DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4127–N–03]

Notice of Fund Availability for the Fair Housing Services Center in East Texas

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

ACTION: Notice of Fund Availability (NOFA) for the Fair Housing Services Center (FHSC) in East Texas.

SUMMARY: This NOFA announces the availability of funds and HUD's request for proposals (RFP) to establish a Fair Housing Services Center in East Texas to be administered by a non-profit organization (NPO). HUD will award to and enter into a contract with an NPO to administer the FHSC as required by the Final Judgment and Decree (Final Judgment) in *Lucille Young* v. *Cuomo*, CA No. P–80–8–CA, (E.D. Tex.; dated March 30, 1995). HUD has been ordered to provide $500,000 per year for a period of at least five years to fund the FHSC to be located in Beaumont, Texas, with branch offices within the 36 county area that constitutes East Texas, and one mobile office unit to provide services to remote locations throughout East Texas. Appendix A to this Notice is a copy of the Request for Proposals (RFP) and Program Guidelines.

DATES: The deadline for proposals for the Fair Housing Services Center NOFA is February 10, 1998, 3:00 p.m., Washington, DC time.

The above-stated deadline for proposals is firm as to date and hour. In the interest of fairness to all competing NPOs, HUD will treat as ineligible for consideration any proposal that is not received before the deadline for proposals. NPOs submitting proposals should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, proposal materials sent via facsimile (FAX) transmission.

Preproposal Conference: A preproposal conference will be held by HUD on Friday, December 19, 1997, at 9:00 AM, for all NPOs interested in submitting a proposal in response to this NOFA. The preproposal conference will be held at Lamar University (1200 Martin Luther King Parkway), Education Building, Room 207, Georgia at Calahan Street, Beaumont, Texas. NPOs interested in submitting an application should contact Mr. Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Department of Housing and Urban Development, Washington, D.C. at telephone number (202) 708–0477 (this is not a toll-free number) regarding the date, time and room number for the preproposal conference. For hearing-and speech-impaired persons, this number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339.

Proposal Packet: A proposal packet containing a copy of this NOFA, the Court Order in *Lucille Young* v. *Cuomo*, and the format for three of the four certifications required of NPOs submitting proposals is available by contacting the address/telephone number indicated in the following two paragraphs entitled **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The original and five complete copies of the proposal should be submitted by the deadline to Mr. Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, S.W., Washington, D.C., 20410.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations Division Office of Rental Assistance, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, S.W., Washington, D.C., 20410, telephone number (202) 708–0477 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this Notice have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0169. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Request for Applications

All information related to the RFP is available in Appendix A to this Notice. Appendix A is the only document potential bidders should use to determine the requirements of the RFP.

The plaintiffs, African-American residents of public housing in East Texas, filed suit in 1980 alleging that HUD had knowingly maintained a system of segregated housing in a 36-county area of East Texas, in violation of the U.S. Constitution and various civil rights laws. The plaintiffs contended that there was segregation in HUD-supported low income public housing, Section 8 Existing Housing and other HUD-assisted multifamily housing programs.

In 1982, the U.S. District Court for the Eastern District of Texas certified a class consisting of all African-American applicants for and residents of HUD-funded public housing, Section 8 housing and other assisted housing programs in the 36-county area. In 1985, the court issued a liability decision finding that HUD had knowingly and continually maintained a system of segregated housing in the 36-county area.

In 1987, while an appeal was pending, HUD and the plaintiffs reached an agreement to limit the scope of the case and the class of plaintiffs. In 1988, the court appointed a special master and issued an interim injunction which compelled HUD to require each of the 70 housing agencies to implement race-conscious Tenant Selection and Assignment Plans and to provide all class members a series of notices of desegregative opportunities in all HUD-assisted housing in East Texas. On March 30, 1995, U.S. District Judge William Wayne Justice issued the Final Judgment that approved the desegregation plans and the plan amendments and required HUD to fund the FHSC.

The following is an outline of the activities of the FHSC (NPOs submitting proposals should refer to the attached RFP for details of the activities and responsibilities of the FHSC):

1. Familiarity with all relevant HUD regulations;
2. Outreach to landlords and assistance with exception rents;
3. Eligibility review services;
4. Counseling services and other social services support;
5. Responsibilities to Class members who receive a desegregative voucher/certificate;
6. FHSC encouragement and assistance to class members to make desegregative moves;
7. Information provided to Class members;
8. Quarterly and Annual Performance Reports; and
9. HUD's Right to Request Information.

NPOs submitting proposals must respond to the requirements of the RFP attached to this NOFA and HUD encourages applicants to refer to the

RFP for all appropriate information concerning the Fair Housing Services Center.

Other Matters

Environmental Impact

This NOFA provides assistance in promoting and enforcing fair housing and nondiscrimination. Accordingly, under 24 CFR 50.19(C)(3), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. This notice is a funding notice and does not substantially alter the established roles of the Department, the States, and local governments, including HAs.

Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

This notice will not pose an environmental health risk or safety risk to children.

Section 102 of the HUD Reform Act: Documentation and Public Access Requirements

HUD will ensure that documentation and other information regarding each proposal submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 calendar days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

Section 103 of the HUD Reform Act

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a) (Reform Act), codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

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

NPOs submitting proposals or employees who have ethics-related questions should contact the HUD Ethics Law Division (202) 708–3815 (TDD/Voice) (this is not a toll-free number). Any HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact the appropriate Field Office Counsel or Headquarters counsel for the program to which the question pertains.

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the ''Byrd Amendment'') and the implementing regulations at 24 CFR part 87. These authorities prohibit 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 specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance. IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but IHAs established under State law are not excluded from the statute's coverage.

Dated: December 8, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

Appendix A

Request for Proposals (RFP) and Program Guidelines for Establishing a Fair Housing Services Center (FHSC) in East Texas

This is a request for proposals to establish an FHSC in East Texas to be administered by a nonprofit organization (''NPO'') as required by the Final Judgment and Decree (''Final Judgment'') in *Lucille Young* v. *Cuomo*, CA No. P–80–8–CA (E.D. Tex.; dated March 30, 1995). HUD has been ordered to provide $500,000 per year for a period of at least five years to fund an FHSC for East Texas to be located in Beaumont, Texas, with several branch offices within the 36-county area that constitutes East Texas, and one mobile office unit to provide services to remote locations throughout East Texas. The funding will provide for a variety of services designed to facilitate desegregative moves of class member applicants for and residents of public housing throughout the seventy (70) Public Housing Authorities (''PHAs'') located in the 36-county jurisdiction of the *Young* Final Judgment. The specific responsibilities of the FHSC are enumerated in the Scope of Work below, in the Final Judgment (copy attached), and the original desegregation plans and the plan amendments approved by the Court. The Final Judgment is the document that controls the activities of the FHSC. The FHSC is bound by the terms of the Final Judgment and final desegregation plans (as determined by the Court).

