



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5311-N-01]

**HUD's Fiscal Year (FY) 2009 Notice of Funding Availability (NOFA) for
the Capital Fund Recovery Competition Grants**

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of HUD's Notice of Funding Availability (NOFA) for HUD's American Recovery and Reinvestment Act Capital Fund Recovery Competition (CFRC) Grants.

SUMMARY: On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 ("the Recovery Act"). This legislation includes a \$4 billion appropriation of Capital Fund for public housing agencies (PHAs) to carry out capital and management activities, as authorized under section 9 of the United States Housing Act of 1937 ("the 1937 Act"). The Recovery Act requires that \$3 billion of these funds be distributed as formula funds and the remaining \$1 billion be distributed through a competitive process. HUD obligated approximately \$2.985 million in formula funds to Public Housing Agencies (PHAs) on March 18, 2009. Today's publication provides the information and instructions for making available \$995 million in assistance through the CFRC grants. (Note: In accordance with the Recovery Act, the Department is withholding \$5 million of the \$1 billion allocated for competitive grant funding under the Recovery Act to fund a 0.5 percent set-aside to pay for costs associated with implementing the Recovery Act.)

FOR FURTHER INFORMATION CONTACT: If you have a question or need a clarification, you may contact the Office of Capital Improvements by sending an email message to PIHOCI@hud.gov. Please see <http://www.hud.gov/recovery/> (which will link to the Office of Capital Improvements website, <http://www.hud.gov/offices/pih/programs/ph/capfund/ocir.cfm>) for additional information.

SUPPLEMENTARY INFORMATION:

HUD encourages applicants to carefully read all parts of this NOFA. Carefully following the directions provided can make the difference in a successful application submission.

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OVERVIEW INFORMATION:

A. Federal Agency Name: U.S. Department of Housing and Urban Development, Office of Public and Indian Housing

B. Funding Opportunity Title: American Recovery and Reinvestment Act (Recovery Act) Capital Fund Recovery Competition (CFRC).

C. Announcement Type: Initial announcement.

D. Funding Opportunity Number: The Federal Register number for this NOFA is FR-5311-N-01. The OMB approval number for this program is 2577-0261.

E. Catalog of Federal Domestic Assistance (CFDA) Number(s): 14.884, “Capital Fund Recovery Competition Grants.”

F. Dates:

1. Application Deadline Date:

a. Threshold-Based Applications. This NOFA announces the availability of Capital Fund Recovery Competition Grants under four categories. The first application deadline date information applies only to the following Categories: Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities; Public Housing Transformation; and Gap Financing for

Projects that are Stalled Due to Financing Issues. Applications for funding in these three categories will be funded on a threshold basis, by Ordinal (order of receipt), Category and Round, in accordance with Section V of this NOFA. The Department will begin accepting applications for these three categories on June 1, 2009. The Department will continue to accept applications for these three categories until 11:59:59 p.m. of the local time of the applicant August 18, 2009. **Applications for these three categories received outside of this timeframe will not be reviewed by HUD and will not be eligible for funding.** The first Ordinal will be assigned on June 15, 2009; all applications received from June 1, 2009 through June 15, 2009 will all receive the same Ordinal. HUD may begin to fund new grants starting on June 15, 2009. HUD will fund applications as long as funds remain available, in accordance with the criteria of this NOFA.

b. Rated and Ranked Applications. This application deadline date information applies only to the Category of Creation of Energy Efficient, Green Communities. The Department will begin accepting applications for this NOFA category on June 1, 2009. The deadline for applications for this Category is **July 21, 2009**. Applications will only be accepted until 11:59:59 p.m. of the local time of the applicant on this date. **Applications for this category received outside of this timeframe will not be reviewed by HUD and will not be eligible for funding.** Because the Creation of Energy Efficient, Green Communities applications will be rated and ranked, application reviews and funding determinations will not be made until **after** the deadline date for this Category (July 21, 2009).

2. Statutory Obligation and Expenditure Deadlines: Applicants must carefully review the statutory obligation and expenditure deadline information in Section IV.D of this NOFA. All grantees must comply with these obligation and expenditure deadlines.

G. Additional Overview Content Information:

1. Available Funds. This Notice of Funding Availability (NOFA) announces the availability of \$995 million in CFRC grants. Funds will be awarded in accordance with this NOFA.

2. Program Description. The purpose of this program is to provide an additional \$995 million to PHAs for capital and management activities as authorized under section 9 of the 1937 Act in accordance with four funding Categories:

- a. Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities;
- b. Public Housing Transformation;
- c. Gap Financing for Projects that are Stalled due to Financing Issues; and
- d. Creation of Energy Efficient, Green Communities.

HUD has structured each NOFA category to target specific needs for Capital Funds. Each NOFA category has its own thresholds, requirements and performance measures. The NOFA imposes certain funding limits and thresholds on each category and sometimes on multiple categories (see Sections III and V below). The first three NOFA categories will be funded on a threshold basis, by Ordinal, Category and Round, subject to thresholds. The NOFA establishes multiple rounds of funding that lift funding limits and threshold requirements one-by-one over time if there are insufficient successful applications to consume the funding available under the funding limits and thresholds. The NOFA treats the fourth category differently. The NOFA still applies funding limits and thresholds to the fourth category, but rather than awarding funds on a threshold basis, by Ordinal, Category and Round, the NOFA establishes scoring criteria for the fourth category. HUD will rate applications for funding in the fourth NOFA category and fund them in rank order. If there are insufficient successful applications to consume the funding available under the funding limits and thresholds for the fourth category, the NOFA removes the

funding limits and thresholds and continues to award funding in rank order. At different points in the process, the NOFA shifts unused funding from one category to another. Successful applicants are subject to additional requirements imposed by the American Recovery and Reinvestment Act and by this NOFA (see Section VI).

3. Funding Requests Limits. See Section II for detailed information on the amount of funds applicants can request. Combined applications are not allowed. Each application can only apply for one Category and may target only one project to be modernized/rehabilitated or developed. Applicants may submit applications for more than one Category and may submit more than one application for each Category, unless otherwise indicated in this NOFA. If a PHA applies for multiple grants on the same day, it must specify a priority in which the applications are to be processed in order to ensure the preferred order of grant funding, in the event sufficient funds are not available. If a PHA submits multiple applications on the same day and fails to specify an order, HUD will process them in order of receipt.

4. Eligible Applicants. Eligible applicants are all public housing agencies (PHAs) that own or operate Low-Income Public Housing and are eligible to receive capital funding under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) (the “Act”), subject to the requirements under Section III of this NOFA. PHAs that manage only a Housing Choice Voucher (HCV) program, tribal PHAs, and tribally-designated housing entities are not eligible. Nonprofit organizations, for-profit organizations, private citizens and entrepreneurs are not eligible to apply. If an applicant PHA has been designated as troubled, it must meet the requirements of Section III.A.3 of this NOFA.

5. Website for Applications. Applications must be downloaded from this website:

<http://www.hud.gov/recovery/> (which will link to the Office of Capital Improvements website,

<http://www.hud.gov/offices/pih/programs/ph/capfund/ocir.cfm>). Applications must be completed and submitted electronically by emailing them to the following email address: PHI_RecoveryCompetition@hud.gov, in accordance with the application deadline date information in F. above and Section IV. Any technical corrections will be published in the Federal Register and posted to <http://www.hud.gov/recovery/> (which will link to the Office of Capital Improvements website, <http://www.hud.gov/offices/pih/programs/ph/capfund/ocir.cfm>). Frequently asked questions will be posted on <http://www.hud.gov/recovery/> (which will link to the Office of Capital Improvements website, <http://www.hud.gov/offices/pih/programs/ph/capfund/ocir.cfm>).

6. HUD PIH Notice 2009-12, “Information and Procedures for Processing American Recovery and Reinvestment Act Capital Fund Formula Grants,” was published on March 18, 2009. Many of the Recovery Act requirements related to formula grants also apply to competitive grants awarded under this NOFA. Relevant information from that Notice is therefore included in this NOFA. The NOFA also references key regulations, including 24 CFR Parts 905, 941 and 968. Applicants should carefully review and follow such references.

FULL TEXT OF ANNOUNCEMENT:

I. Funding Opportunity Description:

A. Program Description. In accordance with the Recovery Act, HUD provides these grant funds competitively to PHAs to carry out priority capital and management activities in public housing through four funding Categories, as established in Section V.A of this NOFA.

1. The four Categories are:
 - a. Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities;
 - b. Public Housing Transformation;

- c. Gap Financing for Projects that are Stalled due to Financing Issues; and
- d. Creation of Energy Efficient, Green Communities.

B. Authority

1. The funding authority for the Recovery Act CFRC under this NOFA is provided by the Public Housing Capital Fund section under the Public and Indian Housing Section of the Department of Housing and Urban Development section of Title XII of Division A of the Recovery Act (Public Law 111-5, enacted February 17, 2009).
2. The program authority for the Recovery Act CFRC is section 9 of the 1937 Act (42 U.S.C. 1437g).

C. Definitions

- 1. Annual Contributions Contract (ACC).** In the context of this NOFA, the contract between a PHA and HUD that obligates funding under this NOFA to a PHA and imposes statutory, regulatory and NOFA requirements on the PHA.
- 2. Expenditure.** Where funds have been obligated, the PHA is expected to show reasonable progress through increasing fund expenditures each month at a rate that would allow completion within the timeframe established for Recovery Act Funds. Expenditures mean the cumulative amount of Capital Funds distributed by the PHA documented through written checks or electronic means. The PHA shall requisition funds only when payment is due and after inspection and acceptance of the work and shall distribute the funds within three working days of receipt of the funds.
- 3. Force Account.** Force account is defined in the Capital Fund program (CFP) as labor employed directly by the PHA either on a permanent or a temporary basis. For Recovery Act work, PHAs are permitted to use force account to accomplish capital projects, where included in

the CFP Budget, Annual Plan or Five-Year Action Plan, without any additional approval from the local HUD Field Office. Force account labor costs for carrying out physical improvements, including technical salaries, employee benefit contributions and, where required by State or local/tribal law, contributions to an unemployment compensation fund, shall be charged to the appropriate development account for hard costs; i.e., Site Improvements (Account 1450); Dwelling Structures (Account 1460); or Non-dwelling Structures (Account 1470). For Recovery Act work, the PHA may undertake the modernization activities using force account labor, only where included in the CFP Budget, Annual Plan or Five-Year Action Plan, without any additional HUD approval. The PHA shall use force account labor where it is cost-effective and appropriate to the scope and type of physical improvements and the PHA has the capacity to serve as its own main contractor and to maintain an adequate level of routine maintenance during force account activity.

4. Obligation. Obligations mean the cumulative amount of modernization commitments entered into by the PHA. Examples of obligations are modernization commitments entered into by the PHA, i.e., contract execution for contract labor, materials or services; start and continuation of physical work by force account labor; and start and continuation of administrative work. Contract execution means execution of the contract by both the PHA and the contractor. For force account work, all funds for a group of sequentially-related physical work items are considered obligated when the first item is started, such as kitchen cabinet replacement followed by kitchen floor replacement, but only where funds continue to be expended at a reasonable rate. Where one force-account physical work items is started and is not sequentially related to other physical work items, such as site improvements and kitchen remodeling, then only the funds for the one physical work item started are considered obligated.

5. Ordinal. Upon receipt, HUD will assign each CFRC grant application an Ordinal (i.e., ranking number) that reflects the date HUD Headquarters received the application. Ordinals correspond to calendar days, starting with June 15, 2009 and ending on the application deadline closing date August 18, 2009, in accordance with the deadline date information in this NOFA, specifically Section IV. HUD will consider all applications received on the same date as received at the same time on that date, and those applications will all be assigned the same Ordinal. Ordinals will only be used for the threshold-based categories: Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities; Public Housing Transformation; and Gap Financing for Projects that are Stalled due to Financing Issues.

6. PHA. A public housing agency.

7. Public Housing. Housing owned and operated by a public housing agency (PHA) that is under an Annual Contributions Contract (ACC) between a PHA and HUD.

8. Project. Public housing buildings and units linked together under a single project number in HUD's Public Housing Information Center (PIC)/Inventory Management System (IMS).

9. Supplement. To complete, add to, or extend.

10. Supplant. To replace one thing with another.

II. Award Information:

A. Available Funds. This NOFA announces the availability of \$995 million in CFRC grant funds. Funds will be awarded through various Categories, in accordance with this NOFA. The table below shows the amount of funds that will be available for each Category in accordance with categorical limits that will be in effect under this NOFA (see Section V.B Reviews and Selection Process).

Category	Funding Caps
Improvements Addressing the Needs of the	\$95,000,000 (Round 1)

Elderly and/or Persons with Disabilities	
Public Housing Transformation	\$100,000,000 (Round 1)
Gap Financing for Projects that are Stalled Due to Financing Issues	\$200,000,000 (Round 1)
Creation of Energy Efficient, Green Communities	\$600,000,000 (Option 1: \$300,000,000 and Option 2: \$300,000,000)
Total Funds Available	\$995,000,000

B. **Type of Assistance.** The type of assistance will be a grant.

C. Funding Request Limits.

1. Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities.

The maximum grant amount(s) HUD will award a single PHA during Round 1 for the Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities NOFA category varies depending on the size of PHA as described in the table below:

PHA Size	Per Unit Amount
Small (<250 units)	\$3,000
Medium (250 – 1,249 units)	\$2,500
Large (1,250 units-24,999 units)	\$2,000
Very Large (>25,000 units)	\$1,000

Example: A medium-sized PHA with an inventory of 500 public housing units wishes to submit multiple applications under the NOFA Category of Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities. The most HUD will award for all of the applications the PHA submits is a cumulative total of \$1,250,000 (\$2,500 X 500 units), while the grant award limitation is in effect. HUD will lift this limitation at a point in the process after the completion of Round 1 as described in Section V.B. of this NOFA. The maximum grant amount limitations per PHA only apply to applications for the NOFA Category of Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities. Amounts awarded to a PHA pursuant to other NOFA categories do not count toward the maximum grant amount limitations for the NOFA Category of Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities.

2. Creation of Energy Efficient, Green Communities. For the initial ranking of the Creation of Energy Efficient, Green Communities NOFA category, HUD will impose the same maximum grant amount(s) that HUD will award a single PHA as it does during Round 1 for the NOFA Category of Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities, as indicated in the table below.

PHA Size	Per Unit Amount
Small (<250 units)	\$3,000
Medium (250 – 1,249 units)	\$2,500
Large (1,250 units-24,999 units)	\$2,000
Very Large (>25,000 units)	\$1,000

See example in C.1 above for calculation methodology. HUD will lift this limitation at a point in the process after the completion of its initial ranking of Creation of Energy Efficient, Green Communities NOFA category as described in Section V.B. of this NOFA. The maximum grant amount limitations per PHA only apply to applications for the Creation of Energy Efficient, Green Communities NOFA category. Amounts awarded to a PHA pursuant to other NOFA categories do not count toward the maximum grant amount limitations for the Creation of Energy Efficient, Green Communities NOFA category.

3. Gap Financing for Projects that are Stalled Due to Financing Issues, and Public Housing Transformation. The grant award limitation for a PHA for the Gap Financing for Projects that are Stalled Due to Financing Issues Category and the Public Housing Transformation Category is a maximum of \$10 million per application (a maximum of \$20 million in Round 1 for each of these two Categories). The tables above do not apply to these two Categories.

4. Lifting Limits. The Funding Request Limits above can be lifted in accordance with the criteria of Section V.B.

E. Number of Applications Limits.

1. Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities.

There is not a limit on the total number of applications an applicant can submit for this Category, total or within the Category or within a Round. Applicants must submit a separate application for each project.

2. Creation of Energy Efficient, Green Communities. There is not a limit on the total number of applications an applicant can submit for this Category, total or within the Category.

Applicants must submit a separate application for each project. The Rounds process does not apply to the Category Creation of Energy Efficient, Green Communities; rather it will be rated and ranked.

3. Gap Financing for Projects that are Stalled Due to Financing Issues and Public Housing

Transformation. During Round 1, a PHA may submit at most two applications for each of these Categories. This limitation can be lifted during Round 2. Applicants must submit a separate application for each project.

4. Lifting Limits. The Number of Applications Limits above can be lifted in accordance with the criteria of Section V.B.

F. Combined Applications. Combined applications are not allowed. Each application can only apply for one Category and may target only one project to be modernized/rehabilitated or developed.

G. Grant Term – Obligation and Expenditure Dates. See Section IV.D for detailed information on the statutory obligation and expenditure deadlines that apply to the funding available under this NOFA.

III. Eligibility Information:**A. Eligible Applicants:**

1. **Eligible.** Eligible applicants are all PHAs that own or operate Low-Income Public Housing and are eligible to receive capital funding under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) (the “Act”), subject to the requirements under Section III of this NOFA. If an applicant PHA has been designated as troubled, it must meet the requirements of Section III.A.3 of this NOFA.
 2. **Ineligible.** PHAs that manage only a Housing Choice Voucher (HCV) program, tribal PHAs, and tribally designated housing entities are not eligible. Nonprofit organizations, for-profit organizations, private citizens and entrepreneurs are not eligible to apply.
 3. **Troubled Status.** As of the NOFA publication date (date posted to HUD’s website), if HUD has designated your PHA as troubled, HUD will use documents and information available to it to determine whether you qualify as an eligible applicant. If designated as troubled, you may still be an eligible applicant if:
 - a. The PHA is in receivership, either in HUD’s possession or judicial receivership, and a private housing management agent has been selected (in accordance with 24 CFR part 902), or a receiver has been appointed and HUD determines the PHA to be capable of carrying out this grant program; or
 - b. The PHA is designated as troubled principally for reasons that will not affect its capacity to carry out this grant program and HUD determines the PHA to be capable of carrying out this grant program.
- B. Cost Sharing or Matching:** There is no cost sharing or matching requirement to be eligible for this program. However, applicants must carefully review Section V.A for detailed information on each Category and any leveraging requirements. The Categories that are threshold-based, and funded by Ordinal, Category and Round, have a leveraging requirement

during Round 1. The rated and ranked Category (Creation of Energy Efficient, Green Communities) has leveraging rating factors.

C. Other:

1. Eligible Uses of Funds. Unless modified elsewhere in this NOFA, CFRC funds can be used for any eligible activity enumerated in 24 CFR Section 905.10(k).

