeownership opportunities, increased availability of affordable/accessible housing, job

creation and attainment of Indian Housing Plan goals and objectives). Eligible activities include:

(a) Providing technical assistance which will enhance the completion of the Title VI demonstration project, including:

(i) Planning, training and pre-development assistance to tribes/TDHEs to expand their scope of expertise, to implement larger-scale and model Title VI projects;

(ii) Self-help assistance, including skill in fiscal management related to the Title VI demonstration project;

(iii) Dissemination of capacity-building information and citizen participation activities (including information on Title VI loans); and

(iv) Coordination of existing resources to maximize housing or economic opportunities funded under the provisions of this NOFA and/or the Title VI Demonstration Program.

(b) Providing loss mitigation techniques.

(c) Providing related activities (public improvements, economic development, public services, and administrative costs) that directly support the housing activities listed in the Title VI Demonstration Program. The provision of these activities may not constitute more than twenty-five percent (25%) of the recipient's budget in the aggregate, and must clearly support and serve the Native American community served by the housing activities. Such activities include, but are not limited to:

(i) Construction of publicly- or privately-owned utilities needed to serve the housing site(s) for which the Title VI demonstration project was funded;

(ii) Provision of supportive housing services that are directly supportive of the housing activities proposed in the Title VI demonstration project, including but not limited to, legal assistance, housing counseling, classes on purchasing a home, home maintenance and repair training, tenant services;

(iii) Tribal/TDHE costs of administering the funding and carrying out of activities related to the Title VI demonstration project (which are not specifically permitted by NAHASDA), but at a rate not to exceed 10% of the Title VI funds provided; and

(iv) Provision of financial or technical assistance related to the Title VI loan to start or expand businesses, for the purposes of creating jobs or providing goods or services for tribal residents living in the Indian area.

(2) In undertaking activities under this NOFA, applicants should design construction, rehabilitation or

modifications to buildings and facilities to be accessible and visitable for persons with disabilities and others who may also benefit, such as mothers with strollers or persons delivering appliances. In providing technical assistance, educational opportunities, and loans, training and informational materials related to program activities should be made available in appropriate video, audio, or braille formats, if approved by HUD. If job opportunities are provided through this program, reasonable efforts should be made to employ Native Americans with disabilities in a variety of jobs. Employers should make reasonable accommodations for employees with disabilities.

**II. Program Requirements**

*(A) Compliance with Civil Rights Laws.* Indian tribes and TDHEs must comply with the nondiscrimination requirements of 24 CFR 1000.12. All other applicants must comply with the nondiscrimination requirements set forth in 24 CFR 5.105(a).

*(B) Economic Opportunities for Low and Very Low-Income Persons (Section 3).* Recipients of HUD assistance must comply with section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low and Very Low-Income Persons), and the HUD regulations at 24 CFR part 135, including the reporting requirements in subpart E. Section 3 provides that recipients shall ensure that training, employment and other economic opportunities, to the greatest extent feasible, be directed to: (1) low and very low income persons, particularly those who are recipients of government assistance for housing; and (2) business concerns which provide economic opportunities to low and very low income persons.

*(C) Relocation.* Any person (including individuals, partnerships, corporations or associations) who moves from real property or moves personal property from real property as a direct result of a written notice to acquire or the acquisition of the real property, in whole or in part, for a HUD-assisted activity is covered by acquisition policies and procedures and the relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and the implementing governmentwide regulation at 49 CFR part 24. Any person who moves permanently from real property or moves personal property from real property as a direct result of rehabilitation or demolition for an activity undertaken with HUD

assistance is covered by the relocation requirements of the URA and the governmentwide regulation. (Note that coverage under the URA does not include displacement funded by any Federal loan guarantees.)

(D) *OMB Circulars.* The policies, guidances, and requirements of OMB Circular No. A-122 (Cost Principles for Nonprofit Organizations) and 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations) apply to the award, acceptance and use of assistance under this NOFA, and to the remedies for noncompliance, except when inconsistent with the provisions of the FY 1998 HUD Appropriations Act, other Federal statutes or the provisions of this NOFA. Copies of the OMB Circular may be obtained from EOP Publications, Room 2200, New Executive Office Building, Washington, DC 10503, telephone (202) 395-7332 (this is not a toll free number).