The U.S. Department of Housing and Urban Development (''HUD'') will award to and enter into a contract with an NPO. HUD's local Field Office will monitor the NPO's performance consistent with the requirements of 24 CFR Section 84.51. The specific monitoring requirements applicable to the NPO will be addressed in the contract to be entered into between HUD and the NPO. The term of the contract shall be for one year, renewable in one year increments, for a cumulative total of no less than five (5) one year terms. The renewal of the proposal is contingent upon the FHSC's ability in meeting the conditions set forth in Section I, ''Scope of Work'' below, and in complying with the Final Judgment. HUD will provide $500,000 for the activities of the FHSC for each year of

operation, and a total of 1,000 Section 8 rental vouchers and/or certificates (excluding incremental and turnovers) to be used toward HUD's obligation to provide 5,134 desegregative housing opportunities to *Young* class members.

The housing opportunity counseling funds will be provided to the FHSC through HUD's contract administrator. HUD is required to award 1,000 desegregation vouchers/certificates to PHAs that have jurisdiction in the areas where the *Young* class members move. The PHAs that are awarded these vouchers/certificates are herein called ''receiving PHA(s)''.

Sections of the RFP

I. Scope of Work
A. Background and Objectives
B. Activities of the FHSC
C. Administrative Requirements
D. Monitoring
II. Contents of Proposal
A. Eligible Applicant
B. Description of Activities and Costs
C. Deficient Applications for FHSC
III. Factors for Award
A. Evaluating Rating Factors
B. Certifications
C. Cost Factor
D. Contract Award
E. Approval by HUD and Court Review

I. Scope of Work

A. Background and Objectives

The plaintiffs in *Young,* African-American residents of public housing in East Texas, filed this action in 1980, alleging that HUD had knowingly maintained a system of segregated housing in a 36-county area of East Texas, in violation of the U.S. Constitution and various civil rights laws. The plaintiffs contended that there was segregation in HUD-supported low income Public Housing, Section 8 Existing Housing Program, and other HUD-assisted multifamily programs (including HUD-insured housing). While there are presently 70 individual public housing authorities (''PHAs'') in the 36-county area, none of the PHAs are included in the lawsuit as parties.

In 1982, the U.S. District Court for the Eastern District of Texas (''Court'') certified a class consisting of all African-American applicants for and residents of HUD-funded public housing, Section 8 housing and other assisted housing programs in the 36-county area.

In 1985, the court issued a liability decision, finding that HUD had knowingly and continually maintained a system of segregated housing in the 36-county area. In 1987, while an appeal was pending, HUD and the plaintiffs reached an agreement to limit the scope of the case and class of plaintiffs to public housing in the 36-county area. The *Young* class thus consists of all African-American residents of, or applicants for, public housing in the 36-county area.

In 1988, the court appointed a special master and issued an interim injunction, which, among other things, compelled HUD to require each of the 70 PHAs to implement race-conscious Tenant Selection and Assignment Plans and to provide all class members a series of notices of desegregative opportunities in all HUD-assisted housing in East Texas.

After settlement discussions between HUD and the plaintiffs proved unsuccessful in 1990, the court issued an Order for Further Relief, dated September 9, 1990, which required, among other things, that HUD develop desegregation plans or assertions of unitary status for each of the 70 PHAs. The court ordered HUD, in developing each plan, to provide for the equalization of conditions between predominantly African-American projects and the conditions in the projects and neighborhoods where the majority of white HUD-assisted housing recipients resided.

By June 1991, HUD had submitted desegregation plans or unitary status assertions for all 70 PHAs to the court for approval. Although the court did not rule as to the adequacy of the plans and unitary status assertions at that point, HUD began to implement the desegregation plans. In October 1993, after further analysis, HUD withdrew its submission of the plans and assertions after having determined that they did not fully or adequately address the requirements of the September 1990 Order.

HUD filed revised plans on February 8, 1994, along with the East Texas Comprehensive Desegregation Plan (Comprehensive Plan). The Comprehensive Plan reinstituted the original plans filed in 1990–91, but amended them to provide for further actions, and replaced all unitary status assertions with new desegregation plans (asserting that none of the 70 PHAs had, as of yet, attained unitary status).

The Comprehensive Plan filed in February 1994 called for the creation of 1,000 desegregative housing opportunities for class members over a five-year period. In May 1994, after further analysis, HUD agreed to provide for the creation of 5,134 desegregative opportunities within seven years. On March 30, 1995, U. S. District Judge William Wayne Justice issued the Final Judgment, that approved the original desegregation plans and the plan amendments and required HUD to fund the FHSC.

B. Activities of the FHSC

1. The FHSC Must Become Familiar With All Relevant HUD Regulations (e.g., Those Governing Section 8 Assistance, Public Housing, Assisted Housing, and Fair Housing), the Final Judgment and Applicable Individual Desegregation Plans

The FHSC shall order and/or approve all issuances by the receiving PHA of Section 8 rental vouchers or certificates to class members or others pursuant to the Final Judgment Decree, § II.

2. Outreach to Landlords and Assistance With Exception Rents

The FHSC shall encourage and assist in the development of desegregative housing opportunities, including outreach to private landlords in non-minority areas for the purpose of encouraging them to participate in the Section 8 existing housing program, as well as counseling and referral services to Section 8 existing housing tenants and applicants who wish to utilize their Section 8 rental vouchers or certificates in a manner furthering desegregation pursuant to ¶ IV.5.d. of the Final Judgment.

The FHSC, along with the PHAs, shall monitor rents in desegregative housing opportunity areas every six months to determine whether such rents are adversely affecting housing opportunities. If so, the FHSC shall take such steps as are necessary to overcome this adverse affect, including requesting that HUD consider granting exception rents for certificates or payment standards for vouchers, pursuant to the Court's 1990 Order for Further Relief, if such exception rents or payment standards would increase the availability of desegregative housing opportunities for class members.

Landlord Outreach Activities include, but are not limited to:

a. Identify potential landlords and market the program to them; make special efforts to obtain the participation of owners and managers who control a large number of units, and especially, of owners and managers of units with three or more bedrooms;

b. Maintain a data base of available housing in desegregative areas;

c. Carry on outreach using a variety of methods including recruitment in person, by telephone, in writing, at meetings of landlord associations, by special brochures, and by other economically feasible means;

d. Seek out landlords with a prior reputation for community involvement and civic commitment, especially those on the boards of civil rights or fair housing organizations;

e. Join property management associations and attend seminars on property management issues (especially where information about Section 8 opportunities for owners is discussed); solicit opportunities to make presentations at property owner and manager meetings about the needs of Section 8 families and the opportunities presented by the program; and

f. Network through personal contacts with established owners and real estate organizations in the multifamily sector, to uncover potential vacancies and to update listings of units in new or existing developments.

3. Eligibility Review Services

The FHSC shall review all clients of the FHSC who have not already undergone a determination of eligibility by the receiving PHA, to document each client's ability and willingness to comply with an acceptable lease and HUD program requirements pursuant to ¶ IV.5.a. of the Final Judgment.

The FHSC shall determine the eligibility of families consistent with HUD's regulatory requirements pertaining to income, family composition, citizenship and eligible immigration status. Families who have members who have engaged in certain activities that are grounds for denying Section 8 assistance under the regulations, including drug-related and violent criminal activity, will not be offered a Section 8 rental voucher or certificate.