2. Threshold Requirements for All Applications. See Section V.A for detailed information on each Category and the threshold requirements that apply to each Category. The following threshold requirements apply to ALL applicants, regardless of the Category for which the applicant is applying. For purposes of this NOFA, they are referred to as Threshold Requirements for All Applications. Please note that the individual Categories may have Category-specific threshold requirements that applicants must also meet, in addition to the Threshold Requirements for All Applications below. A false statement in an application is grounds for denial or termination of an award and possible criminal, civil or administrative sanctions. See Section VI.B.3(n) for enforcement requirements. See Section V.B for information on the Reviews and Selection Process and, specifically, when (if at all) a threshold requirement may be lifted.

a. Eligible Applicants. Applicants must meet the Eligible Applicant criteria provided in Section III.A above.

b. Signatures. Requests must be signed by a person authorized to sign an ACC Amendment on behalf of a PHA. Requests signed and submitted by a consultant or management agent on behalf of the PHA will not be considered.

c. Dun and Bradstreet Data Universal Numbering System (DUNS) Number Requirement.

All applicants seeking funding directly from HUD must obtain a DUNS number and include the number in their Application for Federal Assistance submission. Failure to provide a DUNS number will prevent an applicant from obtaining an award. This policy is pursuant to the OMB policy issued in the Federal Register on June 27, 2003 (68 FR 38402). HUD published its regulation implementing the DUNS number requirement on November 9, 2004 (69 FR 65024). A copy of the OMB Federal Register notice and HUD's regulation implementing the DUNS number can be found on HUD's website at <http://www.hud.gov/offices/adm/grants/duns.cfm>. 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. The DUNS number used in the application must be for the applicant organization.

d. Capacity.

(1) High Performer.

Applicants must be designated as High Performers under: (1) the Public Housing Assessment System (PHAS) for the quarters ending 12/31/06, 3/31/07, 6/30/07 and 9/30/07, or (2), in the case of MTW agencies that did not report into PHAS during those quarters, the agency's MTW Agreement in place during those quarters. See the following website for a listing of PHA designations: <http://www.hud.gov/recovery/> (which will link to the Office of Capital Improvements website, <http://www.hud.gov/offices/pih/programs/ph/capfund/ocir.cfm>). HUD may independently validate this threshold. This threshold can be lifted in accordance with the criteria of Section V.B.

(2) Capital Fund Expenditure Rate. Applicants that have expended previously awarded Capital Fund grants in an expeditious manner will be considered for funding. This

threshold has been predetermined based on HUD data. PIH examined the expenditure rate for all formula Capital Fund grants awarded to PHAs from funds appropriated for Federal Fiscal Years 2005 and 2006 (note that some PHAs received two grants that correspond to the 2006 appropriation). HUD compared PHA actual expenditure rates with a normative expenditure rate and any PHA whose actual expenditure rate was less than the normative expenditure rate for any 2005 or 2006 source year grant do not comply with this expenditure rate threshold.

PHA Expenditure Rate: HUD determined an expenditure percentage as of May 2, 2009 for each 2005 and 2006 source year grant PHAs received. It did this by dividing the total amount expended by the PHA for the grant as of May 2, 2009 by the total amount authorized by the grant.

Normative Expenditure Rate: HUD also calculated a normative percentage that would be spent if HUD assumed that PHAs would need to expend on average a quarter of their grant per year over the duration of the grant (through the expenditure deadline). It derived the normative percentage by completing the following calculation:

(a) HUD calculated the age of the grant in days by subtracting the obligation start date for the grant from May 2, 2009 (for the 2005 grant, the obligation start date was 8/18/2005, therefore the age of the grant was $5/2/2009 - 8/18/05 = 1,353$ days);

(b) It then divided the age of the grant in days by the number of days in a year (365.25 days to account for a leap year) to determine the age of the grant in years (for the 2005 grant the age of the grant in years is $1,353 \text{ days} \div 365.25 \text{ days} = 3.70$ years);

(c) It then divided the age of the grant in years by the 4 years available for expenditure under Section 9(j) of the United States Housing Act of 1937 to determine a normative percentage

that should be expended given the age of the grant (for the 2005 grant the normative percentage is 3.70 years divided by 4 years=92.6078% normative expenditure rate).

(d) The normative percentage for the 2005 Capital Fund grants is 92.6078%. The normative percentage for the 2006 grants with an obligation start date of July 18, 2006 is 69.7467%. The normative percentage for the 2006 grants with an obligation start date of May 4, 2007 is 49.8973%. If any of a PHAs expenditure rates for its 2005 and 2006 grants is less than the normative rate, the PHA does not comply with the expenditure threshold.

HUD will post the expenditure rate information for each PHA to the following website:

<http://www.hud.gov/recovery/> (which will link to the Office of Capital Improvements website, <http://www.hud.gov/offices/pih/programs/ph/capfund/ocir.cfm>). HUD may independently validate this threshold. This threshold can be lifted in accordance with the criteria of Section V.B.

e. Compliance with Fair Housing and Civil Rights Laws.

(1) PHAs must comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a).

(2) If you, the applicant:

(a) Have been charged with an ongoing systemic violation of the Fair Housing Act; or

(b) Are a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or

(c) 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 (a), (b), or (c) above has not been resolved to

HUD's satisfaction before the application deadline, then you are ineligible and HUD will not consider 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:

- (i) A voluntary compliance agreement signed by all parties in response to a letter of findings;
- (ii) A HUD-approved conciliation agreement signed by all parties;
- (iii) A consent order or consent decree; or
- (iv) An issuance of a judicial ruling or a HUD Administrative Law Judge's decision.

f. Affirmatively Furthering Fair Housing. Under section 808(e)(5) of the Fair Housing Act, HUD has a statutory duty to administer the programs and activities relating to housing and urban development in a manner affirmatively to further fair housing (AFFH). HUD requires the same of its funding recipients. If you are a successful applicant, you will have a duty to affirmatively further fair housing opportunities for classes protected under the Fair Housing Act. Protected classes include race, color, national origin, religion, sex, disability, and familial status.

Applicants must provide an AFFH Certification as part of the Capital Fund Recovery Competition grant application. The certification must state that, if awarded funds, the PHA recipient will affirmatively further fair housing and comply with the requirements of 24 CFR 903.7(o).

g. 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.

h. Grant Administration. Applicants must certify that they will administer the grant in accordance with all requirements of this NOFA and all requirements applicable to public housing, including the 1937 Act, the Recovery Act, HUD regulations, the ACC, including all amendments, and all other Federal statutory, Executive Order, and regulatory requirements as such requirements may be amended from time to time.

i. No Supplanting of Funds. The applicant must certify that: (1) the CFRC funds, if awarded, will not supplant expenditures from other Federal, State, or local sources or funds independently generated by the grantee; and (2) the CFRC funds, if awarded, will not supplant any leverage related to this grant, if any (that is, the grantee must have pursued and secured leverage to the fullest extent possible in order to ensure that expenditures from other Federal, State, or local sources or funds independently generated by the grantee are not supplanted). Regarding (2), for example, if an agency had already committed to contributing \$100,000 in services to the PHA’s targeted project, the PHA cannot decline all or a portion of that \$100,000 because it receives a CFRC grant.

IV. Application and Submission Information:

A. Addresses to Request Application Package:

Applications must be submitted electronically. Applications must be downloaded from this website: <http://www.hud.gov/offices/pih/programs/ph/capfund/ocir.cfm>.

Applications must be completed and submitted electronically by emailing them to the following email address: PHI_RecoveryCompetition@hud.gov, in accordance with the application deadline date information in Section IV. Any technical corrections will be published in the Federal Register and posted to <http://www.hud.gov/recovery/> (which will link to the Office of Capital Improvements website, <http://www.hud.gov/offices/pih/programs/ph/capfund/ocir.cfm>). Frequently asked questions will be posted to <http://www.hud.gov/recovery/> (which will link to the Office of Capital Improvements website, <http://www.hud.gov/offices/pih/programs/ph/capfund/ocir.cfm>).

B. Content and Form of Application Submission:

1. Applications must be submitted electronically, as described in Section IV.A above.

2. Electronic Application Submission Instructions.

a. HUD has established a Microsoft Outlook mailbox for receipt of CFRC electronic applications: PHI_RecoveryCompetition@hud.gov. PHAs must send their applications in by e-mail with attachments.

b. The application consists of an automated Excel workbook enabled with Visual Basic Application code and .pdf files for documents that have to be signed. The primary source of the data used to process the applications will be in the Excel workbook.

c. Once a PHA completes its data entry into the Excel spreadsheet, the PHA will follow the instructions provided with the spreadsheet including the following:

(1) Create a new e-mail message to be sent to

PHI_RecoveryCompetition@hud.gov;

(2) Put specific text in the subject line of the e-mail message in accordance with instructions that will be provided at the time HUD makes the application available;

(3) Attach the Excel spreadsheet portion of the application to the e-mail;

(4) Print, complete and sign the certification forms and SF424

form provided to the applicant via .pdf;

(5) Scan the printed-completed-signed forms into a new .pdf(s);

(6) Attach the scanned .pdfs with all of the signed forms and documents required for the application to the e-mail.

d. Once the applicant has followed the instructions in c. above, it will then send the e-mail to PHI_RecoveryCompetition@hud.gov. HUD will provide the Microsoft Outlook team with a list of e-mail addresses from PHAs that will be acceptable based on the e-mail address of the Executive Director (or alternate) recorded in the PIC/IMS system. Applications sent from an e-mail address other than that listed in the PIC/IMS system for the PHAs executive director or alternate will be rejected by HUD's e-mail system and such applications will not be considered for funding.

e. HUD will provide a mechanism to confirm receipt of applications. Although HUD's e-mail system has adequate capacity to handle the anticipated volume of application submission e-mails, HUD encourages applicants to submit applications far enough in advance of deadlines to receive confirmation that the application has been received and to take the necessary steps to resubmit in the event that an application e-mail is not being received by HUD. HUD is not responsible for e-mails that do not arrive at HUD's e-mail server, in accordance with the application deadlines identified in this NOFA.

3. Application Content and Organization. See Section V.A for detailed information on each Category, including Application Content and Organization. Applicants must follow the application content, organization and documentation requirements of this NOFA.

C. Submission Dates and Times:

a. Threshold-Based Applications. This NOFA announces the availability of CFRC grants under four categories. The first application deadline date information applies only to the following Categories: Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities; Public Housing Transformation; and Gap Financing for Projects that are Stalled Due to Financing Issues. Applications for funding in these three categories will be funded on a threshold basis as they are received, by Ordinal (order of receipt), Category and Round, in accordance with Section V of this NOFA. The Department will begin accepting applications for these three categories on June 1, 2009. The Department will continue to accept applications for these three categories until 11:59:59 p.m. of the local time of the applicant August 18, 2009.

Applications for these three categories received outside of this timeframe will not be reviewed by HUD and will not be eligible for funding. The first Ordinal will be assigned on June 15, 2009; all applications received from June 1, 2009 through June 15, 2009 will all receive the same Ordinal. HUD may begin to fund new grants starting on June 15, 2009. HUD will fund applications as long as funds remain available, in accordance with the criteria of this NOFA.

b. Rated and Ranked Applications. This application deadline date information applies only to the Category of Creation of Energy Efficient, Green Communities. The Department will begin accepting applications for this NOFA category on June 1, 2009. The deadline for applications for this Category is **July 21, 2009**. Applications will only be accepted until 11:59:59 p.m. of the local time of the applicant on this date. **Applications for this category received outside of this timeframe will not be reviewed by HUD and will not be eligible for funding.** Because the Creation of Energy Efficient, Green Communities applications will be rated and ranked,

application reviews and funding determinations will not be made until **after** the deadline date for this Category (July 21, 2009).

c. Incomplete Applications and Technical Deficiencies. See Section V.B, Reviews and Selection Process, for detailed information on procedures related to incomplete applications and curing technical deficiencies, as relevant.

D. Funding Restrictions:

1. Statutory Time Limits – Obligation and Expenditure of Funds: The obligation and expenditure requirements found at section 9(j) of the 1937 Act regarding the obligation and expenditure of Capital Funds do not apply. The Recovery Act provides for alternate obligation and expenditure deadlines (and penalties) as follows:

- a.** HUD obligates the CFRC grant funding to grantees by September 30, 2009.
- b.** PHAs must obligate 100 percent of the grant funds awarded under this NOFA within 1 year of the date on which funds become available to the PHA for obligation (which is the effective date of the ACC amendment). If a PHA fails to comply with the 1-year obligation requirement, HUD will recapture all remaining unobligated funds awarded to the PHA .
- c.** PHAs must expend at least 60 percent of the grant funds within 2 years of the date on which funds become available to the PHA for obligation (which is the effective date of the ACC amendment). If a PHA fails to comply with the 2-year expenditure requirement, HUD will recapture the balance of the funds awarded to the PHA.
- d.** PHAs must expend 100 percent of the grant funds within 3 years of the date on which funds become available to the PHA for obligation (which is the effective date of the ACC amendment). If a PHA fails to comply with the 3-year expenditure requirement, HUD will recapture the balance of the funds awarded to the PHA.

e. Extensions of the Obligation Deadlines: Extension of the obligation and expenditure deadlines are not permitted under the Recovery Act. Additionally, if a PHA fails to obligate any of its other (non-Recovery Act) Capital Fund grants during this time, an extension of the obligation deadline for that grant will not be granted based solely on the justification that the PHA was engaged in obligating Recovery Act funds, as it does not meet the criteria established in section 9(j) of the 1937 Act.

2. Eligible Uses of Funds. Unless modified elsewhere in this NOFA, CFRC funds can be used for any eligible activity enumerated in 24 CFR Section 905.10(k).

3. Ineligible Uses of Funds. Within the eligible uses of CFRC as described in this NOFA, the PHA may not use these funds for the following:

a. Operating or rental assistance activities. Capital Funds awarded under the Recovery Act cannot be transferred to or used for operations or rental assistance activities. These funds cannot be transferred to Account 1406 Operations.

b. Routine maintenance activities.

c. Supplanting expenditures. Funds provided under this NOFA must serve to supplement and not supplant expenditures from other Federal, State, or local sources or funds independently generated by the grantee. Recovery Act funds may not supplant Capital Funds that have been obligated to a project.

d. Any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. (See Section 1604 of the Recovery Act.)

e. Activities carried out on or before the date of the ACC amendment obligating the grant.

f. Luxury improvements, direct social services, costs funded by other programs.

g. Moving to Work Agency Requirements. Agencies participating in the Moving to

Work Demonstration (“MTW”) are authorized to combine operating and capital assistance provided under section 9 and voucher assistance under section 8 of the United States Housing Act of 1937 as part of the regular appropriations process. However, line item appropriations, which are supplemental to the regular appropriations process, such as the Recovery Act, may be used only for the specific purpose for which they were appropriated. Further, the Recovery Act states that “notwithstanding any other provision of law, (1) funding provided under this heading may not be used for operating or rental assistance activities.” This provision expressly overrides the authority to combine funds contained in the MTW Authorizing statute. Accordingly, the funds provided under the Recovery Act cannot be combined with an MTW agency’s operating or voucher funds, or otherwise used for purposes, notwithstanding the agency’s status as an MTW participant. Therefore, these funds cannot be assigned to Account 1492. To ensure that all housing authorities follow the above terms of the Recovery Act, MTW agencies will be expected to adhere to the same Recovery Act requirements as non-MTW agencies.

These will include mandatory reporting requirements, as PHAs will be expected to report separately on Recovery Act expenditures on a quarterly basis.

4. Other Use Restrictions.

a. All expenditures from Account 1410 (Administration) are limited to 10 percent of the total grant. A PHA may draw up to 10 percent of each expenditure reimbursement for administration of the Recovery Act CFRC grant. Again, the total amount drawn down for administration is capped at 10 percent of the grant. For mixed finance development, administrative costs may only be 3 to 6 percent of the project. Note: The PHA must comply with the Recovery Act reporting requirements for funds drawn for administration.

b. A PHA-wide management improvement may be funded where the PHA can demonstrate that by correcting the management deficiency(ies) at the development(s) being modernized other developments will benefit as well. Management Improvements must sustain physical/capital improvements. For example, job training related to modernization would be eligible.

V. Application Review Information:

A. Capital Fund Recovery Competition Categories. For the first three Threshold-Based NOFA categories HUD will select for funding the Recovery Act CFRC grant applications on a threshold basis, by Ordinal, Category and Round. CFRC applications for the first three NOFA categories are not rated; however, the Category for Creation of Energy Efficient, Green Communities will be rated and ranked. Applicants must identify each CFRC application by its appropriate Category, as described below. Each application must respond to a single Category; e.g., do not include Category 1 activities in the same application as Category 2. Although applicants may submit applications for Capital Funding for multiple projects, applicants must submit a separate application for each project to be modernized/rehabilitated or developed. See Section V.B for information on the Reviews and Selection Process and, specifically, when (if at all) a threshold requirement, and/or other NOFA criteria, may be lifted.

1. Category 1 - Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities. The purpose of Category 1 is to address the needs of the elderly and/or persons with disabilities through either improvements to: (1) public housing units; and/or (2) community facilities which attract or promote the coordinated delivery of supportive services.

a. Eligible Category 1 Activities. Funds in this Category may be used to pay for any eligible Capital Fund expenses, including substantial rehabilitation, acquisition and construction, as defined in 24 CFR Parts 905, 941 and 968, that help achieve the Category objective of

addressing the needs of the elderly and/or persons with disabilities through improvements to public housing units and/or community facilities, specifically the following activity types:

(1) Modifications to dwelling units to make them fully accessible in accordance with the Uniform Federal Accessibility Standards (UFAS).

(2) Conversion of dwelling units to provide space for service providers targeted to the elderly and/or persons with disabilities.

(3) Improvements to non-dwelling areas to make them accessible and ADA-compliant.

(4) Improvements to or construction of non-dwelling areas to provide additional space for supportive services targeted to the elderly and/or persons with disabilities.

b. Threshold Requirements. Applicants must meet all threshold requirements in order to be considered for funding under this Category, subject to the requirements of Section V.B, Reviews and Selection Process, and unless otherwise noted in this NOFA. Your application will not be eligible for funding unless each threshold requirement listed in this NOFA is included in your application. See Section V.B for instructions on incomplete applications.

(1) **Threshold Requirements for All Applications.** Applicants must comply with all Threshold Requirements for All Applications in Section III.C.2 in order to be considered for funding. Applicants must certify to the applicability of each threshold in their application.

(2) **Category Specific Threshold Requirements.** Applicants must comply with all Category Specific Threshold Requirements that are applicable based on the activity type in this section in order to be considered for funding. The following threshold requirements apply to all of the activity types in this Category.

