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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 39

[Docket No. RM05–30–000; Order No. 672]

Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards

March 2, 2006.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is correcting a final rule that appeared in the **Federal Register** of February 17, 2006 (71 FR 8662). The final rule establishes criteria that an entity must satisfy to qualify to be the Electric Reliability Organization (ERO) which the Commission will certify as the organization that will propose and enforce Reliability Standards for the Bulk-Power System in the United States, subject to Commission approval. The final rule also establishes procedures under which the ERO may propose new or modified Reliability Standards for Commission review and procedures governing an enforcement action for the violation of a Reliability Standard.

DATES: Effective March 20, 2006.

FOR FURTHER INFORMATION CONTACT: Jonathan First, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 202–502–8529.

SUPPLEMENTARY INFORMATION: In FR Doc. 06–1227 appearing on page 8662 in the **Federal Register** of Friday, February 17, 2006, the following correction is made. The Commission notes that the error does not appear in the order issued by the Commission.

§ 39.6 [Corrected]

■ 1. On page 8739, in the second column, in § 39.6 *Conflict of a Reliability Standard with a Commission Order,* in paragraph (a), ''the user owner or operator shall expeditiously notify the Commission * * *'' is corrected to read ''the Transmission Organization shall expeditiously notify the Commission * * *.''

Magalie R. Salas,
Secretary.

[FR Doc. 06–2194 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP St Petersburg 05–166]

RIN 1625–AA11

Regulated Navigation Area; San Carlos Bay, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area on the waters of San Carlos Bay, Florida. The regulated navigation area is needed to minimize the risk of potential bridge allisions by vessels utilizing the main channel under span ''A'' (bascule portion) of the Sanibel Island Causeway Bridge and enhance the safety of vessels transiting the area and vehicles crossing over the bridge.

DATES: This rule is effective from 8 a.m. on January 8, 2006 until 8 a.m. on January 7, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP St. Petersburg 05–166] and are available for inspection or copying at Coast Guard Sector St Petersburg, 155 Columbia Drive, Tampa, Florida 33606–3598 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Jennifer Andrew at Coast Guard Sector St. Petersburg, Prevention Department, (813) 228–2191, Ext. 8203.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This rule renews a previously established temporary regulated navigation area created in November 2003 to protect the public from hazards associated with the deteriorated condition of the Sanibel Island Causeway Bridge. This regulation was initially extended in 2004 and has since expired in November 2005. However, the Sanibel Island Causeway Bridge has not been adequately repaired and continues to pose a safety hazard to vessel and vehicle traffic transiting the area. Therefore, publishing an NPRM and delaying its effective date would be contrary to the public interest because immediate action is needed to minimize the risk of potential bridge allisions by vessels utilizing the main channel under span ''A'' (bascule portion) of the bridge and to enhance the safety of vessels transiting the area and vehicles crossing over the bridge. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restrictions.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

On November 18, 2003, the Lee County Board of Commissioners issued an emergency declaration that conditions of the Sanibel Island Causeway Bridge posed an immediate threat to the safety of the traveling public. Immediate initial action was required to minimize the risk of potential bridge allisions of vessels utilizing the main channel under span ''A'' (bascule portion) and enhance the safety of vessels transiting the area and vehicles crossing over the bridge. The Coast Guard established an RNA (68 FR 68518) in the vicinity of the bridge from November 29, 2003, through November 28, 2004.

On November 2, 2004, Sanibel County engineers reevaluated the Sanibel Island Bridge and determined that the bridge continued to pose a threat to the safety

of the traveling public. The RNA was subsequently extended from November 2004 to November 2005 (69 FR 70374). Repairs of the bridge are still on-going, and could take several years to complete. Therefore, this rule extends the regulated navigation area from January 2006 to January 2007.

Discussion of Rule

The regulated navigation area will encompass the main channel under the ''A'' span (bascule portion) of the Sanibel Island Causeway Bridge out to 100 feet on either side of the bridge inclusive of the main shipping channel. All vessels are required to transit the area at no-wake speed. However, nothing in this rule negates the requirement to operate at a safe speed as provided in the Navigation Rules and Regulations. A one-way traffic scheme is imposed within the regulated navigation area. Overtaking is prohibited. Tugs with barges must be arranged in a push-ahead configuration with barges made up in tandem. Tugs must be of adequate horsepower to fully maneuver the barges. Tug and barge traffic may transit the regulated navigation area at slack water only. Stern towing is prohibited except by assistance towing vessels, subject to certain conditions. Side towing is permitted. Assistance towing vessels may conduct stern tows when the disabled vessel being towed is less than or equal to 30 feet in length. For disabled vessels greater than 30 feet in length, assistance towing vessels may use a towing arrangement in which one assistance towing vessel is in the lead, towing the disabled vessel, and another assistance towing vessel is astern of the disabled vessel. Assistance towing vessels must be of adequate horsepower to maneuver the vessel under tow and may transit the RNA at slack water only. These regulations are going into effect to minimize the risk of potential bridge allisions by vessels utilizing the main channel under span ''A'' (bascule portion) of the Sanibel Island Causeway Bridge and enhance the safety of vessels transiting the area and vehicles crossing over the bridge.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The Coast Guard bases this finding on the following: Vessels may still transit the area, the waterway is not a major commercial route, and the Coast Guard expects only modest delays due to the nature of the marine traffic that traditionally uses this waterway.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit a portion of San Carlos Bay. This regulated navigation area will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessels may still transit the area; the waterway is not a major commercial route, and the Coast Guard expects only modest delays due to the nature of the marine traffic that traditionally uses the waterway.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial

direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule fits in paragraph (34)(g) because it is a regulated navigation area. Under figure 2–1, paragraph (34)(g), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064 Department of Homeland Security Delegation No. 0170.1.

■ 2. Temporarily add new section 165.T07–166 to read as follows:

§ 165.T07–166 Regulated Navigation Area, San Carlos Bay, Florida.

(a) *Regulated Area.* The following area is a regulated navigation area (RNA): the waters bounded by the following points: NW Corner: 26[deg]28′59″ N, 082[deg]00′54″ W; NE Corner: 26[deg]28′59″ N, 082[deg]00′52″ W; SE Corner: 26[deg]28′57″ N, 082[deg]00′51″ W; SW Corner: 26[deg]28′57″ N, 082[deg]00′53″ W.

(b) *Regulations.* (1) A vessel in the RNA established under paragraph (a) of this section will operate at no-wake speed. Nothing in this rule is to be construed as to negate the requirement to at all times operate at a safe speed as provided in the Navigation Rules and Regulations.

(2) A one-way traffic scheme is established. Vessel traffic may proceed in one direction at a time through the RNA. Overtaking is prohibited.

(3) Tugs with barges must be arranged in a push-ahead configuration with the barges made up in tandem. Tugs must be of adequate horsepower to maneuver the barges. Tug and barge traffic may transit the RNA at slack water only.

(4) Stern tows are prohibited except for assistance towing vessels, subject to conditions. Side tows are authorized. Assistance towing vessels may conduct stern tows of disabled vessels that are less than or equal to 30 feet in length. For vessels that are greater than 30 feet in length, assistance towing vessels may use a towing arrangement in which one assistance towing vessel is in the lead, towing the disabled vessel, and another assistance towing vessel is astern of the disabled vessel. All assistance towing vessels operating within the regulated navigation area must be of adequate horsepower to maneuver the vessel under tow and the transit must be at slack water only.

(c) *Definitions.* The following definitions apply to this section:

(1) Assistance towing means assistance provided to disabled vessels.

(2) Assistance towing vessels means commercially registered or documented vessels that have been specially equipped to provide commercial services in the marine assistance industry.

(3) Disabled vessel means a vessel, which while being operated, has been rendered incapable of proceeding under its own power and is in need of assistance.

(4) Overtaking means a vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam, that is, in such a position with reference to the vessel she is overtaking, that at night she would be able to see only the stern light of the vessel but neither of her sidelights.

(5) Slack water means the state of a tidal current when its speed is near zero, especially the moment when a reversing current changes direction and its speed is zero. The term also is applied to the entire period of low speed near the time of turning of the current when it is too weak to be of any practical importance in navigation.

(6) Vessel means every description of watercraft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on the water.

(d) *Violations.* Persons in violation of these regulations will be subject to civil penalty under 33 U.S.C. 1232 of this part, to include a maximum civil penalty of $32,500 per violation.

(e) Effective period. This section is effective from 8 a.m. on January 8, 2006 until 8 a.m. on January 7, 2007.

Dated: January 3, 2006.

D.B. Peterman,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 06–2160 Filed 3–7–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

RIN 0596–AC40

Sale and Disposal of National Forest System Timber; Timber Sale Contracts; Purchaser Elects Government Road Construction

AGENCY: Forest Service, USDA.

ACTION: Direct final rule; correcting amendment.

SUMMARY: This rule corrects the direct final rule published on January 4, 2006. This final rule amends the current regulation in order to make it consistent with section 329 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (''Act'') and section 105 of the Tongass Timber Reform Act (''TTRA''). Section 329 of the Act placed certain restrictions and requirements upon the Secretary of Agriculture (''Secretary'') pertaining to the construction of roads for the sale of National Forest timber and other forest products. As of the effective date of the section, April 1, 1999, the Forest Service implemented necessary changes to the timber sale program and revised the Forest Service Manual and Handbook. However, revisions to relevant sections of the Code of Federal Regulations were not made. This final rule makes technical amendments to the subpart to make it consistent with section 329. Additionally, this final rule revises Subpart B to make it consistent with section 105 of the TTRA, which eliminated a restriction applicable to timber sales on National Forest lands in the State of Alaska.

DATES: This final rule is effective March 8, 2006.

FOR FURTHER INFORMATION CONTACT: Lathrop Smith, Forest Management Staff, at (202) 205–0858, or Richard Fitzgerald, Forest Management Staff, (202) 205–1753.

SUPPLEMENTARY INFORMATION: On January 4, 2006, the Forest Service published a direct final rule making minor, technical changes to 36 CFR part 223, subpart B (71 FR 522). This publication corrects that rule by republishing it with the following necessary modifications on page 523, in the second column: In § 223.41, the word ''will'' is replaced by ''shall.'' In § 223.82, the phrase ''a total estimated value'' is changed to ''total estimated construction costs.'' In § 223.83, enumerated paragraph (a)(16) is revised by removing the phrase ''for each sale described in § 223.82(b)'' and the previous inclusion of (a)(17)(ii) is removed because there is no change to the prior rule. The preamble and the regulatory certifications are also revised as appropriate. Additionally, this publication contains a Good Cause Statement, which explains the Forest Service's decision to publish this direct final rule without notice and comment.

Background

The sale of National Forest timber or other forest products often involves the construction of roads necessary to access the land covered by the sale. If a particular sale requires road construction, then the Forest Service specifies this component in the notice of sale and offers further information to potential bidders in the prospectus. Road construction costs can be significant, especially for smaller timber purchasers. Under section 14(i) of the National Forest Management Act of 1976 (Pub. L. 94–588), a purchaser that qualified as a ''small business concern'' under the Small Business Act (15 U.S.C. 631, *et seq.*) had the right to elect to have the Forest Service build the roads specified in the notice of sale, if the estimated cost of such roads exceeded $20,000. Section 329(c) of the Act (16 U.S.C. 535a(c)) essentially re-enacted existing law, but raised the monetary threshold to $50,000 or more. Because 36 CFR part 223, subpart B reflects the previous monetary threshold of $20,000, revisions are necessary to make the regulation consistent with the higher threshold contained in the Act. Accordingly, this final rule revises 36 CFR 223.41 and 36 CFR 223.82 to reflect construction costs of $50,000 or more.

Under prior law, the foregoing right to elect road construction by the Forest Service was inapplicable to timber sales on National Forest lands in the State of Alaska. However, section 105 of the TTRA eliminated this restriction. Because the existing regulation contains the obsolete restriction, revision is necessary. This final rule deletes the restriction from 36 CFR 223.82.

This final rule also revises certain sections of 36 CFR part 223, subpart B that refer or relate to purchaser credit. Section 329(a) of the Act (16 U.S.C. 535a(a)) eliminated purchaser credit, prospectively, by prohibiting the Secretary from providing effective credit for road construction to any purchaser as of April 1, 1999 (the effective date of the section). Accordingly, as of April 1, 1999, the Forest Service discontinued the use of purchaser credit for appraised value determinations and in timber sale contracts. This was accomplished by making changes in Forest Service Manual and Handbook procedures and by eliminating timber sale contract references on all sales after that date. However, corresponding revisions to 36 CFR part 223, subpart B were not made. Accordingly, this final rule eliminates references to purchaser credit contained in 36 CFR 223.82(b) and 36 CFR 223.83(a) and in the heading of 36 CFR 223.84. Additionally, this final rule revises 36 CFR 223.63 to reflect the Forest Service's method of determining the appraised value for a sale in light of the elimination of purchaser credit. (Estimated road construction costs are factored into the appraised value for the sale.)

It is important to note that this final rule intentionally does not revise, or eliminate all sections of Subpart B that refer or relate to purchaser credit. Because of a savings provision contained at section 329(g)(2) of the Act (16 U.S.C. 535a(g)(2)), the prohibition of purchaser road credit did not eliminate effective credit earned under a contract resulting from a sale noticed before the section's effective date, or credit otherwise earned before such date. Accordingly, the regulation retains references that may be useful for administering purchaser credit that exists by virtue of the savings provision.

Good Cause Statement

The Administrative Procedure Act (''APA'') exempts certain rulemakings from its public notice and comment requirements. For example, the APA allows agencies to promulgate rules without public notice and comment when an agency, for good cause, finds that notice and public comment are ''impracticable, unnecessary, or contrary to the public interest.'' (5 U.S.C. 553(b)(3)(B)).

The Department finds that good cause exists to exempt this rulemaking from public notice and comment pursuant to 5 U.S.C. 553(b)(3)(B). First, this action makes only minor and purely technical changes to existing regulations. Second, the modifications made in this final rule are mandated by enactment of section 329 of the Act and section 105 of the TTRA and the Department has no discretion in implementing them. This final rule merely updates 36 CFR part 223, subpart B to comply with the terms of law and removes certain obsolete references to purchaser credit. Accordingly, the Department finds that good cause exists and that public notice and comment are unnecessary pursuant to 5 U.S.C. 553(b)(3)(B).

Regulatory Certifications

Regulatory Impact

This final rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this rule is not a significant regulatory action and is not subject to Office of Management and Budget (''OMB'') review. The technical revisions of 36 CFR part 223, subpart B accomplished through this rule will not have an annual effect of $100 million or more on the economy. This rule will not adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities. This rule will not interfere with an action taken or planned by another agency, but could raise new legal or policy issues; however, these legal and policy issues are not likely to be significant. Financial relationships between the Government and timber sale purchasers will not be changed by this rule and benefits from timber sale harvests to State and local governments will not change. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. As noted above, this rule makes only minor, technical changes to achieve consistency with section 329 of the Act, section 105 of the TTRA, and current Forest Service Handbook and Manual procedures that were implemented as of April 1, 1999 and that did not, at that time, require OMB review. Accordingly, this final rule is not subject to OMB review under Executive Order 12866.

Regulatory Flexibility Act

This final rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), and it is hereby certified that this action will not have a significant economic impact on a substantial number of small entities, as defined by that Act. Under Forest Service Manual and Handbook procedures implemented in response to section 329 of the Act, timber purchasers finance permanent road construction prior to the harvest (except in the case where a qualified small business concern elects Forest Service construction). Because road construction costs are factored into the appraised value for the sale, purchasers recover their road construction expenditures as they pay for harvested timber. This rule makes only technical changes to achieve consistency with section 329 of the Act, section 105 of the TTRA, and current Forest Service procedures.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Department has assessed the effects of this final rule on State, local, and tribal governments and the private sector. This rule does not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Environmental Impact

This final rule accomplishes minor, technical changes to 36 CFR part 223, subpart B to make the regulation consistent with section 329 of the Act, section 105 of the TTRA, and current Forest Service procedures. Thus, it has no direct effect on the amount, manner, or location of timber sale road construction. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The agency's assessment is that this rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

No Takings Implications

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630. It has been determined that the rule does not pose the risk of a taking of Constitutionally-protected private property. There are no Constitutionally-protected private property rights to be affected because this rule will not alter or affect existing timber sale contracts. Any new contract provisions would be used only prospectively in new contracts.

Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this rule were adopted: (1) All State and local laws and regulations that are in conflict with this rule or which would impede its full implementation would be preempted; (2) no retroactive effect may be given to this rule; and (3) it does not require administrative proceedings before parties may file suit in court challenging its provisions.

Controlling Paperwork Burdens on the Public

The minor, technical revision accomplished through this final rule does not contain or establish any record keeping or reporting requirements or other information collection requirements, as defined in 5 CFR part 1320, and, therefore, imposes no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and the implementing regulations at 5 CFR part 1320 do not apply.

Federalism

The Agency has considered this final rule under the requirements of Executive Order 13132, Federalism, and Executive Order 12875, Government Partnerships. The Agency has made a preliminary assessment that the rule conforms with the federalism principles set out in these Executive orders; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Based on comments received on this rule, the Agency will consider if any additional consultations will be needed with the State and local governments.

Energy Effects

This final rule has been reviewed under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' It has been determined that this rule does not constitute a significant energy action as defined in the Executive Order.

Consultation and Coordination With Indian Tribal Governments

This final rule does not have tribal implications as defined by Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, and, therefore, advance consultation with tribes is not required.

List of Subjects in 36 CFR Part 223

Administrative practice and procedure, Exports, Forests and forest products, Government contracts, Highways and roads, National forests, Public lands, Reporting and record keeping, and Transportation.

■ For the reasons set forth in the preamble, part 223 of Title 36 of the

Code of Federal Regulations is amended as follows:

PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER

Subpart B—Timber Sale Contracts

■ 1. The Authority citation for part 223 continues to read as follows:

Authority: 90 Stat. 2958, 16 U.S.C. 472a; 98 Stat. 2213; 16 U.S.C. 618, 104 Stat. 714–726, 16 U.S.C. 620–620j, unless otherwise noted.

■ 2. Revise § 223.41 to read as follows:

§ 223.41 Payment when purchaser elects government road construction.

Each contract having a provision for construction of specified roads with total estimated construction costs of $50,000 or more shall include a provision to ensure that if the purchaser elects government road construction, the purchaser shall pay, in addition to the price paid for the timber or other forest products, an amount equal to the estimated cost of the roads.

■ 3. Revise § 223.63 to read as follows:

§ 223.63 Advertised rates.

Timber shall be advertised for sale at its appraised value. The road construction cost used to develop appraised value means the total estimated cost of constructing all permanent roads specified in the timber sale contract, estimated as if construction is to be accomplished by the timber purchaser. The advertised rates shall be not less than minimum stumpage rates, except that sales of insect-infested, diseased, dead, or distressed timber may be sold at less than minimum rates when harvest of such timber is necessary to protect or improve the forest or prevent waste of usable wood fiber.

■ 4. Revise § 223.82 (b) introductory text to read as follows:

§ 223.82 Contents of advertisement.

* * * * *

(b) For each timber sale which includes specified road construction with total estimated construction costs of $50,000 or more, the advertisement shall also include:

* * * * *

■ 5. Amend § 223.83 by revising paragraphs (a)(16) and (a)(17)(i) to read as follows:

§ 223.83 Contents of prospectus.

(a) * * *

(16) The estimated road construction cost and the estimated public works construction cost.

(17) For deficit sales:

(i) An estimate of the difference between fair market value and advertised value, that is, the amount by which the advertised value exceeds the appraised value.

* * * * *

■ 6. Amend § 223.84 by revising the section heading to read as follows:

§ 223.84 Small business bid form provisions on sales with specified road construction.

* * * * *

Dated: March 2, 2006.

Dale N. Bosworth,

Chief.

[FR Doc. 06–2161 Filed 3–7–06; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

37 CFR Part 404

[Docket No. 040305084–5095–02]

RIN 0692–AA19

Assistant Secretary for Technology Policy; Licensing of Government Owned Inventions

AGENCY: Assistant Secretary for Technology Policy, Department of Commerce (DOC).

ACTION: Final rule.

SUMMARY: The Assistant Secretary for Technology Policy, DOC issues this final rule with respect to the granting of licenses by Federal agencies on Federally owned inventions. This rule is intended to incorporate changes made by the Technology Transfer Commercialization Act of 2000 and streamlines the licensing procedures to focus primarily on statutory requirements. This final rule responds to comments received in response to a proposed rule published on January 7, 2005 (70 FR 1403).