4. Counseling Services and Other Social Services Support

Pursuant to ¶ IV.5.b. of the Final Judgment, the FHSC shall provide counseling services designed to provide information and counseling with respect to class members including the following:

a. Initial Stage of Counseling. The FHSC will provide an initial counseling session to groups of class members. At the initial session, the FHSC will provide essential general information, for example:

(1) Explain the terminology of the Section 8 programs;

(2) Explain the program requirements pertinent to Section 8 rental vouchers and certificates;

(3) Inform families of the counseling services that will be available.

(4) Meet with families to help them assess their needs and solve problems in areas such as credit and housekeeping; and

(5) Provide training to families to enhance their housing search skills and ability to present themselves to landlords.

b. Second-stage Counseling (Motivational Support). From the first contact with the family, the FHSC will need to help families maintain a consistent and high level of enthusiasm and commitment to the program. For many families, the possibility of living in a new environment will be sufficient to energize their activities and strengthen their resolve. However, other families may be more timid about learning new skills (like finding available units and dealing with prospective landlords) or looking for units in unfamiliar locations. Keys to maintaining a family's motivation to succeed include:

(1) Provide detailed information to individual families about housing options in desegregative areas;

(2) Conduct individual sessions with each family about communities of interest to the family, including educational opportunities, housing, employment information, and transportation information;

(3) Refer each family to at least *three* vacancies in desegregative areas in neighborhoods selected by the family;

(4) Assist families in their housing search, as needed, including providing escorts and transportation to unfamiliar neighborhoods, and arranging day care for children;

(5) Assist in lease negotiation and assist the prospective landlord in obtaining lease approval from the local housing agency;

(6) Provide referrals to organizations that may provide assistance with security deposits, moving costs, and the like;

(7) Provide assistance in passing landlord screening requirements. The FHSC may also assist families by providing credit and tenant screening reports to landlords;

(8) Address fears directly and discuss them thoroughly; and

(9) Assure the family that it has the continuing and active support not only of the FHSC, but also of an array of service providers available to solve particular problems.

c. Post-placement services. The FHSC will:

(1) Contact the family at move-in, again 30 days thereafter, and again three months after that, to assist in transition and inform the family about the availability of post-placement services.

(2) Inform the family about the Section 8 self-sufficiency program.

(3) Mediate disputes between the family and the landlords and between the family and the neighborhood, if and when they arise, and counsel families in resolving such disputes themselves.

(4) Facilitate support networks among families moving to nearby areas, to the extent families express a desire for such networks.

(5) Provide information about educational and employment opportunities; parenting skills classes, general equivalency diploma (GED) classes, and other such services.

5. Class Members Who Receive a Desegregative Voucher/Certificate

Under the Final Judgment and Decree, HUD will provide to class members 5,134 desegregative housing opportunities, over a seven-year period. The actual placement of a total of 40 class members in Alba (1), Corrigan (2), Fruitvale (2), Kirbyville (8), Mount Pleasant (22), Talco (2), and Trinidad (3) is also required under the Final Judgment. Two hundred (200) desegregative vouchers/certificates will be provided in the first year of the FHSC's operation, and 200 per year thereafter for the following four years. The class members who receive one of the desegregative vouchers/certificates will be required to use their vouchers/certificates in rental housing that constitutes a desegregative opportunity as defined in the Final Judgment. The FHSC will provide to the class members who receive a desegregative voucher/certificate counseling services and other forms of assistance, as necessary, to aid them in locating desegregative housing.

Pursuant to ¶ IV.5.g. of the Final Judgment and Decree, FHSC will give each class member written notice, every six months, in a form and distribution method to be approved by HUD, of all HUD-assisted and/or HUD-subsidized low-income housing developments in the housing markets where the class member resides that offer the class members a desegregative housing opportunity, provide notice of the full address, telephone number, and name of the person responsible for accepting applications for the development, a short description of the type of housing offered by the development, and the general eligibility requirements for the development. The FHSC will include in the Notice to class members, information about the mobility program, and the opportunities available through it.

a. PHA Responsibilities. The receiving PHAs will be awarded 1,000 desegregation certificates and vouchers to be used toward HUD's obligation to provide 5,134 desegregative housing opportunities to *Young* class members; conduct the intake and initial eligibility determination of applicants; and conduct any required Housing Quality Standards (''HQS'') inspections of units.

The 1,000 desegregative vouchers/certificates are for the exclusive use of class members. Certificates or vouchers obtained by receiving PHAs from other East Texas Section 8 programs through turnover, recapture, or otherwise, may be provided to non-class members when required by HUD under subparagraph c below.

b. Award and Turn-in of Desegregative Certificates. Class members who initially receive a desegregative voucher/certificate will have 120 days within which to enter into a lease for a unit of desegregative housing as defined, or, if the FHSC has failed to offer a unit within that time, until a desegregative offer is in fact received. At the expiration of 120 days, if an offer and if a lease has not been entered, the applicant has the option of continuing to search for housing with no restrictions as to locations for an additional sixty days. At the end of the sixty day period, the voucher/certificate would revert to the receiving PHA (unless it grants an extension). (HUD Headquarters will grant the necessary waivers to allow the receiving PHA to grant an extension beyond the 120 day maximum currently allowed under HUD's regulations.) Should the class member locate in a minority neighborhood, this will not count toward HUD'S obligation to create 5,134 desegregative housing opportunities.

c. Special Procedures for Affirmative Action Waiting List Initiatives. HUD shall provide to the FHSC the name and address of every class member applicant who is to be offered a certificate and counseling as an alternative to public housing when a PHA uses an affirmative action waiting list procedure that has been approved by the Court to offer the unit that would otherwise have been offered to the class member, to a white applicant whose name is listed lower on the waiting list. Paragraph III of the Final Judgment is to be followed when implementing the Affirmative Action Waiting List initiatives. When a class member is offered a certificate or voucher under these circumstances:

(1) The class member is to be made an offer of alternative housing within 60 days of the date on which the public housing unit that is to be offered to a white applicant is available for assignment.

(2) The class member must be provided the Section 8 rental voucher or certificate and an offer of a unit must be made within 120 days from issuance of the certificate to the class member that meets the requirements of § II.7 of the Final Judgment and must notify HUD within one day if the applicant accepts the offer;

(3) If the class member rejects the offer of alternative housing, the FHSC must notify HUD within one day of the rejection, state the reason(s) for the rejection, and provide information as to the location of the rejected unit and evidence of its availability.

(4) If, after 120 days, an alternative housing opportunity has not been found for the class member, the class member may opt to hold the certificate for up to sixty additional days and to search for housing on her or his own without restriction as to location. (HUD Headquarters will grant the necessary waivers to allow the receiving PHA to grant an extension beyond the 120-day maximum currently allowed under HUD's regulations.)

HUD will provide the FHSC with the name and address of every non-class member who is to receive a Section 8 rental voucher or certificate as a result of the implementation of the Affirmative Action Waiting List. The FHSC must instruct the receiving PHA to issue a Section 8 rental voucher or certificate to the non-class member applicant who held the highest position on the waiting list and who would otherwise have been offered an available public housing unit but for the advancement of a class member to the head of the waiting list for that unit under the Affirmative Action Waiting List.

d. *Priority of Offers.* The FHSC will offer the desegregative certificates to class members according to the following priority:

(1) To class members residing in predominantly African American low-rent public housing projects;

(2) To class members who are on a waiting list for low-rent public housing as of March 30, 1995;

(3) To class members who apply for low-rent public housing subsequent to the date of March 30, 1995.

