

ACTION: General Notice.

SUMMARY: This document provides notice to customs brokers that the annual fee of \$138 that is assessed for each permit held by a broker, whether it may be an individual, partnership, association, or corporation, is due by January 23, 2009. Customs and Border Protection (CBP) announces this date of payment for 2009 in accordance with the Tax Reform Act of 1986.

DATES: Payment of the 2009 Customs Broker User Fee is due January 23, 2009.

FOR FURTHER INFORMATION CONTACT: Bruce Raine, Broker Compliance Branch, Trade Policy and Programs, (202) 863-6544.

SUPPLEMENTARY INFORMATION:

Background

CBP Dec. 07-01 amended § 111.96 of title 19 of the Code of Federal Regulations (19 CFR 111.96) pursuant to the amendment of section 13031 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (19 U.S.C. 58c) by section 892 of the American Jobs Creation Act of 2004, to establish that effective April 1, 2007, an annual user fee of \$138 is to be assessed for each customs broker permit and national permit held by an individual, partnership, association, or corporation.

The Customs and Border Protection (CBP) regulations provide that this fee is payable for each calendar year in each broker district where the broker was issued a permit to do business by the due date which is published in the **Federal Register** annually. See 19 CFR 24.22(h) and (i)(9). Broker districts are defined in the General Notice entitled "Geographical Boundaries of Customs Brokerage, Cartage and Lighterage Districts" published in the **Federal Register** on September 27, 1995 (60 FR 49971).

Section 1893 of the Tax Reform Act of 1986 (Pub. L. 99-514) provides that notices of the date on which the payment is due for each broker permit shall be published by the Secretary of the Treasury in the **Federal Register** by no later than 60 days before such due date. Please note that section 403 of the Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.* (Pub. L. 107-296), and Treasury Department Order No. 100-16 (see Appendix to 19 CFR Part 0) delegated general authority vested in the Secretary of the Treasury over customs revenue functions (with certain specified exceptions) to the Secretary of Homeland Security.

This document notifies customs brokers that for calendar year 2009, the due date for payment of the user fee is

January 23, 2009. It is anticipated that for subsequent years, the annual user fee for customs brokers will be due on or about the twentieth of January of each year.

Dated: November 18, 2008.

Daniel Baldwin,

Assistant Commissioner, Office of International Trade.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5262-N-01]

Emergency Capital Repair Grants for Multifamily Housing Projects Designated for Occupancy by the Elderly: Notice of Funding Availability

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

ACTION: Notice.

SUMMARY: This notice announces the availability of approximately \$9.5 million in grant funds to make emergency capital repairs to eligible multifamily projects owned by private nonprofit entities that are designated for occupancy by elderly tenants. The capital repair needs must relate to items that present an immediate threat to the health, safety, and quality of life of the tenants. The intent of these grants is to provide one-time assistance for emergency items that could not be absorbed within the project's operating budget and other project resources, and where the tenants' continued occupancy in the immediate near future would be jeopardized by a delay in initiating the proposed cure. The notice provides instructions for owners of multifamily projects to request funding and instructions for the HUD field offices to process requests.

FOR FURTHER INFORMATION CONTACT: G. DeWayne Kimbrough, Director, Grant and Housing Assistance Field Support Division, Office of Multifamily Housing, Room 6146, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708-3000 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

Overview Information

A. Federal Agency Name: Department of Housing and Urban Development, Office of the Assistant Secretary for

Housing-Federal Housing Commissioner.

B. Funding Opportunity Title: The Emergency Capital Repair Grants (ECRP) for Multifamily Housing Projects Designated for Occupancy by the Elderly.

C. Announcement: Type: Initial announcement.

D. Funding Opportunity Number: FR-5262-N-01; the OMB Approval Number is 2502-0542.

E. Catalog of Federal Domestic Assistance (CFDA) Number: 14.315; Emergency Capital Repair Grants for Multifamily Housing Projects Designated for Occupancy by the Elderly.

F. Dates: HUD will accept applications on a first-come, first-serve basis and will award emergency capital repair grants until available amounts are obligated or funds expire, whichever comes first.

G. Additional Overview Information:

1. Program Description. The purpose of this program is to provide grants to make emergency capital repairs to eligible multifamily projects owned by private nonprofit entities that are designated for occupancy by elderly tenants. Private nonprofit owners of eligible developments interested in applying for funding under this grant program should carefully review the detailed information listed in this NOFA. Funding will only be provided for those eligible emergency items.

2. Required Electronic Application Submission via Grants.gov. Applications must be submitted electronically via the Federal portal, <http://www.Grants.gov>, unless a waiver has been granted. Applications may be submitted to Grants.gov starting 15 days after the publication of this Notice. This time frame allows applicants to complete the Grants.gov registration process before applications are accepted by HUD. Applications received prior to the fifteen day period will not be accepted for review and processing. Applicants not familiar with Grants.gov are instructed to see the General Section of the SuperNOFA published on March 19, 2008 (72 FR 14882) (General Section), and the FY2008 SuperNOFA published on May 12, 2008 (72 FR 27032) (SuperNOFA), for further information about application, submission, and timely receipt requirements. Applicants should carefully read HUD's **Federal Register** Notice on Early Registration published on March 10, 2008 (73 FR 12751) (Early Registration Notice), and start the Grants.gov registration process immediately upon publication of this NOFA. Applicants should take

particular note of the Grants.gov registration and application submission and validation procedures. Validation can take up to 48 hours to process. A copy of the General Section is available in the instructions download to the application posted to Grants.gov. HUD also has online training archived on HUD's Web cast page at <http://www.hud.gov/webcasts/archives/supernofa08.cfm>. Scroll down until you come to the broadcast labeled "SuperNOFA" Adobe Forms Update, March 26, 2008. The broadcast is available with or without closed captioning.