DATES: This rule is effective on April 7, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. John Raubitschek, Patent Counsel, at telephone: (202) 482–8010 and e-mail: *JRaubits@doc.gov.*

SUPPLEMENTARY INFORMATION: Under the authority of 35 U.S.C. 208 and the delegation by the Secretary of Commerce in section 3(d)(3) of DOO 10–18, the Assistant Secretary of Commerce for Technology Policy may issue revisions to 37 CFR part 401.

Background

The Technology Transfer Commercialization Act of 2000 (TTCA) made several changes to the law for licensing Government-owned inventions in 35 U.S.C. 207 and 209, which are implemented in this rule. This rule also streamlines the licensing procedures to focus primarily on statutory requirements. DOC published a proposed rule in the **Federal Register** on January 7, 2005 (70 FR 1403) seeking public comment on changes to §§ 404.1, 404.3, 404.4, 404.5, 404.6, 404.7, 404.9, 404.10, 404.11, 404.12 and 404.14. The comment period closed on February 7, 2005. The basis for this rulemaking was described in the preamble to the proposed rule and is not repeated here.

Summary of Public Comments Received by DOC in Response to the January 7, 2005 Proposed Rule and DOC's Response to Those Comments

DOC received seven responses to the request for comments. Four responses were from Federal government agencies. One was from a not-for-profit institution and two were from private individuals. Several responses made more than one comment. An analysis of the comments follows.

Comment: One comment suggested adding ''formal'' before ''patent disputes'' in § 404.1(c) to narrow the exemption from the licensing requirements in Part 404.

Response: DOC doubts that an agency will use this exemption to resolve a trivial or contrived dispute. Further, the addition of the word ''formal'' may not avoid this problem.

Comment: One comment suggested adding '',for example'' after ''protectable'' in § 404.3(a).

Response: This definition is taken from 35 U.S.C. 201(d) and should remain as written for the sake of consistency.

Comment: Two comments noted a typographical error in § 404.5(a)(2) that ''license'' should be ''licensee.''

Response: DOC agrees with the comments and has made the suggested change.

Comment: One comment suggested replacing ''However'' in 404.5(a)(2) with ''For example.''

Response: No change has been made in response to this comment. The stated bases for waiving the domestic manufacturing requirement are not merely examples but the only reasons for the agency making the waiver.

Comment: One comment was concerned that § 404.5(a)(2) required an agency to find one or more companies which would refuse a license with the domestic manufacturing requirement in order to grant a waiver of such a requirement. The comment suggested adding ''or no such candidates are known.''

Response: The waiver language was taken from 35 U.S.C. 204, which has

proven effective for universities and small business firms seeking a waiver. The intent is that the licensing agency should make an effort to find a company that will accept such a requirement. If there is only one company interested in a license and that company is unwilling to accept the domestic manufacturing requirement, the agency may waive the requirement if it has made reasonable efforts to find other potential licensees. Thus, DOC does not accept the proposed language because it would not impose a duty on the agency to look for other companies which may accept the requirement.

Comment: One comment felt that the public notice requirement in § 404.4 was not clearly limited to inventions that the agency had determined were available for license and suggested that ''available'' be added before inventions of which the public is to be notified.

Response: DOC agrees with the comment and has made the suggested change.

Comment: One comment was concerned that the explanation in paragraph no. 5 of the proposed rule about the abbreviated development plan for a research license in § 404.5(a)(1) implied that background inventions could be licensed in a cooperative research and development agreement (CRADA) only on for research purposes. Another comment supported the concept of an abbreviated development plan for small mom-and-pop research entities.

Response: The suggestion that a background invention be licensed for research purposes under a CRADA was not intended to preclude it from being commercially licensed. Further, there is no limitation in § 404.5(a)(1) for background inventions.

Comment: One comment recommended that all references be to Title 5 instead of title 5.

Response: DOC agrees with this comment and made the suggested change in §§ 404.3 and 404.14.

Comment: One comment questioned whether the new basis for terminating a license in § 404.5(b)(8)(v) for an adjudicated violation of the antitrust laws imposed an additional responsibility on the agency granting an exclusive license. The comment was concerned that if the agency did not meet such a duty, it might be liable and recommended that the license contain a disclaimer of such liability.

Response: The additional basis for termination has nothing to do with the granting of a license although there is a requirement in § 404.7(a)(iii) that the agency has not determined that the grant of the license will tend substantially to lessen competition or be in violation of the antitrust laws. As far as a disclaimer goes, many Government licenses include one based on the language in § 404.5(b)(11).

Comment: One comment criticized the criterion ''in the public interest'' as being vague for permitting in § 404.5(b)(2) a nonexclusive licensee the right to enforce a Government owned patent. The comment questioned who was going to make the determination of public interest: The agency or the Department of Justice and suggested language that would include the right of enforcement as an amendment to the license as approved by the parties and the Department of Justice at the time the enforcement issue arises. Another comment supports the concept of letting a nonexclusive licensee enforce the patent against infringers but suggests that the licensee provide notice to the agency before filing suit so that the agency could advise if the party to be sued already has a license.

Response: With respect to the first comment about the vagueness of ''in the public interest,'' DOC notes that this phrase also appears in 35 U.S.C. 207(a)(2) and § 404.7(a)(2)(iv). The determination of allowing the licensee the right to enforce is made by the agency and the licensee. With respect to prior notice to the agency, there is nothing in this section that precludes requiring such notice in a license agreement and in fact, many agencies have such a requirement for exclusive licensees.

Comment: One comment questioned the desirability of entering into co-exclusive licenses to resolve competition between two applicants for a license.

Response: The regulation does not require an agency to enter into co-exclusive licenses for any reason. The regulation merely recognizes that some agencies may grant co-exclusive licenses, which must follow the rules applicable to exclusive licenses.

Comment: Two comments questioned the scope of licensing unpatented inventions and whether it could include know-how or unpatentable inventions and be subject to royalty sharing with the inventor. One comment wondered if the rights under such a license would be different than obtaining information under the Freedom of Information Act (FOIA).

Response: The authority to license inventions is contained in 35 U.S.C. 207(a)(2). An invention is defined in 35 U.S.C. 201(d) as ''any invention or discovery which is or may be patentable or otherwise protectable under this title'' or a novel plant variety ''which is or may be protectable under the Plant Variety Protection Act.'' This language preceded the Bayh-Dole Act and appeared in the definition of invention in the Presidential Memoranda and Statements of Government Patent Policy in 1963 and 1971. However, the meaning of this phrase is not certain. See Steven Robert Fuscher, ''A Study of How the Government obtains Patent Rights under the DAR and the FPR Patent Rights Clauses,'' 10 Pub. Cont. L. J. 296, 339 (1978) (''there appears to be an unspoken agreement to let reason and equity govern the application of this phrase''). DOC interprets the term to mean that the invention must have the potential of being protected and so could include computer software and biological materials or any other subject matter in 35 U.S.C. 101. If know-how includes an invention, then it can be licensed. Any royalties must be shared with the inventors as required by 15 U.S.C. 3710c which applies to the licensing or assignment of Government owned inventions.

The licensing of an invention which is not protected by any intellectual property can be considered as creating a bailment of the personal property which is subject to certain conditions of use. Those terms may be enforced as a matter of contract. In the absence of any underlying intellectual property, there are no rights available to enforce against third parties.

With respect to an invention which has been in public use or on sale for more than a year because of a license, it may not be patentable under 35 U.S.C. 102(b). In addition, an invention may not be patentable because it would have been obvious under 35 U.S.C. 103. Since sections 102 and 103 both contain conditions for patentability, they are not considered to affect the licensability of unpatented inventions. All that is required is that the invention have patentable subject matter.

Further, the licensing of an invention may not be a bar under section 102(b) if the invention is leased but not sold and if there are secrecy requirements associated with providing access to the invention. There are also other requirements for an ''on sale'' bar, such as the invention must be ''ready for patenting.'' See *Pfaff* v. *Wells Elec., Inc.,* 525 U.S. 55, 67–68 (1998). Finally, we note that under the old 35 U.S.C. 207, an agency could license a patent application which might never issue as a patent because the Patent and Trademark Office determined that it was unpatentable.

FOIA raises an issue with respect to inventions which have an information content because under FOIA that

information may be available for free or for the cost of reproduction. This would obviously complicate the licensing of inventions. However, the invention may not be a record which is subject to FOIA. Biological materials are not a record subject to FOIA.

On the other hand, there is a question whether software is a government record subject to FOIA. See *Gilmore* v. *DOE,* 4 F. Supp. 2d 912, 920 (N.D. Cal. 1998) (''Even if DOE actually owned and controlled CLERVER [video conferencing software created by Sandia National Laboratories under contract with DOE] at the time of Gilmore's FOIA request, CLERVER still would not be an agency record subject to FOIA because CLERVER does not illuminate the structure, operation, or decision making structure of DOE.'' On the other hand in *DeLorme Pub. Co.* v. *NOAA,* 907 F. Supp. 10 (D. Me. 1995), software was held to be a record but later found to be protectable under the FTTA, *DeLorme Pub. Co.* v. *NOAA,* 917 F. Supp. 867 (D. Me. 1996). Further, even if software is subject to FOIA, the agency is not limited to charging only for the cost of reproduction under 5 U.S.C. 552(a)(4)(vi) when other fees are authorized by statute. See *Jack Wade Warren, Jr* v. *Department of Commerce,* Civil Action No. 96–0717 RMU (D.D.C. Feb. 25, 1998).

Changes From the Proposed Rule

In response to comments, editorial changes were made to §§ 404.3, 404.5(a)(2) and 404.14. In addition, the word ''available'' was added to § 404.4 as proposed by a comment. Finally, ''Federally owned'' in §§ 404.3, 404.4, 404.5, 404.7 and 404.12 was replaced by ''Government owned'' to make it consistent with the title of the regulation.

Classification

Executive Order 12866

This final rule has been determined to be not significant for purposes of E.O. 12866.

Executive Order 13132

This rule does not contain policies with Federalism implications as that term is defined in E.O. 13132.

Administrative Procedure Act

This rule involves rules of agency practice and procedure under 5 U.S.C. 553(b)(A) and prior notice and an opportunity for public comment are, therefore, not required by the Administrative Procedure Act, or any other statute or regulation, for this rule.

Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule pursuant to 5 U.S.C. 553(b)(A), or by any other law, this rule is not subject to the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The rule was changed to include a utilization report requirement in 404.5(a)(6) and so imposes a new collection of information requirement under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.). Office of Management and Budget (OMB) approval was sought and obtained for the application for a license in 404.8 and the utilization report in 404.5(a)(6) and the approval (number 0692–0006) has been extended until January 31, 2009. The time to complete the license application and the utilization report is estimated to be 2 hours and 1 hour, respectively.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. However, this collection of information does not include a document to display the OMB Control No. 0692–0006.

List of Subjects in 37 CFR Part 404

Inventions, Patents, Licenses.

Dated: February 13, 2006.

Daniel W. Caprio, Jr.,

(Acting) Assistant Secretary of Commerce for Technology Policy.

■ For the reasons set forth in the preamble, 37 CFR Part 404 is amended as follows:

PART 404—LICENSING OF GOVERNMENT OWNED INVENTIONS

■ 1. The authority citation for Part 404 is revised to read as follows:

Authority: 35 U.S.C. 207–209.

■ 2. Section 404.1 is revised to read as follows:

§ 404.1 Scope of part.

This part prescribes the terms, conditions, and procedures upon which a federally owned invention, other than an invention in the custody of the Tennessee Valley Authority, may be licensed. This part does not affect licenses which:

(a) Were in effect prior to April 7, 2006;

(b) May exist at the time of the Government's acquisition of title to the invention, including those resulting from the allocation of rights to inventions made under Government research and development contracts;

(c) Are the result of an authorized exchange of rights in the settlement of patent disputes, including interferences; or

(d) Are otherwise authorized by law or treaty, including 35 U.S.C. 202(e), 35 U.S.C. 207(a)(3) and 15 U.S.C. 3710a, which also may authorize the assignment of inventions. Although licenses on inventions made under a cooperative research and development agreement (CRADA) are not subject to this regulation, agencies are encouraged to apply the same policies and use similar terms when appropriate. Similarly, this should be done for licenses granted under inventions where the agency has acquired rights pursuant to 35 U.S.C. 207(a)(3).

■ 3. In § 404.3, paragraph (a) is revised to read as follows:

§ 404.3 Definitions.

(a) *Government owned invention* means an invention, whether or not covered by a patent or patent application, or discovery which is or may be patentable or otherwise protectable under Title 35, the Plant Variety Protection Act (7 U.S.C. 2321 *et seq.*) or foreign patent law, owned in whole or in part by the United States Government.

* * * * *

■ 4. Section 404.4 is revised to read as follows:

§ 404.4 Authority to grant licenses.

Federally owned inventions shall be made available for licensing as deemed appropriate in the public interest and each agency shall notify the public of these available inventions. The agencies having custody of these inventions may grant nonexclusive, co-exclusive, partially exclusive, or exclusive licenses thereto under this part. Licenses may be royalty-free or for royalties or other consideration. They may be for all or less than all fields of use or in specified geographic areas and may include a release for past infringement. Any license shall not confer on any person immunity from the antitrust laws or from a charge of patent misuse, and the exercise of such rights pursuant to this part shall not be immunized from the operation of state or federal law by reason of the source of the grant.

■ 5. In Section 404.5, paragraph (a), paragraph (b)(2) and paragraphs (b)(4)

through (b)(9) are revised to read as follows:

§ 404.5 Restrictions and conditions on all licenses granted under this part.

(a)(1) A license may be granted only if the applicant has supplied the Federal agency with a satisfactory plan for development or marketing of the invention, or both, and with information about the applicant's capability to fulfill the plan. The plan for a non-exclusive research license may be limited to describing the research phase of development.

(2) A license granting rights to use or sell under a Government owned invention in the United States shall normally be granted only to a licensee who agrees that any products embodying the invention or produced through the use of the invention will be manufactured substantially in the United States. However, this condition may be waived or modified if reasonable but unsuccessful efforts have been made to grant licenses to potential licensees that would be likely to manufacture substantially in the United States or if domestic manufacture is not commercially feasible.

(b) * * *

(1) * * *

(2) Any patent license may grant the licensee the right of enforcement of the licensed patent without joining the Federal agency as a party as determined appropriate in the public interest.

(3) * * *

(4) The license may provide the licensee the right to grant sublicenses under the license, subject to the approval of the Federal agency. Each sublicense shall make reference to the license, including the rights retained by the Government, and a copy of such sublicense with any modifications thereto, shall be promptly furnished to the Federal agency.

(5) The license shall require the licensee to carry out the plan for development or marketing of the invention, or both, to bring the invention to practical application within a reasonable time as specified in the license, and continue to make the benefits of the invention reasonably accessible to the public.

(6) The license shall require the licensee to report periodically on the utilization or efforts at obtaining utilization that are being made by the licensee, with particular reference to the plan submitted but only to the extent necessary to enable the agency to determine compliance with the terms of the license.

(7) Where an agreement is obtained pursuant to § 404.5(a)(2) that any products embodying the invention or produced through the use of the invention will be manufactured substantially in the United States, the license shall recite such an agreement.

(8) The license shall provide for the right of the Federal agency to terminate the license, in whole or in part, if the agency determines that:

(i) The licensee is not executing its commitment to achieve practical application of the invention, including commitments contained in any plan submitted in support of its request for a license and the licensee cannot otherwise demonstrate to the satisfaction of the Federal agency that it has taken, or can be expected to take within a reasonable time, effective steps to achieve practical application of the invention;

(ii) Termination is necessary to meet requirements for public use specified by Federal regulations issued after the date of the license and such requirements are not reasonably satisfied by the licensee;

(iii) The licensee has willfully made a false statement of or willfully omitted a material fact in the license application or in any report required by the license agreement;

(iv) The licensee commits a substantial breach of a covenant or provision contained in the license agreement, including the requirement in § 404.5(a)(2); or

(v) The licensee has been found by a court of competent jurisdiction to have violated the Federal antitrust laws in connection with its performance under the license agreement.

(9) The license may be modified or terminated, consistent with this part, upon mutual agreement of the Federal agency and the licensee.

* * * * *

■ 6. Section 404.6 is revised to read as follows:

§ 404.6 Nonexclusive licenses.

Nonexclusive licenses may be granted under Government owned inventions without a public notice of a prospective license.

■ 7. Section 404.7 is revised to read as follows:

§ 404.7 Exclusive, co-exclusive and partially exclusive licenses.

(a)(1) Exclusive, co-exclusive or partially exclusive domestic licenses may be granted on Government owned inventions, only if;

(i) Notice of a prospective license, identifying the invention and the prospective licensee, has been published in the **Federal Register**, providing opportunity for filing written objections within at least a 15-day period;

(ii) After expiration of the period in § 404.7(a)(1)(i) and consideration of any written objections received during the period, the Federal agency has determined that;

(A) The public will be served by the granting of the license, in view of the applicant's intentions, plans and ability to bring the invention to the point of practical application or otherwise promote the invention's utilization by the public.

(B) Exclusive, co-exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth the investment capital and expenditures needed to bring the invention to practical application or otherwise promote the invention's utilization by the public; and

(C) The proposed scope of exclusivity is not greater than reasonably necessary to provide the incentive for bringing the invention to practical application, as proposed by the applicant, or otherwise to promote the invention's utilization by the public;

(iii) The Federal agency has not determined that the grant of such a license will tend substantially to lessen competition or create or maintain a violation of the Federal antitrust laws; and

(iv) The Federal agency has given first preference to any small business firms submitting plans that are determined by the agency to be within the capability of the firms and as having equal or greater likelihood as those from other applicants to bring the invention to practical application within a reasonable time.

(2) In addition to the provisions of § 404.5, the following terms and conditions apply to domestic exclusive, co-exclusive and partially exclusive licenses:

(i) The license shall be subject to the irrevocable, royalty-free right of the Government of the United States to practice or have practiced the invention on behalf of the United States and on behalf of any foreign government or international organization pursuant to any existing or future treaty or agreement with the United States.

(ii) The license shall reserve to the Federal agency the right to require the licensee to grant sublicenses to responsible applicants, on reasonable terms, when necessary to fulfill health or safety needs.

(iii) The license shall be subject to any licenses in force at the time of the grant of the exclusive, co-exclusive or partially exclusive license.

(b)(1) Exclusive, co-exclusive or partially exclusive foreign licenses may be granted on a Government owned invention provided that;

(i) Notice of the prospective license, identifying the invention and prospective licensee, has been published in the **Federal Register**, providing opportunity for filing written objections within at least a 15-day period and following consideration of such objections received during the period;

(ii) The agency has considered whether the interests of the Federal Government or United States industry in foreign commerce will be enhanced; and

(iii) The Federal agency has not determined that the grant of such a license will tend substantially to lessen competition or create or maintain a violation of the Federal antitrust laws.

(2) In addition to the provisions of § 404.5, the following terms and conditions apply to foreign exclusive, co-exclusive and partially exclusive licenses:

(i) The license shall be subject to the irrevocable, royalty-free right of the Government of the United States to practice and have practiced the invention on behalf of the United States and on behalf of any foreign government or international organization pursuant to any existing or future treaty or agreement with the United States.

(ii) The license shall be subject to any licenses in force at the time of the grant of the exclusive, co-exclusive or partially exclusive license.

(iii) The license may grant the licensee the right to take any suitable and necessary actions to protect the licensed property, on behalf of the Federal Government.

(c) Federal agencies shall maintain a record of determinations to grant exclusive, co-exclusive or partially exclusive licenses.

§ 404.9 [Removed and reserved]

■ 8. Section 404.9 is removed and reserved.

■ 9. Section 404.10 is revised to read as follows:

§ 404.10 Modification and termination of licenses.

Before modifying or terminating a license, other than by mutual agreement, the Federal agency shall furnish the licensee and any sublicensee of record a written notice of intention to modify or terminate the license, and the licensee shall be allowed 30 days after such notice to remedy any breach of the license or show cause why the license shall not be modified or terminated.

■ 10. Section 404.11 is revised to read as follows:

§ 404.11 Appeals.

(a) In accordance with procedures prescribed by the Federal agency, the following parties may appeal to the agency head or designee any decision or determination concerning the grant, denial, modification, or termination of a license:

(1) A person whose application for a license has been denied;

(2) A licensee whose license has been modified or terminated, in whole or in part; or

(3) A person who timely filed a written objection in response to the notice required by § 404.7(a)(1)(i) or § 404.7(b)(1)(i) and who can demonstrate to the satisfaction of the Federal agency that such person may be damaged by the agency action.

(b) An appeal by a licensee under paragraph (a)(2) of this section may include a hearing, upon the request of the licensee, to address a dispute over any relevant fact. The parties may agree to Alternate Dispute Resolution in lieu of an appeal.

■ 11. Section 404.12 is revised to read as follows:

§ 404.12 Protection and administration of inventions.