6. The FHSC Shall Encourage and Assist Class Members To Make Desegregative Moves Within the Low Income Housing Program and to Privately Owned Assisted Housing Programs Pursuant to ¶ IV.5.e. of the Final Judgment

The FHSC shall develop and implement a plan to refer class members, with or without the use of Section 8 rental vouchers or certificates, to privately owned, HUD-assisted, or FmHA housing located in areas which provide a desegregative housing opportunity. FHSC shall conduct outreach to the landlords and/or owners of all such HUD-assisted, or FmHA private housing providers located in areas which provide a desegregative opportunity and other Section 8 existing agencies, to encourage participation in the FHSC-developed referral plan. FHSC shall monitor the performance of other Section 8 existing agencies in the 36-county area in this regard, and shall also develop a system to record all offers of and/or placements of class-members in desegregative housing by other Section 8 agencies in East Texas.

7. Information

The FHSC shall designate specific personnel to respond to requests for information and requests for assistance from class members desiring to obtain a desegregative housing opportunity as defined in the Final Judgment. The assistance to be provided shall include referrals of interested class members to public housing developments, and to programs other than low income public housing, that offer desegregative housing opportunities in East Texas.

8. Quarterly Status and Annual Performance Report

The FHSC shall provide quarterly status reports on significant activities taken under the requirements of the Final Judgment and Decree. HUD will file each report with the court and serve it on plaintiffs' counsel within thirty days of the end of the quarter covered in the report.

The FHSC shall submit an annual report on their performance of their obligations under the Final Judgment and Decree to the plaintiffs, with a copy to go to the Court by April 30th of each year.

9. HUD's Right To Request Information

The FHSC will collect and maintain the data necessary to monitor the program toward providing desegregative opportunities. This would include: (a) the number of class members seeking desegregated housing opportunities; (b) evidence of each family (class member) having been referred to at least three vacancies in desegregative areas in neighborhoods selected by the family; (c) the number of class members actually leasing units in non-impacted neighborhoods; (d) the number and name of housing providers recruited into the program; and (e) the number of class members assisted and number of hours staff members devoted to assisting families, and similar data as HUD may require. The FHSC will comply with any informational requests from HUD that HUD, in its discretion, makes from time to time during the course of the program.

C. Administrative Requirements

The FHSC shall be required to adhere to the following three administrative

requirements in performing work under this award:

1. Submission of quarterly progress reports detailing progress made in fulfilling the tasks and sub-tasks in the approved Project Management Plan;

2. Distribution of an Evaluation Questionnaire to all persons, organizations, agencies, or other entities receiving services, participating, or otherwise involved in this project and submission of a ''Customer Satisfaction Report'' semi-annually; and

3. Preparation of a final report in a format suitable for information transfer, exchange and dissemination to other PHA's communities, or other entities interested in providing such services. The final report should detail the case study of East Texas Desegregation Counseling Project and provide insights and recommendations for others who may wish to develop similar programs.

D. Monitoring

The FHSC shall monitor the compliance of the providers of low-income housing in the class action area (low-income public housing and assisted housing) with the fair housing laws and the requirements placed upon the providers under the comprehensive plan and the individual desegregation plans pursuant to ¶ IV.5.c. of the Final Judgment. The FHSC shall coordinate all monitoring activities with HUD.

II. Contents of Application

A. Eligible Applicant

1. The application must be submitted by an NPO and must include all information requested in this section. Any application submitted after the due date or that does not contain the required information may be rejected. The NPO must submit documentation as a part of the application that verifies the 501(c)(3) and/or 501(c)(4) (IRS Code) status of the NPO and its legal authority to operate throughout the East Texas area.

2. *Corporate documents.* The NPO shall provide a copy of its Articles of Incorporation.

B. Description of Activities and Costs

It is to an NPO's advantage if it describes its experiences, if any, as requested in this section. In the case of an NPO that intends to use one or more subcontractors, the NPO must also submit the qualifications of the subcontractors and a description of the work to be performed by the subcontractors. In the case of a newly formed NPO, the NPO may substitute a description of experience and knowledge of its principal officers and employees where a description of its own experience is requested below.

1. Description of Experience

The NPO must submit a narrative description of its experience in assisting lower-income families and/or African-Americans or other minorities in the search for housing. The NPO should describe its working knowledge of HUD's Section 8 programs, as well as its public housing and assisted housing programs. The NPO should include a list of its projects over the last two years that are relevant to this procurement action. HUD reserves the right to request information from any source so named.

2. Knowledge of Fair Housing and Mobility Experience

The NPO must submit a narrative description of its knowledge of, and experience in assisting African-Americans with fair housing as well as monitoring providers for violations of the fair housing laws. The narrative should specifically address the NPO's knowledge of the rental market in racially non-impacted areas and the barriers that limit access to that housing by lower-income minority persons. The NPO shall also describe its experience with mobility activities.

3. Description of Organizational Capacity

The NPO must submit a narrative description of its capability and capacity to handle a project of this scope. The narrative is to include a list of current federally funded activities. The NPO should provide an organizational chart of key personnel to be involved in each activity under the agreement, and the percentage of time that they will devote to each activity. The NPO should include resumes, references, or other documents that show that key personnel have experience in the tasks described in the ''Scope of Work'', the Final Judgment and Decree, and applicable individual desegregation plans. If the NPO plans to utilize subcontractors, consultants or other agents, it should provide the same information with respect to them.

4. Management Plan (Includes Proposed Costs)

A management plan as described below, particularly as the plan pertains to the evaluation rating factors set out in Section III. A. of this RFP, shall be submitted as part of each NPO's proposal. A detailed narrative of a management plan to carry out the programs as outlined in the Final Judgment and Decree and this RFP will be delivered to the HUD's local Field Office within 15 days after the contract is awarded. The Plan will include:

1. Detailed and sequential list of tasks (and sub-tasks, if appropriate), by quarter, necessary to accomplish the work specified in the NOFA;

2. The methodology to be used in accomplishing each task and sub-task;

3. A list of the staff or subcontractors, consultants or other agents who will perform each task/subtask, including their hourly rates and the number of hours per individual to be charged to each task/subtask;

4. Other direct costs (e.g., travel, etc.) for each task/subtask;

5. Indirect costs (e.g., projected site and rental cost of office space and mobile unit, if applicable, telephone, postage, printing, etc.) for each task/subtask;

6. Any other costs (general and administrative overhead) to be charged and the method for allocating such costs;

7. Internal financial management and oversight procedures and policies;

8. When each task/sub-task and establishment of financial oversight procedures will be accomplished;

9. Staff and organization (including an organizational flow-chart); and (10) the support that is expected to be required from HUD and its contract administrator.

The costs may be more detailed than is specified above, but may not be less detailed. In reviewing the proposals, HUD shall consider the breakdown of the work, the list of tasks, and the level of effort and qualifications of staff and subcontractors and other resources as demonstrations of the NPO's understanding of the work described by the NOFA. Only costs that are detailed in the proposal will be eligible for billing and reimbursement. The final management plan will be submitted by HUD to the Court for approval.