(a) **Eligible Activities.** The applicant must certify that the CFRC funds will only be used to pay for eligible Capital Fund activities and expenses, including substantial rehabilitation,

acquisition and construction, as defined in 24 CFR Parts 905, 941 and 968, that address the needs of the elderly and/or persons with disabilities through improvements to: (1) public housing units; and/or (2) community facilities which attract or promote the coordinated delivery of supportive services.

(b) The applicant must certify that it is in compliance with any existing Voluntary Compliance Agreement (VCA) and/or Court Order (if applicable) or that successful accomplishment of the proposed activities under the CFRC grant will bring the applicant into, or closer to, compliance.

(c) Program Schedule. Applicants must provide a program schedule for their proposed program which demonstrates compliance with the obligation and expenditure deadlines established in Section IV.E. The program schedule must identify all the major milestones to be achieved by the program including but not limited to the date construction/activities will commence and the date construction/activities will be completed. It should also include the date the funds will be obligated, the date 60 percent of the funds will be expended, and the date 100 percent of the funds will be expended.

(d) Budget, Leverage and Financing Thresholds:

(i) PHAs must submit in their application a budget for the activities it will implement under this CFRC grant, indicating committed sources and projected uses. The budget must propose reasonable costs in relation to anticipated results.

(ii) Commitments for permanent sources must equal projected uses. The project must be financially feasible, as proposed (including any requested TDC/HCC waiver). In the case of mixed finance development, the project must be financially feasible as defined by the following costs control standards:

(A) Your hard development costs must be realistically developed through the use of technically competent methodologies, including cost estimating services, and should be comparable to industry standards for the kind of construction to be performed in the proposed geographic area.

(B) Your cost estimates must represent an economically viable preliminary plan for designing, planning, and carrying out your proposed activities, in accordance with local costs of labor, materials, and services.

(C) Your projected soft costs must be reasonable and comparable to industry standards. Upon award, soft costs will be subject to HUD's Cost Control and Safe Harbor Standards. These standards provide specific limitations on such costs as developer's fees (between 9 and 12 percent), PHA administration/consultant cost (no more than 3 to 6 percent of the total project budget), contractor's fee (6 percent), overhead (2 percent), and general conditions (6 percent).

(iii) PHAs must certify that each funding source identified in the application is firmly committed, which means that the amount of the resource and its dedication to CFRC grant activities is explicit, in writing, and signed by a person authorized to make the commitment. The commitment may only be conditioned on receipt of the grant and the completion of due diligence satisfactory to the lender or investor, or other entity controlling the committed funds, and the ability of the PHA to reach a financial closing for the project in question.

(iv) The budget must demonstrate that upon completion, permanent sources of public housing funds, including CFRC grant funding, will not exceed a pro rata share of the costs for constructing public housing units/facilities (the percentage of public housing funds to total funds dedicated to unit production/facilities production may not exceed the percentage of public housing units/facilities to total units/facilities).

(v) TDC/HCC Waivers, if applicable. Applicants must comply with the applicable Total Development Costs (TDC) and Housing Cost Cap (HCC) limits (including those approved under MTW). TDC and/or HCC may be waived for any PHA in funded in this category. If a TDC/HCC waiver is requested, PHAs must submit a request with a detailed explanation and justification as part of this grant application and HUD will approve on a case-by-case basis. If a request to exceed TDC/HCC is denied, the application will be denied.

(vi) Leverage for applications submitted for Round 1 consideration only. The applicant must certify that it has leveraged non-public housing funds for the application at a ratio of not less than \$.25 of non-public housing funds to \$1.00 of CFRC grant funds. The leveraged non-public housing funds must comply with the definition of firmly committed and the allowable conditions in section (iii) above. The leverage commitment documents must be kept on file by the applicant. Applications without the required amount of leverage commitments submitted during Round 1 will be held for consideration until Round 2.

(3) Activity Type Specific Threshold Requirements. As indicated in the Eligible Activities Section above, applicants may choose which activities in Category 1 for which they are requesting grant funding; they do not have to propose all of the activities listed. For this Category, applicants can apply for more than one activity type in one application. However, applicants must comply with the Activity Type Specific Threshold Requirements for the activities they do identify in their application. Applicants must provide in their application a completed and signed Activity Type Specific Threshold Requirements certification form.

(a) Activity Type 1 - Modifications to dwelling units to make them fully accessible in accordance with the UFAS. If applicants indicate they will implement this Activity Type 1, they must meet the following Activity Type Specific Threshold Requirements:

(i) The applicant must have identified the unit(s) that will be modified and made UFAS compliant.

(ii) All of the units that the applicant identified for this activity type must be out of compliance with UFAS.

(iii) The applicant must commit to notify current residents in units that will be modified that their units will be modified to be made accessible (including the amount of time anticipated to complete the modification) in accordance with UFAS within one (1) month of grant award.

(b) Activity Type 2 - Conversion of dwelling units to provide space for service providers targeted to the elderly and/or persons with disabilities. If applicants indicate they will implement this Activity Type 2, they must meet the following Activity Type Specific Threshold Requirements:

(i) The applicant must have identified the unit(s) that will be converted in order to attract or promote the coordinated delivery of supportive services by local service providers to residents who are elderly and/or persons with disabilities.

(ii) The identified unit(s) must be located in a project where at least sixty (60) percent of the project's residents are either elderly and/or persons with disabilities.

(iii) The applicant must have existing partnerships with local supportive service providers, such as mental/physical health providers, senior centers, and others, that have committed, in writing, to providing on-site services to the elderly and/or disabled residents.

(iv) The applicant must commit to use a portion of its operating subsidy, standard capital fund, combined MTW funds, existing ROSS-Elderly and Persons with Disabilities grant funding, and/or ROSS-Service Coordinator (if funded to serve elderly) funding for service coordination to ensure that community facilities are used for their intended purpose.

(v) At some point no more than 12 months prior to submitting the application, the applicant must have informed project residents of the possibility of converting the units into space for service providers and given them an opportunity to provide feedback to the applicant. The applicant must maintain a record of both the communication with the project residents and any feedback received.

(c) Activity Type 3 - Improvements to non-dwelling areas to make them accessible and ADA-compliant. If applicants indicate they will implement this Activity Type 3, they must meet the following Activity Specific Threshold Requirements:

(i) The applicant must identify the improvements that will be made in order to make non-dwelling areas accessible and ADA-compliant as well as identify the specific non-dwelling areas that will be improved.

(ii) Community facilities to be improved under this Activity Type must be part of a public housing project and, if open to use by non-public housing residents, must be used a majority of the time by public housing residents who are elderly and/or persons with disabilities.

(d) Activity Type 4 - Improvements to or construction of non-dwelling areas to provide additional space for supportive services targeted to the elderly and/or or persons with disabilities. If applicants indicate they will implement this Activity Type 4, they must meet the following Activity Type Specific Threshold Requirements:

(i) The applicant must identify and describe the non dwelling areas to be improved or constructed (e.g., community facilities) as well as the nature and extent of the construction or improvement in order to attract or promote the coordinated delivery of supportive services by local service providers to residents who are elderly and/or persons with disabilities.

(ii) Community facilities must be part of a public housing project and, if open to use by non-public housing residents, must be used a majority of the time by public housing residents who are elderly and/or persons with disabilities.

(iii) The identified non-dwelling area(s) must be located in a project where at least sixty (60) percent of the project's residents are either elderly or persons with disabilities.

(iv) The applicant must have existing partnerships with local supportive service providers, such as mental/physical health providers, senior centers, and others that have committed, in writing, to providing on-site services to the elderly/disabled residents.

(v) The applicant must commit to use a portion of its operating subsidy, standard capital fund, combined MTW funds, existing ROSS-Elderly and Persons with Disabilities grant funding, and/or ROSS-Service Coordinator (if funded to serve elderly) funding for service coordination to ensure that community facilities are used for their intended purpose.

c. Application Content and Organization.

(1) Applicants for funding under this Category must submit their application electronically in accordance with Section IV.B. and include in their application the following:

(a) A completed-signed Application for Federal Assistance (SF-424) scanned into a .pdf document

(b) A completed-signed anti-lobbying certification (SF LLL) scanned into a .pdf document

(c) a completed Microsoft Excel CFRC Application spreadsheet: note that the spreadsheet will contain the following:

(i) Program Overview Narrative. Applicants must provide a brief description of their proposed program. Activities described must follow the criteria of the Eligible Activities and

Thresholds for this Category above. The Program Overview must contain the following information: A description of the proposed program, including the purpose and activities, to be funded by the CFRC grant. The description must be of sufficient detail so as to ensure that the CFRC grant funds will not supplant expenditure from other Federal, State, or local sources or funds independently generated by the grantee. An identification of the participating parties, if applicable.

(ii) A checklist for certifying to threshold requirements for all applications

(iii) A checklist for certifying to category specific threshold requirements

(iv) A checklist for certifying to activity specific threshold requirements

(v) A Budget (HUD form 50075.1, Annual Statement/Performance and Evaluation Report). Review the Budget, Leverage and Financing Thresholds above (under the Category Specific Threshold Requirements section) and the Funding Restrictions section of the NOFA (Section IV.D).

(vi) Program Schedule. Review the Program Schedule Threshold Requirement above (under the Category Specific Threshold Requirements section).

(2) HUD will not fund incomplete applications. If an application is missing any aspect, the application will be considered non-responsive to the NOFA, thus leaving the 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 by HUD of incomplete or nonresponsive applications must resubmit the application. Resubmission shall be placed in the funding queue based upon the date for receipt of the resubmission. See Section V.B for detailed information on the Reviews and Selection Process.

(3) The commitments made for each grant application will be strictly monitored and

enforced. A false statement in an application is grounds for denial or termination or recapture of an award and possible criminal, civil or administrative sanctions. See Section VI.B.3(n) for enforcement requirements.

2. Category 2 - Public Housing Transformation. The purpose of Category 2 is to provide funding to activities that help redevelop public housing that is distressed and a blighting influence on the surrounding community. The surrounding community must be either a stable and well functioning community, or one that lacks resources but has already been targeted for revitalization by the locality. These grants should address the blighting factors of the public housing through either renovation of the public housing or through demolition and redevelopment of new public housing or a mixture of public housing and non-public housing on the site.

a. Eligible Activities. Funds in this Category may be used to pay for any eligible Capital Fund expenses, as defined in 24 CFR Parts 905, 941 and 968, that help achieve the Category objective of redeveloping public housing that is distressed and a blighting influence on the surrounding community. The surrounding community must be either a stable and well functioning community, or one that lacks resources but has already been targeted for revitalization by localities.

(1) Development activities (24 CFR Part 941).

(2) Rehabilitation activities including the design and construction of public housing units, including 24 CFR Parts 905 and 968

(3) The redevelopment activity may include demolition/disposition or renovation of existing public housing units. However, HUD believes that there should be a reasonable amount of replacement housing for units that are demolished or disposed of. See Category Specific

Threshold Requirements below, Section V.A.2.b(2)(i), for a threshold requirement related to replacement housing.

(4) Relocation for residents displaced as a result of construction, rehabilitation, or acquisition activities described above, including reasonable moving expenses, as well as relocation counseling and other services to help residents relocate;

b. Threshold Requirements. Applicants must meet all threshold requirements in order to be considered for funding under this Category, subject to the requirements of Section V.B, Reviews and Selection Process, and unless otherwise noted in this NOFA. Your application will not be eligible for funding unless each threshold requirement listed in this NOFA is included in your application. See Section V.B for instructions on incomplete applications.

(1) Threshold Requirements for All Applications. Applicants must comply with all Threshold Requirements for All Applications in Section III.C.2 in order to be considered for funding, unless otherwise noted in this NOFA. Applicants must certify to the applicability of each threshold in their application.

(2) Category Specific Threshold Requirements. Applicants must comply with all Category Specific Threshold Requirements in this section in order to be considered for funding. The following threshold requirements apply to all of the activities in this Category. Applicants must certify to the applicability of each threshold in their application.

(a) Eligible Activities. The applicant must certify that the CFRC funds will only be used to pay for eligible Capital Fund activities and expenses, as defined in 24 CFR Part 905, 941 and 968, that help achieve the Category objective of redeveloping public housing that is distressed and a blighting influence on a surrounding community, which includes communities which are

stable and well functioning, as well as those that are distressed but have already been targeted for revitalization by localities.

(b) The applicant must identify the distressed project that will be either removed from the inventory (or has already been removed from the inventory) and replaced or that will be revitalized. Note, if the applicant intends to remove an existing project (or a portion of a project) and replace it, the applicant must also identify the replacement project. For all projects, the applicant must specify the number, the bedroom count and square foot size of the units that it will either develop or revitalize pursuant to the CFRC grant if awarded.

(c) The activities included in the proposed project must be new (as opposed to the Gap Financing Category), for which no funds have been previously obligated.

(d) The plan proposed to be funded by this grant must be consistent with the locality's Comprehensive Plan.

(e) The plan proposed to be funded by this grant must target either an existing public housing project or a former public housing project that has been demolished, but not replaced.

(f) The applicant must certify that an Architect or Engineer not employed by the applicant has certified that the public housing project targeted by this proposed project meets (or met, in the case of already-demolished projects) the definition of physical distress which is: The project requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including inappropriately high population density), problems resulting from deferred maintenance, general physical deterioration, obsolescence of major systems, or other deficiencies in the physical plant of the project. The targeted project may already have been demolished. If demolished, demolition must have been legally done and no HUD replacement housing assistance may have been provided, other

than tenant-based assistance and/or Replacement Housing Factor (RHF) funds, for the demolished units. The targeted project must have satisfied the definition of severe physical distress (as defined above) as of the day the demolition was approved by HUD.

(g) The targeted public housing project must be located in either:

(i) A stable, well-functioning community, where services and community infrastructure, such as transportation services, access to retail, employment opportunities, health services, parks and recreation, etc., already exist, but whose continued growth is being negatively impacted by the presence of the distressed public housing project; or

(ii) A community that lacks resources, but has already been targeted by the local government or other responsible entity for revitalization, including such activities as improvements to public transportation, support for retail development, job creation for residents, pedestrian or bikeways, parks or recreation, housing renovation/development, health care services, or other activities that enhance the quality of life. These types of activities must have commenced prior to the issuance of the NOFA.

(h) The proposed project must be located in a census tract with a concentration of poverty that does not exceed 20 percent.

(i) HUD believes that there should be a reasonable amount of replacement housing for units that are demolished or disposed of. Applicants under this category must certify that, if funded, they will build a number of public housing units that is equivalent to the total grant amount divided by the applicable Total Development Cost (TDC) limit (i.e. if the grant is \$10 million and the TDC limit is \$100,000 per unit, the recipient PHA would have to build at least 100 public housing units). Applicants must indicate in their application what this number would be. For the purposes of establishing the targeted number of units, the Department will calculate

the number of units to be replaced without any adjustments for demolition costs or TDC waivers even if those apply to the grant in question (i.e. even if the Department waives the TDC to permit an increase from \$100,000 per unit to \$115,000 per unit for the grant, the recipient would still have to produce the number of units based on the unadjusted \$100,000 TDC).

(j) Program Schedule. Applicants must provide a program schedule for their proposed program which demonstrates compliance with the obligation and expenditure deadlines established in Section IV.E. The program schedule must identify all the major milestones to be achieved by the program. These should include, at a minimum, closing dates, construction start, construction completion, and lease-up. It should also include the date the funds will be obligated, the date 60 percent of the funds will be expended, and the date 100 percent of the funds will be expended.

(k) Budget, Leverage and Financing Thresholds:

(i) PHAs must submit in their application a budget for the activities it will implement under this CFRC grant, indicating committed sources and projected uses.

(ii) Commitments for permanent sources must equal projected uses. The project must be financially feasible, as proposed (including any requested TDC/HCC waiver), as defined by the following costs control standards:

(A) Your hard development costs must be realistically developed through the use of technically competent methodologies, including cost estimating services, and should be comparable to industry standards for the kind of construction to be performed in the proposed geographic area.

(B) Your cost estimates must represent an economically viable preliminary plan for designing, planning, and carrying out your proposed activities, in accordance with local costs of labor, materials, and services.

(C) Your projected soft costs must be reasonable and comparable to industry standards. Upon award, soft costs will be subject to HUD's Cost Control and Safe Harbor Standards. These standards provide specific limitations on such costs as developer's fees (between 9 and 12 percent), PHA administration/consultant cost (no more than 3 to 6 percent of the total project budget), contractor's fee (6 percent), overhead (2 percent), and general conditions (6 percent).

(iii) PHAs must certify that each funding source identified in the application is firmly committed, which means that the amount of the resource and its dedication to CFRC grant activities is explicit, in writing, and signed by a person authorized to make the commitment. The commitment may only be conditioned on receipt of the grant and the completion of due diligence satisfactory to the lender or investor, or other entity controlling the committed funds, and the ability of the PHA to reach a financial closing for the project in question.

(iv) The budget must demonstrate that upon completion, permanent sources of public housing funds, including Recovery Act funding, will not exceed a pro rata share of the costs for constructing public housing units (the percentage of public housing funds to total funds dedicated to unit production may not exceed the percentage of public housing units to total units).

(v) TDC/HCC Waivers, if applicable. Applicants must comply with the applicable Total Development Cost (TDC) and Housing Cost Cap (HCC) limits (including those approved under MTW). TDC and/or HCC may be waived for any PHA in funded in this category. If a TDC/HCC waiver is requested, PHAs must submit a request with a detailed explanation and

justification as part of this grant application and HUD will approve on a case-by-case basis. If a request to exceed TDC/HCC is denied, the application will be denied.

(vi) Leverage for applications submitted for Round 1 consideration only. The applicant must certify that it has leveraged non-public housing funds for the application at a ratio of not less than \$0.25 of non-public housing funds to \$1.00 of CFRC grant funds. The leveraged non-public housing funds must be firmly committed, which means that the amount of the leveraged funds and dedication of these funds to the CFRC grant activities is explicit, in writing, and signed by a person authorized to make the commitment. The commitment may only be conditioned on receipt of the grant and the completion of due diligence satisfactory to the lender or investor, or other entity controlling the committed funds, and the ability of the PHA to reach a financial closing for the project in question. The leverage commitment documents must be kept on file by the applicant. Applications without the required amount of leverage commitments submitted during Round 1 will be held for consideration until Round 2.

c. Application Content and Organization.