A Federal agency may take any suitable and necessary steps to protect and administer rights to Government owned inventions, either directly or through contract.

■ 12. Section 404.14 is revised to read as follows:

§ 404.14 Confidentiality of information.

Title 35, United States Code, section 209, requires that any plan submitted pursuant to § 404.8(h) and any report required by § 404.5(b)(6) shall be treated as commercial or financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of Title 5 of the United States Code.

[FR Doc. 06–2166 Filed 3–7–06; 8:45 am]

BILLING CODE 3510–18–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–0123; FRL–8042–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; RACT Determinations for Thirteen Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania (Pennsylvania). The revisions impose reasonably available control technology (RACT) on thirteen major sources of volatile organic compounds (VOC) or nitrogen oxides (NO_X) located in the Commonwealth of Pennsylvania. EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA or the Act).

DATES: This final rule is effective on April 7, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2006–0123. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Marcia Spink (215) 814–2104 or by e-mail at *spink.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On April 18, 2000 (65 FR 20788), EPA published a direct final rule approving RACT determinations submitted by the

Pennsylvania Department of Environmental Protection (DEP) for twenty-six major sources of NO_X and/or volatile organic compounds (VOC) and a companion notice of proposed rulemaking. We received adverse comments on the direct final rule and a request for an extension of the comment period. We had indicated in our April 18, 2000 direct final rulemaking that if we received adverse comments, we would withdraw the direct final rule and address all public comments in a subsequent final rule based on the proposed rule (65 FR 20788). On June 19, 2000 (65 FR 38168), EPA published a withdrawal notice in the **Federal Register** informing the public that the direct final rule did not take effect. On June 19, 2000 (65 FR 38169), we also published a notice providing an extension of the comment period and making corrections to our original proposed rule.

This rule takes final action approving RACT for thirteen of the twenty-six sources that were included in the April 18, 2000 proposed rulemaking (65 FR 20788). Approvals of RACT for ten of the twenty-six sources have already been the subjects of separate final rulemakings. Elsewhere in today's **Federal Register**, EPA is withdrawing its April 18, 2000 proposed rule with regard to the three remaining sources, namely, Doverspike Brothers Coal Co., Hedstrom Corporation, and the thermal coal dryers at EME Homer City, LP. These formerly RACT-subject sources have been permanently shut down, and the Pennsylvania DEP has indicated to EPA that no RACT need be approved for them.

II. Summary of the SIP Revisions

The Pennsylvania DEP submitted NO_X and/or VOC RACT determinations for thirteen sources located in the Commonwealth of Pennsylvania. The names of those sources, the DEP Plan Approval (PA) or Operating Permit (OP) number for each source, the name of the County in which each source is located, and the pollutant for which RACT has been imposed are provided in the following table.

Name of source	PA or OP No.	County	Pollutant
Cogentrix of Pennsylvania Inc. (Now Village Farms LP)*	33–0137, 33–302–014, 33–399–004.	Jefferson	NO_X
Scrubgrass Generating Company, LP*	61–0181	Venango	NO_X
Wheelabrator Frackville Energy Co.*	54–005	Schuylkill	NO_X
Indiana University of Pennsylvania—S.W. Jack Cogeneration Facility*.	32–000–200	Indiana	NO_X
Fleetwood Motor Homes	49–0011	Northcumberland	VOC
Piney Creek, LP*	16–0127	Clarion	NO_X
Statoil Energy Power Paxton, LP (Now NRG Energy CTR Paxton LLC).	22–02015	Dauphin	NO_X
Harrisburg Steamworks (Now owned by NRG Energy CTR Paxton LLC).	22–02005	Dauphin	NO_X
Cove Shoe Company (Now H.H. Brown Shoe Company)	07–02028	Blair	VOC
PP&L—Fichbach C.T. Facility	54–0011	Schuylkill	NO_X
PP&L—Allentown C.T. Facility	39–0009	Lehigh	NO_X
PP&L—Harwood C.T. Facility	40–0016	Luzerne	NO_X
PP&L—Jenkins C.T. Facility	40–0017	Luzerne	NO_X

* For these large NO_X sources, the Commonwealth has adopted and implemented additional "post RACT requirements" to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the Ozone Transport Region. That regulation was approved as a SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted 25 Pa Code Chapter 145 to satisfy the NO_X SIP call. That regulation was approved as a SIP revision on August 21, 2001 (66 FR 43795). Federal approval of a source-specific RACT determination for these major sources of NO_X in no way relieves those sources from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

On April 18, 2000 (65 FR 20788), EPA proposed to approve RACT SIP revisions for these thirteen sources. Detailed descriptions of the RACT determination for these thirteen sources were provided in EPA's Technical Support Documents (TSDs) prepared in support of its April 18, 2000 rulemaking as well as in the SIP submissions made by DEP, and shall not be restated here. In short, EPA proposed that the DEP had established and imposed RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The DEP has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

III. Summary of Public Comments Received and EPA's Responses

EPA received comments on its April 18, 2000 proposal to approve Pennsylvania's RACT SIP submittals from Citizens for Pennsylvania's Future (PennFuture) and from a concerned citizen. Those comments and EPA's responses are as follows:

PennFuture's Comments: PennFuture comments that EPA should require that each RACT submittal include "effective and enforceable numerical emission limits" as a condition for approval. Additionally, PennFuture requests that EPA only approve limits that are no higher than the best emission rate actually achieved after the application of RACT, adjusted only to reflect legally and technically valid averaging times and deviations. PennFuture contends that such an approach will ensure maximum environmental benefits and minimize the opportunity for sources to generate spurious emission reduction credits (ERCs) against limits that exceed emission levels actually achieved following the application of RACT. Lastly PennFuture comments that EPA should describe the RACT determinations in its rulemaking notices published in the **Federal Register** rather than simply citing to technical support documents and other materials available in docket of the rulemaking.

EPA's Responses: While RACT, as defined for an individual source or source category, often does specify an emission rate, such is not always the case. EPA has issued Control Technique Guidelines (CTGs) which states are to use as guidance in development of their RACT determinations/rules for certain sources or source categories. Not every CTG issued by EPA includes an emission rate. There are several examples of CTGs issued by EPA wherein equipment standards and/or

work practice standards alone are provided as RACT guidance for all or part of the processes covered. Such examples include the CTGs issued for Bulk gasoline plants, Gasoline service stations—Stage I, Petroleum Storage in Fixed-roof tanks, Petroleum refinery processes, Solvent metal cleaning, Pharmaceutical products, External Floating roof tanks and Synthetic Organic Chemical Manufacturing (SOCMI)/polymer manufacturing. (See *http://www.epa.gov/ttn/catc/dir1/ctg.txt.*)

In EPA's proposed conditional limited approval of the Commonwealth's RACT regulations (62 FR 43134, August 12, 1997) and in EPA's final conditional limited approval of those regulations (63 FR 13789, March 23, 1998), EPA addressed the issue of what types of RACT provisions would be acceptable. In the proposed rule EPA noted that while it defines RACT as ''the lowest emission limitation that a source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility,'' the definition of emission limitation did not necessarily require the establishment of a numerical emission limitation. EPA further noted that ''[s]ection 302 of the Act in turn defines 'emission limitation' as a 'requirement * * * which limits the quantity, rate or concentration of air pollutants on a continuous basis, * * *, and any design, equipment, work practice or operational standard promulgated under this chapter.' '' Furthermore, in the March 23, 1998 final rule EPA stated that, ''it is possible that RACT for certain sources and source categories could consist of requirements that do not specifically include emission limitations, but instead have other limitations.''

With regard to the criteria EPA uses to determine whether to approve or disapprove RACT SIP revisions submitted by DEP pursuant to 25 Pa Code Chapter 129.91–129.95, we look to the provisions of those SIP-approved regulations and to the requirements of the Clean Air Act and relevant EPA guidance. As previously stated, on March 23, 1998 (63 FR 13789), EPA granted conditional limited approval of Pennsylvania's generic RACT regulations, 25 PA Code Chapters 121 and 129, thereby approving the definitions, provisions and procedures contained within those regulations under which the Commonwealth would require and impose RACT. Subsection 129.91, *Control of major sources of NO_X and VOCs*, requires subject facilities to submit a RACT plan proposal to both the Pennsylvania DEP and to EPA Region III by July 15, 1994 in accordance with subsection 129.92, entitled, *RACT proposal requirements.* Under subsection 129.92, that proposal is to include among other information (1) A list of each subject source at the facility; (2) The size or capacity of each affected source, and the types of fuel combusted, and the types and amounts of materials processed or produced at each source; (3) A physical description of each source and its operating characteristics; (4) Estimates of potential and actual emissions from each affected source with supporting documentation; (5) A RACT analysis which meets the requirements of subsection 129.92(b), including technical and economic support documentation for each affected source; (6) A schedule for implementation as expeditiously as practicable but not later than May 15, 1995; (7) The testing, monitoring, recordkeeping and reporting procedures proposed to demonstrate compliance with RACT; and (8) any additional information requested by the DEP necessary to evaluate the RACT proposal. Under subsection 129.91, the DEP will approve, deny or modify each RACT proposal, and submit each RACT determination to EPA for approval as a SIP revision. The conditional nature of EPA's March 23, 1998 conditional limited approval did not impose any conditions pertaining to the regulation's procedures for the submittal of RACT plans and analyses by subject sources and approval of case-by case RACT determinations by the DEP. Rather, EPA stated that ''* * *RACT rules *may not merely be procedural rules* (emphasis added) that require the source and the State to later agree to the appropriate level of control; rather the rules must identify the appropriate level of control for source categories or individual sources.''

EPA reviews the case-by-case RACT plan approvals and/or permits submitted as individual SIP revisions by the Commonwealth to verify and determine if they are consistent with the RACT requirements of the Act and any relevant EPA guidance. EPA first reviews a SIP submission to ensure that the source and the Commonwealth followed the SIP-approved generic rule when applying for and imposing RACT, respectively. Then EPA performs a thorough review of the technical and economic analyses conducted by the source and the state. If EPA believes additional information may further support or would undercut the RACT analyses submitted by the state, then we may add additional EPA-generated analyses to the record. Thus, EPA does not believe it would be appropriate to only approve limits that are no higher than the best emission rate actually achieved after the application of RACT, adjusted only to reflect legally and technically valid averaging times and deviations.

EPA does note that an approved RACT emission limitation alone does not constitute the baseline against which ERCs may be generated. There are many other factors that must be considered in the calculation of eligible ERCs under Pennsylvania's approved SIP regulations governing the creation ERCs. Moreover, the scenario posed in PennFuture's comment would not create eligible ERC's under the Commonwealth approved SIP regulations. Under the Commonwealth's regulations pertaining to ERCs, found at 25 Pa. Code Chapter 127, sections 127.206 through 127.210 [approved by the EPA at 62 FR 64722 on December 9, 1997], sources cannot obtain ERCs if they find that their RACT controls result in lower emissions than allowed by their specified RACT limits.

EPA believes that Federal rulemaking procedures allow for the format used in April 18, 2000 rulemaking (65 FR 20788). EPA believes that anyone interested in the specific requirements of the individual RACT determinations did have the opportunity to obtain that information, as in the preamble of the April 18, 2000 **Federal Register** notice, EPA offered to send anyone, upon request, a copy of the our TSDs prepared in support of the action. Copies of those TSDs are included in the docket established for this final rule under Docket ID Number at EPA–R03–OAR–2006–0123.

Additional Comments: A private citizen submitted comments on the NO_X RACT determinations made for the PP&L facilities and for Harrisburg Steamworks. With regard to the PP&L facilities, the commenter suggests if the capacity factors upon which the RACT determinations are based are ever exceeded, the RACT determinations should be re-reviewed, and that such a condition should be placed in the RACT permits with appropriate record-keeping and reporting. With regard to Harrisburg Steam, the commenter cites to the fact that EPA's Technical Support Document (TSD) states that the boilers typically operate at a 15% capacity factor, and asserts that if this capacity factor was used to determine RACT, then the permit should either limit the capacity factor of the boilers or require RACT to be re-evaluated when the capacity factor reaches 30% or some other reasonable capacity factor.

EPA's Responses: EPA concurs with these comments. Pennsylvania's SIP-

approved generic RACT rules require that sources operate in accordance with the parameters specified in their RACT applications and/or RACT permits including capacity factors. The DEP has imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable parameters of their applications and RACT determinations. Sources seeking variances from the operating parameters specified in their applications and/or RACT permits that could result in emissions increases are subject to re-evaluation to determine whether those emission increases trigger a more stringent RACT determination or the more stringent Pennsylvania SIP requirements for new source review.

IV. Final Action

EPA is approving thirteen revisions to the Pennsylvania SIP submitted by DEP to establish and require VOC and/or NO_X RACT at the thirteen sources indicated herein. EPA is approving these RACT SIP submittals because DEP established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources and EPA has determined they meet the RACT requirements of section 182 of the CAA. The DEP has also imposed recordkeeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

V. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for thirteen named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 8, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving revisions to the Pennsylvania SIP submitted by DEP to establish and require VOC and/or NO_X RACT for thirteen sources located in the Commonwealth of Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 28, 2006.

William Early,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (d)(1) is amended by adding the entries for Cogentrix of Pennsylvania Inc.; Scrubgrass Generating Company, LP; Wheelabrator Frackville Energy Co.; Indiana University of Pennsylvania—S.W. Jack Cogeneration Facility; Fleetwood Motor Homes; Piney Creek, LP; Statoil Energy Power Paxton, LP; Harrisburg Steamworks; Cove Shoe Company; PP&L—Fichbach C.T.

Facility; PP&L—Allentown C.T. Facility; PP&L—Harwood C.T. Facility; and PP&L—Jenkins C.T. Facility at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(d) * * *

(1) EPA-APPROVED SOURCE—SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
*	*	*	*	*	*
Cogentrix of Pennsylvania Inc.	OP–33–0137	Jefferson	1/27/98	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(l)
	PA–33–302–014		11/15/90		Except for all ton per year limits and expiration dates in these permits, for Conditions 4, 5, and 6.
	OP–33–302–014		5/31/93		Except for Condition 2.
	PA–33–399–004		10/31/98		Except for Conditions 1, 2, 3, 4b, 4c, 4d, 4e, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, and 16.
	OP–33–399–004		5/31/93		Except for Condition 2.
Scrubgrass Generating Company, LP.	OP–61–0181	Venango	4/30/98	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(l) Except for Conditions 4, 6, 7, and 9.
Wheelabrator Frackville Energy Co.	OP–54–005	Schuylkill	9/18/98	3//8/06 [Insert page number where the document begins].	52.2020(d)(1)(l) Except for the particulate and SO2 emission limits found in Condition 4, Condition 5, 6, 7, 9, 10, 11, 12 and 13 and the expiration date.
Indiana University of Pennsylvania—S.W. Jack Cogeneration Facility.	OP–32–000–200	Indiana	9/24/98	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(l) Except for the expiration date and Conditions 5, 7, 10, 12, 20, 21, and 22.
Fleetwood Motor Homes.	OP–49–0011	Northumberland	10/30/98	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(l) Except for Conditions 3, 5, 23–31 and the expiration date.
Piney Creek, LP	OP–16–0127	Clarion	12/18/98	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(l) Except for the ton per year and #/hr limits in Condition 4, Conditions 5 and 9.
Statoil Energy Power Paxton, LP.	OP–22–02015	Dauphin	6/30/99	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(l) Except for the expiration date and Conditions 6, 16, 19 and 20.
Harrisburg Steamworks	OP–22–02006	Dauphin	3/23/99	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(l) Except for Conditions 5, 8, 11, 9, 10, 18, 19, 22, 23, 24 and the expiration date.
Cove Shoe Company	OP–07–02028	Blair	4/7/99	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(l) except for Conditions 5, 10 and the expiration date.
PP&L—Fichbach C.T. Facility.	OP–54–0011	Schuylkill	6/1/99	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(l) Except for the expiration date.
PP&L—Allentown C.T. Facility.	OP–39–0009	Lehigh	6/1/99	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(l) Except for the expiration date.
PP&L—Harwood C.T. Facility.	OP–40–0016	Luzerne	6/1/99	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(l) Except for the expiration date.

(1) EPA-APPROVED SOURCE—SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO_X)—Continued

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
PP&L—Jenkins C.T. Facility.	OP–40–0017	Luzerne	6/1/99	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(l) Except for the expiration date.

* * * * *

[FR Doc. 06–2150 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0510; FRL–7758–2]

Spinosad; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of Spinosad in/on the following commodities: Alfalfa seed; alfalfa seed screenings; banana; food commodities; animal feed, nongrass, group 18, forage; animal feed, nongrass, group 18, hay; peanut, hay; vegetable, bulb, group 3, except green onion; onion, green; grass, forage, fodder and hay, group 17, forage; grass, forage, fodder and hay, group 17, hay; grain, cereal, group 16, stover, except rice; grain, cereal, group 16, forage, except rice; grain, cereal, group 16, hay, except rice; grain, cereal, group 16, straw, except rice; peppermint, tops; and spearment tops. The Interregional Research Project Number 4 (IR-4)] on behalf of the registrant, Dow AgroScience, LLC requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). In addition, EPA is deleting certain spinosad tolerances that are no longer needed as a result of this action. Also, the term ''Food commodities'' replaces the commodity name ''all commodities in connection with the quarantine eradication programs against exotic, non-indigenous, fruit fly species, where a separate higher tolerance in not already established'' as previously listed under §180.495(b).

DATES: This regulation is effective March 8, 2006. Objections and requests for hearings must be received on or before May 8, 2006.

ADDRESSES: To submit a written objection or hearing request follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** EPA has established a docket for this action under Docket identification (ID) number EPA–HQ–OPP–2005–0510. All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Sidney Jackson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7610, e-mail address: *jackson.sidney@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET *(http://www.epa.gov/edocket/*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.* A frequently updated electronic version of 40 CFR part 180 is available at E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/.* To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gpo/opptsfrs/home/guidelin.htm/*

II. Background and Statutory Findings

In the **Federal Register** of July 20, 2005 (70 FR 41730)(FRL–7721–6), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of several pesticide petitions (PP 3E6699, 3E6780, 3E6782, 3E6802, 3E6804, and 4E6811) by the Interregional Research Project Number 4 (IR-4), 681 U. S. Highway #1 South, North Brunswick, NJ 08902–3390. The petitions requested that 40 CFR 180.495 be amended by establishing a tolerance for residues of the insecticide spinosad, in or on the following raw agricultural commodities (RACs):

PP 3E6699 proposes to establish tolerances for banana and plantain at 0.25 parts per million (ppm).

PP 3E6780 proposes to establish tolerances for food commodities at 0.02 ppm.

PP 3E6782 proposes to establish tolerances for spearmint, tops at 5.0 ppm and peppermint, tops at 5.0 ppm.

PP 3E6802 proposes to establish tolerances for animal feed, nongrass, group 18, forage at 20 ppm; animal feed, nongrass, group 18 hay at 25 ppm; and peanut, hay at 25 ppm.

PP 3E6804 proposes to establish tolerances for vegetable, bulb, except green onion, group 3 at 0.1 ppm and onion, green at 2.0 ppm.

PP 4E6811 proposes to establish tolerances for: grass, forage, fodder and hay, group 17, forage at 1.5 ppm; grass, forage, fodder and hay, group 17, hay at 5 ppm; corn, field, stover; corn, pop, stover; and corn, sweet, stover at 5.0 ppm; corn, field, forage; corn, sweet, forage; and corn, pop, forage at 1.5 ppm; teosinte, forage at 1.5 ppm; millet, pearl, forage; and millet, proso, forage at 1.5 ppm; millet, pearl, hay; millet, proso, hay; millet proso,straw at 5.0 ppm; sorghum, forage, forage and sorghum, grain, forage at 1.5 ppm; sorghum, forage, hay; and sorghum, grain, stover at 5.0 ppm; wheat, forage at 1.5 ppm; wheat, hay and wheat, straw at 5.0 ppm; barley, straw and barley, hay at 5.0 ppm; rye, forage at 1.5 ppm; rye, straw at 5 ppm; oat, forage at 1.5 ppm; oat, hay and oat, straw at 5.0 ppm; triticale, forage at 1.5 ppm; and triticale, hay at 5.0 ppm.

That notice included a summary of the petition prepared by by Dow AgroSciences, LLC, Indianapolis IN, 46268, the registrant. One comment was received in response to the notice of filing. A discussion of the commenter's concerns is presented in Unit IV. C. - Public Comments.