Please note that HUD strongly encourages potential applicants to this program, even if not facing an immediate need for program funds, to complete the Grants.gov registration process following release of this NOFA, so that you are fully prepared to submit an application for funding should the need arise.

Full Text of Announcement

I. Funding Opportunity Description

A. Program Description. HUD provides grant funds to make emergency capital repairs to eligible multifamily projects owned by private nonprofit entities that are designated for occupancy by elderly tenants. The capital repair needs must relate to items that present an immediate threat to the health, safety, and quality of life of the tenants. The intent of these grants is to provide one-time assistance for emergency items that cannot be absorbed within the project's operating budget and other project resources, and where the tenants' continued occupancy in the immediate near future is jeopardized by a delay in initiating the proposed cure.

B. Authority. The Emergency Capital Repair Grant Program is authorized by Section 202b of the Housing Act of 1959 (12 U.S.C. 1701q-2) and the Consolidated Appropriations Act, 2008 (Pub. L. 110-161), which provides up to \$24,750,000 for the conversion of eligible projects to assisted-living or related use and for emergency repairs.

C. Definition. For purposes of this NOFA, "emergency capital repairs" are repairs at a project to correct a situation that presents an immediate threat to the life, health and safety of project tenants. Assistance is limited to those projects with emergency problems that are of such a magnitude that:

1. The problem poses an immediate threat to the quality of life of the elderly tenants; and
2. The problem would, if left untreated, result in an evacuation of the

elderly tenants or long-term tenant displacement unless the repairs are made.

II. Award Information

A. Available Funds. This NOFA makes available approximately \$9.5 million including carryover funds. The funds will be used to make emergency capital repairs for eligible multifamily assisted housing projects for the elderly located within the 18 HUD Multifamily Hubs.

B. Amount of Funding Per Award. The maximum amount an individual project owner may apply for is \$500,000. (The grant, along with funds from other sources, must remove the emergency conditions.) HUD retains the right to adjust the amount of the grant up (to a maximum grant of \$500,000) or down, based on review of the reasonableness of the costs for completing the repairs.

C. Type of Assistance Instrument. The type of assistance awarded will be a grant.

D. Submission Information. Applications are to be received via grants.gov, the federal portal for applying for competitive funding applications, unless a waiver to the electronic application submission requirement is granted. To apply via grants.gov applicants must follow the grants.gov registration process which requires having a DUNS number, registering in the Central Contractor Registration (CCR), obtaining electronic signature credential from a credential provider, registering the user ID and password obtained from the credential provider at grants.gov, and then having the applicant organization eBusiness Point of Contact noted on the CCR, authorize the applicant to submit the application on behalf of the organization. A step-by-step instruction to the registration process is found in the General Section on page 14889 (FR 73 14889). A step by step guide to registration is available in HUD's 2008 Early Registration Notice and available on HUD's Web site at <http://www.hud.gov/utilities/intercept.cfm?offices/adm/grants/nofa08/08earlyreg.pdf>.

E. Anticipated Start Dates and Periods of Performance. Applications will be funded on a first come, first serve basis. HUD will start accepting applications for funding starting 15 days following publication of this Notice. This time frame allows all applicants to complete the registration process. Applications submitted and received by HUD prior to the 15 day registration period will not be evaluated. Applicants can track the status of their applications by logging

into grants.gov as an applicant using their User ID and password. Following the registration period, funds will be awarded on a first come, first serve basis until all allocated funding is obligated or funds expire, whichever comes first. All grant requests will be funded based on the date and time of validation by grants.gov. See the General Section for specific instructions regarding application submission, the grants.gov validation process and e-mail notifications, use of Adobe forms, and types of files that can be attached and reviewed by HUD.

F. The program operates as a performance based program with the period of performance based on the scope of work, but shall not exceed 12 months.

III. Eligibility Information

A. Eligible Applicants. Eligibility for emergency capital repair grants under this notice is restricted to: Private nonprofit owners of eligible multifamily assisted housing developments designated for occupancy by elderly tenants, as specified in sections 683(2)(B), (C), (D), (E), (F), or (G) of the Housing and Community Development act of 1992 (Pub. L. 102-550, approved October 28, 1992). Unless a project is located in a presidentially declared disaster area, it must have had final closing on or before January 1, 1999. The eligible projects are:

1. Section 202 direct loan projects with or without Section 8 rental assistance;
2. Section 202 capital advance projects receiving rental assistance under their Project Rental Assistance Contract (PRAC);
3. Section 515 rural housing projects receiving Section 8 rental assistance;
4. Projects subsidized with Section 221(d)(3) below-market interest mortgage;
5. Projects assisted under Section 236 of the National Housing Act; and
6. Other projects receiving Section 8 project-based rental assistance.