(1) Applicants for funding under this Category must submit their application electronically in accordance with Section IV.B. and include in their application the following:

(a) A completed-signed Application for Federal Assistance (SF-424)

(b) A completed-signed anti-lobbying certification (SF LLL) scanned into a .pdf document

(c) a completed Microsoft Excel CFRC Application spreadsheet: note that the spreadsheet will contain the following:

(i) Program Overview Narrative. Applicants must provide a brief description of their proposed program. Activities described must follow the criteria of the Eligible Activities and Thresholds for this Category above. The Program Overview must contain the following information: A description of the proposed program, including the purpose and activities, to be funded by the CFRC grant. The description must be of sufficient detail so as to ensure that the CFRC grant funds will not supplant expenditure from other Federal, State, or local sources or funds independently generated by the grantee. It should also contain the following:

(A) Description of the condition of the targeted public housing project, specifically identifying elements of distress.

(B) Description of the surrounding community and the impact of the targeted public housing project on the community.

(C) Description of the proposed redevelopment activity, including the number of units to be renovated, demolished, and/or constructed.

(D) Identification of development partners and the role of each.

(ii) A checklist for certifying to threshold requirements for all applications

(iii) A checklist for certifying to category specific threshold requirements

(iv) Budget. Construction period and permanent sources and uses schedules, as well as a completed TDC/HCC analysis. Review the Budget, Leverage and Financing Thresholds above (under the Category Specific Threshold Requirements section) and the Funding Restrictions section of the NOFA (Section IV.D). If the project exceeds TDC/HCC limits, the application must include a request for a waiver of TDC/HCC limits. If costs exceed TDC/HCC limits and a waiver is not requested, or a waiver request is made but not approved by HUD, the application shall be rejected.

(v) TDC/HCC Waiver Request, if any. The TDC/HCC waiver request must include: the amount requested for approval, indicating the current TDC/HCC limit and the difference between the two, and a justification of why this waiver is needed and why the current TDC/HCC is insufficient. As relevant, an explanation of extraordinary site costs must be included with the request.

(vi) Program Schedule. Review the Program Schedule Threshold Requirement above (under the Category Specific Threshold Requirements section).

(2) HUD will not fund incomplete applications. If an application is missing any aspect, the application will be considered non-responsive to the NOFA, thus leaving the 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 by HUD of incomplete or nonresponsive applications must resubmit the application. Resubmission shall be placed in the funding queue based upon the date and time for receipt of the resubmission. See Section V.B for detailed information on the Reviews and Selection Process.

(3) The commitments made for each grant application will be strictly monitored. A false statement in an application is grounds for denial or termination or recapture of an award and possible criminal, civil or administrative sanctions. See Section VI.B.3(n) for enforcement requirements.

3. Category 3 - Gap Financing for Projects that are Stalled due to Financing Issues. The purpose of Category 3 is to provide funding to positively impact the availability of affordable rental housing by filling the capital investment gap for redevelopment or replacement housing projects which are ready to proceed but are stalled due to the inability to obtain anticipated private capital.

a. Eligible Activities. The following are eligible activities for which funds available under this Category may be used. Applicants do not have to propose all of these activities but must indicate which they plan to implement in their application.

(1) Any eligible activity under the development regulations at 24 CFR 941, including:

(a) Development of public housing replacement units; and

(b) Mixed-finance modernization; and/or

(c) Construction or rehabilitation of community facilities or other non-dwelling space, provided that this work is completed as part of a project that contains public housing replacement units;

(2) Relocation for residents displaced as a result of construction, rehabilitation, or acquisition activities described above, including reasonable moving expenses, as well as relocation counseling and other services to help residents relocate;

(3) Demolition of dwelling units or non-dwelling structures or items related to the construction, rehabilitation, or acquisition activities described in this category, including the abatement of environmentally hazardous materials. If the proposed activity includes the demolition and/or disposition of public housing, the PHA must have received demolition and/or disposition approval from HUD no later than the date of the publication of the NOFA. This must be certified in the application;

(4) Infrastructure development related to the construction, rehabilitation or acquisition of public housing;

(5) Bridge loans provided that:

(a) PHAs will need to meet pro rata share test at end of construction period; and

(b) Mixed Finance program income rules will apply to bridge loan repayments.

(6) Applicants must follow their applicable Total Development Costs (TDC) and Housing Cost Cap (HCC) limits (including those approved under MTW). TDC and/or HCC may be waived for any PHA funded in this Category. PHAs must submit the TDC/HCC waiver requests as part of this grant application and HUD will approve them on a case-by-case basis. If a request to exceed TDC/HCC is denied, the application will be denied.

b. Threshold Requirements. Applicants must meet all threshold requirements in order to be considered for funding under this Category, subject to the requirements of Section V.B, Reviews and Selection Process, and unless otherwise noted in this NOFA. The application will not be eligible for funding unless each threshold requirement listed in this NOFA is included in the application. See Section V.B for instructions on incomplete applications.

(1) Threshold Requirements for All Applications. Applicants must comply with all Threshold Requirements for All Applications in Section III.C.2 in order to be considered for funding. Applicants must certify to the applicability of each threshold in their application.

(2) Category Specific Threshold Requirements. Applicants must comply with all Category Specific Threshold Requirements in this section in order to be considered for funding. The following threshold requirements apply to all of the activities in this Category.

(a) As relevant, the applicant must: identify the project that is to either be removed (or has been removed) from the inventory and replaced or that will be revitalized once a CFRC grant fills a financing gap; or identify the project that will be developed once a CFRC grant fills a financing gap. If the applicant intends to remove the project and replace it, the applicant must also identify the replacement project. The applicant must specify the number of units, the bedroom count distribution and square foot size distribution of the units that it will either develop or revitalize pursuant to the CFRC grant if awarded.

(b) Projects must be those for which the applicant had obtained commitments from sources of private financing, including Low Income Housing Tax Credits (LIHTC) or volume bond cap allocations, but the financing commitments have been withdrawn or the applicant has been unable to obtain the necessary financing to fully fund the proposed activity (due to the prohibition against supplanting, the cause for the withdrawal or insufficiency may not be related to the PHA's receipt of Recovery Act funds).

(c) Eligible Activities. The applicant must certify that the CFRC funds will only be used to pay for eligible Capital Fund activities and expenses, as defined in 24 CFR Part 905, 941 and 968, in order to positively impact the availability of affordable rental housing by filling the capital investment gap for redevelopment or replacement housing projects which are ready to proceed but are stalled due to the inability to obtain anticipated private capital.

(d) Program Schedule. Applicants must provide a program schedule for their proposed program which demonstrates compliance with the obligation and expenditure deadlines established in Section IV.E. The program schedule must identify all the major milestones to be achieved by the project. These should include, at a minimum, closing dates, construction start, construction completion, and lease-up. It should also include the date the funds will be obligated, the date 60 percent of the funds will be expended, and the date 100 percent of the funds will be expended.

(e) Budget, Leverage and Financing Thresholds:

(i) PHAs must submit in their application a budget for the activities it will implement under this CFRC grant, indicating sources (committed funds and needed gap financing through this NOFA) and projected uses. The budget must propose reasonable costs in relation to anticipated results.

(ii) Commitments for permanent sources must equal projected uses. The project must be financially feasible, as proposed (including any requested TDC/HCC waiver), as defined by the following costs control standards:

(A) Your hard development costs must be realistically developed through the use of technically competent methodologies, including cost estimating services, and should be comparable to industry standards for the kind of construction to be performed in the proposed geographic area.

(B) Your cost estimates must represent an economically viable preliminary plan for designing, planning, and carrying out your proposed activities, in accordance with local costs of labor, materials, and services.

(C) Your projected soft costs must be reasonable and comparable to industry standards. Upon award, soft costs will be subject to HUD's Cost Control and Safe Harbor Standards. These standards provide specific limitations on such costs as developer's fees (between 9 and 12 percent), PHA administration/consultant cost (no more than 3 to 6 percent of the total project budget), contractor's fee (6 percent), overhead (2 percent), and general conditions (6 percent).

(iii) PHAs must certify that each funding source (except gap financing requested through this NOFA) identified in the application is firmly committed, which means that the amount of the resource and its dedication to CFRC grant activities is explicit, in writing, and signed by a person authorized to make the commitment. The commitment may only be conditioned on receipt of the grant and the completion of due diligence satisfactory to the lender or investor, or other entity controlling the committed funds, and the ability of the PHA to reach a financial closing for the project in question.

(iv) The budget must demonstrate that upon completion, permanent sources of public

housing funds, including Recovery Act funding, will not exceed a pro rata share of the costs for constructing public housing units (the percentage of public housing funds to total funds dedicated to unit production may not exceed the percentage of public housing units to total units).

(v) TDC/HCC Waivers, if applicable. Applicants must comply with the applicable Total Development Costs (TDC) and Housing Cost Cap (HCC) limits (including those approved under MTW). TDC and/or HCC may be waived for any PHA in funded in this category. If a TDC/HCC waiver is requested, PHAs must submit a request with a detailed explanation and justification as part of this grant application and HUD will approve on a case-by-case basis. If a request to exceed TDC/HCC is denied, the application will be denied.

(vi) Leverage for applications submitted for Round 1 consideration only. The applicant must certify that it has leveraged non-public housing funds for the application at a ratio of not less than \$0.25 of non-public housing funds to \$1.00 of CFRC grant funds. The leveraged non-public housing funds must be firmly committed, which means that the amount of the leveraged funds and dedication of these funds to the CFRC grant activities is explicit, in writing, and signed by a person authorized to make the commitment. The commitment may only be conditioned on receipt of the grant and the completion of due diligence satisfactory to the lender or investor, or other entity controlling the committed funds, and the ability of the PHA to reach a financial closing for the project in question. The leverage commitment documents must be kept on file by the applicant. Applications without the required amount of leverage commitments submitted during Round 1 will be held for consideration until Round 2.

(f) Site Control and Acquisition.

(i) For each parcel of property to be developed, the application must include a certification that the PHA, its instrumentality, or its developer (including when any of these three entities are part of a partnership that will own the property(ies)) has site control of each parcel. If the developer has site control, the developer must be under a contract, or some equivalent form of predevelopment agreement, with the PHA that dedicates the parcel(s) for the uses proposed in the application.

(ii) For applications proposing the acquisition method of development or proposing to acquire property that is to be developed, the application must have on file an executed acquisition contract or option for the property being acquired.

(iii) Site control may only be contingent upon:

(A) The receipt of the grant funds,

(B) HUD approval of the acquisition proposal,

(C) Satisfactory compliance with site and neighborhood standards and environmental requirements, and

(D) Standard underwriting procedures.

(iv) The earliest the option or acquisition contract may expire is 180 days from the date of HUD's receipt of the application.

(g) Bridge Loans, if applicable. When bridge loans are proposed:

(i) PHAs must certify that they will meet pro rata share test at end of construction period.

(ii) PHAs must certify that they will follow all Mixed Finance program income rules that apply to bridge loan repayments.

(h) Demolition/Disposition, if applicable. If the proposed activity includes the demolition and/or disposition of public housing, the PHA must have received demolition and/or

disposition approval from HUD no later than the date of the publication of the NOFA. This must be demonstrated in the application.

e. Application Content and Organization.

(1) Applicants for funding under this Category must submit their application electronically in accordance with Section IV.B. include in their application the following:.

(a) A completed-signed Application for Federal Assistance (SF-424)

(b) A completed-signed anti-lobbying certification (SF LLL) scanned into a .pdf document

(c) a completed Microsoft Excel CFRC Application spreadsheet: note that the spreadsheet will contain the following:

(i) Program Overview Narrative. Applicants must provide a brief description of their proposed program. Activities described must follow the criteria of the Eligible Activities and Thresholds for this Category above. The Program Overview must contain the following information: A description of the gap that will be filled with the CFRC grant funds. The description must be of sufficient detail so as to ensure that the CFRC grant funds will not supplant expenditure from other Federal, State, or local sources or funds independently generated by the grantee. A description of the activities to be funded, and that will be part of the proposal implemented should the PHA receive funding. An identification of all of the participating parties.

(ii) A checklist for certifying to threshold requirements for all applications

(iii) A checklist for certifying to category specific threshold requirements

(iv) Budget. Construction period and permanent sources and uses schedules, as well as a completed TDC/HCC analysis. Review the Budget, Leverage and Financing Thresholds above

(under the Category Specific Threshold Requirements section) and the Funding Restrictions section of the NOFA (Section IV.D). If the project exceeds TDC/HCC limits, the application must include a request for a waiver of TDC/HCC limits. If costs exceed TDC/HCC limits and a waiver is not requested, or a waiver request is made but not approved by HUD, the application shall be rejected.

(v) TDC/HCC Waiver Request, if any. The TDC/HCC waiver request must include: the amount requested for approval, indicating the current TDC/HCC limit and the difference between the two, and a justification of why this waiver is needed and why the current TDC/HCC is insufficient. As relevant, an explanation of extraordinary site costs must be included with the request.

(vi) Program Schedule. Review the Program Schedule Threshold Requirement above (under the Category Specific Threshold Requirements section).

(2) HUD will not fund incomplete applications. If an application is missing any aspect, the application will be considered non-responsive to the NOFA, thus leaving the 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 by HUD of incomplete or nonresponsive applications must resubmit the application. Resubmission shall be placed in the funding queue based upon the date and time for receipt of the resubmission. See Section V.B for detailed information on the Reviews and Selection Process.

(3) The commitments made for each grant application will be strictly monitored. A false statement in an application is grounds for denial or termination or recapture of an award and possible criminal, civil or administrative sanctions. See Section VI.B.3(n) for enforcement requirements.

4. Category 4. Creation of an Energy Efficient, Green Community. Unlike the other Categories, this Category will be rated and ranked by score. The purpose of Category 4 is to facilitate transformational energy efficiency and “green” retrofits to substantively increase energy efficiency and environmental performance of public housing properties and thereby reduce energy costs, generate resident and PHA energy savings, and reduce Green House Gas emissions attributable to energy consumption. This will be accomplished by funding competitive proposals received from eligible PHAs that respond to one of the two options available under this category: Option 1 - Substantial Rehabilitation or New Construction; and Option 2 - Moderate Rehabilitation. Eligible PHAs may submit multiple proposals under one or more of the options provided under this section. It is the intention that this funding will help to produce benchmark projects demonstrating energy efficiency, healthy, safe living environments; lower utility costs; conservation of energy, water, materials and other resources; utilization of renewable energy resources where feasible; and to the extent possible, enhancement of the health of local and regional ecosystems.

a. Eligible Activities. These activities include:

(1) Option 1, Substantial Rehabilitation or New Construction – Funds in this Category may be used to pay for any eligible Capital Fund expenses, as defined in 24 CFR Parts 905, 941 and 968, that help achieve the Category and Option 1 objectives of creating energy efficient, green communities through substantial rehabilitation or new construction. Specifically, this includes eligible activities under the Capital Fund that enable you to provide substantial rehabilitation or new construction to redevelop a public housing project including community facilities or other non-dwelling space that are part of the project to produce substantially new construction that is green and energy efficient. Activities include but are not limited to

development of connections to neighborhoods and green space; site improvements that provide surface water management techniques that capture, retain, infiltrate and/or harvest rainfall; water conservation through the use of water-conserving appliances, fixtures and efficient irrigation if required; energy efficiency that meets Energy Star standards for new construction, utilizes Energy Star appliances and efficient lighting use of materials beneficial to the environment, promotes healthy/safe living environments for residents through the use of low or no-volatile organic compounds (VOC) paints and adhesives, urea/formaldehyde-free composite wood and green label certified floor coverings; use of renewable energy resources; and address operations and maintenance of the public housing units.

(2) Option 2, Moderate Rehabilitation – Funds in this Category may be used to pay for any eligible Capital Fund expenses, as defined in 24 CFR Parts 905, 941 and 968, that help achieve the Category and Option 2 objectives of creating energy efficient, green communities through moderate rehabilitation. Specifically, this includes eligible activities under the Capital Fund that enable you to provide moderate rehabilitation of a public housing project including rehabilitation of community facilities or other non-dwelling space that are part of the project to increase conservation to the highest level possible. Activities include but are not limited to actions that replace major building system components to significantly reduce energy and/or water consumption, provide healthy, safe living environments for residents, address operations and maintenance of the public housing units, utilize energy efficient technology such as efficient hot water heaters, combined heat and power, efficient lighting, HVAC improvements, building envelope improvements, Energy Star appliances, high-efficiency boilers/furnaces, geothermal/ground coupled heat pumps, energy related infrastructure such as roof/window replacements and utility distribution, installing programmable thermostats or controls, low flow

faucets/shower heads, condensing boilers, energy management system – automation, and metering. Information on the benefits of specific energy strategies can be found on the HUD PIH website <http://www.hud.gov/offices/pih/programs/ph/phecc/>.

b. Threshold Requirements. Applicants must meet all threshold requirements in order to be considered for funding under this Category, subject to the requirements of Section V.B, Reviews and Selection Process, and unless otherwise noted in this NOFA. Your application will not be eligible for funding, and will not be rated or ranked, unless each threshold requirement listed in this NOFA is included in your application. See Section V.B for instructions on incomplete applications and technical deficiencies.

(1) Threshold Requirements for All Applications. Applicants must comply with all Threshold Requirements for All Applications in Section III.C.2 in order to be considered for funding. Applicants must certify to the applicability of each threshold in their application.

(2) Category Specific Threshold Requirements. Applicants must comply with all Category Specific Threshold Requirements, whether applying under Option 1 or Option 2, in this section in order to be considered for funding. The following threshold requirements apply to all of the activities in this Category.

(a) The applicant must identify the project that it will substantially rehabilitate, moderately rehabilitate or construct utilizing funding from a CFRC grant in this category. It must specify the activities that it will take to claim points in the rating factors section of this category.

(b) Eligible Activities. The applicant must certify that the CFRC funds will only be used to pay for eligible Capital Fund activities and expenses, as defined in 24 CFR Part 905, 941 and 968, in order to facilitate transformational energy and/or water efficiency and “Green”

retrofits to substantively increase the energy conservation, water conservation and environmental performance of public housing properties and thereby reduce energy and/or water consumption costs, generate resident and PHA energy savings, and reduce Green House Gas emissions.

(c) Program Schedule. Applicants must provide a program schedule for their proposed program which demonstrates compliance with the obligation and expenditure deadlines established in Section IV.E. The program schedule must identify all the major milestones to be achieved by the project including but not limited to the date construction/activities will commence and the date construction/activities will be completed. It should also include the date the funds will be obligated, the date 60 percent of the funds will be expended, and the date 100 percent of the funds will be expended.

(d) Budget, Leverage and Financing Thresholds:

(i) PHAs must submit in their application a budget for the activities it will implement under this CFRC grant, indicating committed sources and projected uses. The budget must propose reasonable costs in relation to anticipated results.

(ii) Commitments for permanent sources must equal projected uses. The project must be financially feasible, as proposed (including any requested TDC/HCC waiver). In the case of mixed finance development, the project must be financially feasible as defined by the following costs control standards:

(A) Your hard development costs must be realistically developed through the use of technically competent methodologies, including cost estimating services, and should be comparable to industry standards for the kind of construction to be performed in the proposed geographic area.