Several of the proposed petitions described in Unit II. were subsequently amended by the petitioner as follows:

Tolerances for animal feed, nongrass, group 18, forage at 35 ppm; animal feed, nongrass, group 18 hay at 30 ppm; and separate tolerances for alfalfa seed at 0.15 ppm; and alfalfa, seed screenings at 2 ppm; banana at 0.25 ppm; grass, forage, fodder and hay, group 17, forage at 10 ppm; grain, cereal, group 16, stover, except rice at 10 ppm; grain, cereal, group 16, forage, except rice at 2.5 ppm; peppermint, tops at 3.5 ppm; and spearmint, tops at 3.5 ppm. In addition, tolerance for grain, cereal, group 16, stover, except rice at 10 ppm replaces the proposed 5.0 ppm tolerance for corn, field, stover; corn, pop, stover; corn, sweet, stover, and sorghum, grain, stover and the tolerance for grain, cereal, group 16, forage, except rice at 2.5 ppm replaces proposed tolerance of 1.5 ppm for corn, field, forage; corn, pop, forage; corn, sweet, forage; teosinte, forage; millet, pearl, forage; millet, proso, forage; sorghum, forage, forage; sorghum, grain, forage; wheat, forage; rye, forage; oat, forage; and triticale, forage. Tolerance for grain, cereal, group 16, hay, except rice at 10 ppm replaces proposed tolerance of 5.0 ppm for millet, pearl, hay; millet, proso, hay; sorghum, forage, hay; wheat, hay; barley, hay; oat, hay; and triticale, hay. Finally, tolerance for grain, cereal, group 16, straw, except rice at 1.0 ppm replaces proposed tolerance of 5.0 ppm for millet, proso, straw; wheat, straw; barley, straw; rye, straw; and oat, straw.

EPA is also deleting several established tolerances in §180.495(a) and §180.495(b) that are no longer needed, as a result of this action.

The tolerance deletions under §180.495(a) are being replaced by the establishment of the crop group tolerance for grain, cereal, group 16, stover, forage, hay, and straw. The tolerance deletions under §180.495(b) are time-limited tolerances established under section 18 emergency exemptions that are superceded by the establishment of general tolerances for spinosad under §180.495(a).

The revisions to §180.495 are as follows:

Delete the tolerances established under §180.495(a) for residues of spinosad in or on corn, forage at 1.0 ppm; corn, hay at 1.0 ppm; corn stover at 1.0 ppm; corn straw at 1.0 ppm; sorghum, forage at 1.0 ppm; sorghum, forage, hay at 1.0 ppm; sorghum, grain, stover at 1.0 ppm; sorghum, straw at 1.0 ppm; wheat, forage at 1.0 ppm; wheat, hay at 1.0 ppm and wheat, straw at 1.0 ppm. Tolerances for grain, cereal, group 16, stover, except rice at 10 ppm; grain, cereal, group 16, forage, except rice at 2.5 ppm; grain, cereal, group 16, hay, except rice at 10 ppm; and for grain, cereal, group 16, straw, except rice at 1.0 ppm replace these tolerances by this action under §180.495 (a).

Delete the time-limited tolerance for all commodities in connection with the quarantine eradication programs against exotic, non-indigenous, fruit fly species, where a separate higher tolerance is not already established at 0.02 ppm; alfalfa, forage at 4.0 ppm; alfalfa, hay at 4.0 ppm; grass, forage at 7.0 ppm; grass, hay at 7.0 ppm; peanut, hay at 10 ppm and onion, dry bulb at 0.10 ppm. Permanent tolerances for food commodities at 0.02 ppm; peanut, hay at 11 ppm; grass, forage, fodder and hay, group 17, forage at 10 ppm; grass, forage, fodder and hay, group 17, hay at 5 ppm; grain, cereal, group 16, stover, except rice at 10 ppm and vegetable, bulb, except green onion, group 3 at 0.1 ppm are established by this action under §180.495(a).

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA define ''safe'' to mean that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information. This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and ''to ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, at *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA, for a tolerance for residues of spinosad on: Alfalfa seed at 0.15 ppm; alfalfa seed screenings at 2.0 ppm; banana at 0.25 parts per million (ppm); food commodities at 0.02 ppm; spearmint, tops at 3.5 ppm; peppermint, tops at 3.5 ppm; animal feed, nongrass, group 18, forage at 35 ppm; animal feed, nongrass, group 18, hay at 30 ppm; alfalfa, seed at 0.15 ppm; alfalfa, seed screenings at 2.0 ppm; peanut, hay at 11 ppm; vegetable, bulb, group 3, except green onion, group 3 at 0.1 ppm; onion, green at 2.0 ppm; grass, forage, fodder and hay, group 17, forage at 10 ppm; grass, forage, fodder and hay, group 17, hay at 5 ppm; grain, cereal, group 16, stover, except rice at 10 ppm; grain, cereal, group 16, forage, except rice at 2.5 ppm; grain, cereal, group 16, hay, except rice at 10 ppm; grain, cereal, group 16, straw, except rice at 1.0 ppm.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by spinosad as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies reviewed are discussed in the **Federal Register** of September 27, 2002 (67 FR 60923) (FRL–7199–5).

B. Toxicological Endpoints

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified the LOAEL is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

Three other types of safety or UFs may be used: ''Traditional UF'' the ''special FQPA safety factor;'' and the ''default FQPA safety factor.'' By the term ''traditional UF,'' EPA is referring to those additional UF's used prior to FQPA passage to account for database deficiencies. These traditional UFs have been incorporated by the FQPA into the additional safety factor for the protection of infants and children. The term ''pecial FQPA safety factor'' refers to those safety factors that are deemed necessary for the protection of infants and children primarily as a result of the FQPA. The ''default FQPA safety factor'' is the additional 10X safety factor that is mandated by the statute unless it is decided that there are reliable data to choose a different additional factor (potentially a traditional UF or a special FQPA safety factor).

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (aRfD or cRfD) where the RfD is equal to the NOAEL divided by an UF of 100 to account for interspecies and intraspecies differences and any traditional UFs deemed appropriate (RfD = NOAEL/UF). Where a special FQPA safety factor or the default FQPA safety factor is used, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of safety factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk). An example of how such a probability risk is expressed would be to describe the risk as one in one hundred thousand (1×10^{-5}), one in a million (1×10^{-6}), or one in ten million (1×10^{-7}). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOEcancer = point of departure/exposures) is calculated.

A summary of the toxicological endpoints for spinosad used for human risk assessment is discussed in Unit III., B. of the Spinosad Final Rule published in the **Federal Register** of September 27, 2002 (67 FR 60923) (FRL–199–5).

C. Exposure Assessment

1. Dietary exposure from food and feed uses. Tolerances have been established (40 CFR 180.495) for the residues of spinosad, in or on a variety of RACs. Risk assessments were conducted by EPA to assess dietary exposures from spinosad in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. The Agency did not select a dose and endpoint for an acute dietary risk assessment due to the lack of toxicological effects of concern attributable to a single exposure (dose) in studies available in the data base including oral developmental toxicity studies in rats and rabbits. In the acute neurotoxicity study, the NOAEL was 2,000 milligram/kilograms/day (mg/kg/day), highest dose tested. An acute dietary risk assessment is not required.

ii. *Chronic exposure.* Chronic dietary risk assessments were conducted using the Dietary Exposure Evaluation Model - Food Consumption Intake Database (DEEM™/FCID), ver. 2.03; acute and cancer endpoints were not identified which incorporates the food consumption data from the U.S. Department of Agriculture Continuing Surveys of Food Intakes by Individuals (CSFII; 1994–1996, and 1998). The chronic dietary analyses assumed average/projected percent crop treated estimates, projected percent head treated resulting from the dermal and premise treatments to ruminants, average field trial residues, experimentally determined processing factors, and anticipated livestock residues. For drinking water, the chronic analyses assumed the modeled tier 1 FIRST chronic surface water estimate resulting from the application of spinosad to turf (highest registered/proposed rate). The chronic analysis used average field trial residues for grape, barley grain, corn grain, oat grain, rice grain, and wheat grain. The chronic analysis also used processing factors from the grape, corn and wheat processing studies. The resulting exposure estimates were 96% the cPAD and are therefore, less than EPA's level of concern (children 1-2 years old were the most highly exposed subpopulation).

iii. *Cancer.* Spinosad has been classified as not likely to be carcinogenic in humans based on the results of a carcinogenicity study in mice and the combined chronic toxicity and carcinogenicity study in rats. Therefore, a quantitative cancer risk assessment was not performed.

iv. *Anticipated residue and percent crop treated (PCT) information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels

anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E) of FFDCA, EPA will issue a Data Call-In for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance final rule.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F) of FFDCA, EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows:

The chronic analysis assumed tolerance level residues for all crop, poultry, and egg commodities, and anticipated residues for ruminant and milk commodities. The Agency used PCT information as follows: Almond 5%; apple 30%; apricot 10%; avocado 5%; bean, green 10%; broccoli 40%; cabbage 30%; cantaloupes 10%; cauliflower 45%; celery 50%; cherry 25%; collards 25%; cotton 5%; cucumber 20%; eggplant 15%; green, mustard 15%; green, turnip 5%; kale 30%; citrus (5%; excluding lemon and orange), lemon 10%; lettuce 50%; nectarine 30%; orange 10%; peach 5%; pear 10%; pepper 35%; potato 5%; prune and plum 10%; spinach 30%; squash 10%; strawberry 35%; corn, sweet <1%; tangerine 10%; tomato 20%; and watermelon 5%.

Exposure analysis also incorporated projected percent ruminant head treated resulting from the registered dermal and premise use (dairy cattle 23%; beef cattle 31%; actual data are not available despite this being a registered use); and projected PCT for alfalfa of 1%.

EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available federal, state, and private market survey data for that use, averaging by year, averaging across all years, and rounding up to the nearest multiple of five except for those situations in which the average PCT is less than one. In those cases <1% is used as the average and <2.5% is used the maximum. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the single maximum value reported overall from available federal, state, and private market survey data on the existing use, across all years, and rounded up to the nearest multiple of five. In most cases, EPA uses available data from United States Department of Agriculture/ National Agricultural Statistics Service (USDA/NASS), Proprietary Market Surveys, and the National Center for Food and Agriculture Policy (NCFAP) for the most recent six years.

EPA projects PCT for a new insecticide use by assuming that the PCT for the insecticide's initial five years will not exceed the average PCT of the dominant insecticide (the one with the largest PCT) within all insecticides over three latest available years. The PCTs included in the average may be each for the same insecticide or for different insecticidessince the same or different insecticides may dominate for each year selected. Typically, EPA uses USDA/NASS as the source for raw PCT data because it is non-proprietary and directly available without computation.

This method of projecting PCT for a new insecticide use, with or without regard to specific pest(s), produces an upper-end projection that is unlikely, in most cases, to be exceeded in actuality because the dominant insecticide is well-established and accepted by farmers. Factors that bear on whether a projection based on the dominant insecticide could be exceeded are whether the new insecticide is more efficacious or controls a broader spectrum of pests than the dominant insecticide, whether it is more cost-effective than the dominant insecticide, and whether it is likely to be readily accepted by growers and experts. These factors have been considered for this insecticide new use, and they indicate that it is unlikely that actual PCT for this new use will exceed the PCT for the dominant insecticide in the next five years.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for spinosad in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of spinosad. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*. Based on the First Index Reservoir Screening Tool and Screening concentration in Groundwater models, the EECs of spinosad for acute exposures are estimated to be 25.2 parts per billion (ppb) for surface water and 0.037 ppb for ground water. The EECs for chronic exposures are estimated to be 2.3 ppb for surface water and 0.037 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the DEEM-FCID. For chronic dietary risk assessment, the surface water value (chronic; 56–day average) of 2.3 ppb was used for all direct and indirect sources of water. The surface water estimate was used for all direct and indirect sources of water. The surface water estimate was used for direct and indirect sources of water as it is greater than the ground water estimate.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for turf/lawn and ornamental/ garden pest control (i.e., worms, moths, flies, beetles, midges, thrips, leafminers, fire ants, etc.), indoor pest control, termiticides, and flea and tick control on pets). A summary of the residential uses for spinosad is discussed in Unit III.C. of the final rule published in the **Federal Register** of September 27, 2002 (67 FR 60923) (FRL–7199–5).

Spinosad is currently registered for use on the following residential non-dietary sites: Turf and ornamentals. Granular (homeowner) and emulsifiable concentrate (EC: commercial applicators) formulations are registered. No dermal endpoints were identified and based on the granular formulation and low vapor pressure for spinosad, residential handler/applicator and post-application dermal/inhalation exposure assessments were not conducted. The Agency concluded that there is potential toddler short-term, non-dietary oral exposures (hand-to-mouth, object-to-mouth, ingestion of granulars, and soil ingestion). An endpoint attributable to a single exposure (acute exposure) has not been identified; therefore, episodic ingestion of granules was not assessed. The resulting combined short-term incidental oral MOEs were 640 and are therefore, less than the Agency's level of

concern. EPA concludes that all other registered/proposed application scenarios will not result in residential exposures.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to spinosad and any other substances and spinosad does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that spinosad has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative/*.

D. Safety Factor for Infants and Children

1. *In general.* Section 408 of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional safety factor value based on the use of traditional UFs and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity.* There is no indication of increased susceptibility of rat and rabbit fetuses to *in utero* and/or postnatal exposure to spinosad.

3. *Conclusion.* There is a complete toxicity data base for spinosad and exposure data are complete or are estimated based on data that reasonably account for potential exposures. EPA determined that the 10X SF to protect infants and children should be removed. The FQPA factor is removed because:

i. The toxicological database for spinosad is complete for FQPA assessment.

ii. There is no evidence of increased susceptibility of rat or rabbit fetuses following in utero exposure in the developmental studies with spinosad, and there is no evidence of increased susceptibility of young rats in the reproduction study with spinosad.

iii. There are no residual uncertainties identified in the exposure databases; the dietary food exposure assessment (chronic only; no acute endpoint was identified) is refined using Anticipated Residues calculated from field trial data and available PCT information.

iv. EPA has indicated that the dietary drinking water exposure is based on conservative modeling estimates.

v. EPA Residential SOPs were used to assess post-application exposure to children as well as incidental oral exposure of toddlers, so these assessments do not underestimate the exposure and risks posed by spinosad.

E. Aggregate Risks and Determination of Safety

The Agency currently has two ways to estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses. First, a screening assessment can be used, in which the Agency calculates drinking water levels of comparison (DWLOCs) which are used as a point of comparison against estimated environmental concentrations (EECs). The DWLOC values are not regulatory standards for drinking water, but are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = CPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the EPA's Office of Water are used to calculate DWLOCs: 2 liter (L) / 70 kg (adult male), 2L / 60 kg (adult female), and 1L / 10 kg (child). Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWOCs, EPA concluded with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposures for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses changes. When new uses are added EPA reassesses the potential impacts of residues of the pesticide in drinking water as a part of the aggregate assessment process.

More recently the Agency has used another approach to estimate aggregate exposure through food, residential and drinking water pathways. In this approach, modeled surface and ground water EECs are directly incorporated into the dietary exposure analysis, along with food. This provides a more realistic estimate of exposure because actual body weights and water consumption from the CSFII are used. The combined food and water exposures are then added to estimated exposure from residential sources to calculate aggregate risks. The resulting exposure and risk estimates are still considered to be high end, due to the assumptions used in developing drinking water modeling inputs.

1. *Acute risk.* Acute aggregate risk consists of the combined dietary exposures from food and drinking water sources. The total exposure is compared to the acute RfD. An acute RfD was not identified since no effects were observed in oral toxicity studies that could be attributable to a single dose. Therefore, the Agency concludes that there is a reasonable certainty of no acute harm from aggregate exposure to spinosad.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to spinosad from food and water will utilize 30% of the cPAD for the U.S. population, 36% of the cPAD for all infants, and 96% of the cPAD for children 1-2 years old. Based on the use pattern, chronic residential exposure to

residues of spinosad is not expected. In addition, there is potential for chronic dietary exposure to spinosad in drinking water. Dietary exposure analysis included drinking water, therefore, exposure estimates represent aggregate chronic exposure. EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

In general, aggregate exposures are calculated by summing dietary (food and water) and residential exposures (residential or other non-occupational exposures). Based on the anticipated residential exposure scenarios and since acute and cancer risk assessments are not required, only short-term (residential, food and water) and chronic (food and water) aggregate exposure assessments were conducted.

Spinosad is currently registered for uses (turf and ornamental application) that could result in short-term residential exposures (incidental oral exposures to toddlers). This incidental oral exposure is combined with chronic dietary (food and water) exposure for determination of aggregate short-term exposure. The Agency uses chronic dietary exposure when conducting short-term aggregate assessments as it has been determined this will more accurately reflect exposure from food than will acute exposure. Table 1 of this unit is a summary of the short-term aggregate exposure and risk estimates. Since the resulting aggregate MOEs are greater than or equal to 150, short-term aggregate exposure to spinosad from food and residential uses is below the Agency's level of concern.

TABLE 1.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO SPINOSAD

Population/Subgroup	NOAEL (mg/kg/day)	Target MOE	Chronic Food and Water Exposure (mg/kg/day)	Residential Oral Exposure1 (mg/kg/day)	Aggregate MOE[2] (food + water, and residential)
All infants (<(1 year old)	4.9	100	0.009605	0.0076	280
Children (1-2 years old)	4.9	100	0.025784	0.0076	150
Children (3-5 years old)	4.9	100	0.019729	0.0076	180
Children (6-12 years old)	4.9	100	0.01259	0.0076	240

[1] residential exposure = sum of hand-to-mouth, object-to-mouth, and soil ingestion residue estimates.
[2] Aggregate MOE = NOAEL divided by (Chronic Food Exposure + Residential Exposure)

4. *Aggregate cancer risk for U.S. population*. Spinosad has been classified as ''not likely to be carcinogenic in humans'' based on the results of a carcinogenicity study in mice and the combined chronic toxicity and carcinogenicity study in rats. Therefore, spinosad is not expected to pose a cancer risk to humans.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to spinosad residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

The Agency concludes that currently available enforcement methods are sufficient to enforce tolerances associated with the petition under consideration. Enforcement methodology using high pressure liquid chromatography with ultraviolet detector (HPLC/UV) is available to enforce the tolerances in plants. Adequate livestock methods are available for tolerance enforcement. Method RES 94094 (GRM 95.03) is an HPLC/UV method suitable for determination of spinosad residues in ruminant commodities. Method GRM 95.03 has undergone successful independent laboratory validation (ILV) and EPA laboratory validation, and has been forwarded to FDA for inclusion in PAM Volume II. Method GRM 95.15 is another HPLC/UV method suitable for determination of spinosad residues in poultry commodities. This method has been forwarded to FDA for inclusion in PAM Volume II. Method RES 95114, an immunoassay method for determination of spinosad residues in ruminant commodities, underwent a successful ILV and EPA laboratory validation. It has been submitted to FDA for inclusion in PAM Volume II. The methods may be requested from: Paul Golden, U.S EPA/OPP/BEAD/ACB, Environmental Science Center, 701 Mapes Road, Fort Meade, MD 20755–5350; telephone number: (410) 305–2960; Fax (410) 305–3091; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no Canadian or Mexican maximum residue limits in/on corn forage (5 ppm), corn fodder (5 ppm), wheat fodder (1 ppm), and wheat straw (1 ppm). The Agency concluded that the appropriate cereal grain forage, stover, hay and straw tolerances for the United States are 2.5 ppm, 10 ppm, and 1.0 ppm, respectively. There are Codex MRLs for spinosad in corn forage (5 ppm), corn fodder (5 ppm), wheat fodder (1 ppm) and wheat straw (1 ppm). Based on available data and applications proposed for the United States, the Agency concluded that the appropriate cereal grain forage, stover, hay and straw tolerances for the United States are 2.5 ppm, 10 ppm, and 1.0 ppm, respectively. The Codex MRLs for corn forage and fodder are based on field residue data from the United States. The Codex tolerances for corn forage and fodder are based on a dry weight basis whereas in the United States tolerances for corn forage and fodder are based on an as-fed basis. When evaluating data on an as-fed basis there is a high moisture content that will substantially increase the tolerance level compared to evaluating the same data on a dry weight basis. Therefore it is not appropriate to harmonize the tolerance values for these commodities. Therefore, harmonization is not an issue for these commodities.

C. Public Comments

One comment was received from a private citizen who opposed the authorization to sell to any pesticide that leaves a residue on food. The Agency has received this same comment from this commenter on numerous previous occasions and rejects it for the reasons previously stated in the **Federal**

Register of January 7, 2005 (70 FR 1349) (FRL–7691–4).

