

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5600-N-33]

HUD's Fiscal Year (FY) 2012 Notice of Funding Availability (NOFA) for the Performance-Based Contract Administrator (PBCA) Program for the Administration of Project-Based Section 8 Housing Assistance Payments Contracts

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of Funding Availability (NOFA) for HUD's Fiscal Year (FY) 2012 Performance-Based Contract Administrator (PBCA) Program for the Administration of Project-Based Section 8 Housing Assistance Payments Contracts.

SUMMARY: HUD announces this NOFA for the Performance-Based Contract Administrator Program for the Administration of Project-Based Section 8 Housing Assistance Payments (HAP) Contracts. Specifically, this NOFA provides applicant information, submission deadlines, funding criteria and other requirements for this Program including the availability of an annual contributions contract (ACC) with a public housing agency (PHA) for each of the 42 States for which an ACC has not previously been awarded, to provide for the administration of project-based Section 8 HAP contracts for Section 8 projects located in the 42 States identified in Appendix A to this NOFA.

There are 53 "States," as defined in the ACC, as each of the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands. After publication on its website of an Invitation for Submission of Applications on February 25, 2011, HUD awarded an ACC to a PHA for each of the following 11 states: South Dakota, Iowa, Puerto Rico, Vermont, Minnesota, New Hampshire, Maine, North Dakota, Montana, Wyoming and the United States Virgin Islands. HUD now seeks to award an ACC to a PHA for each of the remaining 42 states through this program NOFA. See Appendix A of this NOFA for the list of remaining 42 states.

In addition to the application requirements set forth in this NOFA, applicants must also comply with all terms and conditions contained in the Notice of HUD's Fiscal Year (FY) 2012 Notice of Funding Availability (NOFA), Policy Requirements, and **General Section** to HUD's FY2012 NOFAs for Discretionary Programs (**General Section**), posted to www.Grants.gov (Grants.gov) on September 19, 2011.

APPLICATION DEADLINE DATE: The application deadline date is 11:59:59 p.m. Eastern Time on **April 10, 2012**. Applications must be received by Grants.gov no later than 11:59:59 p.m. Eastern Time on the application deadline date.

FOR FURTHER INFORMATION CONTACT: Questions regarding specific program requirements should be directed to the agency contact identified in this NOFA. Questions regarding the FY2012 **General Section** should be directed to the Grants Management Office; at 202-708-0667 (this is not a toll-free number). Persons with hearing or speech impairments may access the number via TTY by calling the Federal Relay Service at 800-877-8339.

OVERVIEW INFORMATION:

A. Federal Agency Name: U.S. Department of Housing and Urban Development.

B. Funding Opportunity Title: Performance-Based Contract Administrator (PBCA) Program for the Administration of Project-Based Section 8 Housing Assistance Payments Contracts.

C. Announcement Type: Initial announcement.

D. Funding Opportunity Number: The Federal Register number for this NOFA is FR-5600-N-33. The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2577-0157, 2502-0582, 2502-0587, 2577-0169, 2577-0229, 2510-0011, 2577-0259, 2502-0542, 2535-0116, and 2577-0270. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

E. Catalog of Federal Domestic Assistance (CFDA) Number(s): 14.327

F. Application Deadline Date: The deadline date is 11:59:59 p.m. Eastern Time on **April 10, 2012**. Applications must be received by Grants.gov no later than 11:59:59 p.m. Eastern Time on the application deadline date. Applications must meet the timely receipt requirements of the **General Section**. See Section IV of the **General Section** regarding application submission procedures and timely filing requirements. Applicants need to be aware that following receipt, applications go through a validation process in which the application may be accepted or rejected. Please allow time for the process to ensure that you meet the timely receipt requirements.

Please see the FY2012 **General Section** for instructions for timely receipt, including actions to take if the application is rejected. Applicants should carefully read the section titled “INSTRUCTIONS ON HOW TO DOWNLOAD AN APPLICATION PACKAGE AND APPLICATION INSTRUCTIONS” in the **General Section**. This section contains information on using Adobe Reader, HUD’s timely receipt and grace period policies, and other application information. The latest version of Adobe Reader used by Grants.gov is Adobe Reader 9.4 which is compatible with PCs and MAC computers.

G. Additional Information:

1. Purpose of the Program. The purpose of HUD’s PBCA program is to implement the policy of the United States, as established in section 2 of the United States Housing Act of 1937 (1937 Act), of assisting States and their political subdivisions in addressing the shortage of affordable housing and of vesting the maximum amount of responsibility and flexibility in program administration in PHAs that perform well. The PBCA program furthers these policies by effectuating the authority explicitly provided under section 8(b)(1) of the 1937 Act for HUD to enter into ACCs with PHAs for the administration of Section 8 HAP contracts. For the project-based programs authorized under Section 8, the 1937 Act authorizes HUD to enter into an ACC with a PHA as defined in section 3(b)(6)(A) of the 1937 Act. The ACC is the funding

mechanism to support the PHA's public purpose in making assistance payments to Section 8 project owners. See the ACC at http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/rfp/sec8rfp or Appendix C of this NOFA.

2. Available Funds. Funding for this NOFA is subject to the availability of appropriations.

3. Type of Funds. Administrative fees to PBCAs.

4. Award Information. Funding for this NOFA is subject to the availability of appropriations.

5. Matching Funds. There is no matching requirement for applications under this program NOFA.

6. Eligible Applicants. PHAs as described in further detail in this NOFA.

7. Eligible Activities. PHAs selected must complete PBTs and meet the performance and compliance requirements in the ACC. The tasks that successful PHAs must perform include but are not limited to the following: monitoring project owners for compliance in providing decent, safe, and sanitary housing to assisted residents; ensuring that payments to property owners are calculated accurately and paid in a timely manner; and submitting required documents to HUD (or a HUD-designated agent).

FULL TEXT OF ANNOUNCEMENT

I. FUNDING OPPORTUNITY DESCRIPTION.

A. Program Description. HUD announces this NOFA for the Performance-Based Contract Administrator (PBCA) Program for the Administration of Project-Based Section 8 Housing Assistance Payments (HAP) Contracts. Specifically, this NOFA provides applicant information, submission deadlines, funding criteria and other requirements for this Program, including the availability of an annual contributions contract (ACC) with a public housing agency (PHA) for each of the 42 States for which an ACC has not yet been awarded (as identified in Appendix A to this NOFA) to provide for the administration of project-based Section 8 HAP contracts for Section 8 projects located in each of those States.

There are 53 "States," as defined in the ACC as each of the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands. After publication on its website of an Invitation for Submission of Applications on February 25, 2011, HUD awarded an ACC to a PHA for each of the following 11 states: South Dakota, Iowa, Puerto Rico, Vermont, Minnesota, New Hampshire, Maine, North Dakota, Montana, Wyoming and the United States Virgin Islands. HUD now seeks to award an ACC to a PHA for each of the remaining 42 States through this program NOFA.

B. Purpose of the Program. The purpose of HUD's PBCA program is to implement the policy of the United States, as established in section 2 of the 1937 Act, of assisting States and their political subdivisions in addressing the shortage of affordable housing and of vesting the

maximum amount of responsibility and flexibility in program administration in PHAs that perform well. The PBCA program furthers these policies by effectuating the authority explicitly provided under section 8(b)(1) of the 1937 Act for HUD to enter into ACCs with PHAs for the administration of Section 8 HAP contracts. For the project-based programs authorized under Section 8, the 1937 Act authorizes HUD to enter into an ACC with a PHA as defined in section 3(b)(6)(A) of the 1937 Act. The ACC is the funding mechanism to support the PHA's public purpose in making assistance payments to Section 8 project owners. The ACC includes Exhibit A, section 4 of which includes a detailed treatment of the Administrative Fee. Section 5, "Performance Requirements Summary" (PRS), includes a table that specifies the Acceptable Quality Level (AQL) for performance of each of the 8 Performance-Based Tasks (PBTs), the Performance-Based Allocation Percentage, the method used to evaluate performance, and the frequency with which HUD will assess and pay the Basic Administrative Fee Earned. See http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/rfp/sec8rfp or Appendix C of this NOFA.

C. Authority. The NOFA is issued pursuant to section 102 of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235; 103 Stat. 1987 (Dec. 15, 1989); and section 8 of the United States Housing Act of 1937 (1937 Act), 42 U.S.C. § 1437f, Pub. L. 93-383; 88 Stat. 662 (Aug. 22, 1974) (Section 8). Funding for this NOFA is subject to the availability of appropriations.

D. Crossing State Lines. HUD believes that nothing in the 1937 Act prohibits an instrumentality PHA that is "authorized to engage in or assist in the development or operation of public housing" within the meaning of section 3(b)(6)(A) of the 1937 Act from acting as a PHA in a foreign State. However, HUD will consider applications from out-of-State applicants *only* for States for which HUD does not receive an application from a legally qualified in-State applicant. Receipt by HUD of an application from a legally qualified in-State applicant will result in the rejection of any applications that HUD receives from an out-of-State applicant for that state.

Based on past experience, HUD expects to receive at least one application from a legally qualified in-State applicant for the majority of the 42 States identified in Appendix A of this NOFA. However, HUD advises that, in connection with the February 25, 2011 Invitation, HUD received no application from an in-State applicant for Alaska, Hawaii, Mississippi, Nebraska, or Utah.

All opinions recently issued by states' Attorneys General relevant to the administration of the Section 8 PBCA program will be posted at time of publication of this NOFA on http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/rfp/sec8rfp

E. Terms and Definitions.

1. In-State Applicant. An in-State Applicant is an applicant formed under the laws of the same State for which it proposes to serve as PBCA. An in-State applicant may be a governmental entity or an instrumentality of a governmental entity. However, in either case, the entity must demonstrate that it (a) satisfies the definition of PHA in section 3(b)(6)(A) of the 1937 Act and (b) has the legal authority to operate throughout the entire State.

2. Out-of-State Applicant. An out-of-State Applicant is an applicant formed under the laws of a State other than the State for which it proposes to serve as PBCA. An out-of-State applicant is typically an instrumentality of a governmental entity. An out-of-State applicant must demonstrate that it (a) satisfies the definition of PHA in section 3(b)(6)(A) of the 1937 Act; and (b) has the legal authority, both under the law of the State of its creation and under the law of the State for which it is applying to act as PBCA, to operate throughout the entire State for which it is applying.

Out-of-State entities are typically limited in their area of operation under the law of the State of their creation to the locality or to the State that they were established to serve. To overcome this obstacle, such entities typically create an instrumentality under the law of its own State (e.g., the State's nonprofit corporation statute), which typically authorizes the nonprofit corporation to operate anywhere inside or outside the State of its creation. Under such a scenario, the resulting nonprofit corporation, rather than the parent entity that created it, becomes the out-of-State applicant.

HUD requires that an out-of-State applicant establish not only that the law of the State under which it was created (e.g., State A) authorizes it to operate throughout the entire State in which it proposes to serve as PBCA (e.g., State B) but also that the law of such State (e.g., State B) does not prohibit such an arrangement. HUD also requires that each out-of-State applicant supplement its Reasoned Legal Opinion (RLO) (see definition below) with a Supplemental Letter (SL) (see definition below) signed by an attorney authorized to practice law in the State for which it applies (e.g., State B) certifying that nothing in the laws of such State in any manner prohibits the applicant, although formed under the laws of a sister State, from acting as a PHA in the State for which it is applying.