B. Eligible Uses of Funds. Grant funds are available only for emergency capital repairs that relate to immediate health/safety needs that impact upon the quality of life of the elderly tenants if the repairs are not made. The repair item must have existed prior to submission of the application in order to obtain grant funds. The award is a one-time opportunity for correction of the threat to the elderly tenants. Funds may be used to repair or replace systems including, but not limited to:

1. Existing major building and structural components that are in critical condition; and

2. Repairs or replacements to existing mechanical equipment to the extent that they are necessary for health and safety reasons. The purchase of high efficiency heating and cooling systems (Energy Star) for the approved replacement equipment is encouraged to promote energy conservation.

C. Ineligible Uses of Funds.

Emergency capital repair grant funds may not be used for the following repairs:

1. Deferred maintenance items.
2. Lead-based paint abatement.
3. Demolition and reconstruction activities, e.g., conversion of bedroom units.
4. Security systems.
5. Improvements, i.e., installation of sprinkler systems, air conditioning, additional lighting in parking lots, new backup generators or new elevators, etc.
6. Clearing of mold or mildew unless it is related to a repair of an existing emergency item that poses an immediate threat to the residents.
7. Consultant fees.

D. Cost Sharing or Matching. No cost sharing or match is required.

E. Threshold Requirements.

1. Be an eligible applicant and meet all requirements in this NOFA.
2. You cannot request more than \$500,000 in grant funding.
3. Requests signed and submitted by a consultant or management agent on behalf of the owner will not be considered for funding.
4. The final closing for projects funded under this grant must be on or before January 1, 1999, except for those in presidentially declared disaster areas.
5. The project owner's most recent management review rating must be "satisfactory" or above.
6. The project owner must be in compliance with its Loan Agreement, Capital Advance Agreement, Regulatory Agreement, Housing Assistance Payment contract, Project Rental Assistance contract, Rent Supplement or Loan Management Set Aside (LMSA) contract, or any other HUD grant or contract document.
7. The request for funding must clearly identify the existing emergency and must contain a detailed justification in support of the emergency designation.
8. The repair and/or replacement items are to be written in a manner that specifically describes the scope of work to be performed, provides an estimate of the cost of the work to be performed, and provides an explanation of the basis for the estimate. The estimate provided for the cost of each action item must be reasonable and current (within 6 months of the application submission).

9. The owner must describe all previous grants or loans received by the project during the past three years and any unsuccessful efforts to find other sources of funding.

10. The current Real Estate Assessment Center (REAC) physical inspection report for the project must have a score of 60 or above. Developments scoring less than 60 are ineligible.

11. If the project is a section 236, the owner must be in compliance with the Excess Income requirements.

12. Tenants must be notified of the request for the grant and must be informed of the overall plan and timetable to complete the capital repairs.

13. The project is well maintained except for the current emergency capital repair needs.

14. The project does not have a recent history of mortgage defaults.

15. The project owner does not have any material-adverse financial or managerial actions or omissions with regard to any project that is federally assisted or financed with a loan or capital advance from, or mortgage insured by, an agency of the federal government.

16. The owner's Affirmative Fair Housing Marketing Plan (AFHMP) must meet all applicable HUD requirements. A copy of the approved AFHMP that is less than five years old should be attached with the request for funding. If the owner does not have an approved AFHMP the application will be considered incomplete and thus ineligible.

17. The project owner must demonstrate that: (i) the project accounts have been maintained in accordance with all HUD requirements; and (ii) there are insufficient funds in the operating budget and other project resources.

18. The owner must be current with filing of the audited financial statements and all findings, if any, resolved within 30 days.

19. HUD will not fund incomplete applications. If an application is missing mandatory exhibits the application will be considered non-responsive to the NOFA, thus leaving your application ineligible for review. If an application needs revisions to meet requirements, the application shall be deemed incomplete and therefore ineligible for funding. Applicants notified of incomplete or nonresponsive applications must resubmit the application. Resubmissions shall be placed in the funding queue based upon the validation date and time for receipt of the resubmission for electronic

applications or by HUD in the case of applicants granted a waiver to the electronic application requirement. Please refer to section IV.B., Content and Form of Application Submission for further information.

20. *DUNS Requirement.* All ECRP applicants must have a Dun and Bradstreet Universal Data Numbering Systems (DUNS) number. The DUNS number must be included in the data entry field labeled "organizational DUNS" on the form SF-424. Instructions for obtaining a DUNS number can be found at either <http://www.hud.gov/offices/adm/grants/duns.cfm> or http://www.grants.gov/applicants/request_duns_number.jsp. When registering with Dun and Bradstreet, please be sure to use the organization's legal name that is used when filing a return with or making payments to the Internal Revenue Service. Organizations should also provide the zip code using the zip code plus the four additional digits.