(E) *Program Award Period.* Grant Agreements shall be for a period of up to 24 months. HUD, however, reserves the right to:

(1) Terminate grant awards in accordance with the provisions of 24 CFR part 84 anytime after 12 months.

(2) Extend the performance period of individual awardees up to a total of 12 additional months.

(F) *Delivery of Services System.* Technical assistance providers shall be required to:

(1) Provide technical assistance to Indian tribes and/or TDHEs.

(2) Obtain approval from the National Office of Native American Programs (NONAP) of its administrative and operating plans.

(3) Where necessary, cooperate and coordinate with other technical assistance providers to ensure clients are provided with the full range of technical services.

(G) *Technical Assistance Plan (TAP).* After selection, but prior to funding the award, technical assistance providers shall develop a Technical Assistance Plan (TAP) to be submitted to the NONAP for review and approval. A TAP shall be developed for each Indian tribe/TDHE receiving technical assistance (TA), and shall be prepared in consultation with the Indian tribe/TDHE and HUD. HUD will complete an environmental review where required in accordance with 24 CFR part 50 prior to approving the TAP. The TAP shall describe the following elements:

(1) Management strategy;

(2) Work plans;

(3) Establishment of priorities;

(4) Location of activities;

(5) Anticipated improved performance;

(6) Methods for measuring programmatic success;

(7) Tasks and sub-tasks for each program;

(8) Implementation schedule;

(9) Budgetary needs to accomplish tasks;

(10) Staffing plan; and

(11) Administrative budget.

(H) *Negotiations.* Technical service providers shall participate in negotiations with grant applicants and Title VI demonstration program participants.

(I) *Financial Management and Audit Information.* A grant recipient under this NOFA must provide a certification by an independent public accountant stating that the financial management system employed by the applicant meets the standards for fund control and accountability required by 24 CFR part 84, as applicable. The certification must provide the name, telephone number, and address of the independent public accountant.

(J) *Training Sessions.* Recipients may provide training sessions for Indian tribes/TDHEs where appropriate.

(K) *Pass-Through Grants.* Recipients must establish written criteria regarding pass-through procedures. HUD must approve this written criteria.

(L) *Environmental Review.* HUD's notification of award to a selected applicant will constitute a preliminary approval by HUD subject to approval of the Technical Assistance Plan and a HUD environmental review, where required. Selection for participation (preliminary approval) does not constitute approval of proposed sites for activities. Each preliminarily-selected applicant must assist HUD in complying with environmental review procedures, conducted by HUD where required in accordance with 24 CFR part 50. An applicant may not acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds to these activities, until written approval is received from HUD. The results of the environmental review may require that proposed activities be modified or proposed sites rejected.

(M) *Flood Insurance.* In accordance with the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128), HUD will not approve applications for grants providing financial assistance for acquisition or construction (including rehabilitation) of properties located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(1) The community in which the area is situated is participating in the

National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than one year has passed since FEMA notification regarding such hazards; and

(2) Where the community is participating in the National Flood Insurance Program, flood insurance is obtained as a condition of approval of the application.

(N) *Coastal Barrier Resources Act.* In accordance with the Coastal Barrier Resources Act (16 U.S.C. 3501), HUD will not approve grant applications for properties in the Coastal Barrier Resources System.

### III. Application Selection Process

(A) *Rating and Ranking.* (1) *General.* All applicants for funding under this NOFA will be evaluated against the criteria described below. The rating of the applicant or the applicant's organization and staff for technical merit or threshold compliance, unless otherwise specified, will include any sub-contractors, consultants and sub-recipients. If no applicants address the selection criteria described below, HUD will issue a revised NOFA requesting new applications for Title VI Demonstration Program capacity building grants.

(2) *Threshold.* If an applicant (a) has been charged with a violation of the Fair Housing Act by the Secretary; (b) is the defendant in a Fair Housing Act lawsuit filed by the Department of Justice; (c) has received a letter of noncompliance findings under Title VI of the Civil Rights Act or Section 504 of the Rehabilitation Act; or (d) has been debarred, the applicant is not eligible to apply for funding under this NOFA until the applicant resolves such charge, lawsuit, letter of findings, or debarment to the satisfaction of the Department.