3. Instrumentality. Whether an in-State applicant or an out-of-State applicant, an instrumentality must be created *directly* by “any State, county, municipality, or other governmental entity or public body” within the meaning of section 3(b)(6)(A) of the 1937 Act. Submission of an RLO on behalf of an instrumentality that itself was created by one or more instrumentalities will result in the disqualification of the application.

An instrumentality entity must be fully formed and in legal existence under applicable laws on the date on which the RLO is signed. A copy of the corporate charter and all other organizational documents in final form (e.g., duly executed and filed with all appropriate State and/or other authorities, as may be required by law) that meet all requirements of this NOFA must be attached to and labeled as an exhibit to the RLO. An instrumentality of a governmental entity or public body satisfies the 1937 Act's definition of PHA provided that the instrumentality is “authorized to engage in or assisted in the development or operation of public housing” within the meaning of section 3(b)(6)(A) of the 1937 Act.

4. Statutory Definition of “Public Housing Agency” and Related Statutory Definitions. A PHA is a creature of State law. Its authority and power to act derive from the State law(s) under which it was created. “Public housing agency” is also a defined term in the 1937 Act, which authorizes HUD to enter into ACCs with a “public housing agency” as defined in section 3(b)(6)(A) of the 1937 Act, for the administration of Section 8 HAP Contracts. Before entering into an ACC, HUD must ascertain that the entity satisfies the 1937 Act's definition of PHA.

Section 3(b)(6)(A) of the 1937 Act, which applies to the project-based Section 8 program, provides in relevant part: “the term ‘public housing agency’ means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of public housing.” Applicants are advised that section 3 of the 1937 Act, 42 U.S.C. § 1437a, contains definitions of terms that appear within the foregoing definition (e.g., “public housing,” “development,” “operation”). Section III. D. 2.b. below sets forth the specific elements of an RLO required for applicants other than an instrumentality (generally referred to as a “governmental entity”). Section III. D.2.c. below sets forth the specific elements of an RLO required for instrumentality applicants.

5. Performance-Based Tasks (PBTs). PBTs are described in Exhibit A, Section 3 of the ACC and listed below for reference. There are eight of these tasks for which the PHA, as contract administrator, is responsible. The principal tasks of the PHA in accordance with the ACC include, but are not limited to: monitoring project owners for compliance in providing decent, safe, and sanitary housing to assisted residents; ensuring payments to property owners are calculated accurately and paid in a timely manner; submitting required documents to HUD (or a HUD-designated agent); and complying with applicable Federal law and regulations, including 24 C.F.R. parts 880, 881, 883, 884, 886 subpart A, 886 subpart C and/or 891 subpart E, as applicable, and other program requirements, as they exist at the time of ACC execution and as amended or otherwise issued. In this NOFA PBTs are listed in the rating factors as:

- PBT #1 – Management and Occupancy Reviews;
- PBT #2 – Adjust Contract Rents;
- PBT #3 – Review and Pay Monthly Vouchers;
- PBT #4 – Renew HAP Contracts;
- PBT #5 – Tenant Health, Safety, and Maintenance Issues;
- PBT #6 – Administration – Monthly and Quarterly Reports;
- PBT #7 – Administration – Annual Reports and Certifications; and
- PBT #8 – Annual Financial Reports – PHA Fiscal Year End.

6. Reasoned Legal Opinion (RLO). HUD requires that each applicant, whether an in-State or an out-of-State applicant, establish through an RLO that the State statute under which it was created authorizes it to operate throughout the entire State in which the entity proposes to serve as PBCA. HUD requires that out-of-State applicants supplement their RLO with an SL that establishes that nothing in the laws of the State for which the applicant is applying in any manner prohibits the applicant, although formed under the laws of a sister State, from acting as a PHA in the State for which it is applying. If an RLO or an SL fails to satisfy any criterion or any part of any criterion required to establish legal eligibility under this NOFA, the applicant will not be provided an opportunity to cure such failure, and the application will be rejected without further review.

7. Full Time Equivalent (FTE). One FTE is defined as 280 hours per work year.

8. Supplemental Letter (SL). In addition to an RLO, HUD requires that each out-of-State applicant submit a Supplemental Letter (SL) signed by an attorney authorized to practice law in

the State for which it applies (e.g., State B) certifying that nothing in the laws of such State in any manner prohibits the applicant, although formed under the laws of a sister State, from acting as a PHA in the State for which it is applying.

II. AWARD INFORMATION

A. Funding Availability. Funding for this NOFA is subject to the availability of appropriations.

B. Type of Awards. The ACCs that HUD seeks to award via this NOFA are cooperative agreements. Pursuant to the Federal Grant and Cooperative Agreement Act of 1977 (FGCA) (31 U.S.C. § 6304 *et seq.*), a cooperative agreement is the appropriate vehicle for making such an award when the principal purpose of the relationship between the Federal government and a State, or the political subdivision of a State (e.g., a PHA), is the transfer of money and services in order to accomplish a public purpose of support authorized by Federal statute, and substantial involvement is anticipated between HUD and the PHA during performance of the ACC. 31 U.S.C. § 6305. A principal purpose of the ACC between HUD and the PHA is to transfer funds (project-based Section 8 subsidy and performance-based contract administrator fees, as appropriated by Congress) to enable PHAs to carry out the public purposes of supporting affordable housing as authorized by sections 2(a) and 8(b)(1) of the 1937 Act. HUD will notify all applicants as to whether or not they have been selected for an award. If selected, HUD's notice will constitute HUD's approval, subject to the execution of a cooperative agreement. HUD intends to have substantial and ongoing involvement in the review, development, and operation of the PBCA Program. The cooperative agreement will state the expected substantial involvement of HUD during the period of performance. Note that the ACC is not subject to A-102 (Grants and Cooperative Agreements With State and Local Governments) which is codified for HUD at 24 CFR Part 85 based on the Department's determination that the Section 8 programs are not appropriate for management under the uniform requirements of Part 85. However, the Department has determined that the PBCA program is subject to A-87 (Cost Principles for State, Local, and Indian Tribal Governments).

C. Number of Awards. Only one applicant per state may be awarded an ACC. HUD expects to provide 42 awards.

D. Period of Performance. The PBCA will administer the HAP Contracts that HUD assigns during the ACC term. The ACC shall have a term of twenty-four (24) months unless extended at the sole election of HUD. HUD anticipates that ACCs awarded under this NOFA will become effective on October 1, 2012. The full text of the ACC may be found at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/rfp/sec8rfp or in Appendix C of this NOFA.

III. ELIGIBILITY INFORMATION

A. Eligible Applicants. Eligible applicants are qualified PHAs. The applicant's RLO must identify the applicant entity as one of the following:

- 1. A general or special purpose governmental entity.** A general or special purpose governmental entity includes:
 - a. A State, municipality, housing authority, or governmental public benefit corporation;
 - b. A multi-state, interstate or regional governmental entity; or
 - c. An instrumentality entity.

Any and all determinations concerning an applicant's legal eligibility rest solely with HUD.

B. Cost Sharing or Matching. There is no matching requirement for applications under this program NOFA.

C. Eligible Activities. PHAs selected must complete PBTs and comply with the performance and compliance requirements in the ACC.

HUD will enter into an ACC which will identify the State in which the PBCA is required to be the contract administrator. Exhibit B of the ACC will identify the HAP Contracts that HUD assigns to the PHA. HUD has the authority under the ACC to unilaterally amend Exhibit B of the ACC in order to add or withdraw HAP contracts that the PBCA is responsible for administering, and, upon exercising this authority, HUD will provide the PBCA with written notice of the revised Exhibit B.

Exhibit A of the ACC contains the PBTs for which the PHA, as contract administrator, is responsible. The principal tasks of the PHA in accordance with the ACC include, but are not limited to: monitoring project owners for compliance in providing decent, safe, and sanitary housing to assisted residents; ensuring payments to property owners are calculated accurately and paid in a timely manner; submitting required documents to HUD (or a HUD designated agent); and complying with applicable Federal law and regulations, including 24 C.F.R. parts 880, 881, 883, 884, 886 subpart A, 886 subpart C and/or 891 subpart E, as applicable, and other program requirements, as they exist at the time of ACC execution and as amended or otherwise issued.

D. Threshold Requirements.

1. General HUD Threshold Nondiscrimination and Other Requirements. See Section III.C.2 through Section C.5 of the **General Section** for threshold requirements applicable to all programs. Applicants should review those provisions that could result in the failure to receive funding, including the Dun and Bradstreet Universal Numbering System (DUNS) Number Requirement, Resolution of Outstanding Civil Rights Matters, provisions relating to Delinquent Federal Debts, and the Name Check Review. HUD will not make awards to entities that are debarred, suspended, or are on the HUD Limited Denial of Participation List. **Non-compliance with a threshold requirement will result in disqualification.** See Section V.B.1. below for more detail regarding threshold compliance.

2. Reasoned Legal Opinion Requirement. HUD requires the submission of a RLO demonstrating that the applicant is legally eligible to serve as PBCA in the State for which it applies.

NOTE: This is the first threshold requirement which must be satisfied before HUD will review the remainder of an application.

a. General RLO Requirements. The following information must be enumerated at the top of the first page of the RLO:

- (1) The full legal name of the applicant (i.e., the entity that, if selected, would enter into an ACC with HUD);
- (2) The State under the laws of which the applicant was formed; and
- (3) The State for which the applicant proposes to serve as PBCA.

If an entity applies to serve as PBCA for more than one State, a separate RLO must be submitted in support of each application. The RLO must be signed by an attorney. It may not be signed by or in the name of a law firm or other business entity. The RLO must state that the signatory is licensed to practice law in the State under the laws of which the applicant was formed. It must contain a succinct but reasoned (i.e., non-conclusory) analysis establishing that each of the requirements in Section III. D.2.b.(Governmental Entities) or Section III. D.2.c (Instrumentality Entities), as applicable, is satisfied.

It must include proper citation to each provision of Federal, State, and/or local law on which the analysis relies. A legible copy of each such provision, other than any provision of the 1937 Act, must be attached to and labeled as an exhibit to the RLO. Any RLO that does not satisfy any of these requirements will be rejected without any further review.