21. *Compliance With Fair Housing and Civil Rights Laws.*

a. With the exception of federally recognized Indian tribes and their instrumentalities, applicants must comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a). If you are a federally recognized Indian tribe, you must comply with the nondiscrimination provisions enumerated at 24 CFR 1000.12, as applicable. In addition to these requirements, there may be program-specific threshold requirements identified in the individual program NOFAs.

b. If you, the applicant:

- (1) Have been charged with an ongoing systemic violation of the Fair Housing Act; or
- (2) Are a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or
- (3) Have received a letter of findings identifying ongoing systemic noncompliance under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act of 1974, and the charge, lawsuit, or letter of findings referenced in subparagraphs (1), (2), or (3) above has not been resolved to HUD's satisfaction before the application deadline, then you are ineligible and HUD will not rate and rank your application. HUD will determine if actions to resolve the charge, lawsuit, or letter of findings taken before the application deadline are sufficient to resolve the matter.

Examples of actions that would normally be considered sufficient to resolve the matter include, but are not limited to:

(a) A voluntary compliance agreement signed by all parties in response to a letter of findings;

(b) A HUD-approved conciliation agreement signed by all parties;

(c) A consent order or consent decree; or

(d) An issuance of a judicial ruling or a HUD Administrative Law Judge's decision.

22. Conducting Business in Accordance With Core Values and Ethical Standards/Code of Conduct. Applicants subject to 24 CFR parts 84 or 85 (most nonprofit organizations and State, local, and tribal governments or government agencies or instrumentalities that receive Federal awards of financial assistance) are required to develop and maintain a written code of conduct (see 24 CFR 84.42 and 85.36(b)(3)). Consistent with regulations governing specific programs, your code of conduct must prohibit real and apparent conflicts of interest that may arise among officers, employees, or agents; prohibit the solicitation and acceptance of gifts or gratuities by your officers, employees, or agents for their personal benefit in excess of minimal value; and outline administrative and disciplinary actions available to remedy violations of such standards. Before entering into an agreement with HUD, an applicant awarded assistance under a HUD program NOFA announced in FY2008 will be required to submit a copy of its code of conduct and describe the methods it will use to ensure that all officers, employees, and agents of its organization are aware of its code of conduct. An applicant is prohibited from receiving an award of funds from HUD if it fails to meet this requirement for a code of conduct. An applicant who previously submitted an application and included a copy of its code of conduct will not be required to submit another copy if the applicant is listed on HUD's Web site <http://www.hud.gov/offices/adm/grants/codeofconduct/cconduct.cfm>, and if the information has not been revised. An applicant not listed on the Web site must submit a copy of its code of conduct with its FY2008 application for assistance. An applicant must also include a copy of its code of conduct if the information listed on the above Web site has changed (e.g., the person who submitted the previous application is no longer your authorized organization representative, the organization has changed its legal name or merged with another organization, or the address of the organization has

changed, etc.). Any applicant that needs to may submit its code of conduct to HUD via facsimile using the form HUD-96011, "Facsimile Transmittal" ("Third Party Documentation Facsimile Transmittal" on Grants.gov) at the time of application submission. When using the facsimile transmittal form, please type the requested information. Use the form HUD-96011 as the cover page for the submission and include the following header in the top line of the form under *Name of Document Being Requested*: "Code of Conduct for (insert your organization's name, city, and State)." Fax the information to HUD's toll-free number at 800-894-4047. If you cannot access the 800 number or have problems, you may use 215-825-8796 (this is not a toll-free number).

23. Judgment Liens for Federal Debts. Applicants with a judgment lien against the applicant's property for a debt to the United States are not eligible to receive this grant unless the judgment is paid in full, otherwise satisfied or HUD has allowed the waiver of the judgment lien disqualification. See, 28 U.S.C. section 3201(e).

24. Delinquent Federal Debts. Although the existence of delinquent federal debts will not disqualify an applicant, the Department considers the existence of such delinquency a significant negative factor when assessing an application. HUD encourages applicants to resolve delinquent federal debts prior to application.

25. Name Check Review. Applicants are subject to a name check review process. Name checks are intended to reveal matters that significantly reflect on the applicant's management and financial integrity, including if any key individual has been convicted or is presently facing criminal charges. If the name check reveals significant adverse findings that reflect on the business integrity or responsibility of the applicant or any key individual, HUD reserves the right to: (1) Deny funding or consider suspension or termination of an award immediately for cause, (2) require the removal of any key individual from association with management or implementation of the award, and (3) make appropriate provisions or revisions with respect to the method of payment or financial reporting requirements.

26. False Statements. A false statement in an application is grounds for denial or termination of an award and possible criminal, civil or administrative sanctions.

27. Prohibition Against Lobbying Activities. 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 LLL (SF-LLL), "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. Applicants must submit the SF-LLL if they have used or intend to use federal funds for lobbying activities.

28. Debarment and Suspension. In accordance with Departmental regulations, debarred or suspended parties, or parties proposed for debarment under the Federal Acquisition Regulations, are not eligible to participate in this grant program. For further information see 2 CFR Parts 180 and 2424 as well as 48 CFR Parts 9 and 2409.