V. Conclusion

Therefore, the tolerance is established for residues of spinosad, a naturally occurring product consisting of: Spinosyn A (2-[(6-deoxy-2,3,4-tri-O-methyl-L-manno-pyranosyl)oxy]-13-[[5(dimethylamino)-tetrahydro-6-methyl-2H-pyran-2-yl]oxy]-9-ethyl-2,3,3a,5a,5b,6,9,10,11,12,13,14,16a,16b-tetradecahydro-14-methyl-1H-as-Indaceno[3,2-d]oxacyclododecin-7,15-dione) and spinosyn D (2-[(6-deoxy-2,3,4-tri-O-methyl-L-mannopyranosyl)oxy]-13-[[5(dimethylamino)-tetrahydro-6-methyl-2H-pyran-2-yl]oxy]-9-ethyl-2,3,3a,5a,5b,6,9,10,11,12,13,14,16a,16b-tetradecahydro-4,14-methyl-1H-as-Indaceno[3,2-d]oxacyclododecin-7,15-dione) in/on the following commodities: Alfalfa seed at 0.15 ppm; alfalfa seed screenings at 2.0 ppm; banana at 0.25 ppm; food commodities at 0.02 ppm; spearmint, tops at 3.5 ppm; peppermint, tops at 3.5 ppm; animal feed, nongrass, group 18, forage at 35 ppm; animal feed, nongrass, group 18 hay at 30 ppm; peanut, hay at 11 ppm; vegetable, bulb, group 3, except green onion, group 3 at 0.1 ppm; onion, green at 2.0 ppm; grass, forage, fodder and hay, group 17, forage at 10 ppm; grass, forage, fodder and hay, group 17, hay at 5 ppm; grain, cereal, group 16, stover, except rice at 10 ppm; grain, cereal, group 16, forage, except rice at 2.5 ppm; grain, cereal, group 16, hay, except rice at 10 ppm; grain, cereal, group 16, straw, except rice at 1.0 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to FFDCA by FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of FFDCA provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of FFDCA, as was provided in the old sections 408 and 409 of FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2005–0510 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before May 8, 2006.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

2. *Mail your written request to*: Office of the Hearing Clerk (1900L), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Suite 350, 1099 14th St., NW., Washington, DC 20005. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 564–6255.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in **ADDRESSES**. Mail your copies, identified by docket ID number, EPA–HQ–OPP–2005–0510 to: Public Information and Records Integrity Branch, Information Technology and Resource Management Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in **ADDRESSES**. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary

consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801*et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 17, 2006.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.495 is amended:

■ i. In paragragh (a), in the table, by removing: Corn, forage at 1.0 ppm; corn, hay at 1.0 ppm; corn stover at 1.0 ppm; corn straw at 1.0 ppm; grass, forage, fodder and hay, group 17 at 0.02 ppm; sorghum, forage at 1.0 ppm; sorghum, forage, hay at 1.0 ppm; sorghum, grain, stover at 1.0 ppm; sorghum, straw at 1.0 ppm; wheat, forage at 1.0 ppm; wheat, hay at 1.0 ppm and wheat, straw at 1.0 ppm; and by alphabetically adding the commodities as set forth below.

■ ii. In paragraph (b), in the table, by removing: All commodities in connection with the quarantine eradication programs against exotic, non-indigenous, fruit fly species, where a separate higher tolerance in is not already established at 0.02 ppm; alfalfa, forage at 4.0 ppm; alfalfa, hay at 4.0 ppm; grass, forage at 7.0 ppm; grass, hay at 7.0 ppm; peanut, hay at 10 ppm and onion, dry bulb at 0.10 ppm.

The additions read as follows:

§ 180.495 Spinosad; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * *	*
Alfalfa, seed	0.15
Alfalfa, seed screenings	2.0
Animal feed, nongrass, group, 18, forage	35.0
Animal feed, nongrass, group, 18, hay	30.0
* * * *	*
Banana	0.25
Food commodities	0.02
Grain, cereal, group 16, forage, except rice	2.5
Grain, cereal, group 16, hay, except rice	10.0
Grain, cereal, group, 16, stover, except rice	10.0
Grain, cereal, group, 16, straw, except rice	1.0
* * * *	*
Grass, forage, fodder and hay, group 17, forage	10.0
Grass, forage, fodder and hay, group 17, hay	5.0
* * * *	*
Onion, green	2.0
* * * *	*
Peanut, hay	11.0
Peppermint, tops	3.5
* * * *	*
Spearmint, tops	3.5
* * * *	*
Vegetable, bulb, group 3, except green onion	0.10
* * * *	*

* * * * *

[FR Doc. 06–1939 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0311; FRL–7764–1]

Flumiclorac Pentyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of flumiclorac pentyl in or on undelinted cottonseed and cotton gin byproducts. Valent U.S.A. Corporation requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective March 8, 2006. Objections and requests for hearings must be received on or before May 8, 2006.

ADDRESSES: To submit a written objection or hearing request follow the detailed instructions as provided in Unit VI. of the**SUPPLEMENTARY INFORMATION.** EPA has established a docket for this action under Docket identification (ID) number EPA–HQ–OPP–2005–0311. All documents in the docket are listed on the www.regulations.gov web site. (EDOCKET, EPA's electronic public docket and comment system was replaced on November 25, 2005, by an enhanced Federal-wide electronic docket management and comment system located at *http://www.regulations.gov/*. Follow the on-line instructions.) Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460–0001; telephone number: (703) 305–6224; e-mail address:*miller.joanne@epamail.epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under**FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET *(http://www.epa.gov/edocket/)*,you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available on E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at*http://www.epa.gpo/opptsfrs/home/guidelin.htm/*.

II. Background and Statutory Findings

In the **Federal Register** of November 30, 2005 (70 FR 71844) (FRL–7747–3), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 3F6767) by Valent U.S.A. Corporation, 1600 Riviera Ave., Suite 200, Walnut Creek, CA 94596–8025. The petition requested that 40 CFR 180.477 be amended by establishing tolerances for residues of the herbicide, flumiclorac pentyl, [2-chloro-4-fluoro-5-(1,3,4,5,6,7-hexahydro-1,3-dioxo-2H-isoindol-2-yl)phenoxy]-acetate, in or on cotton undelinted seed at 0.1 parts per million (ppm) and cotton gin by products at 2.0 ppm. That notice included a summary of the petition prepared by Valent U.S.A. Corporation, the registrant. The Notice of Availability of the Flumiclorac Pentyl Tolerance Reassessment (TRED) was published in the **Federal Register** on October 19, 2005 (70 FR 60824) (FRL–7740–4). The flumiclorac pentyl TRED stated that the residues should be expressed as flumiclorac pentyl, *per se*, and that the tolerances for cotton undelinted seed be increased to 0.2 ppm, and that cotton gin by products be increased to 3.0 ppm. One comment was received on the notice of filing. EPA's response to this comment is discussed in Unit IV.C.

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA, for a tolerance for residues of flumiclorac pentyl on cotton undelinted seed at 0.2 ppm and cotton gin by products at 3.0 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the toxic effects caused by flumiclorac pentyl are discussed in Table 1 of this unit as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results Assessment
870.3100	90–Day oral toxicity--rodents (rat)	NOAEL = 1,359 milligrams/kilogram/day (mg/kg/day)males (M) and 1,574 mg/kg/day females (F) - Highest Dose Tested(HTD) LOAEL was not established
870.3150	90–Day oral toxicity--nonrodents (dog)	NOAEL = 100 mg/kg/day LOAEL = 1,000 mg/kg/day based on increased clotting time in females
870.3200	21/28–Day dermal toxicity (rat)	NOAEL = 1,000 mg/kg/day (limit dose)
870.3700	Prenatal developmental--rodents (rat)	Maternal NOAEL = 1,500 mg/kg/day - HDT Maternal LOAEL was not established Developmental NOAEL = 1,500 mg/kg/day - HDT Developmental LOAEL was not established
870.3800	Reproduction and fertility effects (rat)	Parental/Systemic NOAEL = 16/18mg/kg/day (M/F) Parental/Systemic LOAEL = 781/925mg/kg/day (M/F) based on increased kidney weight in males andfemales and nephropathy in males Reproductive NOAEL = 1610/1869 mg/kg/day (M/F) - HDT Reproductive LOAEL was not established Offspring NOAEL = 781/925mg/kg/day (M/F) Offspring LOAEL = 1610/1869mg/kg/day (M/F) based on decreasedbody weight/body weight in F_2 pups
870.4100	Chronic toxicity--dogs	NOAEL = 100 mg/kg/day LOAEL = 1,000 mg/kg/day based on decreased body weight gain in male; increased clotting time, increased globulin levels, and increasedalpha-2 fraction of the serum protein electrophoresis in females
870.4200	Chronic toxicity/Carcinogenicity--rats	NOAEL = 744.9/919.4 mg/kg/day(M/F) - HDT LOAEL was not established No evidence of carcinogenicity
870.4300	Carcinogenicity--mice	NOAEL = 731.4/ 850.2 mg/kg/day(M/F) - HDT LOAEL was not established No evidence of carcinogenicity
870.5100	Gene mutation	Negative up to 5,000 μg/plate withand without metabolic activation
870.5375	Cytogenetics	Negative for chromosome aberrationup to 400 μg/mL with metabolic activation; weak,positive response without activation
870.5395	Micronucleus - mouse	Negative at concentration up to300 μg/mL in cultured rat hepatocytes
870.5550	Unscheduled DNA Synthesis	Negative at doses up to 5,000 mg/kg
870.7485	Metabolism and pharmacokinetics	Rapid absorption and excretion; majormetabolic route is deesterification to a phenoxyaceticacid derivative followed by cleavageof the imide moiety or hydroxylationand/or sulfonation reactions

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify non-threshold hazards such as cancer. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk, estimates risk in terms of the probability of occurrence of additional cancer cases (e.g., risk). An example of how such a probability risk is expressed would be to describe the risk as one in one hundred thousand (1×10^{-5}), one in a million (1×10^{-6}), or one in ten million (1×10^{-7}). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated.

A summary of the toxicological endpoints for flumiclorac pentyl used for human risk assessment is shown in Table 2 of this unit:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR FLUMICLORAC PENTYL FOR USE IN HUMAN RISK ASSESSMENT

Exposure/Scenario	Dose Used in Risk Assessment, Interspecies and Intraspecies and any Traditional UF	Special FQPA SF and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary (females 13-49)	An endpoint of concern for the females 13 -49 attributable to a single dose was not identified in the hazard data base.		
Acute Dietary (General population including infants and children)	An endpoint of concern for the general population attributable to a single dose was not identified in the hazard data base		
Chronic Dietary (All populations)	NOAEL= 100 mg/kg/day UF = 100 Chronic RfD = 1.0 mg/kg/day	Special FQPA SF = 1 cPAD = chronic RfD/Special FQPA SF = 1.0 mg/kg/day	Chronic dog LOAEL = 1,000 mg/kg/day based on decreased body weight gain (males), increased clotting time (males and females), and increased globulin levels and increased alpha-2 fraction of the serum protein electrophoresis (females)
Short-Term Incidental Oral Exposure (1 to 30 days) (Residential)	inhalation (or oral) study NOAEL = 100 mg/kg/day) UF = 100 Chronic RfD = 1.0 mg/kg/day	FQPA SF = 1 cPAD = 1.0 mg/kg/day 1 = 1.00 mg/kg/day MOE = 100 (residential)	Chronic - dog LOAEL = 1,000 mg/kg/day based on LOAEL = mg/kg/day based on decreased body weight gain (males), increased clotting time (males and females), and increased globulin levels and increased alpha-2 fraction of the serum protein electrophoresis (females)
Cancer (oral, dermal, inhalation)	No evidence of carcinogenicity in the hazard data base		

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.477) for the residues of flumiclorac pentyl, in or on field corn and soybeans. Risk assessments were conducted by EPA to assess dietary exposures from flumiclorac pentyl in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

No such effects were identified in the toxicological studies for flumiclorac pentyl; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID™), which incorporates food consumption data as reported by respondents in the USDA 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII), and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: For the chronic analyses, tolerance-level residues were assumed for all food commodities with current or proposed flumiclorac pentyl tolerances, and it was assumed that all of the crops included in the analysis were treated. Percent Crop Treated (PCT) and/or anticipated residues were not used in the chronic risk assessment.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for flumiclorac pentyl in drinking water.

Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of flumiclorac pentyl.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and Screening Concentrations in Groundwater (SCI-GROW), which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a Tier 1 model) before using PRZM/EXAMS (a Tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a screen for sorting out pesticides for which it is unlikely that drinking water concentrations would exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs), which are the model estimates of a pesticide's concentration in water. EECs derived from these models are used to quantify drinking water exposure and risk as a %Reference dose or %Population adjusted dose.

Based on the FIRST and SCI-GROW models, the EECs of flumiclorac pentyl for chronic exposures are estimated to be 0.24 parts per billion (ppb) for surface water and 0.002 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Flumiclorac pentyl is currently registered for use on the following residential non-dietary sites: Non-agricultural settings which include golf course, parks, recreation areas as well as schools. The risk assessment was conducted using the following residential exposure assumptions: The short-term incidental oral exposures was assessed for toddlers, the most sensitive population possibly exposed to flumiclorac-pentyl from residential use. Residential Exposure Assessments for the exposure scenarios described in Table 3 which are the most likely to result in highest possible exposure by toddlers to the herbicide.

TABLE 3.—SHORT-TERM RESIDENTIAL EXPOSURE ESTIMATES AND MOES FOR FLUMICLORAC-PENTYL TREATED TURF

Resident	Activity	Days After Treatment (DAT)	Body Weight	Average Daily Dose (ADD) (mg/kg/day)	NOAEL	MOE
toddler	hand to mouth	0	15	0.0017	100	58,230
toddler	object to mouth (turf)	0	15	0.00043	100	233,000
toddler	soil ingestion	0	15	0	100	1.75 E^7

All MOEs, including the total toddler ingestion MOE, are well above 100 and therefore exposures to toddlers from flumiclorac-pentyl are not of concern.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to flumiclorac pentyl and any other substances and flumiclorac pentyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that flumiclorac pentyl has a commonmechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at*http://www.epa.gov/pesticidesca/cumulative/*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional safety factor value based on the use of traditional uncertainty factors and/or

special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity*. There is no evidence of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to flumiclorac pentyl. There is no concern for neurotoxicity.

3. *Conclusion*. There is a complete toxicity data base for flumiclorac pentyl, there is no evidence of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to flumiclorac pentyl, and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The dietary food exposure assessment utilizes tolerance level residues and 100% crop treated (CT) information for all commodities. By using these screening-level assumptions, chronic exposures/risks will not be underestimated. The dietary drinking water assessment utilizes values generated by models and associated modeling parameters which are designed to provide conservative, health protective, high-end estimates of water concentrations. Accordingly, the additional 10X factor for the protection of infants and children is removed.

E. Aggregate Risks and Determination of Safety

1. *Acute risk*. An endpoint of concern attributable to a single exposure was not identified in the hazard data base and therefore no acute risk is expected from exposure to flumiclorac pentyl.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to flumiclorac pentyl from food and drinking water will utilize <0.01% of the cPAD for the U.S. population, <0.01% of the cPAD for the most highly exposed population subgroup, Children 3-5 years old. Based the use pattern, chronic residential exposure to residues of flumiclorac pentyl is not expected.

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Flumiclorac pentyl is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for flumiclorac pentyl.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food, drinking water and residential exposures aggregated result in aggregate MOE of 46,000 for Children 3-5 years old. This aggregate MOE does not exceed the Agency's level of concern for aggregate exposure to food and residential uses.

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO FLUMICLORAC PENTYL

Population	NOAEL mg/kg/day	Level of Concern	Maximum Exposure mg/kg/day	Average Food + Water Exposure mg/kg/day	Residential Exposure mg/kg/day	Aggregate MOE (food and residential)
Children, 3-5 years old	100	≤100	1	0	0.0017	46,000

4. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to flumiclorac pentyl residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas-liquid chromatography with thermionic-specific detector) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are currently no established Codex, Canadian, or Mexican maximum residue limits for flumiclorac pentyl.

C. Response to Comments

Public comments were received from B. Sachau who objected to the proposed tolerances because of the amounts of pesticides already consumed and carried by the American population. She further indicated that testing conducted on animals have absolutely no validity and are cruel to the test animals. B. Sachau's comments contained no scientific data or evidence to rebut the Agency's conclusion that there is a reasonable certainty that no harm will result from aggregate exposure to flumiclorac pentyl, including all anticipated dietary exposures and all other exposures for which there is reliable information. EPA has responded to B. Sachau's generalized comments on numerous previous occasions, January 7, 2005 (70 FR 1349, 1354) (FRL–7691–4); October 29, 2004 (69 FR 63083, 63096) (FRL–7681–9).

V. Conclusion

Therefore, the tolerance is established for residues of flumiclorac pentyl on cotton undelinted seed at 0.2 ppm and cotton gin by products at 3.0 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to FFDCA by FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of FFDCA provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of FFDCA, as was provided in the old sections 408 and 409 of FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2005–0311 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before May 8, 2006.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900L), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Suite 350, 1099 14th St., NW., Washington, DC 20005. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 564–6255.

2. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in **ADDRESSES**. Mail your copies, identified by docket ID number EPA–HQ–OPP–2005–0311, to: Public Information and Records Integrity Branch, Information Technology and Resources Management Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in **ADDRESSES**. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 27, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—AMENDED

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.477 is amended by revising paragraph (a) to read as follows:

§ 180.477 Flumiclorac pentyl; tolerances for residues.

(a) *General*. Tolerances are established for residues of the herbicide flumiclorac pentyl, [2-chloro-4-fluoro-5-(1,3,4,5,6,7-hexahydro-1,3-dioxo-2H-isoindol-2-yl)phenoxy]-acetate, in or on the raw agricultural commodities listed below.

Commodity	Parts per million
Corn, field, forage	0.01
Corn, field, grain	0.01
Corn, field, stover	0.01
Cotton gin by products	3.0
Cotton, undelinted seed	0.2
Soybean, hulls	0.02
Soybean, seed	0.01

* * * * *

[FR Doc. 06–2151 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R08–RCRA–2006–0047; FRL–8035–4]

South Dakota: Final Authorization of State Hazardous Waste Management Program Revision and Incorporation by Reference of Approved State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and response to comments.

SUMMARY: The EPA is granting final authorization to the hazardous waste program revisions submitted by South Dakota. The Agency published a Proposed Rule on September 27, 2005, and provided for public comment. The comment period ended on October 27, 2005. No comments were received regarding Resource Conservation and Recovery Act (RCRA) program issues. There was one comment from South Dakota State Attorney General regarding Indian country language. No further opportunity for comment will be provided. This final rule also codifies and incorporates by reference the authorized provisions of the South Dakota regulations in Title 40 of the Code of Federal Regulations (CFR) part 272.

DATES: This final rule is effective on March 8, 2006. The incorporation by reference of authorized provisions in the South Dakota regulations contained in this rule is approved by the Director of the Federal Register as of March 8, 2006, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–RCRA–2006–0047. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at: EPA Region 8, from 8 a.m. to 3 p.m., 999 18th Street, Suite 300, Denver, Colorado 80202–2466, contact: Kris Shurr, phone number: (303) 312–6139, e-mail address: *shurr.kris@epa.gov,* or SDDENR, from 9 a.m. to 5 p.m., Joe Foss Building, 523 E. Capitol, Pierre, South Dakota 57501–3181, contact: Carrie Jacobson, phone number (605) 773–3153.

FOR FURTHER INFORMATION CONTACT: Kris Shurr, 8P–HW, U.S. EPA, Region 8, 999 18th Street, Suite 300, Denver, CO 80202–2466, phone number: (303) 312–6139 FAX number: (303) 312–6341; e-mail address: *shurr.kris@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Authorization of Revisions to South Dakota's Hazardous Waste Program and Correction

On October 25, 2004, South Dakota submitted final complete program revision applications seeking authorization of their changes in accordance with 40 CFR 271.21. We now make a Final decision that South Dakota's hazardous waste program revisions satisfy all of the requirements necessary to qualify for Final authorization. For a list of rules that become effective with this Final Rule, please see the Proposed Rule published in the September 27, 2005 **Federal Register** at 70 FR 56419. EPA is making one correction to the Proposed Rule. In the list of authorized provisions for Checklists 154 through 154.6 (Column 1, page 56421), the effective date for ''74:36:11:01'' is January 2, 2005.

Response to Comments: EPA proposed to authorize South Dakota's State Hazardous Waste Management Program Revisions on September 27, 2005 (70 FR 56419). EPA received only one comment from the State of South Dakota, objecting to EPA's definition of Indian country, where the State is not authorized to administer its program. Specifically, the State disagreed that all ''trust land'' in South Dakota is Indian country. However, in the comment letter, the State of South Dakota conveyed to EPA that ''while we [the State] continue to object and disagree on this issue, the state will accept EPA's authorization of the hazardous waste program revisions as described in EPA's September 27, 2005 notice in the **Federal Register**.''