While not subject to any page limitation, the RLO should be succinct. The RLO shall have a cover sheet that specifies the title of the document, identifies the PHA submitting the document, and identifies the State for which the document is being submitted. Each page must be printed on a single side of an 8.5" by 11" sheet of paper using a standard 12-point font. One copy of the RLO shall be submitted as a Portable Document Format (PDF) file using this file name format: Two-Letter State Postal Abbreviation of the State for which the applicant is applying_Two-Letter State Postal Abbreviation of the State under the laws of which the applicant was formed_Complete Legal Name of the Applicant_RLO.pdf. The name of the RLO file cannot exceed 50 characters, including spaces and underscores. If it does, it will be rejected. However, rejection for this reason can be avoided by providing as much of the complete legal name of the applicant as possible up to a total of 50 characters, including spaces and underscores, in the naming of the RLO file.

b. Required Elements of Reasoned Legal Opinion for a Governmental Entity. In the case of a governmental entity, the RLO must establish that the entity:

- (1) Was created under a statute that confers powers that qualify the entity as a PHA, as defined in the 1937 Act. Although the statute may not explicitly enumerate the power "to engage in or assist in the development or operation of public housing" within the meaning of section 3(b)(6)(A) of the 1937 Act, the attorney signing the RLO must conclude and unequivocally state that such power is within the scope of powers explicitly conferred;

(2) Was created under a statute that confers powers that include the power to administer project-based Section 8 HAP Contracts, including the power to perform each of the eight PBTs identified in Exhibit A, Section 3, of the ACC. Although the statute may not explicitly enumerate such powers, the attorney signing the RLO must conclude and unequivocally state that all such powers are within the scope of those explicitly conferred;

(3) Was created under a statute that explicitly authorizes the entity to operate throughout the entire State in which the entity proposes to serve as PBCA or that evidences an unequivocal legislative intent for such entity to have such authority; and

(4) Has properly registered to do business in the State in which the entity proposes to serve as PBCA to the extent that the laws of such State require it to do so. If the laws of such State do not require it to do so, the RLO must contain an affirmative statement to this effect.

c. Required Elements of Reasoned Legal Opinion for an Instrumentality Entity. In the case of an instrumentality entity, the RLO must establish that:

(1) The parent entity (or, in the case of multiple parent entities, each such entity) and the instrumentality entity were created under laws that confer powers that qualify the parent entity (or each such entity) and the instrumentality entity as a PHA, as defined in section 3(b)(6)(A) of the 1937 Act. Specifically, the RLO must establish that:

(a) The parent entity (or each such entity) was created under a statute that confers powers that qualify the parent entity (or each such entity) as a PHA, as defined in section 3(b)(6)(A) of the 1937 Act. Although the statute may not explicitly enumerate the power “to engage in or assist in the development or operation of public housing” within the meaning of section 3(b)(6)(A) of the 1937 Act, the attorney signing the RLO must conclude and unequivocally state that such power is within the scope of powers explicitly conferred; and

(b) The instrumentality entity was created under a statute (e.g., a State non-profit corporation law) that confers powers that qualify the instrumentality entity as a PHA, as defined in section 3(b)(6)(A) of the 1937 Act. Although the statute may not explicitly enumerate the power “to engage in or assist in the development or operation of public housing” within the meaning of section 3(b)(6)(A) of the 1937 Act, the attorney signing the RLO must conclude and unequivocally state that such power is within the scope of powers explicitly conferred;

(2) The corporate charter or other organizational documents of the instrumentality entity explicitly provide that it is authorized “to engage in or assist in the development or operation of public housing,” within the meaning of section 3(b)(6)(A) of the 1937 Act, with citation to such specific provision(s);

(3) The corporate charter or other organizational documents of the instrumentality entity explicitly confer the right on the parent entity (or on each such entity) to:

(a) Approve the corporate charter or other organizational documents of the instrumentality, including the right to approve any amendments, with citation to such specific provision(s);

(b) Authorize the instrumentality entity to execute the ACC with HUD, with citation to such specific provision(s);

(c) Control the operation of the instrumentality, with specific identification of the means by which the corporate charter or other organizational documents authorize the parent entity (or entities) to exert such control (e.g., by requiring that the Parent Entity hold a majority of the shares of the instrumentality entity, have a majority vote on the Board of Directors of the instrumentality entity), with citation to the specific provision(s) that confer such authority; and

(d) Take title to all property, real and/or personal, held by the instrumentality entity upon dissolution or termination of the instrumentality entity, with citation to such specific provision(s);

(4) The instrumentality entity was created under a statute that confers powers that include the power to administer project-based Section 8 HAP Contracts, including the power to perform each of the eight PBTs identified in Exhibit A, Section 3, of the ACC. Although the statute may not explicitly enumerate such powers, the attorney signing the RLO must conclude and unequivocally state that all such powers are within the scope of those explicitly conferred;

(5) The corporate charter or other organizational documents explicitly authorize the instrumentality to administer project-based Section 8 HAP Contracts, with citation to such specific provision(s);

(6) The instrumentality entity was created under a statute that explicitly authorizes entities created there under to operate throughout the entire State in which the entity proposes to serve as PBCA or that evidences an unequivocal legislative intent for such entities to have such authority;

(7) The corporate charter or other organizational documents explicitly authorize the instrumentality entity to operate throughout the entire State in which the entity proposes to serve as PBCA, with citation to such specific provision(s); and

(8) The entity has properly registered to do business in the State in which the entity proposes to serve as PBCA to the extent that the laws of such State require it to do so. If the laws of such State do not require it to do so, the RLO must contain an affirmative statement to this effect.

d. General Supplemental Letter (SL) Requirements. If an applicant proposes to serve as PBCA in a State other than the State under the laws of which it was formed, an SL must be enclosed with the RLO. The following information must be enumerated at the top of the first page of the SL:

(1) The full legal name of the applicant (i.e., the entity that, if selected, would enter into an ACC with HUD);

(2) The State under the laws of which the applicant was formed; and

(3) The State for which the applicant proposes to serve as PBCA.

The SL must be signed by an attorney. It may not be signed by or in the name of a law firm or other business entity. The SL must state that the signatory is licensed to practice law in the

State in which the applicant proposes to serve as PBCA. The substantive content of the SL must meet the standard of Section III. D.2.e. It must include proper citation to each provision of Federal, State, and/or local law on which the analysis relies. A legible copy of each such provision, other than any provision of the 1937 Act, must be attached to and labeled as an exhibit to the SL. Any SL that does not satisfy any of these requirements will be rejected without any further review.

e. Standard for Entities Proposing to Serve as PBCA in a State Other than the State under the Laws of Which the Entity was Formed. HUD will consider the substantive content of the SL requirement satisfied so long as it meets the requirements of this section.

(1) The SL must contain an unequivocal statement that the signatory has examined all the laws of the State governing the creation and operation of PHAs, including any provision of State law that defines that term or comparable term, and that nothing in such laws in any manner prohibits or precludes the applicant, having been formed under the laws of a sister State, from acting as a PHA in and throughout the State for which it is applying to serve as PBCA.

(2) The SL must state that the applicant has registered to do business in the State. Conclusive documentary proof of such registration must be attached to and labeled as an exhibit to the SL. If the law of the State in which the applicant proposes to act as PBCA does not require such registration, the SL must contain an affirmative statement to this effect.

(3) The SL must contain an unequivocal statement as to whether the laws of the State or any other applicable laws impose any requirements or conditions that must be satisfied before the applicant may act throughout the State as a PHA. To the extent that they do, the SL must identify each such requirement, with citation to the state law provision imposing each such requirement. A legible copy of each such statutory provision must be attached to and labeled as an exhibit to the SL. Conclusive documentary proof that all such requirements or conditions have been satisfied must be attached to and labeled as an exhibit to the SL. For example, if the laws of such State or any other applicable laws require the existence of any cooperative agreements, contracts, or any other legally binding agreements between the applicant and any other party, including any PHA(s) established under the laws of the State, in order for the applicant to have the authority to operate throughout the entire State, the SL must clearly identify such law(s), and a copy of any and all such cooperative agreements, contracts, or other legally binding agreements, duly executed for a term through the anticipated term of the ACC (i.e., September 30, 2014), must be attached to and labeled as an exhibit to the SL.

f. Required by All Applicants. The RLO and any SL must conclude with a definitive, *unqualified* statement explicitly certifying that all representations therein are true and correct. Any RLO and any SL that does not contain such a statement will be rejected without any further review.

3. Basic Administrative Fee Percentage. The proposed Basic Administrative Fee Percentage for a State is not to exceed 2.0%. Applications proposing a fee that exceeds 2.0% will be rejected.

IMPORTANT NOTES RELATED TO THE BASIC ADMINISTRATIVE FEE PERCENTAGE:

NOTE 1: The Basic Administrative Fee Percentage is calculated as follows:

The Grand Total (All Years) amount from the Grant Application Detailed Budget (form HUD-424-CB) is divided by two (2) to arrive at the annualized grand total. Then, the annualized grand total is divided by the sum of the annual per-unit per-month 2-bedroom FMRs for the State as published in the portfolio of Active PBCA Assigned Section 8 Contracts for this NOFA at http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/rfp/sec8rfp

NOTE 2: Exhibit A, Section 3.1, PBT #1 – Management and Occupancy Reviews has been revised to include a risk-based requirement and a separate requirement for Mark-to-Market projects. Two Exhibits have been added to the ACC:

Exhibit G: MOR Ratings for Projects with PBCA Administered HAP Contracts

Exhibit H: Mark-to-Market Projects with PBCA Administered HAP Contracts

The information for each State is available at

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/rfp/sec8rfp in two documents titled “MOR Ratings for Projects” and “Mark-to-Market Projects”.

NOTE 3: The ACC defines the Basic Administrative Fee Percentage as “The percentage of the applicable annual per unit per month 2-bedroom Fair Market Rent within the State, which is used to calculate the monthly Basic Fee.” The Basic Administrative Fee Amount is “The amount that results when the Administrative Fee Percentage, approved by the United States Department of Housing and Urban Development, is multiplied by the current applicable 2-Bedroom Fair Market Rent for each Covered Unit under a Housing Assistance Payments Contract on the first day of the month during the Performance-Based Annual Contributions Contract Term.”

The annual per unit per month 2-bedroom Fair Market Rent for each Covered Unit for the Assigned Active HAP Contracts in each State is titled “Active PBCA Assigned Section 8 Contracts for NOFA” and is available at

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/rfp/sec8rfp

NOTE 4: To view basic administrative fee percentages proposed by applicants in the prior competition, please see

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/rfp/sec8rfp

E. Program Requirements. Successful applicants will not be awarded until Program Requirements are met.

1. Disaster Plan. The applicant shall provide a Disaster Plan that details how the PHA and, if applicable, contractors that perform services that provide fifty (50) percent or more of the full time equivalent (FTE) employees required to perform PBTs Numbers one (1) through six (6) as specified in Exhibit A, Section 3, of the ACC will ensure continued operations in the event of a natural or human-caused disaster. The Disaster Plan portion of the application is not subject to a page limitation but should be written in a concise manner. The Disaster Plan is not a Factor for

Award but will be reviewed to ensure that each of the topics described below is addressed. It must include a cover sheet specifying the title of the document and identifying the PHA submitting the document and the State for which the document is being submitted. Each page must be printed on a single side of an 8.5" by 11" sheet of paper using a standard 12-point font. One copy of the Disaster Plan portion of the application shall be submitted as a PDF file using this file name format: Two Letter State Postal Code_PHA Complete Name_DISASTER. File names cannot exceed 50 characters, including spaces and underscores. If it does, it will be rejected. However, rejection for this reason can be avoided by providing as much of the complete legal name of the applicant as possible up to a total of 50 characters, including spaces and underscores, in the naming of the file.