C. Deficient Proposals for FHSC

A proposal will be deemed technically ineligible if:

1. It does not fully adhere to the guidelines established herein, including budgetary requirements;

2. The complete proposal is not received by the deadline;

3. A comprehensive line item budget is not included;

4. The project budget for costs charged against funds exceeds $500,000; or

5. Unsigned proposal or certification forms are submitted.

6. The proposal does not include letters of commitment from the subcontractors.

III. Factors for Award

A. Evaluating Rating Factors

HUD will use the following criteria to evaluate proposals received in response to this RFP. In all cases, the number of points stated represents the maximum. In the actual scoring, any given proposal may receive less than the maximum for each category, based on an evaluation of competing proposals.

1. Familiarity with housing mobility counseling and HUD housing programs (30 points).

a. Demonstrated work experience with fair housing mobility counseling of lower income and minority families. (10)

b. Demonstrated work experience with HUD's Section 8, public housing or privately owned assisted housing programs. (10)

c. Demonstrated work experience in coordinating resources and activities provided by a variety of government, private sector agencies, and organizations for providing housing and/or fair housing law enforcement support. (10)

2. Knowledge of fair housing laws and mobility experience. (25 points)

a. Demonstrated record of participation in fair housing activities, particularly with respect to low income families and racial or ethnic minorities and monitoring providers of low-income housing for violations of the fair housing laws. (10)

b. Demonstrated knowledge of and experience in mobility services for African-American tenants. (10)

c. Experience in rental markets in racially non-impacted areas. (5)

3. Organizational capacity. (20 points)

a. Demonstrated capability and capacity of the non-profit organization to effectively manage a grant of this scope. (10)

b. Demonstrated capability of the non-profit's key personnel, including officers, employees, partners, subcontractors, consultants and other agents to accomplish the work responsibilities of the FHSC. (10)

4. Quality of Proposal. (25 points)

a. Extent to which the proposal demonstrates an understanding of the Final Judgment and Decree, the applicable individual desegregation plans, and this RFP, and the extent to which the proposal proposes a realistic approach to all the work requirements that meet the conditions of the Final Judgment and Decree. In rating this factor, HUD will consider such activities as the proposed number of desegregated housing opportunities to be created with tenant-based assistance, the degree of coordination with public housing agencies to expand desegregated housing opportunities in each community, the types and level of effort to provide tenant counseling and outreach to owners, and the expected number of families to be counseled and placed in a unit that is not located in an area of minority concentration. (15)

b. Completeness and acceptability of the overall proposal and specific methods, procedures and steps as outlined in the Management Plan. In rating this factor, HUD will consider such factors as the adequacy of the staffing and other resources devoted to completing the tasks outlined in this NOFA, direct and indirect costs for the various subtasks, and methods for completing the tasks outlined in the NOFA. (10)

B. Certifications

Each proposal must contain an original and five copies of the certifications identified below. Each certification must be signed by the Chief Executive Officer of the applicant organization unless otherwise noted. The Proposal packet referenced at the beginning of the NOFA contains the certification formats for the Certification Regarding Drug-Free Workplace Requirements, Certification Regarding Lobbying, and the Equal Opportunity Certification.

1. *Drug-free Workplace Certification.* The non-profit organization must certify that it will provide a drug-free workplace and comply with the drug-free workplace requirements at 24 CFR part 24, subpart F.

2. Certification regarding Lobbying pursuant to Section 319 of the Department of the Interior Appropriation Act of 1989, generally prohibiting use of appropriated funds for lobbying.

3. Certification of no outstanding violations of: Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and regulations pursuant thereto (24 CFR part 1); the Fair Housing Act (42 U.S.C. 3601–19); Executive Order 11063, as amended by Executive Order 12892 and HUD regulations (24 CFR part 107); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and regulations issued pursuant thereto (24 CFR part 8); Title II of the Americans with Disabilities Act of 1990 (and applicable regulations at 28 CFR Part 36); the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and regulations issued pursuant thereto (24 CFR part 146); Executive Order 11246 and all regulations issued pursuant thereto (41 CFR Chapter 60–1); Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701U) and regulations pursuant thereto (24 CFR part 135).

4. *Conflicts of Interest.* The non-profit organization shall provide a statement which describes all relevant facts concerning any past, present or currently planned interest (financial, contractual, organizational, or otherwise) relating to the work to be performed which could present a possible conflict of interest with respect to: (a) Being able to render impartial, technically sound, and objective assistance or advice; or (b) being given an unfair competitive advantage. The non-profit organization shall describe its current and past relationship with HUD as it relates to a possible conflict of interest in carrying out the counseling program.

Such conflict could arise when any employee, officer or agent of the PHA, HUD or plaintiffs' counsel; any member of his or her immediate family, his or her partner, or organization which employs or is about to employ any of the above has a financial or other interest in the NPO that is selected.

C. Cost Factor

Cost will become relevant in the case of a tie score in the technical part of the evaluation, as stated under ''Contract Award'' below. It is the goal of the Final Judgment to provide high quality services that will contribute substantially to the desegregation of all federally assisted housing in East Texas. It is expected that the costs of each task and sub-task will be addressed in the proposal, including the costs for sub-contractors, etc. HUD reserves the right to reject any proposal that does not adequately reflect costs.

D. Contract Award

In the event that the proposals are not sufficiently complete to award the contract, HUD may request additional information from the highest scoring applicants in order to make a final decision. The additional information will be considered by HUD in establishing the final score for each NPO. Award will be made to the NPO whose proposal has the highest score. In the event two or more offerors have tied scores, cost efficiency—i.e., the extent to which the NPO has a plan that will accomplish the most desegregative placements of all kinds within the established financial parameters—will be the determining factor.

E. Approval by HUD and Court Review

Notwithstanding the foregoing, a contract shall not be entered into for the FHSC without the express written approval by HUD of the entity and

application selected, and of the contract with such entity. The initial and any subsequent HUD decisions to enter into a contract with an NPO and the initial and any subsequent HUD approvals of the proposal selected and of the contract with the NPO are subject to judicial review by motion of the plaintiffs under] IV.6. of the Final Judgment and Decree.

In the United States District Court for the Eastern District of Texas Paris Division Lucille Young, et al., Plaintiffs, v. Henry G. Cisneros, et al., Defendants. [P–80–8-CA, Final Judgment]

Final Judgment and Decree

In 1985, defendants in the above-entitled and numbered civil action were found liable for knowingly and continually maintaining a system of segregated housing in a thirty-six county area of East Texas in violation of the constitutional and civil rights of a class of African-Americans. Young v. Pierce, 628 F. Supp. 1037 (E.D. Tex. 1985). An interim injunction issued in this action in 1988. Young v. Pierce, 685 F. Supp. 986 (E.D. Tex. 1985). Such interim injunction was amended by order of this court in 1990. Order for Further Relief, September 10, 1990. After extensive briefing by the parties and a hearing on the plaintiffs' motion for final remedy, it is Ordered, Adjudged, and Decreed that the Honorable Henry G. Cisneros, as Secretary of the Department of Housing and Urban Development (''HUD''), his officers, agents, servants, employees, successors, and all persons in active concert or participation with them shall be, and are hereby, Permanently Enjoined, either directly, or through contractual or other arrangements, to take the actions necessary to effectuate the relief decreed by the provisions of this Final Judgment and Decree, as follows:

1. The individual desegregation plans and the individual desegregation plan amendments for each Public Housing Authority (''PHA'') submitted by the Department of Housing and Urban Development (''HUD'') are hereby approved, subject to the modifications contained in this judgment and decree. As used herein, ''individual desegregation plan'' or ''desegregation plan'' includes both the original, individual desegregation plan filed by HUD for a particular PHA and the individual plan amendment filed by HUD for that PHA. Within ninety days from the issuance of this judgment and decree HUD shall re-file the individual desegregation plans, which shall fully incorporate the amendments to such plans, in order that a fully integrated plan for each PHA will be on file.