(B) Your cost estimates must represent an economically viable preliminary plan for designing, planning, and carrying out your proposed activities, in accordance with local costs of labor, materials, and services.

(C) Your projected soft costs must be reasonable and comparable to industry standards. Upon award, soft costs will be subject to HUD's Cost Control and Safe Harbor Standards. These standards provide specific limitations on such costs as developer's fees (between 9 and 12 percent), PHA administration/consultant cost (no more than 3 to 6 percent of the total project budget), contractor's fee (6 percent), overhead (2 percent), and general conditions (6 percent).

(iii) PHAs must certify that each funding source identified in the application is firmly committed, which means that the amount of the resource and its dedication to CFRC grant activities is explicit, in writing, and signed by a person authorized to make the commitment. The commitment may only be conditioned on receipt of the grant and the completion of due diligence satisfactory to the lender or investor, or other entity controlling the committed funds, and the ability of the PHA to reach a financial closing for the project in question.

(iv) The budget must demonstrate that upon completion, permanent sources of public housing funds, including Recovery Act funding, will not exceed a pro rata share of the costs for constructing public housing units (the percentage of public housing funds to total funds dedicated to unit production may not exceed the percentage of public housing units to total units).

(v) TDC/HCC Waivers, if applicable. Applicants must comply with the applicable Total Development Costs (TDC) and Housing Cost Cap (HCC) limits (including those approved under MTW). TDC and/or HCC may be waived for any PHA in funded in this category. If a TDC/HCC waiver is requested, PHAs must submit a request with a detailed explanation and

justification as part of this grant application and HUD will approve on a case-by-case basis. If a request to exceed TDC/HCC is denied, the application will be denied.

(vi) Leverage. The applicant must certify to the leverage commitments it has, in accordance with the Leverage Rating Factor below. The leveraged non-public housing funds must comply with the definition of firmly committed and the allowable conditions in section (iii) above. The leverage commitment documents must be kept on file by the applicant.

(3) Option Specific Threshold Requirements. As indicated in the Eligible Activities Section above, applicants may choose which Option in Category 4 for which they are requesting grant funding; they do not have to propose all of the activities listed. However, applicants must comply with the Option Specific Threshold Requirements of the option they do identify in their application.

(a) Option 1, Substantial Rehabilitation or New Construction, Threshold Requirements:

(i) Mandatory Enterprise Green Communities Criteria. Applicants applying under Option 1, as described above, must provide substantial rehabilitation or new construction that meets the certification requirements of the Mandatory Enterprise Green Communities Criteria as evidenced by the self certification of the Mandatory requirements of the Green Communities Criteria Checklist, as amended in this NOFA. Applicants will certify to these criteria in their application. The mandatory items are labeled with “Mandatory” in the right-most column of the Checklist in the rating factor section below. Although none of the criteria have been changed in terms of content, the Department has deleted some criteria that are not applicable for purposes of this NOFA have been deleted from the original Green Communities Criteria Checklist. Additionally, the point structure associated with the Enterprise Green Communities Criteria has

been changed for purposes of this NOFA. Thus, with some amendments, HUD incorporates the Green Communities Criteria Checklist into this NOFA. Information on Enterprise Green Communities Criteria can be found at: www.greencommunitiesonline.org. Enterprise Green Communities Criteria was adapted from the LEED (Leadership in Energy and Environmental Design) standards and is the only standard specifically developed for affordable housing. Use of the Enterprise Green Communities Criteria provides HUD the ability to measure and reward the PHAs that are providing the most “green,” most innovative plans.

Accordingly, HUD is using the Enterprise Green Communities Criteria Checklist for purposes of this NOFA. It is not the intention of HUD to create a separate green certification system or steer business toward Enterprise or to give an advantage to certain PHAs. PHAs that have grants, loans and/or tax credit equity through Enterprise will not necessarily receive funding under this NOFA; rather they must respond to and be assessed against the criteria of this NOFA as would any other applicant. In turn, PHAs that receive funding under this NOFA will not necessarily receive grants, loans and/or tax credit equity from Enterprise; rather they must apply for such assistance in accordance with the necessary processes required by Enterprise as would any other applicant. Further, the use of the Enterprise Green Communities Criteria Checklist in this NOFA shall not prevent subsidiaries of Enterprise from participating as contractors or consultants to the PHAs that apply for funding under this NOFA.

(ii) For a mixed-income project, the budget must demonstrate that upon completion, permanent sources of public housing funds, including Recovery Act funding, will not exceed a pro rata of the costs for constructing public housing units (the percentage of public housing funds to total funds dedicated to unit production may not exceed the percentage of public housing units to total units).

(b) **Option 2, Moderate Rehabilitation, Threshold Requirements.** There are no additional threshold requirements for Option 2.

c. **Rating Factors.** Applications must respond to the rating factor criteria below in order to be rated and ranked.

(1) **Option 1, Substantial Rehabilitation or New Construction, Rating Factors (105 total points maximum).** Applicants for Option 1 must respond to the following Rating Factors in order to be rated and ranked. A maximum of 105 points may be earned under the Option 1 rating factors.

(a) **Rating Factor 1 – Strategy for Green Communities – Amended Mandatory Enterprise Green Communities Criteria (60 points maximum).**

(i) Applicants applying under Option 1 must comply with the Mandatory Enterprise Green Communities Criteria, as amended by the NOFA, in accordance with the above section, “Option 1, Substantial Rehabilitation or New Construction, Threshold Requirements” and as enumerated in the amended Enterprise Green Communities Criteria Checklist below.

(ii) The application will receive 60 points for certifying that they will implement the amended Mandatory Enterprise Green Communities Criteria, as provided in the amended checklist below. As noted above, applicants will certify to these criteria in their application; applicants must not submit to HUD the actual documents and plans from the Checklist to which they are certifying. The application will receive zero points if it does not indicate through the certification provided in the application that it will implement all of the amended Mandatory Enterprise Green Communities Criteria.

Integrated Design		
1.1	Green Development Plan	
	Submit Green Development Plan outlining the integrated design approach used for this development that demonstrates involvement of	Mandatory

	the entire development team.	
Site, Location and Neighborhood Fabric		
2.3	Walkable Neighborhoods: Sidewalks and Pathways	
	Connect project to the pedestrian grid. Include sidewalks or other all-weather pathways within a multifamily property or single-family subdivision linking residential development to public spaces, open spaces and adjacent development.	Mandatory
2.4a	Smart Site Location: Passive Solar Heating/Cooling	
LH	Orient building to make the greatest use of passive solar heating and cooling.	1 point or 0
2.5	Compact Development	
LH	Increase average minimum densities to meet or exceed: seven units per acre for detached/semi-detached; 12 units for town homes; and 20 units for apartments.	1 point or 0
2.6	Walkable Neighborhoods: Connections to Surrounding Neighborhood	
	Provide a site plan demonstrating at least three separate connections from the development to sidewalks or all-weather pathways in surrounding neighborhoods.	1 point or 0
Site Improvements		
3.1	Environmental Remediation	
	Conduct a Phase I Environmental Site Assessment and provide a plan for abatement if necessary.	Mandatory
3.2	Erosion and Sedimentation Control	
LH	Implement EPA's Best Management Practices for erosion and sedimentation control during construction referring to the EPA document, Storm Water Management for Construction Activities.	Mandatory
3.3	Landscaping	
LH	Provide a tree or plant list certified by the Architect or Landscape Architect, that the selection of new trees and plants are appropriate to the site's soils and microclimate and do not include invasive species. Locate plants to provide shading in the summer and allow for heat gain in the winter.	Mandatory
3.4	Surface Water Management	
LH	Capture, retain, infiltrate and/or harvest the first ½ inch of rainfall that falls in a 24-hour period.	2 points or 0
Water Conservation		
4.1a	Water-Conserving Appliances and Fixtures: New Construction	
LH	Install water-conserving fixtures with the following minimum specifications: toilets – 1.3 GPF; showerheads – 2.0 GPM; kitchen faucets – 2.0 GPM; bathroom faucets – 2.0 GPM	Mandatory
4.1c	Water-Conserving Appliances and Fixtures	
LH	Install water-conserving fixtures with the following minimum specifications: toilets – 1.1 GPF; showerheads – 1.75 GPM; kitchen faucets – 2.0 GPM; bathroom faucets – 1.5 GPM	2 points or 0
4.2	Efficient Irrigation	

LH	If irrigation is necessary, use recycled gray water, roof water, collected site run-off, water from a municipal recycled water system, or a highly efficient irrigation system including all the following: system designed by EPA Water Sense professional; plant beds with a drip irrigation system; separately zoned turf and bedding types; a watering zone timer/controller; moisture sensor controller.	Mandatory <i>if irrigation is necessary</i>
Energy Efficiency		
5.1a	Efficient Energy Use: New Construction	
LH	Meet Energy Star standards (single family and low rise residential); exceed ASHRAE 90.1-2004 by 15 percent; California-exceed Title 24 by 15 percent; Oregon, Washington, Idaho and Montana—meet Northwest Energy Star	Mandatory
5.2	Energy Star Appliances	
LH	If providing appliances, install Energy Star clothes washers, dishwashers and refrigerators.	Mandatory <i>if providing appliances</i>
5.3a	Efficient Lighting: Interior	
LH	Install the Energy Star Advanced Lighting Package in all interior units and use Energy Star or high-efficiency commercial grade fixtures in all common areas and outdoors.	Mandatory
5.3b	Efficient Lighting: Exterior	
LH	Install daylight sensors or timers on all outdoor lighting, including front and rear porch lights in single family homes.	Mandatory
5.4	Electricity Meter	
	Install individual or sub-metered electric meters.	Mandatory <i>Except for zero-bedroom and designated supportive housing dwelling units</i>
5.5	Additional Reductions in Energy Use	
LH	Exceed the relevant Energy Star HERS score for low-rise residential buildings or exceed other standards by increased percentages.	1 point or 0
5.6a	Renewable Energy	
LH	Install PV panels, wind turbines or other renewable energy source to provide at least 10 percent of the project's estimated electricity demand.	10 points or 0
Materials Beneficial to the Environment		
6.1	Construction Waste Management	
LH	Develop and implement a construction waste management plan to reduce the amount of material sent to the landfill by at least 25 percent.	1 point or 0
6.2	Recycled Content Material	
LH	Use materials with recycled content; provide calculation for recycled	2 points or 0

	content percentage based on cost or value of recycled content in relation to total materials for project. Minimum recycled material must be 5 percent	
6.3	Certified, Salvaged and Engineered Wood	
LH	Commit to using at least 25 percent (by cost) wood products and materials that are salvaged wood, engineered framing materials or certified in accordance with the Forest Stewardship Council.	1 point or 0
6.4a	Water-Permeable Walkways	
LH	Use water-permeable materials in 50 percent or more of walkways.	1 point or 0
6.4b	Water-Permeable Parking Areas	
LH	Use water-permeable materials in 50 percent or more of paved parking areas.	1 point or 0
6.5a	Reduce Heat-Island Effect: Roofing	
LH	Use Energy Star-compliant and high-emissive roofing or install a “green” (vegetated) roof for at least 50 percent of the roof area; or a combination of high-albedo and vegetated roof covering 75 percent of the roof area.	1 point or 0
6.5b	Reduce Heat-Island Effect: Paving	
LH	Use light-colored, high-albedo materials and/or an open-grid pavement with a minimum Solar Reflective Index of 0.6 over at least 30 percent of the site’s hardscaped area.	1 point or 0
6.5c	Reduce Heat-Island Effect: Plantings	
LH	Locate trees or other plantings to provide shading for at least 50 percent of sidewalks, patios and driveways within 50 feet of a home.	1 point or 0
Healthy Living Environment		
7.1	Low / No Volatile Organic Compounds (VOC) Paints and Primers	
LH	Specify that all interior paints and primers must comply with current Green Seal standards for low VOC	Mandatory
7.2	Low / No VOC Adhesives and Sealants	
LH	Specify that all adhesives must comply with Rule 1168 of the South Coast Air Quality Management District. Caulks and sealants must comply with Regulation 8, Rule 51 of the Bay Area Air Quality Management District.	Mandatory
7.3	Urea Formaldehyde-free Composite Wood	
	Use particleboard and MDF that is certified compliant with the ANSI A208.1 and A208.2. If using nonrated composite wood, all exposed edges and sides must be sealed with low-VOC sealants.	Mandatory
7.4	Green Label Certified Floor Coverings	
LH	Do not install carpets in below grade living spaces, entryways, laundry rooms, bathrooms, kitchens or utility rooms. If using carpet, use the Carpet and Rug Institute’s Green Label certified carpet, pad and carpet adhesives.	Mandatory
7.5a	Exhaust Fans – Bathroom	
LH	Install Energy Star-labeled bathroom fans that exhaust to the outdoors and are connected to a light switch and are equipped with a humidistat	Mandatory

	sensor or timer, <i>or</i> operate continuously.	
7.5b	Exhaust Fans – Kitchen: New Construction & Substantial Rehabilitation	
LH	Install power vented fans or range hoods that exhaust to the exterior.	Mandatory
7.6a	Ventilation: New Construction & Substantial Rehabilitation	
LH	Install a ventilation system for the dwelling unit, providing adequate fresh air per ASHRAE 62.1-2007 for residential buildings above 3 stories or ASHRAE 62.2 for single family and low-rise multifamily dwellings.	Mandatory
7.7	HVAC Sizing	
LH	Size heating and cooling equipment in accordance with the Air Conditioning Contractors of America Manual, Parts J and S, ASHRAE handbooks, or equivalent software.	Mandatory
7.8	Water Heaters: Mold Prevention	
	Use tankless hot water heaters or install conventional hot water heaters in rooms with drains or catch pans Mandatory with drains piped to the exterior of the dwelling and with non-water sensitive floor coverings.	Mandatory
7.9a	Materials in Wet Areas: Surfaces	
	In wet areas, use materials that have smooth, durable, cleanable surfaces. Do not use mold-propagating materials such as vinyl wallpaper and unsealed grout.	Mandatory
7.9b	Materials in Wet Areas: Tub and Shower Enclosures	
	Use fiberglass or similar enclosure or, if using any form of grouted material, use backing materials such as cement board, fiber cement board or equivalent (i.e., not paper-faced).	Mandatory
7.10a	Basements and Concrete Slabs: Vapor Barrier	
	Provide vapor barrier under all slabs. For concrete floors either in basements or on-grade slab install a capillary break of 4 four inches of gravel over soil. Cover all gravel with 6 millimeter polyethylene sheeting moisture barrier with joints lapped one foot or more. On interior below grade walls, avoid using separate vapor barrier or below grade vertical insulation.	Mandatory
7.10b	Basements and Concrete Slabs – Radon: New Construction & Substantial Rehabilitation	
	In EPA Zone 1 and 2 areas, install passive radon-resistant features below the slab along with a vertical vent pipe with junction box available, if an active system should prove necessary. For substantial rehab, introduce radon-reduction measures if elevated levels of radon are detected.	Mandatory
7.11	Water Drainage	
	Provide drainage of water to the lowest level of concrete away from windows, walls and foundations.	Mandatory
7.12	Garage Isolation	
LH	Provide a continuous air barrier between the conditioned (living) space and any unconditioned garage space. In single-family houses	Mandatory

	with attached garages, install a CO alarm inside the house on the wall that is attached to the garage and outside the sleeping area, and do not install air handling equipment in the garage.	
7.13	Clothes Dryer Exhaust	
LH	Clothes dryers must be exhausted directly to the outdoors.	Mandatory
7.14	Integrated Pest Management	
LH	Seal all wall, floor and joint penetrations with low VOC caulking. Provide rodent-proof and corrosion-proof screens (e.g., copper or stainless steel mesh) for large openings.	Mandatory
7.15	Lead-Safe Work Practices: Moderate & Substantial Rehabilitation	
	For properties built before 1978, use lead-safe work practices during renovation, remodeling, painting and Mandatory demolition.	Mandatory
7.16	Healthy Flooring Materials: Alternative Sources	
	Use non-vinyl, non-carpet floor coverings in all rooms.	2 points or 0
7.17	Smoke-free Building	
	Enforce a "no smoking" policy in all common and individual living areas in all buildings. See full criteria for "common area" definition.	1 point or 0
7.18	Combustion Equipment (includes space & water-heating equipment)	
LH	Specify power vented or combustion sealed equipment. Install one hard-wired CO detector for each sleeping area, minimum one per floor.	Mandatory
Operations and Maintenance		
8.1	Building Maintenance Manual	
LH	Provide a manual that includes the following: a routine maintenance plan; instructions for all appliances, HVAC operation, water-system turnoffs, lighting equipment, paving materials and landscaping, pest control and other systems that are part of each occupancy unit; an occupancy turnover plan that describes the process of educating the tenant about proper use and maintenance of all building systems.	Mandatory
8.2	Occupant's Manual	
LH	Provide a guide for homeowners and renters that explains the intent, benefits, use and maintenance of green building features, along with the location of transit stops and other neighborhood conveniences, and encourages additional green activities such as recycling, gardening and use of healthy cleaning materials, alternate measures for pest control, and purchase of green power.	Mandatory
8.3	Homeowner and New Resident Orientation	
LH	Provide a walk-through and orientation to the homeowner or new resident using the Occupant Manual from 8-2 above that reviews the building's green features, operations and maintenance along with neighborhood conveniences.	Mandatory

(b) Rating Factor 2 – Strategy for Green Communities – Amended Optional Enterprise Green Communities Criteria (30 points maximum).

Applicants applying under Option 1 may also earn up to 30 points by certifying that they will implement/comply with (if funded) the amended optional Enterprise Green Communities Criteria, in accordance with the section, “Option 1, Substantial Rehabilitation or New Construction, Threshold Requirements” and as enumerated in the amended Enterprise Green Communities Criteria Checklist above. Each optional criterion has a point value listed in the right-most column. For each optional criterion the applicant certifies it will implement/comply with (if funded), the applicant will receive that point value. For each optional criterion the applicant does not certify it will implement/comply with (if funded), the applicant will receive zero points.

(c) Rating Factor 3 – Leverage of Non-Public Housing Funds (10 points maximum)

(i) The application will receive 4 points if it certifies that it has firm commitments to leverage non-public housing funds to public housing funds at a ratio of: 0.25:1.

(ii) The application will receive 6 points if it certifies that it has firm commitments to leverage non-public housing funds to public housing funds at a ratio of: 0.26:1 to 0.50:1.