EPA maintains the interpretation of Indian country in South Dakota as described in the September 27, 2005 **Federal Register** notice of proposed rulemaking. Further explanation of this interpretation of Indian country can be found at 67 FR 45684 through 45686 (July 10, 2002).

II. Incorporation by Reference

In the Proposed Rule published on September 27, 2005 (70 FR 56419), EPA also proposed to codify EPA's authorization of South Dakota's base hazardous waste management program

and its revisions to that program. In today's action, EPA is amending § 272.2101 to incorporate by reference South Dakota's authorized hazardous waste regulations. Section 272.2101 also references the demonstration of adequate enforcement authority, including procedural and enforcement provisions, which provides the legal basis for the State's implementation of the hazardous waste management program. In addition, § 272.2101 references the Memorandum of Agreement, the Attorney General's Statements, and the Program Description which are evaluated as part of the approval process of the hazardous waste management program in accordance with Subtitle C of RCRA. The September 27, 2005 Proposed Rule provides details about State provisions which are not part of the codification, as well as the effect of South Dakota's codification on enforcement and on Federal requirements promulgated under the Hazardous and Solid Waste Amendments of 1984 (HSWA).

III. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes and codifies State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes and codifies pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes and codifies State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective March 8, 2006.

List of Subjects in 40 CFR Parts 271 and 272

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by Reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Dated: February 7, 2006.

Kerrigan G. Clough,

Acting Regional Administrator, Region 8.

■ For the reasons set forth in the preamble, 40 CFR parts 271 and 272 are amended as follows:

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

EPA is granting final authorization under part 271 to the State of South Dakota for revisions to its hazardous waste program under the Resource Conservation and Recovery Act.

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Subpart QQ—[Amended]

■ 2. Subpart QQ is amended by adding § 272.2101 to read as follows:

§ 272.2101 South Dakota State-Administered Program: Final Authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), South Dakota has final authorization for the following elements as submitted to EPA in South Dakota's base program application for final authorization which was approved by EPA effective on November 2, 1984. Subsequent program revision applications were approved effective on June 17, 1991, November 8, 1993, March 11, 1994, September 23, 1996, June 8, 2000, May 24, 2004 and March 8, 2006.

(b) The State of South Dakota has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any

other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.* (1) The South Dakota regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the South Dakota regulations that are incorporated by reference in this paragraph are available from the South Dakota Legislative Research Council, 3rd Floor, State Capitol, 500 East Capitol Avenue, Pierre, SD 57501, (Phone: 605–773–3251).

(i) The Binder entitled ''EPA Approved South Dakota Regulatory Requirements Applicable to the Hazardous Waste Management Program'', dated December, 2005.

(ii) [Reserved]

(2) EPA considered the following statutes and regulations in evaluating the State program but is not incorporating them herein for enforcement purposes:

(i) South Dakota Codified Laws (SDCL), as amended, effective July 1, 2004, Title 1, State Affairs and Government: Chapter 1–26, Administrative Procedures and Rules, sections 1–26–1(1), 1–26–1(4), 1–26–1(8) introductory paragraph, 1–26–1(8)(a), 1–26–2, 1–26–6.6, 1–26–16 through 1–26–19, 1–26–19.1, 1–26–19.2, 1–26–27, 1–26–29, 1–26–30, 1–26–30.1, 1–26–30.2, 1–26–30.4, 1–26–31, 1–26–31.1, 1–26–31.2, 1–26–31.4, 1–26–35 and 1–26–36; Chapter 1–27, Public Records and Files, sections 1–27–1, first sentence, 1–27–3, 1–27–9(2) and 1–27–28(2); Chapter 1–32, Executive Reorganization, section 1–32–1(1); Chapter 1–40, Department of Natural Resources, sections 1–40–4.1, 1–40–24, 1–40–31 and 1–40–34.

(ii) SDCL, as amended, effective July 1, 2004, Title 15, Civil Procedure: Chapter 15–6, Rules of Procedure in Circuit Courts, section 15–6–24(a)–(c).

(iii) SDCL, as amended, effective July 1, 2004, Title 19, Evidence: Chapter 19–13, Privileges, sections 19–13–2(1), 19–13–2(5), 19–13–3, 19–13–20 and 19–13–22.

(iv) SDCL, as amended, effective July 1, 2004, Title 21, Judicial Remedies: Chapter 21–8, Injunction, section 21–8–1.

(v) SDCL, as amended, effective July 1, 2004, Title 22, Crimes: Chapter 22–6, Authorized Punishments, sections 22–6–1 introductory paragraph and 22–6–1(6).

(vi) SDCL, as amended, effective July 1, 2004, Title 23, Law Enforcement: Chapter 23–5, Criminal Identification, sections 23–5–1, 23–5–10(1), 23–5–10(3), 23–5–10(4) and 23–5–11 first sentence; Chapter 23–6, Criminal Statistics, section 23–6–4.

(vii) SDCL, as amended, effective July 1, 2004, Title 34, Public Health and Safety: Chapter 34–21, Radiation and Uranium Resources Exposure Control, section 34–21–2(7).

(viii) SDCL, as amended, effective July 1, 2004, Title 34A, Environmental Protection: Chapter 34A–6, Solid Waste Disposal, section 34A–6–1.3(17); Chapter 34A–10, Remedies for Protection of Environment, sections 34A–10–1, 34A–10–2, 34A–10–5, 34A–10–11, 34A–10–14 and 34A–10–16, Chapter 34A–11, Hazardous Waste Management, sections 34A–11–1 through 34A–11–4, 34A–11–5, 34A–11–8 through 34A–11–12, 34A–11–13 through 34A–11–16, 34A–11–17 through 34A–11–19, 34A–11–21 and 34A–11–22.

(ix) SDCL, as amended, effective July 1, 2004, Title 37, Trade Regulation, Chapter 37–29, Uniform Trade Secrets Act, section 37–29–1(4).

(x) Administrative Rules of South Dakota (ARSD), Article 74:08, Administrative Fees, effective August 29, 2004: Chapter 74:08:01, Fees for Records Reproduction, sections 74:08:01:01 through 74:08:01:07.

(3) The following statutory provisions are broader in scope than the Federal program, are not part of the authorized program, are not incorporated by reference and are not federally enforceable:

(i) SDCL, as amended, effective July 1, 2004, Title 34A, Environmental Protection, Chapter 34A–11, Hazardous Waste Management, sections 34A–11–12.1, 34A–11–16.1, 34A–11–25 and 34A–11–26.

(ii) [Reserved]

(4) *Unauthorized State Amendments.* South Dakota has adopted but is not authorized for the following Federal final rules: (1) Removal of Legally Obsolete Rules (HSWA/non-HSWA) [60 FR 33912, 06/29/95]; (2) Imports and Exports of Hazardous Waste: Implementation of OECD Council Division (HSWA—Not delegable to States) [61 FR 16290, 04/12/96]; (3) Clarification of Standards for Hazard Waste Land Disposal Restriction Treatment Variances (HSWA) [62 FR 64504, 12/05/97]; and (4) Vacatur of Organobromide Production Waste Listings (HSWA) [65 FR 14472, 03/17/00]. Those Federal rules written under RCRA provisions that predate HSWA (non-HSWA) which the State has adopted, but for which it is not authorized, are not Federally enforceable. In contrast, EPA will continue to enforce the Federal HSWA standards for which South Dakota is not authorized until the State receives specific authorization from EPA.

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 8 and the State of South Dakota, signed by the State of South Dakota Department of Natural Resources on June 6, 1996, and by the EPA Regional Administrator on June 25, 1996, although not incorporated by reference, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority.* ''Attorney General's Statement for Final Authorization'', signed by the Attorney General of South Dakota on May 24, 1984, and revisions, supplements and addenda to that Statement dated January 14, 1991, September 11, 1992, September 25, 1992, April 1, 1993, September 24, 1993, August 23, 1994, December 29, 1994, September 5, 1995, October 23, 1997, October 27, 1997, October 28, 1997, November 5, 1999, June 26, 2000, June 18, 2002 and October 19, 2004, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description.* The Program Description and any other materials submitted as supplements thereto, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

3. Appendix A to part 272, State Requirements, is amended by adding in alphabetical order, ''South Dakota'' and its listing to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

South Dakota

The regulatory provisions include:

Administrative Rules of South Dakota, Article 74:28, Hazardous Waste, effective August 29, 2004, sections 74:28:21:01, 74:28:21:02, 74:28:21:03, 74:28:22:01, 74:28:23:01, 74:28:24:01, 74:28:25:01 through 74:28:25:05, 74:28:26:01, 74:28:27:01, 74:28:28:01 through 74:28:28:05, 74:28:29:01, 74:28:30:01 and 74:28:33:01; Article 74:36, Air Pollution Control Program, effective January 2, 2005, section 74:36:11:01.

Copies of the South Dakota regulations that are incorporated by reference are available from the South Dakota Legislative Research Council, 3rd Floor, State Capitol, 500 East Capitol Avenue, Pierre, SD 57501, (Phone: 605–773–3251).

* * * * *

[FR Doc. 06–2180 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[EPA–R08–RCRA–2006–0048; FRL–8035–5]

Montana: Incorporation By Reference of Approved State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Resource Conservation and Recovery Act, as amended (RCRA), allows EPA to authorize State hazardous waste management programs if EPA finds that such programs are equivalent and consistent with the Federal program and provide adequate enforcement of compliance. Title 40 of the Code of Federal Regulations (CFR) part 272 is used by EPA to codify its decision to authorize individual State programs and incorporates by reference those provisions of the State statutes and regulations that are subject to EPA's inspection and enforcement authorities as authorized provisions of the State's program. This final rule revises the codification of the Montana authorized program. In addition, today's document corrects errors made in the September 30, 2005 **Federal Register** authorization document for Montana.

DATES: This final rule is effective March 8, 2006. The incorporation by reference of authorized provisions in the Montana regulations contained in this rule is approved by the Director of the Federal Register as of March 8, 2006, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–RCRA–2006–0048. All documents in the docket are listed on the *http://www.regulations.gov* web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at MDEQ from 9 a.m. to 4 p.m., 1520 E 6th Ave, Helena, MT 59620, contact: Bob Martin, phone number (406) 444–4194 and EPA Region 8, from 8 a.m. to 3 p.m., 999 18th Street, Suite 300, Denver, CO 80202–2466, contact: Kris Shurr, phone number: (303) 312–6139, e-mail address: *shurr.kris@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Kris Shurr, 8P–HW, U.S. EPA, Region 8, 999 18th St, Ste 300, Denver, Colorado 80202–2466, phone number: (303) 312–6139, fax number: (303) 312–6341, e-mail address: *shurr.kris@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Correction

There was an error and an omission published in the September 30, 2005 (70 FR 57152) authorization **Federal Register** document for Montana. The following corrections are made to Section G, page 57154, first column:

In the second paragraph, the effective date of the Administrative Rules of Montana (ARM), Title 17, Chapter 53, was incorrectly cited as March 9, 2005. The correct effective date is April 1, 2005.

In the third paragraph, Section 2–3–301 from the Montana Code Annotated 2005, was omitted from the list of approved procedural and enforcement provisions. The listing is shown below, the correction is bolded and italicized.

Montana Code Annotated 2005, sections 2–3–101 *et seq.*, 2–3–221, 2–3–301, 2–4–103, 2–4–315, 2–6–101 *et seq.*, 2–15–3501 *et seq.*, 27–30–204, 30–14–402 *et seq.*, 75–10–107, and 75–10–401 *et seq.*; and Montana Rules of Civil Procedure, Rule 24(a).

II. Incorporation by Reference

A. What is Codification?

Codification is the process of including the statutes and regulations that comprise the State's authorized hazardous waste management program into the CFR. Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs. The State regulations authorized by EPA supplant the federal regulations concerning the same matter with the result that after authorization EPA enforces the authorized regulations. Infrequently, State statutory language which acts to regulate a matter is also authorized by EPA with the consequence that EPA enforces the authorized statutory provision. EPA does not authorize State enforcement authorities and does not authorize State procedural requirements. EPA codifies the authorized State program in 40 CFR part 272 and incorporates by reference State statutes and regulations that make up the approved program which is Federally enforceable in accordance with Sections 3007, 3008, 3013, and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934 and 6973, and any other applicable statutory and regulatory provisions.

B. What Is the History of the Authorization and Codification of Montana's Hazardous Waste Management Program?

Montana initially received Final authorization on July 11, 1984, effective July 25, 1984 (49 FR 28245) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program January 19, 1994, effective March 21, 1994 (59 FR 02752), October 25, 1996, effective December 24, 1996 (61 FR 55223), December 26, 2000, effective December 26, 2000 (65 FR 81381), and September 30, 2005, effective November 29, 2005 (70 FR 57152). EPA first codified Montana's authorized hazardous waste program effective January 31, 1986 (51 FR 3954). In this action, EPA revises Subpart BB of 40 CFR part 272, to include the authorization revision actions effective through November 29, 2005 (70 FR 57152).

C. What Decisions Have We Made in This Action?

Today's action codifies EPA's authorization of revisions to Montana's hazardous waste management program. This codification reflects the State program in effect at the time EPA authorized revisions to the Montana hazardous waste management program in a final rule dated September 30, 2005 (70 FR 57152). Notice and an opportunity for comment regarding the revisions to the authorized State program were provided to the public at the time those revisions were proposed. This action does not reopen any decision EPA previously made concerning the authorization of the State's hazardous waste management program.

EPA is amending 40 CFR part 272, Subpart BB by removing and reserving § 272.1350, and revising § 272.1351 to incorporate by reference Montana's authorized hazardous waste regulations, as amended through April 1, 2005. Section 272.1351 also references the demonstration of adequate enforcement authority, including procedural and enforcement provisions, which provide the legal basis for the State's

implementation of the hazardous waste management program. In addition, § 272.1351 references the Memorandum of Agreement, the Enforcement Agreement, the Attorney General's Statements and the Program Description, which are evaluated as part of the approval process of the hazardous waste management program in accordance with Subtitle C of RCRA.

D. What is the Effect of Montana's Codification on Enforcement?

EPA retains the authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013 and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in all authorized States. With respect to enforcement actions, EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the State analogs to these provisions. Therefore, the EPA is not incorporating by reference Montana's inspection and enforcement authorities nor are those authorities part of Montana's approved State program which operates in lieu of the Federal program. 40 CFR 272.1351(c)(2) lists these authorities for informational purposes, and also because EPA considered them in determining the adequacy of Montana's procedural and enforcement authorities. Montana's authority to inspect and enforce the State's hazardous waste management program requirements continues to operate independently under State law.

E. What State Provisions Are Not Part of the Codification?

The public is reminded that some provisions of Montana's hazardous waste management program are not part of the federally authorized State program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are ''broader in scope'' than RCRA subtitle C (see 40 CFR 271.1(i));

(2) State procedural and enforcement authorities which are necessary to establish the ability of the State's program to enforce compliance but which do not supplant the Federal statutory enforcement and procedural authorities.

State provisions that are ''broader in scope'' than the Federal program are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.1351(c)(3) lists the Montana statutory and regulatory provisions which are ''broader in scope'' than the Federal program and which are not part of the authorized program being incorporated by reference. While ''broader in scope'' provisions are not part of the authorized program and cannot be enforced by EPA, the State may enforce such provisions under State law.

F. What Will be the Effect of the Codification on Federal HSWA Requirements?

With respect to any requirement(s) pursuant to HSWA for which the State has not yet been authorized, and which EPA has identified as taking effect immediately in States with authorized hazardous waste management programs, EPA will enforce those Federal HSWA standards until the State is authorized for those provisions.

The codification does not affect Federal HSWA requirements for which the State is not authorized. EPA has authority to implement HSWA requirements in all States, including States with authorized hazardous waste management programs, until the States become authorized for such requirements or prohibitions, unless EPA has identified the HSWA requirement(s) as an optional or as a less stringent requirement of the Federal program. A HSWA requirement or prohibition, unless identified by EPA as optional or as less stringent, supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (50 FR 28702, July 15, 1985).

Some existing State requirements may be similar to the HSWA requirements implemented by EPA. However, until EPA authorizes those State requirements, EPA enforces the HSWA requirements and not the State analogs.

III. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action codifies State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action codifies pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely codifies State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

The requirements being codified are the result of Montana's voluntary participation in EPA's program authorization process under RCRA Subtitle C. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this action, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60

days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action is effective March 8, 2006.

List of Subjects in 40 CFR Part 272

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by Reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Dated: February 7, 2006.

Kerrigan G. Clough,

Acting Regional Administrator, Region 8.

■ For the reasons set forth in the preamble, 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Subpart BB—[Amended]

§ 272.1350 [Removed and reserved]

■ 2. Section 272.1350 is removed and reserved.

■ 3. Section 272.1351 is revised to read as follows:

§ 272.1351 Montana State-Administered Program: Final Authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Montana has final authorization for the following elements as submitted to EPA in Montana's base program application for final authorization which was approved by EPA effective on July 25, 1984. Subsequent program revision applications were approved effective on, March 21, 1994, December 24, 1996, December 26, 2000 and November 29, 2005.

(b) The State of Montana has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.* (1) The Montana regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the Montana regulations that are incorporated by reference in this paragraph are available from the Montana Secretary of State, Administrative Rules Bureau, P.O. Box 202801, Helena, MT 59620–2801 (Phone: 406–444–2055). You may inspect a copy at EPA Region 8, from 7 a.m. to 4 p.m., 999 18th Street, Suite 300, Denver, Colorado 80202–2466, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(i) The Binder entitled ''EPA Approved Montana Regulatory Requirements Applicable to the Hazardous Waste Management Program'', dated November 2005.

(ii) [Reserved]

(2) EPA considered the following statutes and regulations in evaluating the State program but is not incorporating them herein for enforcement purposes:

(i) Montana Code Annotated (MCA) 2005, Title 2, ''Government Structure and Administration'': Chapter 3, ''Public Participation in Governmental Operations'', sections 2–3–102 introductory paragraph through 2–3–102(2), 2–3–103(1), 2–3–104, 2–3–105, 2–3–111, 2–3–112, 2–3–221, 2–3–301; Chapter 4, ''Administrative Procedure Act'', sections 2–4–103, 2–4–315; Chapter 6, ''Public Records'', sections 2–6–101 *et seq.*; Chapter 15, ''Executive Branch Officers and Agencies'', sections 2–15–3501 and 2–15–3502.

(ii) Montana Code Annotated (MCA) 2005, Title 25, ''Civil Procedure'': Chapter 20, ''Rules of Civil Procedure'', Rule 24(a).

(iii) Montana Code Annotated (MCA) 2005, Title 27, ''Civil Liability, Remedies, and Limitations'': Chapter 30, ''Nuisances'', section 27–30–204.

(iv) Montana Code Annotated (MCA) 2005, Title 30, ''Trade and Commerce'': Chapter 14, ''Unfair Trade Practices and Consumer Protection'', sections 30–14–402 *et seq.*

(v) Montana Code Annotated (MCA) 2005, Title 75, ''Environmental Protection'': Chapter 10, ''Waste and Litter Control'', sections 75–10–107, 75–10–402(3), 75–10–403, 75–10–404(1) introductory paragraph and (1)(a), 75–10–404(1)(e), 75–10–404(2), 75–10–405 (except 75–10–405(1)(i), (1)(j) and (2)(a)), 75–10–406, 75–10–408, 75–10–409, 75–10–410, 75–10–411, 75–10–413, 75–10–414, 75–10–415, 75–10–416, 75–10–417, 75–10–418, 75–10–419, 75–10–420, 75–10–421, 75–10–422, 75–10–424, 75–10–425, 75–10–426, 75–10–427, 75–10–441 and 75–10–442; Chapter 20, ''Major Facility Siting''.

(vi) Administrative Rules of Montana (ARM), effective April 1, 2005, Title 17, ''Environmental Quality'': Chapter 53, Hazardous Waste, sections 17.53.104, 17.53.201, 17.53.202 , 17.53.206, 17.53.207, 17.53.208, 17.53.212, 17.53.213, 17.53.214, 17.53.215, 17.53.1202(5)(m), 17.53.1202(6).

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, are not incorporated by reference and are not federally enforceable:

(i) Montana Code Annotated (MCA) 2005, Title 75, ''Environmental Protection'': Chapter 10, ''Waste and Litter Control'', sections 75–10–405(1)(i) & (j), 75–10–405(2)(a), 75–10–431, 75–10–432, 75–10–433, 75–10–434.

(ii) Administrative Rules of Montana (ARM), effective April 1, 2005, Title 17, ''Environmental Quality'', Chapter 53, Hazardous Waste, sections 17.53.112, 17.53.113, 17.53.703, and 17.53.1202(5)(l), and (17).