(3) After a determination of completion, the applications will be reviewed, rated and ranked, and notification of award of grant funds sent to the applicant. HUD will then fund the highest rated application from within the jurisdiction of each Area Office of Native American Programs in rank order. If any funds remain, HUD will then fund all of the remaining applications in rank order, regardless of which Area ONAP they are from. HUD reserves the right not to make awards under this NOFA.

(4) *Adjustment of Grant Awards.* If HUD determines that an application rated, ranked and fundable could be funded at a lesser grant amount than requested, consistent with the feasibility of the funded project or activities and the purposes of this NOFA, HUD reserves the right to reduce the amount of the grant award.

(B) *Factors for award.* (1) Each rating factor and the maximum number of points is reflected below. The maximum number of points to be awarded is 100. Once scores are assigned, all applications will be ranked in order of points assigned, with the applications receiving more points ranking above those receiving fewer points.

(2) A rating plan shall establish a value to each criteria below.

*Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience and Staff (40 points).* This factor addresses the applicant's organizational and prior experience with Indian tribes, TDHEs, or other entities facing similar economic and social conditions in (a) administering similar types of funding; (b) the demonstrated capacity to carry out the proposed activities; and (c) previous experience in administering and/or overseeing loan or obligation programs by HUD or other Federal agencies, or the private sector. The rating of the applicant or the applicant's organization and staff for technical merit will include any faculty, subcontractors, consultants, subrecipients, and members of consortia which are firmly committed (i.e., has a written agreement or a signed letter of understanding with the applicant agreeing in principle to its participation and role in the project). HUD will also consider past performance in carrying out HUD-funded or other projects similar in size and scope to the project proposed.

*Rating Factor 2: Soundness of Approach (40 points).* This factor addresses the appropriateness and effectiveness of the proposed activities in substantially addressing eligible activities within the content of the objectives of this NOFA and the Title VI Demonstration Program notice, including any pass-through funds. The factor also addresses the workplan, management strategy, budget, and staffing proposed to conduct the work. In evaluating this factor, HUD will consider:

- (a) The relationship of the proposed activities (including proposed pass-through funding activities) in developing or implementing affordable housing projects in the Indian areas;
- (b) The extent to which the applicant can demonstrate that the technical assistance will improve the ability of the Indian tribe or TDHE to complete the project on a timely basis;
- (c) The extent to which the proposed activities bring additional financial or other resources to Indian areas;
- (d) The extent to which the proposed activities increase economic

opportunities, as defined in this NOFA, to residents of Indian areas;

(e) The extent to which the proposed activities provide increased housing and economic opportunities for persons with disabilities;

(f) The applicant's workplan for conducting the proposed activities;

(g) The applicant's management strategy for conducting the proposed activities;

(h) The applicant's budget for conducting the proposed activities; and

(i) The applicant's staffing for conducting the proposed activities.

*Rating Factor 3: Promoting Partnerships (10 points).* This factor addresses the extent to which the applicant can demonstrate past experience in financing housing and economic development projects that include partnership arrangements. In evaluating this factor, HUD will award a greater number of rating points to those applicants that conducted projects in areas with similar economic, social, and physical conditions as those that exist in Indian areas. The applicant's past experience will be evaluated based on the following criteria:

(a) The number of partners for each project;

(b) The financial layering;

(c) The total dollar value of each project; and

(d) The number of completed housing and economic development projects that involved partnership arrangements.

*Rating Factor 4: Coordination (10 Points).* This factor addresses the extent to which the applicant proposes to coordinate the delivery of services with other entities providing assistance in Indian areas. In evaluating this factor, HUD will consider the extent to which the applicant will:

(a) Coordinate its proposed activities with other entities working in the Indian areas being served by the applicant;

(2) Take specific steps to share information with other entities serving Indian areas on the successful implementation of Title VI projects; and

(3) Take specific steps to develop linkages with other activities, programs, or projects (on-going or proposed) in Indian areas through meetings, information networks, planning processes, or other mechanisms to coordinate its activities so solutions are holistic and comprehensive.

#### **IV. Application Submission Requirements**

The application must include an original and one copy of the items listed below, and must be signed by an authorized official:

(A) Form SF-424, Application for Federal Assistance.

(B) Transmittal letter which identifies the amount of funds requested and the applicant and partners (if any).

(C) Table of Contents (please number pages of the submission and list them accordingly in the Table of Contents).