NOTE: The Two Letter State Postal Code is for the State for which the application is submitted.

a. Elements of the Disaster Plan. The PHA Disaster Plan portion shall include:

(1) Incident Response Staff; including the names, titles, incident response authority and responsibilities, and contact information for assigned staff and any contractors or sub recipients.

(2) Communication Back-up Plans and Systems, including:

(a) Procedures and methods of notifying and updating owners, and residents regarding changes in service procedures and the resumption of routine operation; and

(b) Procedures and methods of notifying HUD in the event of an incident, including updating HUD regarding changes in service procedures until the resumption of routine operations, the performance status of each PBT or, if any PBT is not being fully performed, actions being taken to restore full performance of each PBT.

(3) Operating and Management Back-Up Plans and Systems. Procedures to relocate functions and staff to alternative office locations and/or telework sites; ensure access to IT systems; maintain internal and external communication systems (telephone, fax, email); and maintain supervisory, accounting, financial, and human resource functions.

(4) Information Technology (IT) Back-up Plans and Systems. Procedures to maintain IT staff support and ensure operability, data protection and system security.

(5) Preparedness. Plan to provide annual training for employees and, if applicable, contractor employees, and annual testing of back-up plans and systems.

b. The Disaster Plan Coordinator. The PHA shall have a Disaster Plan Coordinator who has the education and experience to develop, manage, and test disaster, continuity of operations, or emergency management plans. The Disaster Plan Coordinator shall be considered "qualified" if he/she has education (e.g., professional degree and/or professional certification or training) and experience as a practitioner in emergency management and response, emergency operations, continuity of operations (COOP), disaster planning and response, or risk management. The Disaster Plan Coordinator must attach a qualifications statement or resume to the application. The Disaster Plan Coordinator shall review and approve the disaster plan for the organization. The Disaster Plan must address required elements of the disaster plan. The Disaster Plan Coordinator must ensure that all employees and, if applicable, contractor employees, will

participate in disaster plan training within the next twelve (12) months and that all backup plans and systems identified in the disaster plan will be tested within in the next twelve (12) months. A signed copy of the plan must be submitted to the designated HUD CAOM (Contract Administration Oversight Monitor).

2. FTE Chart. See Appendix B of this NOFA for template and Rating Factor 2 for more information. The PHA shall submit a FTE Statement that identifies the FTEs required to perform PBTs numbers one (1) through six (6) as specified in Exhibit A of the ACC for the first twelve (12) month period of the ACC Term. For each PBT, identify the positions by title responsible for managing, supervision, and performing each PBT. Include the FTEs for PHA and contractor employees. Only include contractors that contract directly with the PHA. Do not include sub-contractors of contractors. One (1.00) FTE is defined as 2,080 work hours per year.

The FTE Statement shall be in the following format with the actual number of contractors, if any, included in the table below:

Identify the Contractor(s) by name and DUNS Number enumerated in the columns.

Contractor #1: Name of Contractor/ DUNS #

Contractor #2: Name of Contractor/ DUNS #

Contractor #3: Name of Contractor/ DUNS #

Contractor #4: Name of Contractor/ DUNS #

Add additional Contractors or position titles to list and add additional columns to the table as required.

3. HUD's Electronic Line of Credit Control System. Applicants must be eligible to acquire rights and access under HUD's Electronic Line of Credit Control System (eLOCCS).

4. Prohibition Against Lobbying Activities. Unless excluded from this requirement by other provisions of law, applicants are subject to the provisions of Section 319 of Public Law 101-121 (approved October 23, 1989) (31 U.S.C. § 1352) (the Byrd Amendment), which prohibits recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal government in connection with a specific contract, grant, or loan. In addition, applicants must disclose, using Standard Form SFLLL "Disclosure of Lobbying Activities," any funds, other than federally appropriated funds, that will be or have been used to influence Federal employees, members of Congress, or congressional staff regarding specific grants or contracts. Federally recognized Indian tribes and tribally designated housing entities (TDHEs) established by federally recognized Indian tribes as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but state-recognized Indian tribes and TDHEs established only under state law must comply with this requirement.

5. Compliance with Fair Housing and Civil Rights Laws. Applicants who are selected for award must comply with the fair housing and civil rights requirements specified in Section III.C.5.a of the **General Section**. In addition, successful applicants must certify that they will comply with the requirements of the Fair Housing Act (42 U.S.C. §§ 3601-19), Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), Section 504 of the Rehabilitation Act of 1973 (29

U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101), and title II of the Americans with Disabilities Act of 1990 (42 USC §§ 12131-12134).

6. Affirmatively Furthering Fair Housing. Under Section 808(e)(5) of the Fair Housing Act, HUD has a statutory duty to affirmatively further fair housing. HUD requires the same of its funded recipients. Successful applicants will have a duty to affirmatively further fair housing. In addition, successful applicants will be required to certify that they will affirmatively further fair housing. Successful applicants must comply with certain requirements regarding affirmatively furthering fair housing, including affirmative fair housing marketing, rather than the **General Section**. Specifically, successful applicants must: (1) adopt actions and procedures and maintain records of the implementation of the actions and procedures taken to affirmatively further fair housing; (2) make information available on the existence and location of housing, facilities, and services that are accessible to persons with disabilities; and (3) ensure that reasonable steps are taken to perform affirmative fair housing marketing. The purpose of the affirmative fair housing marketing plan is to provide equal opportunity to those individuals least likely to apply for the housing regardless of race, color, national origin, sex, religion, familial status, or disability. Please see Rating Factor 3 for more information on submitting the Affirmatively Furthering Fair Housing narrative.

7. Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency (LEP). Executive Order 13166 seeks to improve access to federally assisted programs and activities for individuals who, as a result of national origin, are limited in their English proficiency. Applicants obtaining Federal financial assistance from HUD shall take reasonable steps to ensure meaningful access to their programs and activities to LEP individuals. As an aid to recipients, HUD published *Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* in the Federal Register on January 22, 2007 (72 FR 2732), found at http://www.lep.gov/guidance/HUD_guidance_Jan07.pdf Also see Section III.C.5.c of the **General Section** for more information.

8. Effective Communication. Successful applicants must ensure that all communications shall be provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973. (This includes ensuring that training materials are in appropriate alternative formats as needed, e.g., Braille, audio, large type, sign language interpreters, and assistive listening devices). See 24 CFR § 8.6.

9. Monitoring. The PBCA will monitor each property owner and ensure compliance with the terms of the HAP Contract. In discharging these and all other responsibilities under the ACC, the PBCA will comply, and will ensure compliance by owners, with Federal law, HUD’s implementing regulations, the Section 8 Renewal Guide, and all other requirements and guidance that HUD deems applicable, as they exist at the time of ACC execution and as amended or otherwise issued from time to time during the ACC term. In the case of HAP Contracts that expire during the ACC term, the PBCA will enter into a renewal contract with Section 8 owners, as appropriate, in accordance with the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) (42 U.S.C. § 1437f note), HUD’s implementing regulations, and the

provisions of the Section 8 Renewal Guide, which may be found at:
http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_14528.pdf.

10. Page Specifications. Each page must be printed on a single side of an 8.5" by 11" sheet of paper using a standard 12-point font.

11. Compliance with Standards in the ACC. Applicants must meet all performance, reporting and task standards listed in the ACC.

12. Point Threshold. Applicants must receive at least 45 points of 70 available in Rating Factors for Capability, Soundness of Approach and Policy Priorities to qualify for award.

IV. APPLICATION AND SUBMISSION INFORMATION

A. Address to Request an Application Package. See the **General Section** for specific procedures concerning the electronic application submission and timely receipt requirements. Copies of the published NOFAs and application forms for HUD programs announced through NOFAs may be downloaded from the Grants.gov website at <http://www.Grants.gov>. Applicants need to download the application and the instructions for this NOFA from Grants.gov.

B. Grants.gov Customer Support. If applicants have difficulty accessing the information, customer support is available from Grants.gov by calling its Support Desk at 800-518-GRANTS (toll-free), or by sending an email to www.support@Grants.gov. Grants.gov now also provides a toll number for those that have difficulty accessing a toll-free number. The number is 606-545-5035 (toll charge). The Grants.gov help desk is open 7 days a week, 24 hours a day, except Federal holidays.

C. Content and Form of Application Submission.

1. Electronic Submission. Applications must be submitted electronically, as prescribed in the **General Section** using the Grants.gov website. To submit via Grants.gov, applicants must have a DUNS number which is registered in the Central Contractor Registration (CCR); have a User ID and password for the Grants.gov system; and be authorized by the eBusiness Point of Contact for the applicant identified in box 8a of the SF424, to be the authorized agency representative to submit the application. Failure to meet these registration steps or to not properly enter the registered DUNS number and User ID and password associated to the applicant DUNS number in the Grants.gov system, can result in the application being rejected by Grants.gov. Please carefully read the registration requirements. Registration can take 2-4 weeks to complete.

2. Page Limitation, Font Size and Format for Naming of Files. Narrative statements cannot exceed the number of single-sided standard 8.5" by 11" pages specified in the application document descriptions. Application documents must be in 12 point font. File names must conform to the requirements specified in the application document descriptions and cannot contain spaces, special characters (!, @, #, \$, %, ^, &, *, (,),) or exceed 50 characters in length including any underscores. Files names that do not adhere to these directions will result in the application receiving a virus detect message and being rejected from the Grants.gov system. Spaces and underscores count to the 50 characters. Please see the **General Section** for details regarding submission to grants.gov and file naming requirements. All files must be in

Microsoft® Word® except the FTE Statement document which must be in Microsoft Excel format to preserve its integrity as executed by the PHA and, if applicable, the contractor.

3. Application Submission Requirements.

- a. Applicants must read and follow the application submission requirements carefully.
- b. Applications must be filed following the instructions for this opportunity as specified in the **General Section** and this NOFA posted to the Grants.gov website.
- c. Applications must be formatted for 8.5" by 11" viewing and printing.
- d. All pages of each document must be numbered sequentially.
- e. All application document files are assigned required file names that begin with the two letter State postal code of the State for which the applicant is applying.
- f. Zip files contained within zip files cannot be accommodated; documents in such files will not be reviewed.
- g. Zip files must use this file name format: Two Letter State Postal Code_PHA Complete Name_APPLICATION. The name of the file cannot exceed 50 characters , including spaces and underscores. If it does, it will be rejected. However, rejection for this reason can be avoided by providing as much of the complete legal name of the applicant as possible up to a total of 50 characters, including spaces and underscores, in the naming of the file.

NOTE: The Two Letter State Postal Code is for the State for which the application is submitted.

h. By submitting an application on Grants.gov, you are certifying that:

- The Executive Director of the PHA certifies that information provided in the Application is true and correct;
- If the PHA is contracting with an entity that provides services equal to fifty (50) percent or more of the FTE employees required to perform PBTs Numbers one (1) through six (6) as detailed in the FTE Statement, the information provided in this Application relative to its services and performance is true and correct.