2. The desegregation plans shall be implemented and interpreted in a manner consistent with the applicable provisions of HUD's East Texas Comprehensive Desegregation Plan (''Comprehensive Plan'') and with the provisions of this judgment and decree. HUD shall discharge all duties imposed upon HUD by the terms of the Comprehensive Plan and by the provisions of this judgment and decree. In the event of any inconsistency or conflict between the provisions of this judgment and decree and the provisions of either the Comprehensive Plan or the desegregation plans, the provisions of this judgment and decree shall be controlling.

3. All orders, including the interim injunction previously issued in this action, shall be in full force until HUD attains unitary status, as defined in this judgment and decree, and judicial supervision ends in accordance with this judgment and decree. All previous orders entered in this action shall be interpreted in a manner consistent with this judgment and decree. In the event of any inconsistency or conflict between the provisions of this judgment and decree and the provisions of any earlier order, the provisions of this judgment and decree shall be controlling.

4. All provisions of this judgment and decree shall require, or be construed as requiring, compliance with federal statutes as they now exist, or as they may be amended or enacted.

I. Physical Improvement to Projects and Neighborhoods

1. Financial assistance for physical improvements specified in the desegregation plans shall be provided by HUD or, in the case of neighborhood improvements receiving financial assistance under the Community Development Block Grant Small Cities Program (''CDBG Small Cities Program''), by the State of Texas, within seven years of the date of this judgment and decree. The review and approval process for applications for financial assistance shall be conducted in accordance with all applicable laws and regulations, including the rules governing competitive programs, where appropriate.

2. Each such physical improvement shall be completed as soon as is feasible and practicable after approval and funding and, in no event, shall the time period for the completion of any such physical improvement exceed a period of three years from the date upon which the application is approved and funded. With respect to neighborhood improvements being carried out by a municipal government with financial assistance under the Community Development Block Grant Program (''CDBG program''), it shall be the responsibility of HUD to take all appropriate actions within HUD's control to obtain completion of those neighborhood improvements within the time periods specified herein.

3. If any municipal government fails to take an action necessary to complete the neighborhood improvements specified in the PHA's desegregation plan, HUD shall take appropriate action in accordance with the regulations governing the CDBG program. These actions may include (i) enforcement mechanisms available to HUD under its obligation affirmatively to further fair housing and (ii) causing the PHA to institute against the municipal government enforcement based on the municipality's violation of the cooperation agreement between the PHA and the municipality.

4. If any PHA fails to take an action necessary to complete the physical improvements specified in the PHA's desegregation plan, HUD shall take appropriate enforcement action against the PHA. These actions may include one or more of the actions described in the Comprehensive Plan at p. 20 for dealing with the failure of a PHA to follow its desegregation plan.

5. Where HUD has required improvement of neighborhood conditions as part of the desegregation remedy for a PHA, HUD shall cause that PHA and the responsible municipality to enter into a memorandum of understanding under which the municipality agrees to carry out the required neighborhood improvements. Each such memorandum of understanding shall identify the neighborhood conditions to be corrected or upgraded and describe the work to be done in carrying out such correction or upgrading. If such work requires funding under the CDBG Program, the memorandum of understanding shall also contain a preliminary cost estimate for the required work. All such memoranda of understanding shall be entered into by the PHAs and their respective municipalities no later than July 1, 1995. All such memoranda of understanding shall be submitted for the approval of the court. Upon approval by the court, the memorandum of understanding between a PHA and a municipality shall define the full extent of the obligation to correct or upgrade neighborhood conditions in that PHA and in that municipality.

6. In approving applications for the funding of physical improvements, or the provision of amenities, to low-rent public housing projects in the class

action area, HUD shall, to the extent consistent with applicable statutory and regulatory requirements, give priority to the funding of applications for making such improvements, or providing such improvements, to racially identifiable African-American projects, i.e., low-rent public housing projects in which seventy-five percent (75%) or more of the residents are African-Americans.

7. The amended individual desegregation plans require, and the comprehensive plan contemplates, certain physical improvements which include, inter alia, the provision of air conditioning equipment, laundry facilities, community centers, and playgrounds. Plaintiffs additionally seek the provision of carpeting, dishwashers, a utility allowance to account for the reasonable use of air conditioning, and garbage disposals in predominately and historically African-American projects. Moreover, plaintiffs identify other conditions present at predominately and historically African-American projects that are not present at the historically and predominantly white projects, including inadequate security and maintenance.

HUD shall satisfy the obligations of the individual desegregation plans as they pertain to amenities and services. In addition to those amenities and services required by the individual desegregation plans, HUD shall provide the amenities and services available in any of the historically and predominantly white projects at the historically and predominately African-American projects of like or similar kind within the PHA. The amenities and services required at the non-elderly family units at historically and predominately African-American projects in a given PHA are to be determined by evaluating the historically and predominately white non-elderly family units within the same PHA. For example, HUD must ensure that the historically and predominately African-American non-elderly family units include carpeting if a historically and predominately white non-elderly family unit includes carpeting. Moreover, both projects shall be staffed with maintenance personnel in equal numbers or such numbers as necessary to maintain the premises in substantially similar condition.

II. Creation of Desegregated Housing Opportunities

1. Within seven years from the date of this judgment and decree, HUD shall create a total of 5,134 desegregated housing opportunities for elderly and non-elderly class members in non-minority census blocks in the class action area. Desegregated housing opportunities shall be offered, first, to class members residing in predominately African-American low-rent public housing projects, second, to class members who are on a waiting list for low-rent public housing as of the date of this judgment and decree, and, third, to class members who apply for low-rent public housing subsequent to the date of this judgment and decree.

2.a. The term ''non-minority census block'' is defined in accordance with the ''¼ mile radius'' methodology described in the report of the East Texas Demographic and Mapping Analysis conducted by George Galster of the Urban Institute under a contract with HUD (Defendants' Exhibit 116). A given census block shall be regarded as a non-minority census block, if the area consisting of the given census block, plus all census blocks within the PHA jurisdiction whose centroids lie within a ¼ mile radius of the centroid of the given census block (i) has a percentage of white population of more than eighty percent (80%), or (ii) has a percentage of white population greater than 100%, minus the PHA jurisdiction's overall percentage of African-American population. b. Notwithstanding subsection II.2.a., a census block will not be regarded as a non-minority census block, if (i) more than fifty percent (50%) of the African-Americans living in the area described by the ¼ mile radius methodology are concentrated in individual census blocks with more than eighty percent (80%) African-American population, or (ii) the population of the area described by the ¼ mile methodology is more than forty percent (40%) African-American or (iii) geographic, demographic, or social factors, including proximity to racially impacted areas or isolation from population centers or community services, indicate that the census block should be regarded to be in a racially impacted area.