(4) *Memorandum of Agreement and Enforcement Agreement.* The Memorandum of Agreement between EPA Region 8 and the State of Montana, signed by the State of Montana Department of Environmental Quality on November 30, 1993, and by the EPA Regional Administrator on December 25, 1993, and the Enforcement Agreement between EPA Region 8 and the State of Montana, signed by the State of Montana Department of Environmental Quality on September 1, 2000, and by the EPA Regional Administrator on September 11, 2000, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(5) *Statement of Legal Authority.* ''Independent Legal Counsel Statement'', accompanied by an Attorney General concurrence letter signed by the Attorney General of Montana on December 27, 1983 as amended June 7, 1984 and revisions, supplements and addenda to that Statement accompanied by Attorney General concurrence letters dated

September 23, 1993, March 28, 1995, June 29, 1995, and April 4, 2005 although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Program Description.* The Program Description and any other materials submitted as supplements thereto, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 4. Appendix A to part 272 , State Requirements, is amended by adding in alphabetical order, ''Montana'' and its listing to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

Montana

The regulatory provisions include:

Administrative Rules of Montana, Title 17, Environmental Quality, Chapter 53, Hazardous Waste, effective April 1, 2005, sections 17.53.101, 17.53.102, 17.53.105, 17.53.107, 17.53.111(1), 17.53.111(2), (except the phrase ''or to pay the fee required by ARM 17.53.111'' in the introductory paragraph), 17.53.111(3) (except the phrase ''and the generator fee required by ARM 17.53.113'' at 17.53.111(3)(a)), 17.53.301 (except the phrase ''and for which a registration fee is assessed'' at 17.53.301(2)(q)), 17.53.401, 17.53.402, 17.53.403, 17.53.501, 17.53.502, 17.53.601, 17.53.602, 17.53.603, 17.53.604, 17.53.701, 17.53.702, 17.53.704, 17.53.706, 17.53.707, 17.53.708, 17.53.801, 17.53.802, 17.53.803, 17.53.901, 17.53.902, 17.53.903, 17.53.1001, 17.53.1002, 17.53.1003, 17.53.1004, 17.53.1101, 17.53.1102, 17.53.1201, 17.53.1202 (except 17.53.1202(5)(l), (5)(m), (6) and (17)), 17.53.1203, 17.53.1301, 17.53.1302, 17.53.1303, 17.53.1401, and 17.53.1402.

Copies of the Montana regulations that are incorporated by reference are available from the Montana Secretary of State, Administrative Rules Bureau, P.O. Box 202801, Helena, MT 59620–2801 (Phone: 406–444–2055).

* * * * *

[FR Doc. 06–2181 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 03–122; FCC 06–12]

Unlicensed Devices in the 5 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document extends for 180 days the transition periods for unlicensed National Information Infrastructure (U–NII) equipment operating in the 5.250–5.350 GHz bands. This action will allow parties to continue to obtain equipment authorizations for such equipment and to market it under the rules in effect prior to the adoption of the 5 GHz U–NII Report and Order pending the development of measurement procedures for evaluating these devices for compliance with the new rules.

DATES: Effective February 16, 2006.

FOR FURTHER INFORMATION CONTACT: Shameeka Hunt, Policy and Rules Division, Office of Engineering and Technology, (202) 418–2062, e-mail: *Shameeka.Hunt@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, ET Docket No. 03–122, FCC 06–12, adopted February 15, 2006, and released February 16, 2006. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (CY–A257) 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail *FCC@BCPIWEB.COM*.

Summary of the Order

1. The Commission, National Telecommunications and Information Administration (NTIA), and the U–NII equipment industry are continuing to work together to develop test procedures to ensure that DFS adequately protects most Federal Government radar systems and have now completed a draft plan of test procedures. We anticipate NTIA will soon submit the revised measurement procedure to the Commission for consideration. The Commission will issue the updated measurement procedures for the certification of U–NII equipment containing DFS and TPC capabilities.

2. We note that the cut-off date for applications for equipment certification for products without DFS and TPC that operate in the 5.250–5.350 GHz band is January 20, 2006. We therefore are extending this cut-off date by 180 days in order to allow sufficient time for manufacturers to incorporate DFS into U–NII devices and comply with the rules including the new test procedures. Therefore, effective July 20, 2006, all devices for which an initial application for equipment certification is filed for U–NII equipment operating in the 5.250–5.350 GHz band must meet the rules adopted in the *5 GHz U–NII Report and Order*. We also extend by 180 days the two-year cut-off date for marketing and importation of equipment designed to operate in only the 5.250–5.350 GHz band. Therefore, U–NII equipment operating in the 5.250–5.350 GHz band that are imported or marketed on or after July 20, 2007 must comply with the DFS and TPC requirements adopted in the *5 GHz U–NII Report and Order*. We note that users who obtained equipment prior to any of these cut-off dates will be allowed to continue to use that equipment indefinitely. Finally, because our action today temporarily relieves a restriction, *i.e.*, the cut-off dates for equipment authorizations and the marketing of U–NII equipment in the 5.250–5.350 GHz band, we make this Order effective upon release.

Ordering Clauses

3. The Congressional Review Act (CRA), was addressed in a Report and Order released by the Commission, on November 18, 2003, in ''*In the Matter of Revision of Parts 2 and 15 of the Commission's rules to permit Unlicensed National Information Infrastructure (U–NII) devices in the 5 GHz band*'' in this proceeding, FCC 03–287, 69 FR 2677, January 20, 2004. This Order does not change any rules, it only extends the transition period for unlicensed U–NII devices. Therefore, the CRA requirements have already been fulfilled for this rule.

4. Pursuant to sections 4(i), 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f), and 303(r), and Section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Order *is hereby adopted*.

5. Section 15.37(l), 47 CFR *is hereby amended*, as set forth in the rule change and shall become effective February 16, 2006.

List of Subjects in 47 CFR Part 15

Communication equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Change

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 15 as follows:

PART 15—RADIO FREQUENCY DEVICES

■ 1. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544A.

■ 2. Section 15.37 is amended by revising paragraph (l) to read as follows:

§ 15.37 Transition provisions for compliance with the rules.

* * * * *

(l) U–NII equipment operating in the 5.25–5.35 GHz band for which applications for certification are filed on or after July 20, 2006 shall comply with the DFS and TPC requirements specified in § 15.407. U–NII equipment operating in the 5.25–5.35 GHz band that are imported or marketed on or after July 20, 2007 shall comply with the DFS and TPC requirements in § 15.407.

* * * * *

[FR Doc. 06–1966 Filed 3–7–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–342, MM Docket No. 01–5, RM–10028, RM–10107]

Radio Broadcasting Services; Butler and Reynolds, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial.

SUMMARY: The staff denied a petition for reconsideration filed by H. David Hedrick of a *Report and Order* this proceeding, which had denied Hedrick's rulemaking petition and granted a mutually exclusive allotment of Channel *245A at Reynolds, Georgia, reserved for noncommercial educational use. The staff determined that the reconsideration petition did not demonstrate any errors of fact or law and that Hedrick's rulemaking petition was properly rejected because he filed late comments. *See* 66 FR 5956 (February 8, 2002).

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket No. 01–5, adopted February 15, 2006, and released February 17, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20054, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*. This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Memorandum Opinion and Order to GAO, pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the petition for reconsideration was denied.)

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 06–2130 Filed 3–7–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–265; MB Docket No. 04–426, RM–11125]

Radio Broadcasting Services; Beaumont and Mont Belvieu, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule, correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register**, of February 22, 2006, a document which allotted Channel 248C from Beaumont to Mont Belvieu, Texas, as that community's first local FM service and modified the Station KRWP(FM) license accordingly. *See* 71 FR 8988. The document designation number was inadvertently listed in the headings section as DA 06–625. This document corrects the document designation number from DA 06–625 to DA 06–265.

DATES: Effective March 8, 2006.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: The FCC published a document in the **Federal Register** of February 22, 2006, (71 FR 8988), allotting Channel 248C from Beaumont to Mont Belvieu, Texas, as that community's first local FM service and modifying the Station KRWP(FM) license accordingly. In FR Doc. 06–1526, published in the **Federal Register** of February 22, 2006, (71 FR 8988), the document designation number was inadvertently listed as DA 06–625. This document corrects the document designation number from DA 06–625 to DA 06–265.

In rule FR Doc. 06–1526 published on February 22, 2006, (71 FR 8988) make the following correction. On page 8988, in the third column, in the headings section, the document designation number is corrected to read DA 06–265.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 06–2086 Filed 3–7–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–262; MB Docket No. 05–142; RM–11220]

Radio Broadcasting Services; Roma, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule, correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register,** of February 23, 2006, a document which allotted Channel 278A at Roma, Texas, as that community's second local FM service. *See* 71 FR 9267. The document designation number was inadvertently listed in the headings section as DA 06–265. This document corrects the document designation number from DA 06–265 to DA 06–262.

DATES: Effective March 8, 2006.

FOR FURTHER INFORMATION CONTACT: Deborah Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: The FCC published a document in the **Federal Register** of February 23, 2006, (71 FR 9267), allotting Channel 278A at Roma, Texas, as that community's second local FM service. In FR Doc. 06–1673, published in the **Federal Register** of February 23, 2006, (71 FR 9267), the document designation number was inadvertently listed as DA 06–265. This document corrects the document designation number from DA 06–265 to DA 06–262.

In rule FR Doc. 06–1673 published on February 23, 2006, (71 FR 9267) make the following correction. On page 9267, in the first column, in the headings section, the document designation number is corrected to read DA 06–262.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 06–2087 Filed 3–7–06; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

49 CFR Part 1

[Docket No. OST–2006–24108]

RIN 9991–AA48

Organization and Delegation of Powers and Duties; National Highway Traffic Safety Administrator

AGENCY: Office of the Secretary of Transportation.

ACTION: Final rule.

SUMMARY: The Secretary of Transportation (Secretary) is delegating to the National Highway Traffic Safety Administrator his authority to engage in activities with States and State legislators to consider proposals related to safety belt use laws.

DATES: *Effective Date:* This final rule is effective on March 8, 2006.

FOR FURTHER INFORMATION CONTACT: Stan Feldman, Associate Chief Counsel, Office of Chief Counsel, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW., Washington, DC 20590, Telephone: (202) 366–9511.

SUPPLEMENTARY INFORMATION: The Secretary of Transportation is delegating to the National Highway Traffic Safety Administrator his authority under 23 U.S.C. 406(e)(3), as added by section 2005(a) of SAFETEA–LU, Public Law 109–59, to engage in activities with States and State legislators to consider proposals related to safety belt use laws. The National Highway Traffic Safety Administrator may further delegate this authority, including to other modal Administrators within the Department of Transportation.

This amendment adds 49 CFR 1.50(o) to reflect the Secretary of Transportation's delegation of this authority. Since this amendment relates to departmental organization, procedure and practice, notice and comment are unnecessary under 5 U.S.C. 553(b). Further, since the amendment expedites the National Highway Traffic Safety Administrator's ability to meet the statutory intent of the applicable law and regulations covered by this delegation, the Secretary finds good cause under 5 U.S.C. 553(d)(3) for the final rule to be effective on the date of publication in the **Federal Register.**

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

The final rule is not considered a significant regulatory action under Executive Order 12866 and DOT Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). There are no costs associated with this rule.

B. Executive Order 13132

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999. This final rule does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore, the consultation and funding requirements do not apply.

C. Executive Order 13084

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. I hereby certify this final rule, which amends the CFR to reflect a modification of authority from the Secretary, will not have a significant economic impact on a substantial number of small businesses.

E. Paperwork Reduction Act

This rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

F. Unfunded Mandates Reform Act

The Department of Transportation has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

■ In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended, effective upon publication, to read as follows:

PART 1—[AMENDED]

■ 1. The authority citation for part 1 is revised to read as follows:

Authority: 49 U.S.C. 322; 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2); Pub. L. 101–552, 104 Stat. 2736; Pub. L. 106–159, 113 Stat. 1748; Pub. L. 107–71, 115 Stat. 597; Pub. L. 107–295, 116 Stat. 2064; Pub. L. 107–295, 116 Stat 2065; Pub. L. 107–296, 116 Stat. 2135; 41 U.S.C. 414; Pub. L. 108–426, 118 Stat. 2423; Pub. L. 109–59, 119 Stat. 1144.

■ 2. Section 1.50 is amended by adding paragraph (o) to read as follows:

§ 1.50 Delegations to National Highway Traffic Safety Administrator.

* * * * *

(o) Carry out the functions and exercise the authority vested in the Secretary under 23 U.S.C. 406 (e)(3), as added by section 2005(a) of SAFETEA–LU, Public Law 109–59, to engage in activities with States and State legislators to consider proposals related to safety belt use laws. The National Highway Traffic Safety Administrator may further delegate this authority, including to other modal Administrators within the Department of Transportation.

Issued on the 2nd day of March, 2006, at Washington, DC.

Norman Y. Mineta,

Secretary of Transportation.

[FR Doc. 06–2176 Filed 3–7–06; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216045–6045–01; I.D. 030306A]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock from the Aleutian Islands Subarea to the Bering Sea Subarea

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amounts of Community Development Quota (CDQ) and non-CDQ pollock from the Aleutian Islands subarea to the Bering Sea

subarea. These actions are necessary to provide opportunity for harvest of the 2006 total allowable catch (TAC) of pollock, consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP).

DATES: Effective March 3, 2006, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the FMP prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In the Aleutian Islands subarea, the 2006 A season allowance of non-CDQ pollock is 9,800 metric tons (mt) and the CDQ pollock is 760 mt as established by the 2006 and 2007 final harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006), for the period 1200 hrs, A.l.t., January 1, 2006, through 1200 hrs, A.l.t., June 10, 2006.

As of March 1, 2006, the Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that the following A season apportionments of pollock in the Aleutian Islands subarea will not be harvested: 5,800 of non-CDQ pollock and 760 mt of CDQ pollock. Therefore, in accordance with § 679.20(a)(5)(iii)(B)(*4*), NMFS proportionally reallocates 5,800 mt of non-CDQ pollock and 760 mt of CDQ pollock from the Aleutian Islands subarea to the 2006 Bering Sea subarea A season allocations, as listed in Tables 3,10, and 11 of the 2006 and 2007 final harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006).

The A season harvest specifications for pollock in the Aleutian Islands subarea included in the harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006) are revised as follows: 4,000 mt to the A season allowance of non-CDQ pollock and 0 mt to the A season allowance of CDQ pollock.

Pursuant to § 679.20(a)(5), Tables 3,10, and 11 of the 2006 and 2007 final harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006) are revised for the 2006 A season non-CDQ pollock and the A season CDQ pollock allocations consistent with this reallocation. This reallocation results in proportional adjustments to the 2006 A season non-CDQ pollock directed fishery allocation (DFA) established at § 679.20(a)(5).

BILLING CODE 3510–22–S

TABLE 3–2006 AND 2007 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA)[1]

[Amounts are in metric tons]

Area and sector	2006 Allocations	2006 A season[1]		2006 B season[1]	2007 Allocations	2007 A season[1]		2007 B season[1]
		A season DFA	SCA harvest limit[2]	B season DFA		A season DFA	SCA harvest limit[2]	B season DFA
Bering Sea subarea	1,491,560	n/a	n/a	n/a	1,500,000	n/a	n/a	n/a
CDQ DFA	149,260	59,704	41,793	89,100	149,156	59,662	41,764	89,494
ICA	44,967	n/a	n/a	n/a	45,253	n/a	n/a	n/a
AFA Inshore	648,666	261,148	181,626	387,518	652,795	261,118	182,783	391,677
AFA Catcher/Processors[3]	518,933	208,918	145,301	310,015	522,236	208,895	146,226	313,342
Catch by C/Ps	474,824	191,160	n/a	283,664	477,846	191,138	n/a	286,708
Catch by CVs[3]	44,109	17,758	n/a	26,351	44,390	17,756	n/a	26,634
Unlisted C/P Limit[4]	2,595	1,045	n/a	1,550	2,611	1,044	n/a	1,567
AFA Motherships	129,733	52,230	36,325	77,504	130,559	52,224	36,557	78,335
Excessive Harvesting Limit[5]	227,033	n/a	n/a	n/a	228,478	n/a	n/a	n/a
Excessive Processing Limit[6]	389,200	n/a	n/a	n/a	391,677	n/a	n/a	n/a
Total Bering Sea DFA	1,446,592	582,000	405,046	864,137	1,454,747	581,899	407,329	872,848
Aleutian Islands subarea[1]	11,300	n/a	n/a	n/a	19,000	n/a	n/a	n/a
CDQ DFA	1,140	n/a	n/a	1,140	1,900	760	n/a	1,140
ICA	1,800	1,200	n/a	600	1,800	1,200	n/a	600
Aleut Corporation	9,500	4,000	n/a	5,500	15,300	9,800	n/a	5,500
Bogoslof District ICA[7]	10	n/a	n/a	n/a	10	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the Bering Sea subarea pollock, after subtraction for the CDQ DFA - 10 percent and the ICA - 3.35 percent, is allocated as a DFA as follows: inshore component - 50 percent, catcher/processor component - 40 percent, and mothership component - 10 percent. In the Bering Sea subarea, the A season, January 20 - June 10, is allocated 40 percent of the DFA and the B season, June 10 - November 1, is allocated 60 percent of the DFA. Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) and (ii), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance - 10 percent and second the ICA - 1,800 mt, is allocated to the Aleut Corporation for a directed pollock fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the directed pollock fishery.

[2] In the Bering Sea subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of SCA before April 1 or inside the SCA after April 1. If 28 percent of the annual DFA is not taken inside the SCA before April 1, the remainder is available to be taken inside the SCA after April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(4), not less than 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

[4] Pursuant to § 679.20(a)(5)(i)(A)(4)(iii), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(A)(6) NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(A)(7) NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the pollock DFAs.

[7] The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only, and are not apportioned by season or sector.

TABLE 10–2006 AND 2007 BERING SEA SUBAREA INSHORE COOPERATIVE ALLOCATIONS
[Amounts are in metric tons]

Cooperative name and member vessels	Sum of member vessel's official catch histories[1](mt)	Percentage of inshore sector allocation	2006 Annual cooperative allocation (mt)	2007 Annual cooperative allocation (mt)
Akutan Catcher Vessel Association		31.145	202,027	203,186
Arctic Enterprise Association		1.146	7,432	7,476
Northern Victor Fleet Cooperative		8.412	54,568	54,879
Peter Pan Fleet Cooperative		2.876	18,657	18,763
Unalaska Cooperative		12.191	79,076	79,533
UniSea Fleet Cooperative		25.324	164,269	165,211
Westward Fleet Cooperative		18.906	122,635	123,340
Open access AFA vessels		0	0	0
Total inshore allocation	875,572	100	648,666	652,388

[1]According to regulations at § 679.62(e)(1), the individual catch history for each vessel is equal to the vessel's best 2 of 3 years inshore pollock landings from 1995 through 1997 and includes landings to catcher/processors for vessels that made 500 or more mt of landings to catcher/processors from 1995 through 1997.

TABLE 11–2006 AND 2007 BERING SEA SUBAREA POLLOCK ALLOCATIONS TO THE COOPERATIVE AND OPEN ACCESS SECTORS OF THE INSHORE POLLOCK FISHERY
[Amounts are in metric tons]

Sector	2006 A season TAC	2006 A season SCA harvest limit[1]	2006 B season TAC	2007 A season TAC	2007 A season SCA harvest limit[1]	2007 B season TAC
Inshore cooperative sector						
Vessels > 99 ft	n/a	155,862	n/a	n/a	156,923	n/a
Vessels ≤ 99 ft	n/a	25,765	n/a	n/a	25,746	n/a
Total	261,148	181,627	387,518	260,955	182,669	391,433
Open access sector	0	0[2]	0	0	0[2]	0
Total inshore sector	261,148	181,627	387,518	260,955	182,669	391,433

[1] The Steller sea lion conservation area (SCA) is established at § 679.22(a)(7)(vii).

[2] The SCA limitations for vessels less than or equal to 99 ft LOA that are not participating in a cooperative will be established on an inseason basis in accordance with § 679.22(a)(7)(vii)(C)(2) that specifies that "the Regional Administrator will prohibit directed fishing for pollock by vessels greater than 99 ft (30.2 m) LOA, catching pollock for processing by the inshore component before reaching the inshore SCA harvest limit before April 1 to accommodate fishing by vessels less than or equal to 99 ft (30.2 m) inside the SCA until April 1."

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Aleutian Islands subarea pollock to the Bering Sea subarea. On March 1, 2006, NMFS was notified by the Aleut Corporation and the CDQ groups that some of the pollock allocations in the Aleutian Islands subarea will not be harvested. Since the A season is currently open, it is important to immediately inform the industry as to the final Bering Sea subarea A season allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery; allow the industry to plan for the fishing season and avoid potential disruption to the fishing fleet as well as processors; and provide opportunity to harvest increased A season pollock allocations while roe quality and value are optimum.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 3, 2006.