F. Other Requirements.

1. Economic Opportunities for Low- and Very Low-Income Persons (Section 3). Section 3 of the Housing and Urban Development Act of 1986 (Section 3), 12 U.S.C. 1701u (Economic Opportunities for Low- and Very Low-Income Persons in Connection With Assisted Projects), and the HUD regulations at 24 CFR Part 135 apply to HUD-funded Housing Projects in excess of \$200,000 involving housing rehabilitation or housing construction activities. Accordingly, if the applicant's expenditure of section 3 covered financial assistance for housing rehabilitation or construction will result in new hiring or contracting opportunities, said opportunities shall be directed to low- and very low-income persons within the local community and/or the businesses that employ these individuals. Recipients of section 3 covered financial assistance are required to comply with the responsibilities at 24 CFR Part 135.32, to the greatest extent feasible. In addition, recipients are required to submit the section 3 Summary Report, annually to the Office of Fair Housing and Equal Opportunity

in Washington, DC, in accordance with 24 CFR Part 135.90. Section 3 annual reports are to be submitted on form HUD-60002—Section 3 Summary Report or via HUD's online system at <http://www.hud.gov/offices/fheo/section3/section3.cfm>.

2. *Additional Nondiscrimination and Other Requirements.* Applicants and their sub recipients must comply with Civil Rights Laws and Affirmatively Furthering Fair Housing. For further information refer to section III.C.4a. and b. of the General Section of the SuperNOFA.

3. *Participation in HUD-Sponsored Program Evaluation.* As a condition of the receipt of financial assistance under a HUD program NOFA, all successful applicants will be required to cooperate with all HUD staff or contractors who perform HUD-funded research or evaluation studies.

4. *Drug-Free Workplace.* Applicants awarded funds from HUD are required to provide a drug-free workplace. Compliance with this requirement means that the applicant will: a. Publish a statement notifying employees that it is unlawful to manufacture, distribute, dispense, possess, or use a controlled substance in the applicant's workplace and that such activities are prohibited. The statement must specify the actions that will be taken against employees for violation of this prohibition. The statement must also notify employees that, as a condition of employment under the federal award, they are required to abide by the terms of the statement and that each employee must agree to notify the employer in writing of any violation of a criminal drug statute occurring in the workplace no later than 5 calendar days after such violation;

b. Establish an ongoing drug-free awareness program to inform employees about:

- (1) The dangers of drug abuse in the workplace;
- (2) The applicant's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, or employee maintenance programs; and
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

c. Notify the federal agency in writing within 10 calendar days after receiving notice from an employee of a drug abuse conviction or otherwise receiving actual notice of a drug abuse conviction. The notification must be provided in writing to HUD's Office of Departmental Grants Management and Oversight, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 3156,

Washington DC 20410-3000, along with the following information:

- (1) The program title and award number for each HUD award covered;
- (2) The HUD staff contact name, telephone, and fax numbers; and
- (3) A grantee contact name, telephone, and fax numbers; and
- d. Require that each employee engaged in the performance of the federally funded award be given a copy of the drug-free workplace statement required in item (a) above and notify the employee that one of the following actions will be taken against the employee within 30 calendar days of receiving notice of any drug abuse conviction:

(1) Institution of a personnel action against the employee, up to and including termination consistent with requirements of the Rehabilitation Act of 1973, as amended; or

(2) Imposition of a requirement that the employee participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

5. *Compliance with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282) (Transparency Act).* Applicants receiving an award from HUD should be aware of the requirements of the Transparency Act. The Transparency Act requires the establishment of a central website that makes information available to the public regarding entities receiving federal financial assistance, by not later than January 1, 2008. In fulfillment of the requirements of the Act, OMB launched <http://www.USAspending.gov> in December 2007. The website makes information available to the public on the direct awards made by the federal government. The Transparency Act also requires, beginning not later than January 2009, that data on subawards be made available on the same website. In anticipation of the implementation of this requirement, HUD is placing awardees of its FY2008 competitive funding on notice of these requirements and notes that once implemented, grantees will be required to report their subaward data to HUD or a central federal database. The only exceptions to this requirement under the Act are: (i) Federal transactions below \$25,000, (ii) credit card transactions prior to October 1, 2008, (iii) awards to entities that demonstrate to the Director of OMB that the gross income of such entity from all sources did not exceed \$300,000 in the previous tax year of such entity, and (iv) awards to individuals. Guidance for

receiving an exception under item (iii) above has not been finalized by OMB.

HUD is responsible for placing award information for direct grantees on the government Web site. The reporting of subaward data is the responsibility of the grantee. Grantees should be aware that the law requires the information provided on the federal Web site to include the following elements related to all subaward transactions, except as noted above:

- (1) The name of the entity receiving the award;
- (2) The amount of the award;
- (3) Information on the award including the transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance (CFDA) number (where applicable), program source, and an award title descriptive of the purpose of each funding action;
- (4) The location of the entity receiving the award and primary location of performance under the award, including the city, state, congressional district, and country;
- (5) A unique identifier of the entity receiving the award and of the parent entity of the recipient (the DUNS number), should the entity be owned by another entity; and
- (6) Any other relevant information specified by OMB.

HUD expects OMB to issue further guidance on subaward reporting during FY2008. Based on preliminary input from the various federal agencies, applicants should be aware that consideration is being given to requiring the disclosure of additional data elements to help track the flow of funding from the original federal award. Such data elements under consideration include the tier at which the subaward was made, the federal award number issued to the direct awardee, the dollar amount of the federal award emanating from the direct award going to the subawardee, as well as the total subaward amount, which could include funds from other sources. Additional information regarding these requirements will be issued by OMB and will be provided when available.