3. To the maximum extent feasible and practicable, HUD shall, through the use of tenant-based housing assistance, create within each PHA jurisdiction, the number and type (elderly and non-elderly) of desegregated housing opportunities which HUD has determined to be needed within each particular PHA jurisdiction, as indicated in Defendants' Hearing Exhibit No. 119, Table 1.

4. If the number of desegregated housing opportunities needed within a particular PHA cannot be created through the use of tenant-based housing assistance, that PHA's unmet need shall be satisfied by offering class members residing within that particular PHA a desegregative housing opportunity located in an adjacent jurisdiction. Such adjacent jurisdiction can be no more than thirty-five miles from the PHA and must be accessible from the PHA by adequate and feasible highway links and public transportation.

5. If the number of desegregated housing opportunities needed within a particular PHA cannot be created through the use of tenant-based housing assistance, either within the PHA jurisdiction or an adjacent jurisdiction, the HUD shall, to the maximum extent feasible and practicable, and consistent with all statutory and regulatory requirements, satisfy that PHAs unmet need for desegregated housing opportunities through the use of project-based Section 8 existing housing certificates and vouchers.

6. If the number of desegregated housing opportunities needed within a particular PHA cannot be created through the use of either tenant-based or project-based Section 8 housing assistance, then that PHA's unmet need shall be satisfied through the creation of desegregative housing opportunities anywhere within the class action area.

7. HUD shall be given credit for the creation of a desegregated housing opportunity if:

a. A class member has been provided by HUD with a desegregative housing voucher or housing certificate. A desegregative housing voucher or housing certificate is a Section 8 existing housing certificate or housing voucher, limited for the first 120 days to use in non-minority census blocks.

b. The class member is offered mobility counseling to assist the class member to locate an appropriate housing unit.

c. The class member has been referred by the mobility counseling service to a landlord who is willing to accept the class member's certificate or voucher for the rental of a housing unit.

d. The housing unit offered by the willing landlord is located in a non-minority census block.

e. The unit offered by the willing landlord meets the applicable Section 8 existing housing quality standards in 24 CFR Sec. 882.109, and contains an appropriate number of bedrooms for the particular applicant's family size and composition.

f. The unit offered by the willing landlord is located outside an area where a reasonable African-American would perceive significant racial hostility.

g. There must be no legitimate basis for the class member to refuse the offered unit. Legitimate reasons to

refuse an offer are limited to remoteness to jobs or day care and lack of adequate and feasible transportation. The burden is on the applicant to demonstrate that the proffered reason is legitimate. The special master, or some designated representative of the special master, shall make the initial determination as to whether the applicant has carried his or her burden in this regard.

8. HUD shall also receive credit for the creation of a desegregated housing opportunity, whenever a class member who has been provided with a desegregative housing certificate or housing voucher accepts an offer of a housing unit located in any non-minority census block in the class action area, or in any other non-minority area, but the unit was not obtained through a referral from the housing mobility service.

9. HUD shall receive credit for the creation of a desegregated housing opportunity, if a class member is referred by the mobility counseling service to a landlord willing to rent the class member, with or without the use of a Section 8 housing certificate or voucher, a suitable housing unit in a privately owned, HUD-assisted and/or HUD-subsidized housing development, or in a housing development assisted or subsidized by the Farmers Home Administration, provided that the offered housing unit meets the location requirements set forth in Paragraph II.7.d., above, and provided that the African-American occupancy of the project in which the unit is located does not exceed fifty percent (50%).

10. HUD shall also receive credit for the creation of a desegregated housing opportunity whenever a class member, with or without the use of Section 8 housing certificate or voucher, accepts an offer of a housing unit in a privately owned, HUD-assisted and/or HUD-subsidized housing development, or in a housing development assisted or subsidized by the Farmers Home Administration, where (i) the housing unit is located in any non-minority census block in the class action area, or in any other non-minority area, (ii) the African-American occupancy of the project in which the unit is located does not exceed fifty percent (50%) and (iii) the unit was not obtained through a referral from the housing mobility service.

11. The mobility services referred to above shall be provided by the Fair Housing Services Center, a private, non-profit organization to be established and funded by HUD for a five-year period, as set forth below.

12. The Fair Housing Services Center shall administer the desegregative Section 8 housing vouchers and certificates under contract with one or more PHAs.

III. Elimination or Reduction of Racially Identifiable Low-Rent Public Housing Projects

1. If the individual desegregation plan for a particular PHA does not require the use of any of the Waiting List Initiatives, that specific PHA shall continue to use a race-conscious tenant selection assignment plan in conformity with the requirements of Paragraph 2 of the Interim Injunction entered in this action on March 3, 1988.

2. Any particular Waiting List Initiative specified in an individual desegregation plan shall be fully implemented by the PHA within six months of the date of this judgment and decree. Any PHA that is required to implement a Waiting List Initiative shall also continue to use a race-conscious tenant selection assignment plan in conformity with the requirements of Paragraph 2 of the Interim Injunction entered in this action on March 3, 1988. HUD shall provide any and all assistance to the PHA necessary to implement the Waiting List Initiative, such as the drafting of detailed instructions to guide the PHA in the implementation of the Waiting List Initiative, and the preparation of interagency agreements required for the Cross-Listing Initiative, the Merged Waiting List Initiative, the Area-Wide Waiting List Initiative and the Housing Opportunities Waiting List Initiative.

3. If any Waiting List Initiative, such as the Affirmative Action Waiting List Initiative, employs race-conscious practices for the selection of tenants for assignment to a low-rent public housing project, an offer of alternative housing shall be made to any class member who would otherwise have been offered a unit in the project but for the need to achieve a desired racial balance in the project within sixty days of the date on which the public housing unit in question became available for assignment.

a. Such an offer of alternative housing shall be made to a class member if (i) the class member has applied for low-rent public housing with the PHA operating the project; (ii) the class member meets all applicable eligibility and screening requirements for admission to public housing operated by the PHA; and (iii) and the class member would otherwise have been offered an available unit in the project but for the advancement of a non-class member applicant to the head of the waiting list for that unit under the terms of the Waiting List Initiative, i.e., the class member held the highest position on the waiting list above the non-class member applicant whose position on the waiting list was advanced under the terms of the Waiting List Initiative. A non-class member applicant may not be advanced on a waiting list, unless it has been verified that the non-class member applicant meets all eligibility requirements and tenant selection criteria applicable to the low-rent public housing project.

b. In order to satisfy the requirements for an offer of alternative housing (i) the class member must be provided with a desegregative Section 8 housing voucher or housing certificate and (ii) all other requirements for the creation of a desegregated housing opportunity specified in Paragraph II.7., above, must be satisfied.

c. The public housing unit that otherwise would have been offered to the class member shall remain vacant pending receipt by the class member of an offer of alternative housing.