4. Application Requirements.

a. Content of Application. This section sets forth the contents of the application and the procedures applicants must follow to submit applications in response to this NOFA. Failure to comply with these procedures may result in the applicant being disqualified from award consideration. Each application submitted in response to this NOFA shall include the following documents:

(1) Abstract. Consisting of up to four-pages, it is a summary of the proposed project, which will not be scored and does not count toward the narrative page limit. The abstract must contain the following:

(a) Name of PHA Entity

- (b) **Street Address**
- (c) **City, State, Zip Code**
- (d) **Contact Name and Title**
- (e) **Contact Telephone Number**
- (f) **Contact E-mail Address**
- (g) **Name of State of Application**
- (h) **Proposed Basic Administrative Fee Percentage (not to exceed 2.0%)**

(2) Supporting Documents. A list of supporting documents and forms in the following order found in the application and instruction download. **A list of documents for each zip file.**

(3) SF424 Application for Federal Assistance. Applicants must include the nine digit ZIP code (ZIP code plus four digits) associated with the applicant address in box 8d of the SF424. Applicants must also provide a project name in Line 11 of the SF424 and use the same project name in all references to the application as the information will pre-populate the other forms contained in the application download package.

(4) SF424 Supplement Survey on Equal Opportunity for Applicants. Titled “Faith Based EEO Survey” (SF424SUPP) on Grants.gov (optional submission).

(5) SFLLL_Disclosure_of_Lobbying_Activities. Note that federally recognized Indian tribes are not required to submit this form (see the **General Section**).

(6) HUD2880_Applicant_Recipient_Disclosure_Update_Report. Titled “HUD Applicant Recipient Disclosure Report” on application download on Grants.gov.

(7) HUD 2993 Acknowledgement of Application Receipt. For applicants submitting paper applications only. This is not applicable to those using Grants.gov.

(8) Narrative Response to Factors for Award. The total narrative response cannot exceed the equivalent of 60 single-sided standard 8-1/2” x 11” pages total in 12 point font, not including attachments for each narrative. There are no page limits for Rating Factors 3 and 4.

(a) Capability Statement, see Rating Factor 1. (10 page limit). Includes General Experience, Experience with PBTs, Experience Training Personnel to Ensure Performance of PBTs and Ensuring Compliance.

The Capability Statement portion of the Application must describe the applicant’s experience actually performing the ACC and the PBTs described in Exhibit A, Section 3, of the ACC or experience performing tasks which are strongly related to the PBTs, such as: managing a portfolio of affordable multifamily housing units, managing public housing projects, managing a housing choice voucher program, managing a project-based voucher program, serving as a Traditional Contract Administrator, completing health and safety work order requests submitted by tenants, tracking and resolving tenant complaints and submitting reports to state or federal regulatory agencies. The applicant may describe the experience of the PHA, the PHA’s instrumentality, or one or more contractors with whom the PHA has contracted, or proposes to contract with, to provide services related to the Capability Statement. The Capability Statement is a Factor for Award.

The applicant is to provide a narrative response for each of the subfactors in the rating factor. The applicant's responses must be in the same order and numbered as the subfactors appear. Only information submitted for a specific subfactor will be considered for the corresponding subfactor for which it was written.

One copy of the Capability Statement of the Application shall be submitted as a Microsoft® Word® file using this file name format: Two Letter State Postal Code_PHA Complete Name_CAPABILITY. The name of the file cannot exceed 50 characters, including spaces and underscores. If it does, it will be rejected. However, rejection for this reason can be avoided by providing as much of the complete legal name of the applicant as possible up to a total of 50 characters, including spaces and underscores, in the naming of the file.

NOTE: The Two Letter State Postal Code is for the State for which the application is submitted.

(b) Technical Approach narrative (30 page limit). See Rating Factor 2. The Technical Approach portion of the Application must describe the applicant's technical approach to performing the ACC and the PBTs described in Exhibit A of the ACC. The applicant may describe the technical approach of the PHA, the PHA's instrumentality, or one or more contractors with whom the PHA has contracted or proposes to contract with, to provide services related in the Technical Approach. Rating Factor 2 includes descriptions of five (5) subfactors that the applicant must address in the Technical Approach and the points for each section.

The applicant is to provide a narrative response for each of the subfactors and the FTE Chart (Not a Factor for Award). The applicant's response may include tables and graphs. The applicant's responses must be in the same order and numbered as the subfactors appear. Only information submitted for a specific subfactor will be considered for the corresponding subfactor for which it was written.

One copy of the Technical Approach portion of the Application shall be submitted as a Microsoft® Word® file using this file name format: Two Letter State Postal Code_PHA Complete Name_TECHNICAL. The name of the file cannot exceed 50 characters, including spaces and underscores. If it does, it will be rejected. However, rejection for this reason can be avoided by providing as much of the complete legal name of the applicant as possible up to a total of 50 characters, including spaces and underscores, in the naming of the file.

NOTE: The Two Letter State Postal Code is for the State for which the application is submitted.

The FTE chart shall be submitted as an Microsoft Excel file using this file name format: Two Letter State Postal Code_PHA Complete Name_APPCERT. The name of the file cannot exceed 50 characters, including spaces and underscores. If it does, it will be rejected. However, rejection for this reason can be avoided by providing as much of the complete legal name of the applicant as possible up to a total of 50 characters, including spaces and underscores, in the naming of the file.

(c) Quality Control Plan narrative (20 page limit). See Rating Factor 2. The Quality Control Plan portion of the application must describe the internal control procedures that the

applicant will implement to ensure quality performance of the ACC and the PBTs described in Exhibit A, Section 3, of the ACC. The applicant may describe the internal control procedures of the PHA, the PHA's instrumentality, or one or more contractors with whom the PHA has contracted or proposes to contract with, to provide services related to each Subfactor in the Quality Control Plan. Rating Factor 2, includes descriptions of seven (7) "Subfactors" that the applicant must address in the Quality Control Plan and the points for each Subfactor.

The applicant is to provide a narrative response for each of the subfactors. The applicant's responses must be in the same order and numbered as the subfactors appear. Only information submitted for a specific subfactor will be considered for the corresponding subfactor for which it was written.

One copy of the Quality Control Plan portion of the Application shall be submitted as a Microsoft® Word® file using this file name format: Two Letter State Postal Code_PHA Complete Name_QCP. The name of the file cannot exceed 50 characters, including spaces and underscores. If it does, it will be rejected. However, rejection for this reason can be avoided by providing as much of the complete legal name of the applicant as possible up to a total of 50 characters, including spaces and underscores, in the naming of the file.
Note: the Two Letter State Postal Code is for the State for which the application is submitted.

(d) Narrative on Affirmatively Furthering Fair Housing. Applicants must submit a narrative describing how they intend to fulfill the Affirmatively Furthering Fair Housing requirement, including describing how they will address impediments to fair housing as described in Section III.E.6. above. See Rating Factor 3.

(e) Policy Priority Narrative on Job Creation, See Rating Factor 4.

(f) Proposed Fee, See Rating Factor 5. Include fee percentage in Abstract, described above in part (1).

(9) Reasoned Legal Opinion (RLO), including charter and other required organizational documents, and Supplemental Letter, if applicable. The RLO file must use the following file name format :the two letter State postal code of the State for which the applicant is applying, _ the two letter State postal code of the State under the laws of which the applicant was formed, _ the complete legal name of the applicant. Refer to Section III.D.2.a above for General RLO Requirements. The name of the RLO file cannot exceed 50 characters, if it does, it will be rejected; and rejection for this reason can be avoided by providing as much of the complete legal name of the applicant as possible up to a total of 50 characters in the naming of the RLO file.

(10) Disaster Plan. See Program Requirements at Section III.E.1

(11) Fair Housing Requirements. Applicants must describe how they will address impediments to fair housing.

(12) HUD_424_CB_Detailed_Budget. A budget for all funds (Federal and non-Federal). The HUD 424 CB is a standard form budget template, and includes budget lines that are not allowable items under the Program, e.g., land and building acquisition costs. When completing

the HUD 424 CB, applicants should please ensure that only budget items allowed under the PBCA Program are populated.(in the application download)

(13) HUD96011_Facsimile_Transmittal (“Facsimile Transmittal Form” on Grants.gov). The form must be submitted with each application and be used as the coversheet for any facsimile sent for the application, if the applicant is not faxing any documents, the applicant must still complete the facsimile transmittal form. In the section of the form titled “Name of Document Transmitting,” the applicant should enter the words “Nothing Faxed with this Application.” Complete the remaining highlighted fields and enter the number “1” in the section of the form titled “How many pages (including cover) are being faxed?” The applicant must move the form to the right side of the Grants.gov application to open and complete the form. Forms on the right side of the application get uploaded as part of the application submission with the forms getting embedded ID numbers. The embedded ID numbers allow HUD to match the faxes to each application submission. **Please refer to the General Section for a detailed discussion.**

NOTE: HUD will not accept entire applications submitted by fax, unless a waiver has been obtained pursuant to Section IV.C.5, below (Waiver of Electronic Application Requirement), or applicant is responding to a curable deficiency pursuant to Section V.B.4 (Corrections to Deficient Applicants). If an applicant submits an application by fax or in paper copy and has not received a waiver to the electronic application submittal, the entire application will be disqualified.

5. Receipt Dates and Times. The deadline date is 11:59:59 p.m. Eastern Time on **April 10, 2012**. Applications must be received by Grants.gov no later than 11:59:59 p.m. Eastern Time on the application deadline date. Applications must meet the timely receipt requirements of the **General Section**. See Section IV of the **General Section** regarding application timely filing requirements.

6. Other Submission Requirements.

a. Waiver of Electronic Application Requirement. Applicants must follow the electronic application instructions included in the **General Section**, unless granted a waiver for cause of the required electronic application requirement. The request for a waiver must provide a justification for cause in accordance with HUD’s waiver policy at 24 CFR 5.1005. Applicants requesting a waiver must submit the request in writing no later than fifteen (15) days prior to the application deadline date. The letter must be addressed to Carol J. Galante, Acting Assistant Secretary for Housing, Federal Housing Commissioner at the address below. The waiver can be submitted via email or fax to:

U.S. Department of Housing and Urban Development
451 Seventh Street SW, Room 6151
Washington, DC 20410
ATTN: Mr. Kerry E. Hickman, Acting Director, Office of Housing Assistance Contract
Administration Oversight (HACAO)
Telephone Number: (202) 402-3885
Email: Kerry.E.Hickman@hud.gov
FAX: 202-708-1010

Paper applications will not be accepted from applicants that have not been granted a waiver. If an applicant is granted a waiver, the approval notice will provide instructions for application submission and receipt requirements. All applications in paper format must have received a waiver to the electronic application requirement and must be received no later than 3:59:59 p.m. Eastern Time close of business on the application deadline date to allow scanning of any packages in accordance with HUD Security procedures.

V. APPLICATION REVIEW INFORMATION

A. Rating Criteria. Applications will be scored based upon their response to the subfactors associated with each rating factor, or “Factor for Award.” The technical point value associated with each subfactor is the maximum value that can be assigned. The points awarded for the rating factors will be up to 100 points. Points will be assigned to each of the rating factors identified below. Applicants should review the rating factors carefully and respond specifically to each factor. This NOFA does not include bonus points under the EZ/EC/RC-II or the Preferred Sustainable Status Bonus Points. Applicants must receive a total score of 45 of 70 points available in the Rating Factors 1 through 4 for Capability, Soundness of Approach and Policy Priorities to qualify for an award.