(iii) The application will receive 8 points if it certifies that it has firm commitments to leverage non-public housing funds to public housing funds at a ratio of: 0.51:1 to 0.75:1.

(iv) The application will receive 10 points if it certifies that it has firm commitments to leverage non-public housing funds to public housing funds at a ratio of: 0.76:1 to 1:1 or higher.

(v) The application will receive 0 points if it does not certify that it has firm commitments to leverage non-public housing funds to public housing funds at a ratio of at least 0.25:1.

(d) Rating Factor 4. Job Creation – Economic Opportunities for Low- and Very Low-Income Persons (Section 3) and Workforce Investment Boards (5 Points maximum)

(i) Section 3. As noted in Section VI.B.3.e, grant recipients must comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and its implementing regulations at 24 CFR part 135. Specifically, grantees are required to ensure, to the greatest extent feasible, that training, employment, and other economic opportunities will be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns that provide economic opportunities to low- and very low-income persons in the area in which the project is located. Additional information on these requirements can be found at <http://www.hud.gov/section3>.

(A) Section 3 Compliance (1 Point). You will receive 1 point if your application certifies that your PHA complied with the requirements of Section 3 during the most recent fiscal or calendar year. You will receive zero points if your application does not certify that you complied with the requirements of Section 3 during the most recent fiscal or calendar year. Evidence of such compliance is a copy of the applicant's most recent Section 3 Annual Summary Report (Form HUD 60002) which must be kept on file by the applicant.

(B) Section 3 Plan (2 Points). You will receive 2 points if you certify that you have completed a feasible Section 3 plan, which must be kept on file by the applicant, for directing training, employment and contracting opportunities generated by the expenditure of covered financial assistance to Section 3 residents and Section 3 business concerns. To earn the two points, your application must certify that your Section 3 plan addresses at least a majority of the items listed below in paragraphs (I)-(VII). (Your Section 3 plan may also include items not listed in (I)-(VII)). You will receive zero points if your application does not certify that your

Section 3 plan addresses at least a majority of the items listed below in paragraphs (I)-(VII).

These items must be clearly addressed in your Section 3 plan.

(I) Types and amounts of employment and contracting opportunities to be generated as a result of proposed plan activities;

(II) Specific actions that will be taken to ensure that low- and very low-income persons and the business concerns that substantially employ these persons will be given priority consideration for employment and contracting opportunities in accordance with 24 CFR Part 135.34 and Part 135.36;

(III) Eligibility criteria to be used for certifying Section 3 residents and business concerns;

(IV) Process to be used for notifying Section 3 residents and business concerns about the availability of training, employment, and contracting opportunities;

(V) Methodology to be used for monitoring contractors and subcontractors that are awarded covered contracts to ensure their compliance with the requirements of Section 3;

(VI) Strategies for meeting the Section 3 minimum numeric goals for employment and contracting opportunities found at 24 CFR Part 135.30;

(VII) Contact information and qualifications for staff persons that will be responsible for the day-to-day implementation of Section 3.

(ii) Partnership with Workforce Investment Board and Other Organizations, 2 Points. Strong partnership between a PHA and its area Workforce Investment Board (WIB) can have a significant positive impact on assisting public housing residents to prepare for and gain employment.

(A) Workforce Investment Board (1 point)

(I) You will receive 1 point if you certify that you have a letter of commitment (or other commitment document if available, including MOU, interagency cooperation agreement, etc.) which firmly commits both the area WIB and the PHA to work together to facilitate the connection of public housing residents to employment opportunities and training. The WIB must have the necessary capacity to successfully facilitate the connection of public housing residents to employment opportunities and training. The letter of commitment (or other commitment document) must be kept on file by the applicant.

(II) You will receive zero points if your application does not certify that you have a letter of commitment (or other commitment document), in accordance with the terms of (I) above.

(B) Other Organizations (1 point)

(I) You will receive 1 point if you certify that you have a relationship(s) with other organizations (e.g., community-based organizations, faith-based organizations, service providers, community colleges, etc.) that are equipped to help facilitate the connection of public housing residents to employment opportunities and training. The other organization must have the necessary capacity to successfully facilitate the connection of public housing residents to employment opportunities and training. Evidence of this relationship(s) must be kept on file by the applicant.

(II) You will receive zero points if your application does not certify that you have a relationship(s) with other organizations that are equipped to help facilitate the connection of public housing residents to employment opportunities and training, in accordance with the terms of (I) above.

(2) Option 2, Moderate Rehabilitation, Rating Factors (105 total points)

maximum).

Applicants for Option 2 must respond to the following Rating Factors in order to be rated and ranked. A maximum of 105 points may be earned under the Option 2 rating factors.

(a) Rating Factor 1 – Certify to Strategies that Provide Green, Healthy Homes (45 points maximum).

(i) Applicants that certify that they will adopt Green Operations and Maintenance practices will earn **10 points**. A manual should be developed that includes a routine maintenance plan; operations and maintenance guidance for all appliances, HVAC operation, water-system turnoffs, lighting equipment, paving materials and landscaping, and other systems that are part of each occupancy unit; and an occupancy turnover plan that describes in detail the process of educating the resident about proper use and maintenance of all building systems. If the applicant does not make this certification, it will earn zero points.

(ii) Applicants that certify that they will specify the use of low or no volatile organic compounds (VOC) paints, primers, adhesives and sealants will earn **5 points**. If the applicant does not make this certification, it will earn zero points.

(iii) Applicants that certify that they will adopt Integrated Pest Management Protocols will earn **5 points**. If the applicant does not make this certification, it will earn zero points. The Integrated Pest Management (IPM) plan should evidence the PHA's commitment to establish and maintain IPM principles and practices. The plan should confirm that the selected pest control operator is experienced or has been trained in IPM principles and practices, that the IPM Plan will be adopted at the project, and that on-site staff and residents will be trained upon conversion to an IPM Plan and upon the move-in of new residents and change of staff in the future. Additional information on the requirements of a successful plan can be found in PIH

Notice 2007 Integrated Pest Management at:

<http://www.hud.gov/offices/adm/hudclips/notices/pih/07pihnotices.cfm>

(iv) Applicants that certify that they will commit to using at least 25 percent (by cost) wood products and materials that are salvaged wood, engineered framing materials or certified in accordance with the Forest Stewardship Council will earn **5 points**. If the applicant does not make this certification, it will earn zero points.

(v) Applicants that certify that they will have a green assessment of facilities conducted to identify “Green” investment options in the project plan, and that they will implement recommendations of the green assessment to the maximum extent feasible, will earn **20 points**. The assessment should focus on energy efficiency, water conservations, indoor air quality, materials and construction. It should review greening opportunities that can provide both short and long term environmental, social and economic impacts to identify and prioritize sustainability initiatives based upon costs and estimated payback as well as other benefits that support the PHA’s goals. The plan should include actions, costs, timeframes, estimated operational cost savings and a summary of expected benefits to residents and the environment, detailed data on effective green building measures and costs. If the applicant does not make this certification, it will earn zero points.

(vi) Applicants will receive zero points for each activity that they do not certify to implement as part of the grant strategy.

(b) Rating Factor 2 – Strategy for Energy Efficient Communities (45 Points maximum).

The applicant will certify that they have developed and documented a strategy that will provide substantial savings in energy/water consumption. Points will be awarded in accordance with the following criteria:

50 percent+ savings in energy/water consumption	45 points
40 to 49 percent savings in energy/water consumption	35 points
30 to 39 percent savings in energy/water consumption	25 points
20 to 29 percent savings in energy/water consumption	10 points
0 to 19 percent savings in energy/water consumption	0 points

(c) Rating Factor 3 – Leverage of non-public housing funds (10 points maximum).

(i) The application will receive 4 points if it certifies that it has firm commitments to leverage non-public housing funds to public housing funds at a ratio of: 0.25:1.

(ii) The application will receive 6 points if it certifies that it has firm commitments to leverage non-public housing funds to public housing funds at a ratio of: 0.26:1 to 0.50:1.

(iii) The application will receive 8 points if it certifies that it has firm commitments to leverage non-public housing funds to public housing funds at a ratio of: 0.51:1 to 0.75:1.

(iv) The application will receive 10 points if it certifies that it has firm commitments to leverage non-public housing funds to public housing funds at a ratio of: 0.76:1 to 1:1 or higher.

(v) The application will receive 0 points if it does not certify that it has firm commitments to leverage non-public housing funds to public housing funds at a ratio of: less than 0.25:1.

(d) Rating Factor 4. Job Creation – Economic Opportunities for Low- and Very Low-Income Persons (Section 3) and Workforce Investment Boards (5 Points maximum)

(i) **Section 3.** As noted in Section VI.B.3.e, grant recipients must comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and its implementing regulations at 24 CFR part 135. Specifically, grantees are required to ensure, to the greatest extent feasible, that training, employment, and other economic opportunities will be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns that provide economic opportunities to low- and very low-income persons in the area in which the project is located. Additional information on these requirements can be found at <http://www.hud.gov/section3>.

(A) **Section 3 Compliance** (1 Point). You will receive 1 point if your application certifies that your PHA complied with the requirements of Section 3 during the most recent fiscal or calendar year. You will receive zero points if your application does not certify that you complied with the requirements of Section 3 during the most recent fiscal or calendar year. Evidence of such compliance is a copy of the applicant's most recent Section 3 Annual Summary Report (Form HUD 60002) which must be kept on file by the applicant.

(B) **Section 3 Plan** (2 Points). You will receive 2 points if you certify that you have completed a feasible Section 3 plan, which must be kept on file by the applicant, for directing training, employment and contracting opportunities generated by the expenditure of covered financial assistance to Section 3 residents and Section 3 business concerns. To earn the two points, your application must certify that your Section 3 plan addresses at least a majority of the items listed below in paragraphs (I)-(VII). (Your Section 3 plan may also include items not listed in (I)-(VII)). You will receive zero points if your application does not certify that your Section 3 plan addresses at least a majority of the items listed below in paragraphs (I)-(VII). These items must be clearly addressed in your Section 3 plan.

(I) Types and amounts of employment and contracting opportunities to be generated as a result of proposed plan activities;

(II) Specific actions that will be taken to ensure that low- and very low-income persons and the business concerns that substantially employ these persons will be given priority consideration for employment and contracting opportunities in accordance with 24 CFR Part 135.34 and Part 135.36;

(III) Eligibility criteria to be used for certifying Section 3 residents and business concerns;

(IV) Process to be used for notifying Section 3 residents and business concerns about the availability of training, employment, and contracting opportunities;

(V) Methodology to be used for monitoring contractors and subcontractors that are awarded covered contracts to ensure their compliance with the requirements of Section 3;

(VI) Strategies for meeting the Section 3 minimum numeric goals for employment and contracting opportunities found at 24 CFR Part 135.30;

(VII) Contact information and qualifications for staff persons that will be responsible for the day-to-day implementation of Section 3.

(ii) Partnership with Workforce Investment Board and Other Organizations, 2 Points. Strong partnership between a PHA and its area Workforce Investment Board (WIB) can have a significant positive impact on assisting public housing residents to prepare for and gain employment.

(A) Workforce Investment Board (1 point)

(I) You will receive 1 point if you certify that you have a letter of commitment (or

other commitment document if available, including MOU, interagency cooperation agreement, etc.) which firmly commits both the area WIB and the PHA to work together to facilitate the connection of public housing residents to employment opportunities and training. The WIB must have the necessary capacity to successfully facilitate the connection of public housing residents to employment opportunities and training. The letter of commitment (or other commitment document) must be kept on file by the applicant.

(II) You will receive zero points if your application does not certify that you have a letter of commitment (or other commitment document), in accordance with the terms of (I) above..

(B) Other Organizations (1 point)

(I) You will receive 1 point if you certify that you have a have a relationship(s) with other organizations (e.g., community-based organizations, faith-based organizations, service providers, community colleges, etc.) that are equipped to help facilitate the connection of public housing residents to employment opportunities and training. The other organization must have the necessary capacity to successfully facilitate the connection of public housing residents to employment opportunities and training. Evidence of this relationship(s) must be kept on file by the applicant.

(II) You will receive zero points if your application does not certify that you have a relationship(s) with other organizations that are equipped to help facilitate the connection of public housing residents to employment opportunities and training, in accordance with the terms of (I) above.

d. Application Content and Organization.

(1) Applicants for funding under this Category must submit their application

electronically in accordance with Section IV.B. and include in their application the following:

(a) A completed-signed Application for Federal Assistance (SF-424)

(b) A completed-signed anti-lobbying certification (SF LLL) scanned into a .pdf document

(c) a completed Microsoft Excel CFRC Application spreadsheet: note that the spreadsheet will contain the following:

(i) Program Overview Narrative. Applicants must provide a brief description of their proposed program. Activities described must follow the criteria of the Eligible Activities, Thresholds and Rating Factors for this Category above. The Program Overview must contain the following information: A description of the proposed program, including the purpose and activities, to be funded by the CFRC grant. The description must be of sufficient detail so as to ensure that the CFRC grant funds will not supplant expenditure from other Federal, State, or local sources or funds independently generated by the grantee. An identification of the participating parties, if applicable.

(ii) A checklist for certifying to threshold requirements for all applications

(iii) A checklist for certifying to category specific threshold requirements

(iv) Budget. Review the Budget, Leverage and Financing Thresholds above (under the Category Specific Threshold Requirements section) and the Funding Restrictions section of the NOFA (Section IV.D). Additional instructions:

(A) For Option 1: Construction period and permanent sources and uses schedules, as well as a completed TDC/HCC analysis. If the project exceeds TDC/HCC limits, the application must include a request for a waiver of TDC/HCC limits. If costs exceed TDC/HCC limits and a

waiver is not requested, or a waiver request is made but not approved by HUD, the application shall be rejected.

(B) For Option 2: HUD form 50075.1, Annual Statement/Performance and Evaluation Report.

(v) TDC/HCC Waiver Request, if any. The TDC/HCC waiver request must include: the amount requested for approval, indicating the current TDC/HCC limit and the difference between the two, and a justification of why this waiver is needed and why the current TDC/HCC is insufficient. As relevant, an explanation of extraordinary site costs must be included with the request.

(vi) Program Schedule. Review the Program Schedule Threshold Requirement above (under the Category Specific Threshold Requirements section).

(vii) Rating Factor Response form (for Option 1 or 2, Rating Factors 1, 2, 3 and 4)

(2) Applicants under Category 4 must review Section V.B for detailed information on the Reviews and Selection Process, including the processing for curing technical deficiencies. HUD will not fund incomplete applications or does not cure its technical deficiencies.

(3) The commitments made for each grant application will be strictly monitored. A false statement in an application is grounds for denial or termination or recapture of an award and possible criminal, civil or administrative sanctions. See Section VI.B.3(n) for enforcement requirements.

B. Reviews and Selection Process. Applicants must identify each CFRC application by its appropriate Category, as described below. Applicants must indicate the priority order in which they would like applications to be funded. Each application must respond to a single Category; e.g., do not include Category 1 activities in the same application as Category 2. Combined

applications will be returned to the applicants and not reviewed.

1. Reviews and Selection Process for Threshold-Based Applications. Grants for the Categories of Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities; Public Housing Transformation; and Gap Financing for Projects that are Stalled Due to Financing Issues will be awarded on a threshold basis, by Ordinal, Category and Round, until available amounts are obligated or funds expire, whichever comes first. This Section V.B.1 applies only to these three Categories. (Note: The Creation of Energy Efficient, Green Communities Category grants will not be awarded on a threshold basis, by Ordinal, Category and Round, but will be rated and ranked, as described in Section V.B.2 below).

a. Categories. See Section V.A for detailed information on Category criteria. See Section II for approximate Category funding caps.

b. Ordinals. Upon receipt, HUD will assign each CFRC grant application an Ordinal (i.e., ranking number) that reflects the date HUD Headquarters received the application. Ordinals correspond to calendar days, starting with June 15, 2009 and ending on the application deadline closing date August 18, 2009, in accordance with the deadline date information in this NOFA, specifically Section IV. HUD will consider all applications received on the same date as received at the same time on that date, and those applications will all be assigned the same Ordinal. Ordinals will only be used for the threshold-based categories: Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities; Public Housing Transformation; and Gap Financing for Projects that are Stalled due to Financing Issues.

c. Application Screening.

(1) HUD will not fund incomplete applications. If an application is missing any aspect, the application will be considered non-responsive to the NOFA, thus leaving the 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 by HUD of incomplete or nonresponsive applications must resubmit the application. Resubmission shall be placed in the funding queue based upon the date and time for receipt of the resubmission.

(2) HUD will screen the application to ensure that it meets each threshold requirement listed in this NOFA.

(3) If HUD determines that an application is not eligible to receive funding (e.g., the applicant is not a PHA), HUD will not consider the application further and will notify the applicant that the application has been rejected.

(4) If HUD determines that an applicant is eligible but the application is incomplete, HUD will contact the applicant by email to identify the missing information. The applicant must then resubmit the corrected, complete application.

(5) Applicants whose applications HUD receives on the same date, and who have missing items, will be notified by HUD of their missing items on the same day to ensure that all applicants have the same number of days to provide the missing information. **PLEASE NOTE: THIS PROVISION MEANS THAT THE NEARER TO THE DEADLINE DATE YOU SUBMIT YOUR APPLICATION, THE LESS TIME YOU WILL HAVE TO CORRECT ANY DEFICIENCIES, AND IF HUD RECEIVES YOUR APPLICATION ON THE DEADLINE DATE AND THERE IS A DEFICIENCY, THAT APPLICATION WILL NOT BE ELIGIBLE FOR FUNDING. YOU ARE ADVISED TO SUBMIT YOUR APPLICATION AS SOON AS POSSIBLE, IN THE EVENT THAT HUD IDENTIFIES A DEFICIENCY THAT YOU NEED TO CORRECT.**

(6) If HUD determines that the resubmitted application is still not complete, HUD will notify you of the remaining deficiency. You will have the opportunity to submit information in response to notifications of deficiency until the grant application due date.

(7) Each resubmission shall be placed in the funding queue with a new Ordinal based upon the date and time for receipt of the resubmission.

(8) If you do not submit a complete application by the application deadline closing date, your application will be ineligible for funding.

d. Funding Rounds. Threshold-based applications (Categories 1, 2, and 3) will be awarded in two rounds.

(1) Round 1.

(a) Round 1 will last from June 15, 2009 to July 21, 2009.

(b) During Round 1, funding request limits, category caps, and threshold criteria, as detailed in this NOFA, apply. HUD will award these applications simultaneously, by Ordinal, in accordance with Category funding caps and funding request limits, or until no more funds remain.