(D) Narrative statement and supporting documentation addressing the Factors for Award described in Section III of this NOFA. The narrative response should be numbered in accordance with each factor for award. This narrative statement will be the basis for evaluating the application. The suggested approach described in the responses to Rating Factor 2 will be the starting point for negotiating the grant agreement and the individual TAP required for each Indian tribe/TDHE receiving assistance.

(E) A statement as to whether the applicant proposes to use pass-through funds for activities under the proposed program, and, if so, the amount and proposed uses of such funds.

(F) Budget identifying costs for implementing the plan of suggested TA activities by cost category (in accordance with the following):

(1) Direct Labor by position or individual, indicating the estimated hours per position, the rate per hour, estimated cost per staff position and the total estimated direct labor costs;

(2) Fringe Benefits by staff position identifying the rate, the salary base the rate was computed on, estimated cost per position, and the total estimated fringe benefit cost;

(3) Material Costs indicating the item, quantity, unit cost per item, estimated cost per item, and the total estimated material costs;

(4) Transportation Costs, as applicable.

(5) Equipment charges, if any. Equipment charges should identify the type of equipment, quantity, unit costs and total estimated equipment costs;

(6) Consultant Costs, if applicable. Indicate the type, estimated number of consultant days, rate per day, total estimated consultant costs per consultant and total estimated costs for all consultants;

(7) Subcontract Costs, if applicable. Indicate each individual subcontract and amount;

(8) Other Direct Costs listed by item, quantity, unit cost, total for each item listed, and total other direct costs for the award;

(9) Indirect Costs should identify the type, approved indirect cost rate, base to which the rate applies and total indirect costs.

These line items should total the amount requested for the TA program. The grand total of all TA program funds requested should reflect the grand total of all funds for which application is made.

(G) Certifications of Compliance with the following:

(1) Section 3 of the Housing and Urban Development Act of 1968;

(2) 24 CFR part 87 (New Restrictions on Lobbying). Applicants must file the certification regarding appropriated funds, and if nonappropriated funds have been spent on lobbying, the SF-LLL;

(3) Applicant/Recipient Disclosure/Update Report (this is form 2880).

(4) Fair Housing Act, Title VI of the Civil Rights Act of 1964 or the Indian Civil Rights Act as applicable, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

#### V. Corrections to Deficient Applications

After the application due date, HUD may not, consistent with 24 CFR part 4, subpart B, consider unsolicited information from an applicant. HUD may contact an applicant, however, to clarify an item in the application or to correct technical deficiencies.

Applicants should note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of the applicant's response to any eligibility or selection criterion. Examples of curable technical deficiencies include failure to submit the proper certifications or failure to submit an application containing an original signature by an authorized official. In each case, HUD will notify the applicant in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile or by return receipt requested.

Applicants must submit clarifications or corrections of technical deficiencies in accordance with the information provided by HUD within 7 calendar days of the date of receipt of the HUD notification. If the deficiency is not corrected within this time period, HUD will reject the application as incomplete.

#### VI. Findings and Certifications

(A) *Paperwork Reduction Act Statement.* The information collection requirements contained in this NOFA have been submitted to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The OMB approval number, once assigned, will be published in the **Federal Register**. An agency may not conduct or sponsor, and a person is not required to respond to,

a collection of information unless the collection displays a valid control number.

(B) *Environmental Impact.* 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 during business hours in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500.

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

(D) *Prohibition Against Lobbying Activities.* Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991 (31 U.S.C. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995 (Pub. L. 104-65; approved December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment, or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF-LLL disclosing such payments must be submitted.

Housing entities 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 housing entities established under State law are not excluded from the statute's coverage.

(E) *Section 102 of the HUD Reform Act; Documentation and Public Access Requirements.* Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the regulations in 24 CFR part 4, subpart A contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. HUD will comply with the documentation, public access, and disclosure requirements of section 102 with regard to the assistance awarded under this NOFA, as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

(2) *Disclosures.* HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 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.

(F) *Section 103—HUD Reform Act.* HUD will comply with section 103 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's implementing regulations in subpart B of 24 CFR part 4 with regard to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of

applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708-3815. (This is not a toll-free number.)

Dated: July 20, 1998.

**Deborah Vincent,**

*General Deputy Assistant Secretary for Public and Indian Housing.*

[FR Doc. 98-19676 Filed 7-20-98; 2:24 pm]

BILLING CODE 4210-33-P