1. Rating Factor 1: Capability of the Applicant and Relevant Organizational Experience (Up to 20 Points). The applicant must submit a detailed Capability Statement that describes the applicant’s relevant organizational and past experience performing each of the following subfactors. The applicant may describe the experience of the PHA, the PHA’s instrumentality, and contractors with which the PHA has contracted to provide services in each subfactor a. through d.

a. General Experience (up to 8 points). The applicant should describe the nature and length of its experience serving as contract administrator for multifamily housing projects with project-based Section 8 HAP contracts (actual experience). The applicant may also describe the nature and length of its experience administering functions and processes strongly related to serving as contract administrator or providing strongly related contract administration activities for multifamily housing projects and rent subsidy programs (strongly related experience). Examples of strongly related experience include, but are not limited to the following: managing a portfolio of affordable multifamily housing units, managing public housing projects, managing a Housing Choice Voucher program, managing a project-based voucher program, serving as a Traditional Contract Administrator, completing health and safety work order requests submitted by tenants, tracking and resolving tenant complaints, and submitting reports to state or federal regulatory agencies. To receive the maximum points, the applicant’s response must be comprehensive (i.e. whether its experience addresses all of the required components described in each subfactor) and include specific examples of its experience. The applicant’s response must include the number of years of its general experience.

Nature of Experience (up to 5 points)

Up to 5 points will be awarded based on the comprehensiveness of the response, demonstrated knowledge of contract administration and clarity of response. The same points will be assigned for actual and/or strongly related experience.

Duration of Experience (up to 3 points)

Up to 3 points will be awarded for length of experience indicated in the response.

- If the applicant has five (5) or more years of actual or strongly related experience, three (3) points will be assigned.
- If the applicant has three (3) to four (4) years of actual or strongly related experience, two (2) points will be assigned.
- If the applicant has one (1) to two (2) years of actual or strongly related experience, one (1) point will be assigned.
- If the applicant has less than one (1) year of actual or strongly related experience, zero (0) points will be assigned.

b. Experience with Performance-Based Tasks (PBTs) (up to 6 points). The applicant should describe, for each PBT in Exhibit A, Section 3 of the ACC (and listed below for reference), its experience performing the PBT or performing tasks that are strongly related to the PBT. The same points will be assigned for actual and/or strongly related experience. Up to six (6) points may be assigned. To receive the maximum points, the applicant's response must be comprehensive (i.e. experience addresses all of the required components described in each subfactor) and include specific examples of its experience performing a wide range of PBTs. The applicant's response must include the number of years of its general experience. No additional points are assigned to the years of experience but applicants with less than one year of experience will be assigned zero (0) points. The applicant's experience performing each of the following PBTs will be evaluated and assigned points as follows:

Experience with PBTs #1 through #5 (up to 4 points);

Experience with PBTs #6 through #8 (up to 2 points). The list of PBTs is provided for your reference below:

- PBT #1 – Management and Occupancy Reviews
- PBT #2 – Adjust Contract Rents
- PBT #3 – Review and Pay Monthly Vouchers
- PBT #4 – Renew HAP Contracts
- PBT #5 – Tenant Health, Safety, and Maintenance Issues
- PBT #6 – Administration – Monthly and Quarterly Reports
- PBT #7 – Administration – Annual Reports and Certifications
- PBT #8 – Annual Financial Reports – PHA Fiscal Year End

c. Experience Training Personnel to Ensure Performance of PBTs (up to 4 points). Each applicant should describe its experience training personnel to ensure performance of each of PBTs #1 through #6 or tasks that are strongly related to PBTs #1 through #6. The number of years of experience is not applicable to the descriptions. The same points will be assigned for actual and/or strongly related experience. To receive the maximum points the applicant's response must be comprehensive and include specific examples of training sessions and successful results.

The applicant's experience training personnel to perform each of the PBTs will be evaluated and assigned points as follows:

- Experience with all of PBTs #1 through #6 will be assigned four (4) points.
- Experience with three (3) to five (5) of PBTs #1 through #6, must include PBT#1, will be assigned three (3) points.
- Experience with three (3) to five (5) of PBTs #1 through #6, not including PBT#1, will be assigned two (2) points.
- Experience with one (1) or two (2) of PBTs #1 through #6 will be assigned one (1) point.
- No experience with any of PBTs #1 through #6 will be assigned zero (0) points.

d. Experience Ensuring Compliance (up to 2 points). Each applicant should describe its experience monitoring Federal statutes, regulations, and program requirements, identifying and interpreting changes or additions, and implementing policies and procedures that ensured efficient, effective and consistent compliance. This includes experience complying with fair housing and equal opportunity statutes, regulations, and program requirements. This may be demonstrated, for example, by describing relevant policies and procedures (reasonable accommodations, effective communication), affirmative outreach requirements, efforts to ensure program accessibility for persons with disabilities, etc. To receive the maximum points the applicant's response must be comprehensive and include specific, successful examples that relate to the program and ACC.

2. Rating Factor 2: Soundness of Approach (up to 48 Points) including: Technical Approach (up to 24 Points), and Quality Control Plan (up to 24 Points).

a. Technical Approach (up to 24 Points). Each applicant should submit a description of its technical approach, including relevant organizational staff, to performing each of the following subfactors as they relate to the ACC (in addition to the FTE Chart if working on elements required by the ACC not a PBT listed in the subfactors below). The applicant may describe the technical approach of the PHA, the PHA's instrumentality, or one or more contractors with whom the PHA has contracted to provide services in each subfactor. Up to 24 points may be assigned to the Technical Approach.

b. Technical Approach: Annual Work Plan (up to 2 points). Each applicant should describe a sound technical approach to planning the performance of all PBTs during the first twelve (12) month period of the ACC term as required in the ACC under PBT #7, Annual Work Plan. Up to

two (2) points may be assigned. Points will be assigned based on the comprehensiveness of the response (i.e. approach addresses all of the required components described in each subfactor) and the reasonableness of the proposed approach to ensure performance of all PBTs. See example of point allocation in Section V.A.2.e, above.

c. Technical Approach: PBTs (up to 12 points). Each applicant should describe a sound technical approach to performing each of the PBTs specified in Exhibit A, Section 3 of the ACC and listed below for reference. Up to twelve (12) points may be assigned. To receive the maximum points, the applicant must describe an effective approach that includes specific steps to ensure performance of all eight (8) PBTs. If contractor entities are used or proposed to be used for more than 50% of FTEs for PBTs 1-6 in multiple states (as noted in the FTE statement) applicant must describe how they will balance the workload for the PBTs 1-6. Points will be assigned based on the comprehensiveness of the response (i.e. whether the approach addresses all of the required components described in each subfactor) and the proposed approach to ensure performance of all required PBTs.

The technical approach for each of the following components will be evaluated and assigned points as follows:

- PBT #1 – Management and Occupancy (up to 2 points).
- PBT #2 – Adjust Contract Rents (up to 2 points).
- PBT #3 – Review and Pay Monthly Vouchers (up to 2 points).
- PBT #4 – Renew HAP Contracts (up to 2 points).
- PBT #5 – Tenant Health, Safety, and Maintenance Issues (1 point or zero point).
- PBT #6 – Administration – Monthly and Quarterly Reports (1 point or zero point).
- PBT #7 – Administration – Annual Reports and Certifications (1 point or zero point).
- PBT #8 – Annual Financial Reports – PHA Fiscal Year End (1 point or zero point).

Applicants must complete and submit **the FTE statement** (see Appendix B of this NOFA) showing all staff and contractors who will be performing PBTs 1-6.

d. Technical Approach: General ACC Requirements (up to 2 points). Each applicant should describe a sound technical approach to administering the general requirements of the ACC. Up to two (2) points may be assigned. Points will be assigned based on the comprehensiveness of the response and the reasonableness of the proposed approach to ensure performance of all required components of the ACC. For example, a response that addresses each of the below components and relates directly to performance requirements in the ACC will receive 2 points. One point may be given for less complete responses. Responses that are nonresponsive to the ACC or don't address the above components will receive 0 points. The technical approach should include the following components.

- Executive leadership and oversight (if applicable, include a detailed description of planned oversight of all contractors with whom the applicant PHA intends to contract directly);
- Legal representation;
- Equal opportunity management with staff, tenants, and applicants;
- Plan for communication with HUD;
- Plan for communication/engagement with owners and management agents;
- Plan for communication/engagement with tenants; and
- Plan for communication/engagement with tenants and applicants with disabilities.

e. Technical Approach: Information Systems and Security (up to 2 points). Each applicant should describe a sound technical approach to information and information system security and privacy for data entered into or pulled from HUD Systems. Up to two (2) points may be assigned. Points will be assigned based on the comprehensiveness of the response and the reasonableness of the proposed approach to ensure performance of all required components. See example of point allocation in Section V.A.2.e, above. The technical approach should include the following components:

- Security for HUD Systems—TRACS;
- Security for HUD Systems—EIV System;
- Security for HUD Systems—iREMS;
- Security for Non-HUD Information Technology Systems that contain program related data; and
- Security for print-based program documents.

f. Technical Approach: Preparing to Assume ACC Responsibilities (up to 6 points). Each applicant should describe a sound technical approach to preparing to assume responsibility for administration of the ACC and performance of the PBTs upon the effective date of the ACC in each of the three (3) components that follow. If specific items do not need to be acquired or added, the applicant must describe what is in place (i.e. surplus office space within the PHA's facility) or why it is not required. Up to six (6) points may be assigned. Points will be assigned based on the comprehensiveness of the response (i.e. approach addresses all of the required components described in each subfactor) and the proposed impact of the approach to ensure performance of all required components. To receive the maximum points, the applicant must describe a sound approach that explains specific steps to ensure performance of all three (3) components listed below. The technical approach for each of the following components will be evaluated and assigned points as follows:

- A description of office facilities, communication systems, information technology systems to be acquired or added to existing operations and a timeline from award to full readiness (up to 2 points);
- A description of accounting systems; banking, insurance and fidelity bonding arrangements to be acquired or added to existing operations and timeline from award to full readiness (up to 2 points); and
- A description of hiring and training of personnel to be added and a timeline from initiation to full readiness (up to 2 points).

g. Quality Control Plan (up to 24 Points). Each applicant should submit a detailed Quality Control Plan (QCP) that describes internal control procedures for each of the following subfactors (1) through (7). The applicant may describe the internal control procedures of the PHA, the PHA's instrumentality, or one or more contractors with whom the PHA has contracted to provide services in each subfactor. Up to 24 points may be assigned to the QCP. Points will be assigned based on the comprehensiveness of its internal control procedures, as they relate to the ACC, to ensure the applicant's organizational expertise and capacity to ensure the steps and procedures described meet the objectives of the subfactors.