(c) If a PHA applies for multiple grants on the same day, it must specify a priority in which the applications are to be processed in order to ensure which grants get funded in the event the grants exceed Round 1 caps. If a PHA submits multiple applications on the same day and fails to specify an order, HUD will process them in order of receipt.

(d) If all funds are awarded during Round 1, there will not be a Round 2.

(2) Round 2:

(a) Round 2 will last from July 22, 2009 to August 18, 2009.

(b) During Round 2, subject to the availability of funds, HUD will lift the funding

request limits, category caps, and threshold criteria indicated in this section, one-by-one, and in the order listed below in (i) through (v). HUD will lift the first criteria (Capacity, High Performer) and fund the applications that become eligible as a result, based on Ordinal. If additional funds remain, HUD will next lift the second criteria, and so on, until no funds remain or until there are no eligible applications.

(i) Capacity, High Performer (Threshold Requirements for All Applications).

(ii) Capacity, Capital Fund Expenditure Rate (Threshold Requirements for All Applications).

(iii) Leverage (Category Specific Threshold Requirement)

(iv) Category funding caps

(v) Funding Request Limits and Number of Applications Limits (if any) per PHA.

(c) Applicants are allowed to submit applications during Round 1 that could only qualify for funding under Round 2. Such applications would have priority (in terms of Ordinal) for funding during Round 2.

(d) HUD may continue to fund eligible applications that were received by the August 10, 2009 deadline, after that date has passed, subject to the terms of this NOFA.

(3) Lottery. At any stage, if there is more than one application with the next Ordinal to be funded and there are insufficient funds to fund all of them, HUD will conduct a lottery among those applications to determine which application(s) will be funded.

(4) Partial Funding. HUD reserves the right to partially fund the next eligible application if insufficient funds remain to fund the entire amount requested, and HUD determines that the funds available are adequate to carry out priority activities.

2. Reviews and Selection Process for Rated and Ranked Applications. This Section V.B.2 applies only to the Creation of Energy Efficient, Green Communities Category, which will be rated and ranked (not awarded on a threshold basis, by Ordinal, Category and Round).

a. Application Screening.

(1) Screening Purpose. HUD will screen each application to determine if:

- (a) It is incomplete or contains any technical deficiencies (as defined below); and
- (b) It meets the threshold criteria listed in section III.C.2 and V.A.4 of this NOFA.

Applications that do not meet all the threshold requirements (after the cure period) will not be rated and ranked.

(2) Corrections to Deficient Application.

(a) After the application deadline, HUD may not, consistent with its regulations in 24 CFR Part 4, subpart B, consider any unsolicited information that an applicant may want to provide. 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. 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. Examples of curable (correctable) technical deficiencies include inconsistencies in the funding request, failure to submit the proper certifications, 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. If there is an inconsistency between the funding amount listed in the application spreadsheet and the SF 424, HUD will use the amount listed in the spreadsheet and not the amount listed on the SF 424. HUD will not consider such a situation an inconsistency.

(b) If HUD finds a curable deficiency in the application, HUD will notify the applicant in writing by describing the clarification or technical deficiency. HUD will notify applicants by email. Clarifications or corrections of technical deficiencies in accordance with the information provided by HUD must be submitted within 5 calendar days of the date of receipt of the HUD notification. (If the deadline date falls on a Saturday, Sunday, or federal holiday, the applicant's correction must be received by HUD on the next day that is not a Saturday, Sunday, or federal holiday.) Applicants must submit responses to requests for clarifications or corrections of technical deficiencies to HUD via email, or as otherwise indicated by HUD. The response information will be matched to the electronic application in HUD's files. 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.

(3) Applications that will not be rated or ranked. HUD will not rate or rank applications that are deficient at the end of the cure period stated in this NOFA or that have not met the thresholds described in Section III.C.2 and V.A.4 of this NOFA. Such applications will not be eligible for funding.

b. Rating and Ranking.

(1) Rating.

(a) HUD staff will rate each eligible application, solely on the basis of the rating factors described in section V.A.4 of this NOFA, the Creation of Energy Efficient, Green Communities Category.

(b) HUD will assign a score for each rating factor and a preliminary total score for each eligible application.

(c) The maximum score for each application is: 105 points for Option 1 and 105 points for Option 2.

(d) The minimum score required to be funded is: 60 points for Option 1 and 60 points for Option 2.

(2) Ranking.

(a) After rating, Option 1 applications will be ranked in descending order of score and Option 2 applications will be ranked in descending order of score.

(b) Option 1 applications will be funded in descending ranked order, in accordance with the minimum score for Option 1 and the funding caps in Section II (\$300,000,000 is allocated for Option 1 applications). Option 2 applications will be funded in descending ranked order simultaneously with Option 1 applications, in accordance with the minimum score for Option 2 and the funding caps in Section II (\$300,000,000 is allocated for Option 2 applications). See “Remaining Funds” below.

d. Tie Scores. If two or more applications have the same score and there are insufficient funds to select all of them, HUD will select for funding the Option 1 application(s) over the Option 2 application(s). If the applications are of the same Option, HUD will select for funding the application(s) with the highest score for the Rating Factor with the highest point maximum under that Option, followed by the Rating Factor with the second highest point maximum, and then the Rating Factor with the third highest point maximum.

e. Remaining Funds. If funds remain after funding the Category 4 applications in accordance with Section V.B.2 above, HUD will lift the funding request limits, category caps, and threshold criteria indicated in this section, one-by-one, and in the order listed below in (1) through (3). HUD will lift the first criteria (Capacity, High Performer) and fund the applications that become

eligible as a result. If additional funds remain, HUD will next lift the second criteria, and so on, until no funds remain or until there are no eligible applications.

(1) Capacity, High Performer (Threshold Requirements for All Applications).

(2) Capacity, Capital Fund Expenditure Rate (Threshold Requirements for All Applications).

(3) Funding request limits.

(4) Partial funding. HUD reserves the right to partially fund the next eligible application if insufficient funds remain to fund the entire amount requested, and HUD determines that the funds available are adequate to carry out priority activities.

(5) Transfer of Funds to Other Option. If funds remain after all eligible Category 4 applications for an Option are funded and the amount remaining is inadequate to feasibly fund the next eligible application in that Option (if any remain), HUD reserves the right to reallocate unused funds to fund or supplement the next eligible Category 4 grant application(s) in the other Option.

3. Funding Reductions. HUD reserves the right to make reductions in funding for any ineligible items included in an applicant's proposed budget.

4. Transfer of Funds to Other Categories. If funds remain after all eligible CFRC applications for a Category are funded and the amount remaining is inadequate to feasibly fund the next eligible application in that Category, HUD reserves the right to reallocate unused funds to fund or supplement the next eligible CFRC grant application(s) in another Category.

5. Notification of Funding Decisions.

a. Threshold-Based CFRC grants. Because the Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities; Public Housing Transformation; and Gap Financing for

Projects that are Stalled Due to Financing Issues CFRC grants are awarded on a threshold basis, by Ordinal, Category and Round, HUD reserves the right either to award funds for applications as soon as they are determined to be eligible for funding, on an intermittent basis, or announce all awards at once after the grant application deadline date has passed. HUD will notify ineligible applicants of their ineligibility after that determination has been made. HUD will provide written notification to all applicants, whether or not they have been selected for funding.

b. Rated and Ranked CFRC grants. HUD reserves the right either to announce for the awards for the Creation of Energy Efficient, Green Communities CFRC grants once they are all determined, in accordance with the rating and ranking procedures in Section V.B.2 above, after the grant application deadline date has passed. HUD will notify ineligible applicants of their ineligibility after that determination has been made. HUD will provide written notification to all applicants, whether or not they have been selected for funding.

C. Anticipated Announcement and Award Dates: HUD must obligate all the CFRC funds to grantees by September 30, 2009.

VI. Award Administration Information:

A. Award Notices

1. Applicants will receive notification from HUD indicating whether or not their applicant(s) were funded.
2. For funded applications, the CFRC ACC Amendment shall serve as the obligating document. Unsuccessful applicants will be notified within 30 days of the announcements of the awards.
3. Adjustments to Funding. HUD will not fund any portion of your application that is not

eligible for funding under this program, does not meet the requirements of this NOFA, or may be duplicative of other funded programs or activities. Only the eligible portion of your application will be funded.

B. Administrative, Program and National Policy Requirements.

1. Recovery Act Requirements. The Recovery Act includes the following information for PHAs:

a. PHAs shall give priority to capital projects that can award contracts based on bids within 120 days from the date the funds are made available to the PHAs;

b. PHAs shall prioritize capital projects that are already underway or included in the 5-year capital fund plans required by the Act (42 U.S.C. 1437c-1(a)).

c. Funds provided under this NOFA must serve to supplement and not supplant expenditures from other Federal, State, or local sources or funds independently generated by the grantee.

d. Statutory Time Limits – Obligation and Expenditure of Funds: The obligation and expenditure requirements found at section 9(j) of the 1937 Act regarding the obligation and expenditure of Capital Funds do not apply. The Recovery Act provides for alternate obligation and expenditure deadlines (and penalties) as follows:

(1) HUD must obligate the CFRC grant funding to grantees by September 30, 2009.

(2) PHAs must obligate 100 percent of the grant funds awarded under this NOFA within 1 year of the date on which funds become available to the PHA for obligation (which is the effective date of the ACC amendment). If a PHA fails to comply with the 1-year obligation requirement, HUD will recapture all remaining unobligated funds awarded to the PHA .

(3) PHAs must expend at least 60 percent of the grant funds within 2 years of the date on

which funds become available to the PHA for obligation (which is the effective date of the ACC amendment). If a PHA fails to comply with the 2-year expenditure requirement, HUD will recapture the balance of the funds awarded to the PHA.

(4) PHAs must expend 100 percent of the grant funds within 3 years of the date on which funds become available to the PHA for obligation (which is the effective date of the ACC amendment). If a PHA fails to comply with the 3-year expenditure requirement, HUD will recapture the balance of the funds awarded to the PHA.

(5) Extensions of the Obligation Deadlines: Extension of the obligation and expenditure deadlines are not permitted under the Recovery Act. Additionally, if a PHA fails to obligate any of its other Capital Fund grants during this time, an extension of the obligation deadline for that grant will not be granted based solely on the justification that the PHA was engaged in obligating Recovery Act funds, as it does not meet the criteria established in section 9(j) of the 1937 Act.

2. Program Requirements

a. Previous Plans. As relevant by Category, PHAs are permitted to substitute any work item from the latest approved Five-Year Action Plan to any previously approved CFP Budget or CFP Annual Statement and to move work items among approved budgets without prior HUD approval. The PHA can only substitute work items in the annual or five year plans to the CFRC grant that are not obligated to an open capital fund grant.

b. Process for Obtaining Public Comment on Five-Year Action Plan and Annual Plan.

According to 24 CFR 903.17, the PHA's board of directors or similar governing board must conduct a public hearing to discuss the Five-Year Action Plan and/or Annual Plan and invite the public to comment on the plan. The regulation provides a 45-day notice period informing the public that the information is available for review and inspection and announcing the public

hearing. For all PHAs accepting these grant funds (including MTW agencies), the Secretary is using the waiver authority in the Recovery Act to reduce this public notice period to 10 calendar days for PHAs amending their Five-Year Action Plan and/or Annual Plan due in part to these grant funds. This waiver provides for adequate notice, but does not limit the information and activities required to be performed by the PHA. This waiver also permits these PHAs to continue planning and ultimately obligate and expend these funds as intended by the Recovery Act.

c. Grant Administration. Grantees must administer the grant in accordance with all requirements of this NOFA and all requirements applicable to public housing, including the 1937 Act, the Recovery Act, HUD regulations, the ACC, including all amendments, and all other Federal statutory, Executive Order, and regulatory requirements as such requirements may be amended from time to time.

d. Participating 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.

e. Reporting Requirements. Grantees are required to report to HUD on the progress of awarded grants. Grantees must report to HUD on the performance measures identified in this NOFA and as otherwise requested by HUD. HUD will provide the format and additional instruction to grantees after grant award (subject to OMB guidance). More detailed reporting information will be forthcoming from HUD and OMB. Information on this program, pre- and post- award, will be posted to <http://www.hud.gov/recovery/> (which will link to the Office of Capital Improvements website, <http://www.hud.gov/offices/pih/programs/ph/capfund/ocir.cfm>).

f. Performance Measures and Reporting Requirements by Category.

(1) Category 1 - Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities

(a) Activity Type 1.

(i) Performance Measures for Activity Type 1. If awarded a CFRC grant for Activity Type 1, the applicant agrees to make the number of units identified in V.A.1.b(3)(a)(i) above within the public housing project targeted in the application UFAS compliant. The recipient PHA can change the specific units designated for modification under Activity Type 1 without prior HUD approval; however, the total number of units that will be modified must be the same total amount identified in the application. Failure to comply with the performance measure will subject the grant to sanctions including recapture of grant funds proportional to the shortfall in the number of UFAS compliant units.

(ii) Reporting Requirements for Activity Type 1. Applicants, if awarded funds, must report the following data to HUD:

(A) Identity of all dwelling units in the project that are being/have been modified to be UFAS compliant.

(B) Description of the modifications made to dwelling units to bring them into UFAS compliance,

(C) The date of significant milestones used to measure progress including but not limited to: date construction/activity commenced and date construction/activity was completed.

(b) Activity Type 2.

(i) Performance Measures for Activity Type 2. If awarded a CFRC grant for Activity Type 2, the applicant agrees to modify the number of units identified in V.A.1.b(3)(b)(i) above

within the public housing project targeted in the application adequately to make them suitable for use by service providers. The recipient PHA can change the specific units designated for modification under Activity Type 2 without prior HUD approval; however, the total number of units that will be modified must be the same total amount identified in the application. Failure to comply with the performance measure will subject the grant to sanctions including recapture of grant funds proportional to the shortfall in the number of units made suitable for service providers.

(ii) Reporting Requirements for Activity Type 2: Applicants, if awarded funds, must report the following data to HUD:

(A) Identity of all dwelling units in the project that are being/have been converted into space suitable for service providers.

(B) The date of significant milestones used to measure progress including: date construction/activity commenced and date construction/activity was completed.

(C) Number and percentage of elderly and/or disabled residents that utilize the space to receive supportive services from providers.

(D) Description of conversions of dwelling units into space suitable for service providers.

(E) Identify portion of operating subsidy, standard capital fund, combined MTW funds, existing ROSS-Elderly and Persons with Disabilities grant funding, and/or ROSS-Service Coordinator (if funded to serve elderly) funding committed for service coordination to ensure that community facilities are used for their intended purpose.

(F) Hours per week that providers use the space to provide supportive services to the residents.

(c) Activity Type 3.

(i) Performance Measures for Activity Type 3. If awarded a CFRC grant for Activity Type 3, the applicant agrees to make the proposed improvements to the proposed non-dwelling areas identified in V.A.1.b(3)(c)(i) above within the project targeted in the application as described. The recipient PHA can change the specific non-dwelling areas designated for modification under Activity Type 3 without prior HUD approval; however, the total square footage that is to be converted must be the same total quantity that was identified in the application. Failure to comply with the performance measure will subject the grant to sanctions including recapture of grant funds proportional to the shortfall in the modifications to the non-dwelling space.

(ii) Reporting Requirements for Activity Type 3. Applicants, if awarded funds, must report the following data to HUD:

(A) Description of the improvements to non-dwelling areas that are made accessible and ADA-compliant.

(B) The date of significant milestones used to measure progress including but not limited to: date construction/activity commenced and date construction/activity was completed.

(C) Identity of non-dwelling areas that are made accessible and ADA-compliant.

(D) The square footage of space that is made accessible and ADA-compliant

(d) Activity Type 4.

(i) Performance Measures for Activity Type 4. If awarded a CFRC grant for Activity Type 4, the applicant agrees to carry out the improvement or construction as described in V.A.1.b(3)(d)(i) above within the project targeted in the application adequately to make the non-dwelling space suitable for use by service providers. The recipient PHA can change the location of the improvements or construction under Activity Type 4 without prior HUD approval

provided that it does not materially change the scope of the improvements/construction. Failure to comply with the performance measure will subject the grant to sanctions including recapture of grant funds proportional to the shortfall in the scope of the improvements/construction of suitable non-dwelling space for service providers.

(ii) Reporting Requirements for Activity Type 4: Applicants, if awarded funds, must report the following data to HUD.

(A) The additional square footage of space dedicated to the provision of supportive services.

(B) Identity of non-dwelling area that is improved or constructed in order to attract or promote the coordinated delivery of services.

(C) Description of improvements to or construction of non-dwelling areas to provide additional space for support services.

(D) Identify portion of operating subsidy, standard capital fund, combined MTW funds, existing ROSS-Elderly and Persons with Disabilities grant funding, and/or ROSS-Service Coordinator (if funded to serve elderly) funding committed for service coordination to ensure that community facilities are used for their intended purpose.

(E) Number and percentage of elderly and/or disabled residents that utilize the space improved or constructed with grant funds.

(F) Hours per week that providers use the space to provide supportive services to the residents.

(G) The date of significant milestones used to measure progress including: date construction/activity commenced and date construction/activity was completed.

(2) Category 2 – Public Housing Transformation

(a) Performance Measures. If awarded a Category 2 CFRC grant, the applicant agrees to carry out the removal and replacement or revitalization described in V.A.(2)(b) above. The recipient PHA can deviate by up to 10 percent in terms of the unit count and aggregate bedroom count produced without prior HUD approval, as long as the project is within the TDC limit or the TDC limit approved by HUD through a waiver. Failure to comply with the performance measure will subject the grant to sanctions including recapture of grant funds proportional to the shortfall in the number of units, overall square foot dimensions, and/or aggregate number of bedrooms.

(b) Reporting Requirements for Category 2: Applicants, if awarded funds, must report the following data to HUD:

- (i) The number of public housing units demolished.
- (ii) The number of public housing units produced or renovated.
- (iii) The number of public housing residents housed in the units built or renovated.
- (iv) The date of significant milestones used to measure progress including but not limited to: date of closing (if financing is involved), date demolition or disposition approval was completed, date construction commenced and date construction was completed.

(3) Category 3 - Gap Financing for Projects that are Stalled due to Financing Issues

(a) Performance Measures. If awarded a Category 3 CFRC grant, the applicant agrees to carry out the removal and replacement or revitalization described in (2)(a) above. The recipient PHA can deviate by up to 10 percent in terms of the unit count and aggregate bedroom count produced without prior HUD approval, as long as the project is within the TDC limit or the TDC limit approved by HUD through a waiver. Failure to comply with the performance measure will

subject the grant to sanctions including recapture of grant funds proportional to the shortfall in the number of units and/or aggregate number of bedrooms.