G. Performance-Based Requirements.

1. Funds awarded must be expended only for approved uses.

2. Repairs must be initiated immediately upon receiving the grant award and must be substantially completed within 6 months of the initial start, with final repairs completed no later than 12 months after receipt of funding. Tenants must be able to remain in their units while the repairs are being made.

3. If there are less than 10 years remaining on the existing mortgage, owners must enter into a Rental Use Agreement to extend the remaining affordability of the project for up to 10 years. For example, if the maturity date of the mortgage is 3 years from the execution of the Grant Agreement, the owner must enter into a Rental Use agreement for 7 years beyond the term of the mortgage. If the maturity date of the mortgage is 15 years, the owner will not need to execute a Rental Use Agreement unless the mortgage is prepaid. All Rental Use Agreements must be recorded.

4. All excess Residual Receipts and any Reserve for Replacement funds over \$1000/unit in Project Accounts that are not approved for another use at the time of application to HUD under this NOFA are considered available funds and must be applied toward the cost of the emergency repair(s).

5. Tenants must be able to remain in their units while the repairs are being made.

6. Environmental Requirements. If the grant assistance is for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety, including those resulting from physical deterioration, then no environmental review is required. However, if the grant assistance will alter environmental conditions, then HUD must perform an environmental review pursuant to 24 CR part 50. HUD may require the owner to submit the information necessary for HUD to perform its environmental review. Also, if any of the project structures are in FEMA designated special flood hazard areas, flood insurance is required for the life of the proposed project.

7. Davis-Bacon prevailing wage rate requirements do not apply to emergency capital repair grants. Davis-Bacon requirements may apply to emergency repairs if the repairs will also be assisted by another federal program that requires Davis-Bacon wage rates.

H. Request for Waiver of Electronic Application Submission Requirement. Applicants may request a waiver of the electronic application submission requirement. Waiver requests must be submitted in writing following the publication of this Notice. HUD will make every effort to respond to a waiver request within 15 days of receipt. Applicants should take the time for consideration of the waiver request and how it will impact the placement of the application in the funding queue. HUD's

waiver policy, found in 24 CFR 5.1005, allows waivers for cause. The request must be addressed to the Assistant Secretary for Housing at the following address: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9100, Washington, DC 20410-8000. Waiver requests submitted by fax must be sent to (202) 708-3104. Waiver requests must provide the basis upon which the request is made, specifically addressing why electronic submission is not possible. The basis for waivers for cause may include, but is not limited to, (a) lack of available Internet access in the geographic location in which the applicant's business office is located; or (b) physical disability of the applicant that prevents the applicant from accessing or responding to the application electronically. The waiver request must include an e-mail or name and mailing address where responses can be directed. HUD will not consider a waiver request that does not conform to the above requirements. To avoid delays, waiver requests should be sent by United States Postal Service Express Mail. You, the applicant, should retain a receipt for the mailing showing the date submitted to the Postal Service. HUD will acknowledge receipt of the waiver request by e-mail, if an e-mail address is provided or by United States Postal Service Express Mail or other available means. HUD will not make determinations or respond to waiver requests via telephone. If an applicant intends to file multiple funding requests, each request for waiver to the application submission process must be filed separately. HUD will inform applicants whether or not their waiver request has been granted. In the event a waiver is granted, the date and time the application is received by HUD in the office or offices designated in the response granting the waiver, will be the basis upon which placement in the funding queue is made. Paper applications will be placed in the same funding queue as applications received electronically. Applicants should be aware that due to security restrictions, HUD no longer accepts applications by hand delivery.

IV. Application and Submission Information

A. Addresses to Request Application Package. All application information is available from <http://www.grants.gov> at http://www.grants.gov/applicants/apply_for_grants.jsp. If you have difficulty accessing the information, you can receive customer support from

Grants.gov by calling the help line at 800-518-Grants or by sending an e-mail to support@grants.gov. If you do not have access, you may obtain an ECRP application by calling the NOFA Information Center at (voice): 800-HUD-8929 (800-483-8929). Persons with a hearing or speech impairment may access this number via TTY by calling the Federal Information Relay Service at 800-877-8339. Please be sure to provide your name, address (including zip code), and telephone number (including area code).

1. *Multiple Applications*. Owners may not submit multiple applications for the same elderly housing development. HUD will only accept one ECRP application per project under this NOFA.

2. *For Technical Assistance*. Before the ECRP funding expiration, HUD staff will be available to provide you with general guidance and technical assistance. However, HUD staff is not permitted to assist in preparing your application. For technical support for downloading the ECRP application or submitting the application, call the toll free Grants.gov Customer Support line at 1-800-518-Grants or send an e-mail message to support@grants.gov.

B. Content and Form of Application Submission. There are 9 required exhibits under the ECRP, including prescribed forms. Your application must include all of the information, materials, forms, and exhibits listed below (Please see the General Section for instructions on how to submit third party and other documents such as bank statements, project plan and construction schedule, etc.):

1. *Exhibit I*. A request in letter form and signed by the owner. Requests signed by a consultant or management agent on behalf of the owner are not acceptable. The letter must identify the basis for the emergency declaration and how it impacts the health and safety of the tenants, as well as what would happen if the emergency repairs were not made immediately. The request must also identify the repairs proposed and cost to correct the emergency for which funding is requested. **Note:** Repair items identified on the REAC physical inspection report are not sufficient to be classified as emergency in nature. Include brief narratives explaining how all of the eligibility (Section III, A. and B.) and other requirements (Section III. E., F. and G.) in this NOFA have been met.