(1) Internal Control Procedures: PBTs (up to 8 points). For each PBT specified in Exhibit A, Section 3 of the ACC (and listed below for reference), describe how they will achieve Acceptable Quality Level (AQL) performance of the specified PBT in the Performance Requirements Summary (PRS) Table, Exhibit A, Section 5 of the ACC. Up to eight (8) points may be assigned. To receive the maximum points, the applicant must describe an effective plan that includes specific steps to measure and evaluate the performance of all eight (8) PBTs listed below at the specified AQL. Points will be assigned based on the comprehensiveness of the response (i.e. approach addresses all of the required components described in each subfactor) and the proposed approach to ensure performance of all required components.

The QCP for each of the PBTs will be evaluated and points assigned as follows:

- PBT #1 - Management and Occupancy (1 point or zero points).
- PBT #2 – Adjust Contract Rents (1 point or zero points).
- PBT #3 – Review and Pay Monthly Vouchers (1 point or zero points).
- PBT #4 – Renew HAP Contracts (1 point or zero points).
- PBT #5 – Tenant Health, Safety, and Maintenance Issues (1 point or zero points).
- PBT #6 – Administration – Monthly and Quarterly Reports (1 point or zero points).
- PBT #7 – Administration – Annual Reports and Certifications (1 point or zero points).
- PBT #8 – Annual Financial Reports – PHA Fiscal Year End (1 point or zero points).

(2) Internal Control Procedures: Conflicts of Interest (up to 2 points). Each applicant should describe the internal control procedures that will be implemented to ensure that the conflicts of interest stipulated in Section 10, "Conflicts of Interest," of the ACC are prevented, detected and resolved. Up to two (2) points may be assigned. Points will be assigned based on the comprehensiveness of the response (i.e. whether the approach addresses all of the required components described in each subfactor) and the proposed impact of the approach to ensure performance of all required components. See example of point allocation in Section V.A.2.e, above. See ACC for outcomes.

(3) Internal Control Procedures: Accountability (up to 2 points). Each applicant should describe the internal control procedures that will be implemented to ensure accountability and separation of duties to detect and prevent fraud, waste, and abuse of funds. Up to two (2) points may be assigned. Points will be assigned based on the comprehensiveness of the response and the proposed impact of the approach to ensure performance of all required components. See example of point allocation in Section V.A.2.e, above.

(4) Internal Control Procedures: Privacy (up to 2 points). Each applicant should identify the internal control procedures that will be implemented to prevent, detect, record, and report privacy breaches. Up to two (2) points may be assigned. Points will be assigned based on the comprehensiveness of the response and the proposed impact of the approach to ensure performance of all required components. See example of point allocation in Section V.A.2.e, above.

(5) Internal Control Procedures: Information Systems (up to 2 points). Each applicant should describe the internal control procedures for information and information system access, management, and security for HUD systems, non-HUD systems that contain program related data, and print-base program documents. Up to two (2) points may be assigned. Points will be assigned based on the comprehensiveness of the response and the proposed impact of the approach to ensure performance of all required components. See example of point allocation in Section V.A.2.e, above.

(6) Internal Control Procedures: Training (up to 2 points). Each applicant should describe how they will provide initial and continuous training and cross training of staff to perform PBTs and comply with the requirements of the ACC and HUD. Up to two (2) points may be assigned. Points will be assigned based on how clear the plan is, how staff is identified to be trained and frequency of training.

(7) Internal Control Procedures: QCP Elements 1 through 6 (up to 6 points). Each applicant should describe the internal control procedures that will be implemented to review the effectiveness of each element of the QCP and the date(s) scheduled for each QCP element review. Up to six (6) points may be assigned. To receive the maximum points, the applicant must describe a plan that includes specific steps to ensure the six (6) internal control descriptions in the QCP. Points will be assigned based on the comprehensiveness of the response and the proposed impact of the approach to ensure performance of all required components.

- PBTs (1 point or zero point);
- Conflicts of Interest (1 point or zero point);
- Accountability (1 point or zero point);
- Privacy (1 point or zero point);
- Information Systems (1 point or zero point); and
- Training (1 point or zero point).

3. Rating Factor 3: Policy Priority: Affirmatively Furthering Fair Housing (up to 1 Point).

Applicants will be awarded one (1) point for demonstrating how their application affirmatively furthers Fair Housing. Each applicant should identify specific activities, outputs and outcomes that further these policy priorities over the period of performance.

HUD is interested in funding housing and community development activities that afford residents an opportunity to live in a variety of neighborhoods and not be confined to affordable housing choices in areas of high poverty or areas that are not racially or ethnically diverse. Recognizing that housing and community development efforts must address a complex network of social and economic factors in order to promote more diverse, inclusive communities, HUD seeks to encourage applicants to undertake comprehensive and effective strategies to affirmatively further fair housing. Each applicant should describe how it will take affirmative steps to achieve the following outcome: **Address impediments to fair housing and promote fair housing rights and choice.** The applicant must describe the methods that will be used to achieve these outcomes. Examples include review of HUD-assisted projects to ensure compliance with federal civil rights and equal opportunity regulations, implement actions and procedures to affirmatively further fair housing, perform affirmative fair housing marketing, and make information available on the existence and location of housing, facilities, and services that are accessible to persons with disabilities, and maintain records of the actions, goals, and outcomes. The applicant should also present a timetable for achieving the identified outcomes.

4. Rating Factor 4: Policy Priority: Job Creation (1 Point).

Applicants will be awarded one (1) point for demonstrating how their application creates jobs and promotes economic development in the community. Each applicant should identify specific activities, outputs and outcomes that further these policy priorities over the period of performance.

Under the Job Creation/Employment policy priority, HUD seeks to fund applicants that undertake activities that sustain economic development and create jobs in low-income communities. Each applicant should describe the number and type of activities that will improve access to job opportunities in the community through information sharing, coordination with Federal, state, and local entities, and other means. To receive one policy priority point, applicants are expected to describe how they will achieve the following outcome: **Expand job creation and other economic opportunities in the community.** The applicant must describe the methods that will be used to achieve these outcomes. Examples include specifying the number of jobs created and specifying the number of other activities that expand job creation and other economic opportunities. According to the proposed methods, the applicant should identify the anticipated outputs (i.e. number of jobs created, number of activities planned) during the period of performance.

5. **Rating Factor 5: Scaled Fee Score.** Basic Administrative Fee (up to 30 Points)

In addition to technical points, applicants will receive up to 30 points for the basic administrative fee percentage proposed in the application. All proposed fees will be rounded to the nearest .01%. The proposed Basic Administrative Fee Percentage for a State is not to exceed 2.0%.

Points will be assigned as follows:

• 1.0% or below	30 points
• 1.01-1.1%	28 points
• 1.11-1.2%	25 points
• 1.21-1.3%	22 points
• 1.31-1.4%	19 points
• 1.41-1.5%	16 points
• 1.51-1.6%	13 points
• 1.61-1.7%	10 points
• 1.71-1.8%	7 points
• 1.81-1.9%	4 points
• 1.91-2.0%	1 point

The proposed fee points are added to the technical points to obtain the total score. The application with the highest total score in the state will be awarded the ACC.

In circumstances where the highest total scores for a state are equal, the applicants with tied scores will have a tie-breaker based on highest point score for Rating Factor 5. If there is still a tie, HUD will select the applicant with the highest point score for Rating Factor 1.

B. Certifications. By signing the electronic application on Grants.gov, the applicant certifies that the Disaster Plan will be complete and correct before awards are made. The applicant is also certifying that all the statements and information contained in the application is true and correct and upon which HUD can rely.

C. Reviews and Selection Process.

a. Application Screening. Applicants requesting funds will be screened for completeness. Applications from ineligible entities will not be reviewed. Applicants that do not include the Reasoned Legal Opinion in their application will not be reviewed. If an applicant proposes an administrative fee over 2%, the application will not be reviewed. Applications that do not meet the timely receipt requirements or provide file formats that do not meet HUD requirements as specified in the FY2012 **General Section** cannot be read by HUD and therefore will not be reviewed.

b. Technical Evaluation Panel. Applications that pass the initial screening review will be forwarded to the Technical Evaluation Panel (TEP). The TEP is composed of teams of Multifamily Housing staff who will review and evaluate the applications forwarded to them. HUD will conduct the substantive review of the application in accordance with the rating criteria described in this NOFA. As part of the review process, HUD may contact the applicant by telephone, email, or mail for the sole purpose of clarifying or confirming application

information, but not to improve the substance of the application. Detailed rules regarding corrections to deficient applications appear in Section V. B. 4. below. If contacted for clarifying or confirming information, the applicant must respond within the time parameters as provided in Section V. B. 4. Rating factors and subfactors are not curable deficiencies.

Each application will be evaluated and scored on its own merit by a TEP Team.

c. Corrections to Deficient Applications. After the application deadline, and in accordance with the electronic submission grace period, HUD may not, consistent with its regulations in 24 CFR part 4, subpart B, consider any unsolicited information provided by an applicant. After HUD receives an application, HUD may contact an applicant to clarify an item in its application or to correct curable (correctable) technical deficiencies. HUD may not seek clarification of items or responses that improve the substantive quality of an applicant's response to any rating factors or which correct deficiencies which are in whole or part of a rating factor. In order not to unreasonably exclude applications from being rated and ranked, HUD may contact applicants to ensure proper completion of the application, and will do so on a uniform basis for all applicants.

Curable (correctable) technical deficiencies are limited to: inconsistencies in the funding request, failure to submit certifications or statements that are not threshold requirements and do not impact the score of an applicant, and failure to submit an application that contains a signature by an official able to make a legally binding commitment on behalf of the applicant (e.g. Disaster Plan or FTE Chart). In the case of an applicant that received a waiver of the regulatory requirement to submit an electronic application, the technical deficiency may include failure to submit an application that contains an original signature. If HUD finds a curable deficiency in the application, HUD will notify the applicant by electronic mail describing the clarification or technical deficiency. Clarifications or corrections of technical deficiencies in accordance with the information provided by HUD must be received by HUD within 14 calendar days of the date of receipt of the HUD notification and be sent by electronic mail to the address provided in the notice. (If the deadline date falls on a Saturday, Sunday, or Federal holiday, then the applicant's correction must be received by HUD on the next day that is not a Saturday, Sunday, or Federal holiday).

In the case of electronic submissions to Grants.gov, any clarifications or cure items must be submitted electronically using the facsimile telephone number 800-HUD-1010 and form HUD96011, Facsimile Transmittal, contained in the last application package submitted to HUD. The additional information provided by facsimile will be matched to the electronic application in HUD's files. When submitting technical deficiency cure items, please place the following information in the box labeled "Name of Document Submitting" on form HUD96011: Technical Cure plus the name of the document. If the name of the document is long and you need space to fit the document name, simply label the Technical Cure as TC followed by the document name. When submitting a facsimile, applicants must follow the facsimile requirements found elsewhere in this notice. If the deficiency is not corrected within the above time frame, HUD will reject the application as incomplete, and it will not be considered for funding.

For paper applications the applicant must be registered in CCR with an active registration on the deadline date and have a DUNS number. An application with the wrong DUNS number entered in the SF424 will be treated as a technical deficiency and the applicant will be permitted to

provide a corrected SF424 to the location indicated in the waiver approval within the specified cure period and in accordance with the notification of the need to cure the application. Failure to correct the deficiency and meet the requirement to have a DUNS number and active registration in the CCR will render the application ineligible for funding. All applicants are advised to check and maintain their DUNS numbers and CCR registrations with the posting of this NOFA so any updates or changes are completed well in advance of application deadline dates.

d. Ranking and Selection.