(b) Reporting Requirements for Category 3: Applicants, if awarded funds, must report the following data to HUD.

(i) Number of units produced

(ii) Number of units modernized

(iii) The date of significant milestones used to measure progress including but not limited to: date of closing, date demolition or disposition approval was completed, date construction commenced and date construction was completed.

(iv) Number and description of non-dwelling structures modernized

(v) Number and description of non-dwelling structures newly constructed

(vi) Number of public housing residents housed in units built or modernized.

(4) Category 4 - Creation of an Energy Efficient, Green Community

(a) Option 1, Substantial Rehabilitation or New Construction

(i) Performance Measures. If awarded a Category 4, Option 1 CFRC grant, the applicant agrees to carry out the substantial rehabilitation or new construction and the activities that it agreed to undertake in order to claim points in the rating factor section of this category identified in (2)(a) above. The recipient PHA must obtain prior HUD approval to deviate from its application in a significant way. Failure to comply with the performance measure will subject the grant to sanctions including recapture of grant funds proportional to the shortfall in scope of committed activities.

(ii) Reporting Requirements for Category 4: Applicants, if awarded funds, must report the following data to HUD:

(A) Number of units successfully developed/rehabilitated.

(B) Cost of interventions per unit.

(C) Number of units utilizing renewable energy sources if applicable.

(D) Number of units developed/rehabilitated to provide safe/healthy living environments.

(E) For Category 4 CFRC grants, HUD will conduct an evaluation of the effectiveness of the approaches proposed and will require the grantee collect and provide baseline and post project energy consumption at the building level, contract scopes and costs.

(F) Substantiate the proper installation of specified systems through the certification of an independent audit.

(b) Option 2 - Moderate Rehabilitation

(i) Performance Measures. If awarded a Category 4, Option 1 or Option 2 CFRC grant, the applicant agrees to carry out the substantial rehabilitation or new construction and the activities that it agreed to undertake in order to claim points in the rating factor section of this category identified in (2)(a) above. The recipient PHA must obtain prior HUD approval to deviate from its application in a significant way. Failure to comply with the performance measure will subject the grant to sanctions including recapture of grant funds proportional to the shortfall in scope of committed activities.

(ii) Reporting Requirements for Category 4: Applicants, if awarded funds, must report the following data to HUD:

(A) Number of units successfully developed/rehabilitated.

(B) Cost of interventions per unit.

(C) Number of units utilizing renewable energy sources if applicable.

(D) Number of units developed/rehabilitated to provide safe/healthy living environments.

(E) For Category 4 CFRC grants, HUD will conduct an evaluation of the effectiveness of the approaches proposed and will require the grantee collect and provide baseline and post project energy consumption at the building level, contract scopes and costs.

(F) For Category 4 CFRC grants, for moderate rehab, a PHA must substantiate a savings in energy consumption, by converting all energy sources to a common unit, the British Thermal Unit (BTU). This should be verifiable through an established baseline based upon an independent energy audit. The length and quality of the baseline consumption should be addressed. Agencies should describe how the energy consumption following energy conservation retrofits will be measured to provide accurate consumption values. Savings are determined as the difference between the baseline consumption and the consumption after the energy conservation measures have been installed. Utility consumption may be adjusted for conditions, such as weather (Note: the consumption should be provided in unadjusted and adjusted levels, and the data used for the adjustment should be provided). Strategies for weather adjustments should be consistent with industry principles and described.

(G) Substantiate the proper installation of specified systems through the certification of an independent audit.

(H) HUD will conduct an evaluation of the effectiveness of the approaches proposed and will require the grantee collect and provide baseline and post project energy consumption at the building level, contract scopes and costs.

g. Post-Award HUD Proposal Reviews. Once funded, projects must undergo a standard development proposal review, review of a mixed-finance proposal and evidentiary documents (unless waived by HUD), or other HUD review process to the extent required by the activity funded. HUD will review the submittal to ensure compliance with applicable regulations and

policies, such as site and neighborhood standards and HUD's Cost Control and Safe Harbor Standards.

h. Pro Rata Share. Upon completion, as relevant, the project must comply with the HUD pro rata share test, which compares the percent of all public housing funds invested in the project with the percent of public housing units in the project. Therefore, if there are both public housing and non-public housing units being constructed as part of the project, the percent of public housing funds to total funds dedicated to unit production may not exceed the percent of public housing units to total units.

i. Unit Restrictions. The Capital Fund section of the Recovery Act provides "That notwithstanding any other provision of law....any restriction of funding to replacement housing uses shall be inapplicable." Therefore, section 9(g)(3) of the United States Housing Act of 1937 is inapplicable with regards to this funding and PHAs can construct new public housing without the restrictions in section 9(g)(3) when using Recovery Act funds. If other Public Housing funds are used in the development then section 9(g)(3) would apply. PHAs should continue to follow Part 941 and submit their Development Proposal for HUD review.

j. Program Regulations. Grantees must ensure they comply with the governing regulations affecting their CFRC grant, including 24 CFR Part 905, 941, and 968, as applicable.

3. Administrative Requirements.

a. Procurement. The following procurement requirements shall be followed:

(1) **Priorities:** PHAs shall give priority to Capital Fund Stimulus (including CFRC) Grant projects that can award contracts based on bids within 120 days from February 17, 2009.

(2) **State and Local:** Any requirements relating to the procurement of goods and services

arising under state and local laws and regulations shall not apply to Capital Fund Stimulus (including CFRC) Grants. PHAs shall instead follow the Part 85 requirements.

(3) Part 85 Compliance: PHAs shall amend their procurement standards and policies as necessary in order to expedite and facilitate the use of the funds. This amended policy can be used only for procurements related to Capital Fund Stimulus (including CFRC) Grants. This must be done in writing and consistent with PHA policies and procedures (such as Board approval) and labeled as Capital Fund Stimulus (including CFRC) Grant Procurement Policy. Specifically, PHAs shall remove all procurement standards that are contrary to Part 85 or the Recovery Act. Where permitted by Part 85, PHAs may insert their own procedures provided that they are not contrary to the purposes of the Recovery Act.

(a) For example, a PHA may use their existing protest procedures, written codes of standards for employees engaged in the award and administration of the contracts and other procedures as long as they are not contrary to Part 85.

(b) It is important to note that PHAs shall continue to follow all Part 85 requirements regarding conflicts of interest, contract cost and price.

(4) HUD Handbook: PHAs may use the Procurement Handbook for Public Housing Agencies (7460.8 rev-2) for guidance. The Handbook can be found at:

<http://www.hud.gov/offices/adm/hudclips/handbooks/pihh/74608/index.cfm>.

(5) Noncompetitive Proposals: According to 24 CFR 85.36(d)(4), if solicitation of a proposal is only from one source or if the PHA finds that after solicitation of a number of sources, that competition is inadequate, the PHA may award the contract noncompetitively where small purchase procedures, sealed bids or competitive proposals are infeasible and one of the circumstances in 85.36(d)(4)(i) applies. One such circumstance is public exigency that will

not permit a delay resulting from competitive solicitation (85.36(d)(4)(i)(B)). If the PHA finds that other competitive methods of procurement are infeasible, HUD will support the PHA's use of the public exigency circumstance based on the purpose and requirements of the Recovery Act. Section 3 of the Recovery Act provides that these funds shall be managed and expended to achieve the purposes specified including commencing expenditures and activities as quickly as possible consistent with prudent management. Further the Recovery Act has imposed expeditious obligation and expenditure requirements on the Capital Fund Stimulus (including CFRC) Grants and directs HUD to assist PHAs as necessary to expedite and facilitate the use of these grants. PHAs may use the noncompetitive proposals method, but must do so on a contract-by-contract basis and in compliance with all Part 85 requirements including the requirement for a cost analysis and the conflict of interest requirement. The PHA must ensure that the noncompetitive proposals process followed is clearly captured in their amended Capital Fund Stimulus (including CFRC) Grant Procurement Policy. Further, the PHA must maintain records sufficient to detail the significant history of each contract's procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price (85.36(b)(9)). No HUD pre-award review is required for noncompetitive proposals as stated in Section 8.4(C), Chapter 8 of HUD Handbook No. 7460.8 Rev 2. However, all PHAs are reminded that they must make available upon HUD's request the PHA Capital Fund Stimulus Grant (including CFRC) Procurement Policy and any documents requested related to procurement activity as stated in 24 CFR 85.36(g).

(6) Force Account: To the extent feasible, the PHA should consider employing

existing or additional force account laborers on either a permanent or a temporary basis to perform Capital Fund stimulus (including CFRC) grant work. See 24 CFR 968.105 and 968.120. No prior HUD approval is required specifically for force account labor, but such work must be incorporated into the Capital Fund planning, budgeting and reporting documents.

(7) Buy American: PHAs shall follow Buy American requirements of section 1605 of the Recovery Act and use only iron, steel and manufactured goods produced in the United States in their projects. PHAs must follow the Interim Final Guidance of OMB at 2 CFR Part 176, published April 23, 2009 at 74 Federal Register 18449.

(8) Questions: HUD's PIH Customer Service Center (CSC) can address questions related to HUD's public housing procurement policy as it relates to the Recovery Act. Energy conservation information can be obtained through the CSC as well. The toll free number is 1-800-955-2232. Emails can be sent to PIHIRC@deval.us. HUD will reply to each inquiry. A summary of responses will be posted periodically at the Capital Fund webpage.

(9) Procurement of Recovered Materials. State agencies and agencies of a political subdivision of a state that are using assistance under a HUD program for procurement, and any person contracting with such an agency with respect to work performed under an assisted contract, must comply with the requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. In accordance with Section 6002, these agencies and persons must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that

maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

b. Conducting Business in Accordance with Core Values and Ethical Standards/Code of Conduct. Applicants are subject to 24 CFR Part 85 and are required to develop and maintain a written code of conduct (see 24 CFR 85.36(b)(3)). Consistent with regulations governing the Capital Fund Program, 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.

c. False Statements. A false statement in an application is grounds for denial or termination of an award and possible criminal, civil or administrative sanctions. See Section VI.B.3(n) for enforcement requirements.

d. 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.

e. Economic Opportunities for Low and Very Low-Income Persons (Section 3). Section 3 of the Housing and Urban Development Act of 1968 (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. Section 3 requires recipients to ensure, to the greatest extent feasible, that employment, and other economic opportunities will be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing, and to business concerns that provide economic opportunities to low- and very low-income persons in the area in which the project is located. Additionally, the Section 3 regulations at 24 CFR part 135, subpart E, impose certain reporting requirements on recipients, including the submission of an annual report, using form HUD-60002 or HUD's online system at <http://www.hud.gov/offices/fheo/section3/section3.cfm>. The annual report is highly important to the Department in determining compliance with Section 3. Applicants are placed on notice that they are required to annually report Section 3 data, as applicable. Failure to meet reporting requirements can result in sanctions such as debarment, suspension, or denial of participation in HUD programs (24 CFR Part 135.76(g)).

f. 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:

(1) 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;

(2) Establish an ongoing drug-free awareness program to inform employees about:

- (a) The dangers of drug abuse in the workplace;
- (b) The applicant's policy of maintaining a drug-free workplace;
- (c) Any available drug counseling, rehabilitation, or employee maintenance programs;

and

(d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(3) 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:

- (a) The program title and award number for each HUD award covered;
- (b) The HUD staff contact name, telephone, and fax numbers; and
- (c) A grantee contact name, telephone, and fax numbers; and

(4) 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:

(a) 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

(b) 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.

g. 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 make 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. [Note. There are no subawards in the Capital Fund Program or in the CFRC Grants.] The only exceptions to this requirement under the Act are: (1) Federal transactions below \$25,000, (ii) credit card transactions prior to October 1, 2008, (iii) awards to entities from all sources did not exceed \$300,000 in the previous tax year of such entity, and (iv) award 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. Additional information regarding these requirements will be issued by OMB and will be provided when available.

h. Maximize job creation and economic benefit. PHAs shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after February 17, 2009. (See

Section 1602 of the Recovery Act). PHA shall use these grant funds in a manner that maximizes job creation and economic benefit.

i. Immigration and Nationality Act. It shall be unlawful for the PHA to hire any nonimmigrant described in section 101(a)(15)(h)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(h)(i)(b)) unless the recipient is in compliance with the requirements for an H-1B dependent employer (as defined in section 212(n)(3) of such Act (8 U.S.C.1182(n)(3))), except that the second sentence of section 212(n)(1)(E)(ii) of such Act shall not apply. The term “hire” means to permit a new employee to commence a period of employment. This requirement shall be effective during the 2-year period beginning February 17, 2009.

j. Prevailing Wages and Federal Labor Standards. Federal labor standards are applicable to CFRC grants. These labor standards involve the payment of not less than prevailing wage rates, and may include overtime requirements (premium pay for hours worked over 40 in a workweek), and recordkeeping and reporting requirements.

(1) Davis-Bacon wage requirements apply to the activities funded with CFRC grant funds. The PHA must obtain the appropriate Davis-Bacon wage decision, which sets forth the minimum wage rates that may be paid to construction laborers and mechanics. This wage decision and provisions requiring compliance with federal labor standards must be included in any bid specifications and construction contracts. Development work undertaken directly by the PHA, with its own employees, is also subject to Davis-Bacon wage requirements.

(2) HUD-determined wage rates are applicable to all maintenance laborers and mechanics engaged in the operation of revitalized housing.

(3) Exclusions. Under Section 12(b) of the 1937 Act, prevailing wage requirements do not apply to individuals who:

- (a) Perform services for which they volunteered;
 - (b) Do not receive compensation for those services or are paid expenses, reasonable benefits, or a nominal fee for the services; and
 - (c) Are not otherwise employed in the work involved (24 CFR Part 70).
- (4) If other federal programs are used in connection with CFRC activities, federal labor standards requirements apply to the extent required by the other federal programs on portions of the project that are not subject to Section 12 of the 1937 Act. Where other federal programs and funding are mixed in the CFRC activity, Section 12 of the 1937 Act would apply to the entire activity.

k. Environmental Requirements.

(1) HUD Approval. HUD notification that you have been selected to receive a CFRC grant constitutes only preliminary approval. Grant funds may not be released under this NOFA (except for activities that are excluded from environmental review under 24 CFR part 58 or part 50) until the responsible entity, as defined in 24 CFR 58.2(a)(7), completes an environmental review and you submit and obtain HUD approval of a request for release of funds and the responsible entity's environmental certification, in accordance with 24 CFR part 58 (or HUD has completed an environmental review under 24 CFR part 50, where HUD has determined to conduct the environmental review).

(2) Responsibility. If you are selected for funding and an environmental review has not been conducted on the targeted site, the responsible entity must assume the environmental review responsibilities for projects being funded by CFRC. If you object to the responsible entity conducting the environmental review, on the basis of performance, timing, or compatibility of objectives, HUD will review the facts and determine who will perform the environmental

review. At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing, or compatibility of objectives, or in accordance with 24 CFR 58.77(d)(1). If a responsible entity objects to performing an environmental review, or if HUD determines that the responsible entity should not perform the environmental review, HUD may designate another responsible entity to conduct the review or may itself conduct the environmental review in accordance with the provisions of 24 CFR part 50. You must provide any documentation to the responsible entity (or HUD, where applicable) that is needed to perform the environmental review.

(3) Phase I and Phase II Environmental Site Assessments. If you are selected for funding, you must get a Phase I environmental site assessment completed in accordance with the ASTM Standard E 1527-05, as amended, for each affected site. A Phase I assessment is required whether the environmental review is completed under 24 CFR part 50 or 24 CFR part 58. The results of the Phase I assessment must be included in the documents that must be provided to the responsible entity (or HUD) for the environmental review. If the Phase I assessment recognizes environmental concerns or if the results are inconclusive, a Phase II environmental site assessment will be required.

(4) Request for Release of Funds. You, and any participant in the development process, may not undertake any actions with respect to the project that are choice-limiting or could have environmentally adverse effects, including demolishing, acquiring, rehabilitating, converting, leasing, repairing, or constructing property proposed to be assisted under this NOFA, and you, and any participant in the development process, may not commit or expend HUD or local funds for these activities, until HUD has approved a Request for Release of Funds following a responsible entity's environmental review under 24 CFR part 58, or until HUD has completed an

environmental review and given approval for the action under 24 CFR part 50. In addition, you must carry out any mitigating/remedial measures required by the responsible entity (or HUD). If a remediation plan, where required, is not approved by HUD and a fully funded contract with a qualified contractor licensed to perform the required type of remediation is not executed, HUD reserves the right to determine that the grant is in default.

l. Funding Restrictions. Funds awarded must be expended only for approved uses. Grantees must following the funding restrictions in Section IV.D of this NOFA.

m. Relocation. If residents will need to be relocated, the applicant must develop a relocation plan, in consultation with the affected residents, within three (3) months of grant award.

Relocation or temporary relocation carried out as a result of the grant is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), the URA regulations at 49 CFR part 24, and regulations at 24 CFR 968.108 or successor part.

n. Enforcement. The commitments made for each grant application will be strictly monitored and enforced. A false statement in an application is grounds for denial or termination of an award and possible criminal, civil or administrative sanctions. CFRC funds not used in accordance with this NOFA will be recaptured or repaid with non-public housing funding sources. HUD may take all other available remedies to ensure funds are used in compliance with this NOFA. Further, failure to comply with the performance measures as indicated in this NOFA will subject the grant to sanctions including recapture of grant funds proportional to the shortfall of the performance measure(s).

VII. Agency Contact(s):

Before the application deadline date, 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. If you have a question or need a clarification, you may contact the Office of Capital Improvements by sending an email message to PIHOCI@hud.gov

VIII. Other Information:

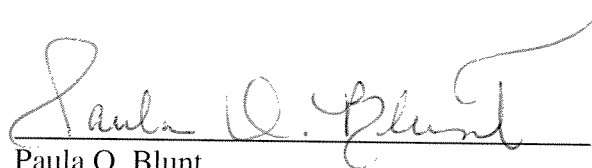
A. Paperwork Reduction Act.

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 2577-0261 . 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 the following number of hours per PHA for each Category's application: a Category 1 application averages 9 hours per PHA per application; a Category 2 application averages 6 hours per PHA per application; a Category 3 application averages 6 hours per PHA per application; a Category 4 application averages 7 hours per PHA per 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).

Date: May 5, 2009

A handwritten signature in cursive script, reading "Paula O. Blunt", written over a horizontal line.

Paula O. Blunt

General Deputy Assistant Secretary for
Public and Indian Housing

[FR-5311-N-01]