2. *Exhibit II*. The estimate for the cost is to be written in a manner that specifically describes the scope of work to be performed, provides an estimate of the cost of the work to be performed,

and provides an explanation of the basis for the estimate. The estimate provided for the cost of each action item must be reasonable and current (within 6 months prior to application submission).

3. *Exhibit III.* Evidence that demonstrates the repairs cannot be corrected at a cost that can be absorbed within the operating budget or by use of the reserve for replacement funds in excess of \$1,000 per unit and all available residual receipts funds. Include bank statements, Reserve for Replacement analysis, project budget analysis, etc. If the total cost to eliminate the emergency repair exceeds \$500,000, identification of other sources that will be used is needed.

4. *Exhibit IV.* Provide a project plan and construction schedule for substantially completing the repairs within 6 months, but no longer than 12 months from the date of the grant award.

5. *Exhibit V.* Provide evidence that the owner notified the tenants of the plans to apply for this grant.

6. *Exhibit VI.* Provide the current approved Affirmative Fair Housing Marketing Plan that is less than 5 years old.

7. *Exhibit VII.* Provide a description of any unsuccessful attempts the owner has made to acquire funding from other sources, including letters of denial from funding sources, to complete the outstanding emergency capital repairs.

8. *Exhibit VIII.* Provide a description of any previous grants or loans received by the project during the past 3 years from the effective date of the NOFA.

9. *Exhibit IX.* Forms and Certifications:

1. Form SF-424 Application for Federal Assistance.

2. HUD-2880 Applicant/Recipient/Update/Disclosure Report.

3. HUD-96011 "Third Party Documentation Facsimile Transmittal".

4. SF-LLL, Disclosure of Lobbying activities, if applicable.

5. Code of Conduct, if applicable.

Application Submission: (Refer to Section IV. of the General Section for further instructions on the delivery and receipt of applications.) If an applicant does not follow the faxing instructions, HUD will not be able to match faxes to an electronic application submission. Faxed documents will only be accepted as part of an electronic application submission. HUD will not accept applications for review sent in entirety by fax nor accept applications by fax from applicants granted a waiver to the electronic application submission requirement.

C. Other Submission Requirements.

1. Application Submission and Receipt Procedures. Unless you received a waiver to the electronic application submission requirements, your completed ECRP application must be submitted via http://www.grants.gov/applicants/applyfor_grants.jsp and must be received and validated by Grants.gov. Refer to Section IV.F. of the General Section for additional information on application submission requirements.

2. Electronic Delivery. The Grants.gov Web site offers a simple, unified application process. There are several registration steps applicants need to complete. Further information is contained in the General Section. ECRP applicants should also read HUD's **Federal Register** Notice on Early Registration which can be found on HUD's Web site at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>.

3. Instructions on how to submit electronically are outlined in HUD's "Desktop User's Guide" located on HUD's Grants Web site at: <http://www.hud.gov/grants/index.dfm>.

4. Waiver of Electronic Submission Requirement. See Section III.H. of this notice for information regarding waivers of the electronic submission requirement.

5. Hubs and Field Offices Addresses. If you are granted a waiver to the electronic application submission requirement, your waiver approval will provide the information on the number of copies of the application you are required to submit and where to submit the application. If you send your application to the wrong Hub Office, it will be rejected.

V. Application Review

A. Applications with deficiencies will not be processed. HUD will require that owners revise and resubmit an application to meet review requirements. Applications not meeting requirements will be taken out of queue when the applicant is notified of deficiencies and the applicant asked to resubmit the application again as a new application with the noted weaknesses cured. The resubmitted application will be processed as a new request in the order in which it is received and validated by Grants.gov if filed electronically, or received by the appropriate HUD office.

B. Only those ECRP applications that meet all threshold requirements will be eligible to receive an award. Applications that do not pass the requirements will be rejected.

C. Review Process. HUD staff teams will review ECRP applications. All applications will be either approved or disapproved. If your application meets

all program eligibility requirements it may be awarded the requested grant funds.

VI. Award Administration Information

A. Award Notices

1. The Grant Agreement, and the Form HUD-1044, signed by both the Recipient and Grant Officer, shall serve as the obligating documents. Unsuccessful applicants will be notified, by mail, within 30 days of the announcement of the awards.

2. Adjustments to Funding. HUD will not fund any portion of your application that is not eligible for funding under specific program statutory or regulatory requirements; does not meet the requirements of this notice; or may be duplicative of other funded programs or activities. Only the eligible portion of your application will be funded.

B. Reporting

1. Progress Report. Recipients of funding under this program NOFA shall submit a progress report every six months after the effective date of the Grant Agreement. HUD is requiring performance-based management and therefore, every six months owners must report their progress in attaining the goals and objectives they proposed in their application. Each semi-annual report must identify and explain any deviations (positive or negative) from outputs and outcomes proposed and approved by HUD, including budgetary and scheduling deviations.

2. *Racial and Ethnic 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, you should use HUD-27061—Racial and Ethnic Data Reporting Form (instructions for its use) found on <http://www.HUDclips.org>.