(1) Threshold Requirements. Applicants that do not meet the threshold requirements of the **General Section** or this NOFA will not receive an award of funds from HUD regardless of score or ranking.

(2) Minimum Score. HUD will make awards to applicants meeting the threshold and minimum score requirements.

(3) HUD reserves the right to not fund an application if information comes to the attention of HUD that adversely affects an applicant's eligibility or integrity in managing an award, adversely affects HUD's evaluation or scoring of an application, or indicates evidence of fraud or mismanagement on the part of an applicant.

(4) HUD will rank applications in order by score and select the highest rated application by State. If there are multiple applications covering a state, HUD will select the highest rated application for that State and then skip all others within that State. If there is a tie score for a given State, HUD will use the tie breaker methodology identified in this NOFA.

(5) Limitations on Award Amounts. HUD reserves the right to reduce or adjust the funding amount based upon:

- (a)** The reasonableness of the overall program relative to the number of units covered;
- (b)** The level of funds available for award under the program; and
- (c)** Workload reduction.

(6) If there are funds remaining that are less than the requested level of an applicant deemed eligible for funding, HUD may offer the remaining funds to the applicant at a reduced funding amount. If an applicant turns down an award offer, HUD will make an offer of funding to the next highest-ranking eligible application.

VI. AWARD ADMINISTRATION.

A. Selection and Notification. HUD will notify all applicants as to the outcome of the selection process. If an applicant is selected, HUD's notice concerning the amount of the award (based on the approved application) will constitute HUD's selection, subject to execution of the award documents by HUD. Successful PBCA Program applicants will be notified of the selection and will receive instructions for proceeding. The selection does not become final until the cooperative agreement and other award documents are signed and executed.

B. LOCCS Access. Applicants must be eligible to acquire rights and access under HUD's Electronic Line of Credit Control System (eLOCCS). The award notice will provide directions for obtaining LOCCS access.

C. Debriefing. For a period of 120 days, beginning not more than 30 days after the final awards for assistance are publicly announced, HUD will provide a debriefing to a requesting unsuccessful applicant related to that application. A debriefing request must be made in writing or by email by the applicant's authorized official whose signature appears on the SF424, or by his or her successor in the office and submitted to Kerry.E.Hickman@hud.gov or to:

Mr. Kerry E. Hickman, Acting Director
Office of Housing Assistance and Contract Administration Oversight
Multifamily Housing Programs
U.S. Department of Housing and Urban Development
451 Seventh Street SW, Room 6151
Washington, DC 20410

Information provided during a debriefing will include, at a minimum, the final score received for each rating factor, final evaluation comments for each rating factor, and the final assessment indicating the basis upon which the award was provided or denied.

D. Administrative and National Policy Requirements. In addition to the requirements listed below, please review all requirements in the **General Section**.

E. Reporting Requirements.

1. Monthly and Quarterly Reporting Requirements. All Awardees must report to HUD monthly and quarterly as specified under PBT #6, Exhibit A of the ACC.

2. Annual Reporting Requirement. All awardees must report to HUD annually as specified under PBT #7 and PBT #8, Exhibit A of the ACC.

3. General Requirements. Generally Federal funds maintain their Federal character with regard to program eligible uses in perpetuity, and continue to remain subject to all annual reporting requirements. Specifically, after the close of the award period, Awardees with funds remaining in financing programs will prospectively be required to report basic information on the Program on an annual basis until the funds are either: (1) rolled into another eligible activity; or (2) fully disbursed through default. HUD reserves the right to require the grantee to report on real property managed by the applicant during the award period and for uses in perpetuity.

4. Racial and Ethnic Data. If you are collecting client-level data, HUD requires that funded recipients collect racial and ethnic beneficiary data. HUD has adopted the Office of Management and Budget's Standards for the Collection of Racial and Ethnic Data. In view of these requirements, the applicant should use HUD27061, Racial and Ethnic Data Reporting Form found on www.hudclips.org or a comparable electronic data system for this purpose.

5. Transparency Act Reporting. Recipient Reporting is required under the Federal Financial Assistance Accountability and Transparency Act of 2006, as amended.

a. Prime Awardee Reporting. Prime recipients of HUD financial assistance are required to report sub-awards made either as pass-through awards, sub-recipient awards, or vendor awards in the Federal government-wide website www.fsrs.gov or its successor system. Starting with awards made October 1, 2010, prime financial assistance awardees receiving funds directly from

HUD are required to report sub-awards and executive compensation information both for the prime award and sub-awards, including awards made as pass-through awards or awards to vendors, where the initial award is \$25,000 or greater or the cumulative award will be \$25,000 or greater if funding incrementally as directed by HUD in accordance with OMB guidance.

The reporting of award and sub-award information is in accordance with the requirements of Federal Financial Assistance Accountability and Transparency Act of 2006, as amended by section 6202 of Public Law 110-252, hereafter referred to as the “Transparency Act” and OMB Guidance issued to the Federal agencies on September 14, 2010 (75 FR 55669) and in OMB Policy guidance. The prime awardee will have until the end of the month plus one additional month after a sub-award or pass-through award is obligated to fulfill the reporting requirement.

The Transparency Act requires the creation of a public government-wide website in which the following sub-award data will be displayed:

- (1) Name of entity receiving award;
- (2) Amount of award;
- (3) Funding agency;
- (4) North American Industry Classification System (NAICS) code for contracts/CFDA program for financial assistance awards;
- (5) Program source;
- (6) Award title descriptive of the purpose of the funding action;
- (7) Location of the entity (including Congressional district);
- (8) Place of Performance (including Congressional district);
- (9) Unique identifier of the entity and its parent; and
- (10) Total compensation and names of top five executives.

For the purposes of reporting into the Federal Funding Accountability and Transparency Act (FFATA) Sub-award Reporting System (FSRS) reporting site, the unique identifier is the DUNS number the entity has obtained from Dun and Bradstreet, and for Prime awardees the DUNS number registered in the Central Contractor Registration as required by HUD regulation 24 CFR 5.1004.

b. Prime Awardee Executive Compensation Reporting. Prime awardees must also report in the government-wide website the total compensation and names of the top five executives in the prime awardee organization if:

- (1) More than 80 percent of the annual gross revenues are from the Federal government, and those revenues are greater than \$25 million annually; and
- (2) Compensation information is not readily available through reporting to the Securities and Exchange Commission (SEC).

c. Sub-award Executive Compensation Reporting. Prime awardees must also report in the government-wide website the total compensation and names of the top five executives in the sub-awardees, pass-through or vendor organization if:

- (1) More than 80 percent of the annual gross revenues are from the Federal government, and those revenues are greater than \$25 million annually; and

(2) Compensation information is not readily available through reporting to the SEC.

d. Transparency Act Reporting Exemptions. The Transparency Act exempts any sub-awards less than \$25,000 made to individuals and any sub-awards less than \$25,000 made to an entity with annual expenditures less than \$300,000. Sub-awards with a cumulative total of \$25,000 or greater are subject to sub-award reporting beginning the date the sub-award total award amount reaches \$25,000. Any other exemptions to the requirements must be approved by the Office of Management and Budget.

6. Compliance with Section 872 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417), hereafter referred to as “Section 872”. Section 872 requires the establishment of a government-wide data system – the Federal Awardee Performance and Integrity Information System (FAPIIS) - to contain information related to the integrity and performance of entities awarded Federal financial assistance and making use of the information by Federal officials in making awards. OMB is in the process of issuing regulations regarding Federal agency implementation of Section 872 requirements. A technical correction to this **General Section** may be issued when such regulations are promulgated.

HUD anticipates that the terms and conditions to its FY2012 awards will contain requirements related to meeting FFATA and Section 872 requirements.

F. Funding Restrictions.

1. Pre-award Costs. Awards under this NOFA are not allowed for reimbursement of pre-award costs (i.e., applicants may not use funding received under this NOFA for the cost of preparing their application).

2. Rescission of Award or Termination of ACC Based on False Certification. If, at any time after making an award to or executing an ACC with an applicant, HUD determines that any material representation in the RLO or any SL is false, such determination shall constitute a basis for HUD to rescind the award or terminate the ACC.

VII. AGENCY CONTACTS.

Further Information and Technical Assistance. Before the application deadline date, HUD staff may provide general guidance and technical assistance about this NOFA. However, staff is not permitted to assist in preparing the application. Also, following selection of applicants, but before awards are announced, staff may assist in clarifying or confirming information that is a prerequisite to the offer of an award. An applicant may contact Mr. Kerry E. Hickman, Acting Director, Office of Housing Assistance and Contract Administration Oversight, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6151, Washington, DC 20410, by email to Kerry.E.Hickman@hud.gov or telephone 202-402- 3885 (this is not a toll-free number). This number can be accessed via TTY by calling the toll-free Federal Relay Service Operator at 800-877-8339.

For technical support for downloading an application or electronically submitting an application, please call Grants.gov help desk at 800-518-GRANTS (this is a toll-free number) or send an email to www.support@Grants.gov.

VIII. OTHER INFORMATION

A. Paperwork Reduction Act Statement. If it is determined that the Paperwork Reduction Act of 1995 (44 U.S.C. §§ 3501-3520) is applicable to the information collection requirements in this Notice, using OMB control numbers 2577-0157, 2502-0582, 2502-0587, 2577-0169, 2577-0229, 2510-0011, 2577-0259, 2502-0542, 2535-0116, and 2577-0270. In accordance with the Paperwork Reduction Act, HUD may not consider or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid OMB control number. HUD expects to hold an information webcast via satellite for potential applicants to learn more about the Program and preparation of an application. For more information about the date and time of this webcast, consult the HUD website at www.hud.gov.

B. Environmental Impact. This NOFA does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 C.F.R. 50.19(c)(1), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 USC 4321).

Dated: FEB 29 2012



Carol J. Galante,
Acting Assistant Secretary for Housing – Federal Housing
Commissioner

[FR-5600- N-33]

Appendix A. List of Available States for Applications by PHAs for PBCAs

1. Alabama
2. Alaska
3. Arizona
4. Arkansas
5. California
6. Colorado
7. Connecticut
8. Delaware
9. Florida
10. Georgia
11. Hawaii
12. Idaho
13. Illinois
14. Indiana
15. Kansas
16. Kentucky
17. Louisiana
18. Maryland
19. Massachusetts
20. Michigan
21. Mississippi
22. Missouri
23. Nebraska
24. Nevada
25. New Jersey
26. New Mexico
27. New York
28. North Carolina
29. Ohio
30. Oklahoma
31. Oregon
32. Pennsylvania
33. Rhode Island
34. South Carolina
35. Tennessee
36. Texas
37. Utah
38. Virginia
39. Washington
40. West Virginia
41. Wisconsin
42. The District of Columbia

Appendix B. FTE Chart Found in the Instructinos Download

Appendix C. Performance-Based Annual Contributions Contract (ACC) found in the Instructions Download