d. If the class member who would otherwise have been offered the public housing unit rejects an offer of alternative housing HUD shall, within seven days of such rejection, provide plaintiffs with a written notice stating the name of the applicant and stating the basis for HUD's determination that the applicant rejected the offer of a dwelling unit meeting the requirements for an offer of alternative housing.

e. The plaintiffs shall have seven days from the date of notice under the preceding subparagraph to submit to HUD, in writing, any objections plaintiffs may have to HUD's determination. If timely objections are submitted by the plaintiffs, the public housing unit shall remain vacant pending a decision by the special master. Except as provided in Paragraph III.3.b. (referring to Paragraph II.7.g.), above, in any such proceeding, HUD shall bear the burden of proving that the applicant has rejected an offer of alternative housing. If no objection is made, or, upon objection, the special master determines that an offer of alternative housing was received by the class member who would otherwise have been offered the public housing unit, the class member shall be placed on the waiting list in the position occupied by the non-class member advanced in accordance with the Waiting List Initiative, and the non-class member applicant advanced under the Waiting List Initiative shall be assigned to the public housing unit. Either party dissatisfied with the decision of the special master may seek review of that decision by this court within seven days of the special master's decision.

f. If a class member rejects an offer of alternative housing after previously receiving an offer of alternative housing and rejecting such offer, the special master shall determine whether the applicant will again be placed on the waiting list in the position occupied by the advanced non-class member applicant or will receive different consideration in light of the unusual circumstances. Either party dissatisfied with the decision of the special master may seek review of that decision by this court, within seven days of the special master's decision.

g. If no offer of alternative housing is made within sixty days, HUD shall notify the special master, within seven days, of the circumstances preventing an offer of alternative housing. The special master shall investigate the conditions already causing HUD's failure to make an offer of alternative housing. If the special master determines that HUD is acting in good faith, the class member shall be provided a desegregative housing certificate or voucher which may be used without the geographic restriction described in Paragraph II.7.a., above, within the time period described in 24 CFR Sec. 882.209(d). A finding that HUD acted in bad faith shall be evidence to be considered in relation to any motion to hold HUD in contempt.

4. HUD shall provide a section 8 existing housing voucher to the non-class member applicant who would otherwise have been offered an available public housing unit but for the advancement of a class member to the head of the waiting list for that unit under the terms of a Waiting List Initiative, i.e., the non-class member applicant who held the highest position on the waiting list above the class member applicant whose position on the waiting list was advanced under the terms of the Waiting List Initiative.

5. In determining whether to require a PHA to use the Affirmative Action Waiting List Initiative, or any other race conscious tenant selection and assignment plan, for a particular low-rent public housing project, HUD shall not consider the impact of the integration of the project on the racial composition of the neighborhood surrounding that project.

IV. Fair Housing Services Center

1. HUD shall establish a Fair Housing Services Center (''FHSC''), the functions of which must include providing assistance to class members in locating and obtaining affordable desegregated housing in areas where they choose and, additionally, providing class members with fair housing counseling services.

2. The FHSC shall be operated by a private, non-profit organization. HUD shall provide funding to the FHSC in an amount no less than $500,000 per year for a period of five years.

3. Within sixty days of the date of the entry of this judgment and decree, HUD shall serve upon the plaintiffs, and submit for approval of the court, a proposed Request for Proposals (''RFP''), inviting private, non-profit organizations to apply for a contract with HUD to operate the FHSC. The plaintiffs shall have ten days from the date of service within which to file objections to the proposed RFP. If such objections are filed, the court shall conduct such proceedings as are required to resolve the objections.

4. Upon approval of the RFP by the court, HUD shall publish the RFP in the Commerce Business Daily. Within 120 days of the date of publication of the RFP, HUD shall make its selection of the organization to operate the FHSC.

5. The FHSC shall provide the following services:

a. Pre-screen all clients of the FHSC who have not already been screened by a PHA, to document each client's ability and willingness to comply with an acceptable lease and HUD program requirements;

b. Provide information and counseling with respect to housing opportunities to class members;

c. Monitor the compliance of the providers of low-income housing in the class action area (low-income public housing and assisted housing) with the fair housing laws and the requirements placed upon the providers under the Comprehensive Plan and the individual desegregation plans;

d. Encourage and assist in the development of desegregative housing opportunities, including outreach to private landlords in non-minority areas, as well as counseling and referral services to Section 8 existing housing tenants and applicants who wish to utilize their Section 8 certificates or housing vouchers in a manner furthering desegregation;

e. Encourage and assist class members to make desegregative moves within the low-income housing program and to privately owned assisted housing programs;

f. Administer the desegregative housing certificates and vouchers to be provided by HUD under contract with one or more PHAs;

g. Give each class member written notice, every six months, in a form and distribution method to be approved by HUD, of all HUD-assisted and/or HUD-subsidized low-income housing developments in the housing markets where the class member resides that offer the class members a desegregative housing opportunity, provide notice of the full address, telephone number, and name of the person responsible for accepting applications for the development, a short description of the type of housing offered by the development, and the general eligibility requirements for the development.

6. The plaintiffs may seek review, in this court, of HUD's final selection of the organization to operate the FHSC. Such review shall be in accordance with the standards and procedures for judicial review set forth in the Administrative Procedure Act, 5 U.S.C. Secs. 701, *et seq.*

V. Racially Hostile Sites

1. HUD shall utilize its statutory and regulatory authority to proceed against any resident who acts to deprive any other resident of his or her civil rights under the United States Constitution or applicable civil rights statutes.

2. HUD shall assist municipal leaders, including, but not limited to, the city's mayor and its city counsel, in undertaking actions to address hostility including, but not limited to, supplying trained security officers to protect the physical safety of African-American residents when necessary.

3. Within sixty days of issuance of this judgment and decree, HUD shall determine in which localities class participation is limited because of racial hostility such that it is unlikely class members will actually use the existing public housing.

4. HUD shall develop a supplemental desegregation plan for each site deemed by HUD to be racially hostile. The supplemental plan shall examine all avenues available to HUD effectively to counterbalance racial hostility, thereby facilitating class participation and the implementation of the individual desegregation plans and this judgment and decree. Such supplemental plan shall be submitted to the special master for his approval within six months of the designation of a site as racially hostile.

VI. Unitary Status

1. When HUD and each PHA have satisfied the requirements as provided for in this judgment and decree and no racially identifiable low-rent public housing projects exist within the class action counties, HUD may apply to the court for a declaration of unitary status because of the elimination of all vestiges of discrimination attributable to HUD. See *Hills* v. *Gautreaux*, 425 U.S. 284, 297 (1976). A project shall be regarded as non-racially identifiable if less than

seventy-five percent (75%) of the occupants of the project are members of the same race.

2. Upon issuance by the court of a declaration of unitary status, judicial supervision pursuant to this judgment and decree, or any other order entered in this case, of HUD's activities shall terminate.

3. Ten years after the date of this judgment and decree, if the court's jurisdiction has not been sooner terminated, the court shall determine whether its jurisdiction over HUD's actions should be continued or terminated. The court shall extend its jurisdiction over HUD if it determines that any of the specific obligations to be performed under this judgment and decree have not been accomplished within that time period. If the court extends its jurisdiction for this reason, its jurisdiction shall end upon fulfillment of those specific obligations.

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