VII. Agency Contact(s)

A. For Further Information and Technical Assistance. You should contact the HUD Multifamily Hub in your geographical area. For a list of HUD Multifamily Hub Offices, see HUD's Web site at <http://www.hud.gov/offices/adm/grants/fundavail.cfm>. You may also contact G. Dewayne Kimbrough, Director, Grant and Housing Assistance Field Support Division, Office of Multifamily Housing, Room 6146, at (202) 708-3000, extension 4160 for questions regarding the ECRP grant award process. This is not a toll-free number. Mr. Kimbrough can be reached by e-mail at G.DeWayne.Kimbrough@hud.gov. If you have a hearing or speech impairment, you may access the telephone number

via TTY by calling the Federal Information Relay Service at 800-877-8339.

VIII. Other Information

A. Paperwork Reduction Act. 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 2502-0542. 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. Public reporting burden for the collection of information is estimated to average 80 hours per respondent for the application. This includes the time for collecting, reviewing, and reporting the data for the application. The information will be used for grantee selection and monitoring the administration of funds. Response to this request for information is required in order to receive the benefits to be derived.

B. Environmental Review. A Finding of No Significant Impact (FONSI) with respect to the environment has been made for this notice in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between 8 a.m. and 5 p.m. Eastern Time, Monday through Friday, except federal holidays, in the Office of the General Counsel, Regulations Division, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the FONSI by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number).

Dated: November 12, 2008.

Ronald Y. Spraker,

Acting General Deputy Assistant Secretary for Housing.

[FR Doc. E8-27663 Filed 11-21-08; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5233-N-01]

Notice of Funding Availability for Fiscal Year (FY) 2008 Family Unification Program (FUP)

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

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: This Notice of Funding Availability (NOFA) announces the availability of approximately \$20 million for incremental voucher assistance to provide adequate housing as a means to promote family unification through the FUP. This NOFA is governed by the information and instructions found in the Notice of HUD's FY2008 Notice of Funding Availability; Policy Requirements and General Section (General Section) to HUD's FY2008 NOFAS for Discretionary Programs that HUD published in the **Federal Register** on March 19, 2008 (73 FR 14882), the SuperNOFA Introduction published on May 12, 2008 (73 FR 27032), and the correction published on June 12, 2008 (73 FR 33446).

FOR FURTHER INFORMATION CONTACT: Questions regarding specific program requirements should be directed to the agency contact identified in this program NOFA. Questions regarding the March 10, 2008 (73 FR 12751), Notice of FY2008 Opportunity to Register Early and Other Important Information for Electronic Application Submission Via Grants.gov, the General Section of March 19, 2008, the SuperNOFA Introduction of May 12, 2008, or the correction of June 12, 2008, should be directed to the Office of Departmental Grants Management and Oversight at (202) 708-0667 (this is not a toll-free number) or the NOFA Information Center at (800) HUD-8929 (toll-free). Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at (800) 877-8339. The NOFA Information Center is open between the hours of 10:00 a.m. and 6:30 p.m. eastern time, Monday through Friday, except federal holidays.

Overview Information

A. Federal Agency Name: Office of Public and Indian Housing, Office of Public Housing and Voucher Programs, HUD.

B. Funding Opportunity Title: Family Unification Program (FUP).

C. Announcement Type: Initial Announcement.

D. Funding Opportunity Number: The **Federal Register** number for this NOFA is FR-5233-N-01. The Office of Management and Budget (OMB) paperwork approval number is pending.

E. Catalog of Federal Domestic Assistance (CFDA) Number: 14.880, Family Unification Program.

F. Application Deadline: The application deadline date is January 28, 2009. Applications must be received and validated by Grants.gov by the deadline date. Validation may take up to 72 hours. Please see section I.V.C of the FY 2008 General Section published March 19, 2008 (73 FR 14882), for electronic submission and receipt requirements.

G. Additional Information: The purpose of the FUP is to promote family unification by providing Housing Choice Vouchers (HCVs) to families for whom the lack of adequate housing is a primary factor in the separation, or the threat of imminent separation, of children from their families and to youths 18 to 21 years old who left foster care at age 16 or older and lack adequate housing.

Public Housing Agencies (PHAs) interested in applying for funding under this announcement should carefully review the FY 2008 General Section published March 19, 2008 (73 FR 14882): The URL for the HUD FY 2008 General Section is <http://www.hud.gov/utilities/intercept.cfm?/offices/adm/grants/nofa08/gensec.pdf>.

Full Text of Announcement

I. Funding Opportunity Description

A. Authority and Program Description: FUP is authorized by section 8(x) of the United States Housing Act of 1937 {42 U.S.C. 1437(X)}. Title II of Division K of the Consolidated Appropriations Act, 2008 (Pub. L. 110-161, December 26, 2008), provided \$20 million for incremental voucher assistance through the FUP.

FUP is a program under which vouchers are provided to families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of-home care; or the delay in the discharge of the child, or children, to the family from out-of-home care. Youths at least 18 years old and not more than 21 years old (have not reached 22nd birthday) who left foster care at age 16 or older and who do not have adequate housing are also eligible to receive housing assistance under the FUP. *A FUP voucher issued to such a youth may only be used to provide housing assistance for the youth for a maximum of 18 months.*