James P. Burgess,

Acting Director of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 06–2186 Filed 3–3–06; 2:38 pm]

BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 71, No. 45
Wednesday, March 8, 2006

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23706; Directorate Identifier 2006–NE–03–AD]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. TPE331 Series Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Honeywell International Inc. TPE331 series turboprop engines with certain part numbers of Woodward fuel control assemblies installed. This proposed AD would require initial and repetitive dimensional inspections of the splines between the fuel pump and fuel control, for wear or damage. This proposed AD would also require replacing those fuel control assemblies with serviceable modified fuel control assemblies with improved overspeed protection. This proposed AD results from reports of loss of the drive between the fuel pump and fuel control, leading to engine overspeed, overtorque, overtemperature, uncontained rotor failure, and asymmetric thrust in multi-engine airplanes. We are proposing this AD to prevent rapid, uncommanded, uncontrolled increase in fuel flow to the engine, asymmetric thrust, uncontained rotor failure, and damage to the airplane.

DATES: We must receive any comments on this proposed AD by May 8, 2006.

ADDRESSES: Use one of the following addresses to comment on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You can get the service information identified in this proposed AD from Honeywell Engines, Systems & Services, Technical Data Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, AZ 85072–2170; telephone: (602) 365–2493 (General Aviation); (602) 365–5535 (Commercial); fax: (602) 365–5577 (General Aviation and Commercial).

You may examine the comments on this proposed AD in the AD docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (562) 627–5246; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2006–23706; Directorate Identifier 2006–NE–03–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.govROW* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the DOT Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Examining the AD Docket

You may examine the docket that contains the proposal, any comments received and, any final disposition in person at the DOT Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES.** Comments will be available in the AD docket shortly after the Docket Management Facility receives them.

Discussion

Within the past 30 years, we have received reports of 51 broken, sheared, or excessively worn fuel pump/fuel control drive splines on TPE331 series engines, which have resulted in operational anomalies such as uncontrollable fuel flow, overtorques, or overspeeds. In 11 of these reports, failed fuel pump drive shafts led to engine overspeed. Five of those overspeed events caused a turbine wheel to separate.

While investigating the noted service events, we determined that the loss of drive between the engine-driven fuel pump and the fuel control governor system, results in a rapid, uncommanded, and uncontrolled increase in engine fuel flow. The effects of fuel flow increase could include overspeed, overtorque, overtemperature of the engine, significant asymmetric thrust, inability to produce reverse thrust, and uncontained separation of high speed rotating components. This condition, if not corrected, could result in rapid, uncommanded, uncontrolled increase in fuel flow to the engine, uncontained failure, and damage to the aircraft.

This proposed AD would require initial and repetitive dimensional inspections of the splines between the fuel pump and fuel control, for wear or damage, and replacement of the fuel control if an unserviceable condition

exists. The proposed AD would also require eventual replacement of affected fuel controls with an improved fuel control, which better accommodates drive spline failure by eliminating the overspeed condition. This remove and replace requirement is a terminating action to inspections for all installations. However, for the optional method of compliance explained in paragraph (l), for agricultural operations, removal and replacement is not required, as discussed below.

Agricultural operations at low altitude and heavy loads place special demands on aircraft operating in that environment. For example, high power and, therefore, high fuel flow, is necessary for an aircraft engaged in agricultural spraying to avoid power lines, utility poles, trees, and buildings (including silos). We consider a sudden power loss or inability to maintain altitude close to the ground more hazardous than managing an engine overspeed and overtorque event. Operations other than agricultural operations, are not exposed to these hazards. Therefore, we propose to allow continued use of existing fuel control assemblies in agricultural operations, and control the rate of failure with a repetitive inspection program for those limited number of engines.

The Agency is committed to updating the aviation community of expected costs associated with the MU–2B series airplane safety evaluation conducted in 2005. As a result of that commitment, the accumulating expected costs of all ADs related to the MU–2B series airplane safety evaluation may be found at the following Web site: *http://www.faa.gov/aircraft/air_cert/design_approvals/small_airplanes/cos/mu2_foia_reading_library/*.

Relevant Service Information

We have reviewed and approved the technical contents of Honeywell International Inc. Alert Service Bulletin (ASB) No. TPE331–A73–0254, Revision 2, dated June 17, 2005; ASB No. TPE331–A73–0262, Revision 2, dated June 17, 2005; and ASB No. TPE331–A73–0271, Revision 1, dated January 25, 2006, that describe procedures for replacing affected fuel control assemblies with serviceable modified fuel control assemblies. Also we have reviewed the dimensional inspection requirements of the fuel control/fuel pump mating splines in the applicable maintenance manuals.

Differences Between the Proposed AD and the Manufacturer's Service Information

This proposed AD adds a compliance time of no later than December 31, 2012. Also, this proposed AD provides repetitive inspection requirements as an optional method of compliance to installing modified fuel control assemblies for single-engine airplanes used for agricultural operations.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require:

- Performing initial and repetitive fuel control/fuel pump mating spline inspections.
- Replacing the Woodward fuel control assemblies listed by part number in the compliance section, with serviceable modified fuel control assemblies with improved overspeed protection, the next time the fuel control assembly is removed, but not later than December 31, 2012.
- As an optional method of compliance, performing repetitive fuel control/fuel pump mating spline inspections for engines installed on single-engine airplanes used for agricultural operations without having to install a modified fuel control.

Costs of Compliance

We estimate this proposed AD would affect 3,250 engines installed on airplanes of U.S. registry. We also estimate it would take about one work hour per engine to replace the fuel control assembly during a normal scheduled overhaul. We also estimate it would take about three work hours to perform a dimensional inspection of the fuel control/fuel pump mating splines. The average labor rate is $65 per work hour. A replacement fuel control assembly would cost about $9,700 per engine. We estimate that on each engine one fuel control inspection would be performed, and each engine would have the fuel control replaced. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $32,370,000.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Honeywell International Inc. (formerly AlliedSignal Inc., Garrett Engine

Division; Garrett Turbine Engine Company; and AiResearch Manufacturing Company of Arizona): Docket No. FAA–2006–23706; Directorate Identifier 2006–NE–03–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by May 8, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Honeywell International Inc. TPE331–1, –2, –2UA, –3U, –3UW, –5, –5A, –5AB, –5B, –6, –6A, –10, –10AV, –10GP, –10GT, –10P, –10R, –10T, –10U, –10UA, –10UF, –10UG, –10UGR, –10UR, –11U, –12JR, –12UA, –12UAR, and –12UHR turboprop engines with the part numbers (P/Ns) of Woodward fuel control assemblies listed in this AD, installed. These engines are installed on, but not limited to, the following airplanes:

Manufacturer	Model
AERO PLANES, LLC (formerly McKinnon Enterprises)	G–21G.
ALLIED AG CAT PRODUCTIONS (formerly Schweizer)	G–164 SERIES.
AYRES	S–2R SERIES.
BRITISH AEROSPACE LTD (formerly Jetstream)	3101 AND 3201 SERIES, AND HP.137 JETSTREAM MK.1.
CONSTRUCCIONES AERONAUTICAS, S.A. (CASA)	C–212 SERIES.
DEHAVILLAND	DH104 SERIES 7AXC (DOVE).
DORNIER	228 SERIES.
FAIRCHILD	SA226 AND SA227 SERIES (SWEARINGEN MERLIN AND METRO SERIES).
GRUMMAN AMERICAN	G–164 SERIES.
MITSUBISHI	MU–2B SERIES (MU–2 SERIES).
PILATUS	PC–6 SERIES (FAIRCHILD PORTER AND PEACEMAKER).
POLSKIE ZAKLADY LOTNICZE SPOLKA (formerly Wytwornia Sprzetu Komunikacyjnego).	PZL M18, PZL M18A, PZL M18B.
PROP–JETS, INC	400.
RAYTHEON AIRCRAFT (formerly Beech)	C45G, TC–45G, C–45H, TC–45H, Tc–45J. G18S, E18S–9700, D18S, D18C, H18, RC–45J, JRB–6, UC–45J, 3N, 3NM, 3TM, B100, C90 AND E90.
SHORTS BROTHERS AND HARLAND, LTD	SC7 (SKYVAN) SERIES.
THRUSH (ROCKWELL COMMANDER)	S–2R.
TWIN COMMANDER (JETPROP COMMAMDER)	680, 690 AND 695 SERIES.

Unsafe Condition

(d) This AD results from reports of loss of the drive between the fuel pump and fuel control, leading to engine overspeed, overtorque, overtemperature, uncontained rotor failure, and asymmetric thrust in multi-engine airplanes. We are issuing this AD to prevent rapid, uncommanded, uncontrolled increase in fuel flow to the engine, asymmetric thrust, uncontained rotor failure, and damage to the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified unless the actions have already been done.

Initial Inspection

(f) At the next scheduled inspection of the fuel control assembly and fuel pump mating splines, but within 1,000 hours-in-service after the effective date of this AD:

(1) Perform an initial dimensional inspection of the splines between the fuel pump and fuel control, for wear or damage. Information on spline inspection can be found in Section 72–00–00 of the applicable maintenance manuals.

(2) Repair or replace the fuel control assembly if the splines fail the dimensional inspection, with any serviceable fuel control assembly.

Repetitive Inspections

(g) Thereafter, within 1,000 hours since-last-inspection:

(1) Perform repetitive dimensional inspections of the splines between the fuel pump and fuel control, for wear or damage. Information on spline inspection can be found in Section 72–00–00 of the applicable maintenance manuals.

(2) Repair or replace the fuel control assembly if the splines fail the dimensional inspection, with any serviceable fuel control assembly.

TPE331–1, –2, and –2UA Series Engines

(h) For TPE331–1, –2, and –2UA series engines, replace Woodward fuel control assemblies, P/Ns 869199–13/ –20/ –21/ –22/ –23/ –24/ –25/ –26/ –27/ –28/ –29/ –31/ –32/ –33/ –34 and –35, with a serviceable, modified fuel control assembly the next time the fuel control assembly is removed for cause that requires return, or when the fuel control assembly requires overhaul, but not later than December 31, 2012. Information on replacement fuel control assembly P/Ns, configuration management, rework, and replacement information, can be found in Honeywell Alert Service Bulletin (ASB) No. TPE331–A73–0271, Revision 1, dated January 25, 2006.

TPE331–3U, –3UW, –5, –5A, –5AB, –5B, –6, –6A, –10AV, –10GP, –10GT, –10P, and –10T Series Engines

(i) For TPE331–3U, –3UW, –5, –5A, –5AB, –5B, –6, –6A, –10AV, –10GP, –10GT, –10P, and –10T series engines, replace Woodward fuel control assemblies, P/Ns 893561–7/ –8/ –9/ –10/ –11/ –14/ –15/ –16/ –20/ –26/ –27 and –29, and P/Ns 897770–1/ –3/ –7/ –9/ –10/ –11/ –12/ –14/ –15/ –16/ –25/ –26 and –28, with a serviceable, modified fuel control assembly the next time the fuel control assembly is removed for cause that requires return, or when the fuel control assembly requires overhaul, but not later than December 31, 2012. Information on replacement fuel control assembly P/Ns, configuration management, rework, and replacement information, can be found in Honeywell ASB No. TPE331–A73–0262, Revision 2, dated June 17, 2005.

TPE331–10, –10R, –10U, –10UA, –10UF, –10UG, –10UGR, –10UR, –11U, –12JR, –12UA, –12UAR, and –12UHR Series Engines

(j) For TPE331–10, –10R, –10U, –10UA, –10UF, –10UG, –10UGR, –10UR, –11U, –12JR, –12UA, –12UAR, and –12UHR series engines, replace Woodward fuel control assemblies, P/Ns 897375–2/ –3/ –4/ –5/ –8/ –9/ –10/ –11/ –12/ –13/ –14/ –15/ –16/ –17/ –19/ –21/ –24/ –25/ –26 and –27, and P/Ns 897780–1/ –2/ –3/ –4/ –5/ –6/ –7/ –8/ –9/ –10/ –11/ –14/ –15/ –16/ –17/ –18/ –19/ –20/ –21/ –22/ –23/ –24/ –25/ –26/ –27/ –30/ –32/ –34/ –36/ –37 and –38, and P/Ns 893561–17/ –18 and –19, with a serviceable, modified fuel control assembly the next time the fuel control assembly is removed for cause that requires return, or when the fuel control assembly requires overhaul, but not later than December 31, 2012. Information on replacement fuel control assembly P/Ns, configuration management, rework, and replacement information, can be found in Honeywell ASB TPE331–A73–0254, Revision 2, dated June 17, 2005.

Definitions

(k) For the purposes of this AD:

(1) A serviceable, modified fuel control assembly for engines affected by paragraph (h), (i), or (j) of this AD, is a fuel control assembly with a P/N not listed in this AD.

(2) A removal for cause that requires return, for engines affected by paragraph (h),

(i), or (j) of this AD, is a fuel control assembly that has displayed an unserviceable or unacceptable operating condition requiring the fuel control to be removed and sent to a repair or overhaul shop.

Optional Method of Compliance for TPE331 Series Engines Installed On Single-Engine Airplanes Used for Agricultural Operations

(l) As an optional method of compliance to paragraph (h), (i), or (j), for TPE331 series engines installed on single-engine airplanes used for agricultural operations, having an affected Woodward fuel control assembly:

(1) Continue repetitive dimensional inspections of the splines between the fuel pump and fuel control, for wear or damage as specified in paragraph (g) of this AD.

(2) Repair or replace the fuel control assembly if the splines fail the dimensional inspection, with any serviceable fuel control assembly.

(3) Installation of a serviceable, modified fuel control assembly is not required.

Terminating Action

(m) Performing a fuel control assembly replacement as specified in paragraph (h), (i), or (j) of this AD, is terminating action for the initial and repetitive inspections required by this AD.

Alternative Methods of Compliance

(n) The Manager, Los Angeles Aircraft Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(o) None.

Issued in Burlington, Massachusetts, on March 2, 2006.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E6–3260 Filed 3–7–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24101; Directorate Identifier 2005–NM–103–AD]

RIN 2120–AA64

Airworthiness Directives; Sandel Avionics Incorporated Model ST3400 Terrain Awareness Warning System/ Radio Magnetic Indicator Approved Under Technical Standard Order(s) C113, C151a, or C151b; Installed on Various Small and Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD). The new AD is for Sandel Avionics Incorporated Model ST3400 terrain awareness warning systems/radio magnetic indicator (TAWS/RMI) units as described above. This proposed AD would require installing a warning placard on the TAWS/RMI, installing upgraded software in the TAWS/RMI, revising the limitations section of the Airplane Flight Manual (AFM), and removing the placard and AFM revision after installing the software. This proposed AD results from a report that an in-flight bearing error occurred in a Model ST3400 TAWS/RMI, due to a combination of input signal fault and software error. We are proposing this AD to prevent a bearing error, which could lead to an airplane departing from its scheduled flight path, which could result in a reduction in separation from, and a possible collision with, other aircraft or terrain.

DATES: We must receive comments on this proposed AD by April 24, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Sandel Avionics Incorporated (Sandel), 2401 Dogwood Way, Vista, California 92083, for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Ha A. Nguyen, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5335; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Include the docket number ''FAA–2006–24101; Directorate Identifier 2005–NM–103–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

We have received a report indicating that an in-flight bearing error occurred in a Sandel Avionics Incorporated (Sandel) Model ST3400 terrain awareness warning systems/radio magnetic indicator (TAWS/RMI) installed on a Raytheon Model HS.125 series 700A airplane, due to a combination of input signal fault and software error. A similar fault could occur in any such TAWS/RMI that is configured for COMPOSITE NAV and has software installed that is at revision 3.05 or A3.05 or earlier. This condition, if not corrected, could lead to an airplane departing from its scheduled flight path, which could result in a reduction in separation from and a possible collision with other aircraft or terrain.

Relevant Service Information

We have reviewed Sandel ST3400 Service Bulletin SB3400–01, Revision B, dated September 15, 2004. The service bulletin describes procedures for installing an instructional placard on the TAWS/RMI, and updating the TAWS/RMI software to revision A3.06 or 3.07, depending upon manufacturer serial number. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and Service Bulletin.''

Differences Between the Proposed AD and Service Bulletin

Although the service bulletin does not specify a revision to the airworthiness limitations section of the Airplane Flight Manual (AFM), we have determined that such a revision is needed to ensure flightcrew awareness of the TAWS/RMI status before the software upgrade has been accomplished. We have included a requirement in this proposed AD to revise the AFM. This difference has been coordinated with the manufacturer.

The service bulletin specifies installing the instructional placard within 10 flight hours after the effective date of the service bulletin. However, such a brief period could impose considerable hardship on operators. We have determined that this action can be accomplished within 14 days without undue increased risk; therefore, we have specified that compliance time in this proposed AD.

Costs of Compliance

This proposed AD would affect about 300 airplanes of U.S. registry. The proposed actions would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $19,500, or $65 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Sandel Avionics Incorporated: Docket No. FAA–2006–24101; Directorate Identifier 2005–NM–103–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by April 24, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Sandel Avionics Incorporated (Sandel) Model ST3400 terrain awareness warning system/radio magnetic indicator (TAWS/RMI) units approved under Technical Standard Order(s) C113, C151a, or C151b; as identified in Sandel ST3400 Service Bulletin SB3400–01, Revision B, dated September 15, 2004; as installed on various small and transport category airplanes, certificated in any category, including, but not limited to, the airplane models listed in Table 1 of this AD.

TABLE 1.—MANUFACTURERS/AIRPLANE MODELS

Manufacturer	Airplane model(s)
Airbus	A300.
Aero Commander (Rockwell, Gulfstream)	500A.
Beech (Raytheon)	1900D.
Boeing	727, 737, 747.
Cessna	208, 208B, 421C; Citation 501, 525, 550, 560, 650, S550.
Challenger (Canadair; originally LearStar)	600, 600 series, 601.
Commander (Aero Commander)	695A.
DeHaviland (Hawker Siddeley, BAE)	DHC–6.
Embraer	120.
Falcon (Dassault)	10, 50, 200.

TABLE 1.—MANUFACTURERS/AIRPLANE MODELS—Continued

Manufacturer	Airplane model(s)
Gulfstream	G–1159A, G–I, G–III.
Israel Aircraft Industries (IAI)	1124, 1125.
Jetstream	31.
Lear	24, 35, 36, 55.
McDonnell Douglas	DC–10.
Mitsubishi (Raytheon)	MU–300.
Piper (Swearingen)	Cheyenne PA31–T2.
Raytheon	Barron 58; Beechjet 400; Bonanza A36; Hawker 125–600, 125–700, 125–700A, 125–800A, 800–XP; King Air 200, 300, 350, A200, B100, B200, B300, C90, C90A, C90B, E90, E910, F90.
Sabreliner	60.
Swearingen	SA227.

Unsafe Condition

(d) This AD results from a report that an in-flight bearing error occurred in a Model ST3400 TAWS/RMI due to a combination of input signal fault and software error. We are issuing this AD to prevent a bearing error, which could lead to an airplane departing from its scheduled flight path, which could result in a reduction in separation from, and a possible collision with, other aircraft or terrain.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Installing Placard

(f) Within 14 days after the effective date of this AD: Install a placard on the TAWS/RMI which states, ''NOT FOR PRIMARY VOR NAVIGATION,'' in accordance with Sandel ST3400 Service Bulletin SB3400–01, Revision B, dated September 15, 2004.

Revising AFM

(g) Within 14 days after the effective date of this AD: Revise the limitations section of the applicable Airplane Flight Manual (AFM) to include the following statement: ''Use of ST3400 TAWS/RMI for primary VOR navigation is prohibited unless the indicator has 3.07 or A3.06 software or later.'' This may be done by inserting a copy of this AD into the AFM.

Updating Software

(h) Within 90 days after the effective date of this AD, in accordance with Sandel ST3400 Service Bulletin SB3400–01, Revision B, dated September 15, 2004: Field-load the TAWS/RMI with updated software having revision 3.07 (for units having serial numbers (S/Ns) under 2000) or revision A3.06 (for units having S/Ns 2000 and subsequent), as applicable. The placard and AFM limitations revision installed as required by paragraphs (f) and (g) of this AD may be removed after the software upgrade required by paragraph (h) of this AD has been accomplished.

Parts Installation

(i) As of 90 days after the effective date of this AD, no person may install, on any airplane, an ST3400 TAWS/RMI unit, unless it has been modified according to Sandel ST3400 Service Bulletin SB3400–01, Revision B, dated September 15, 2004.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Issued in Renton, Washington, on February 28, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–3262 Filed 3–7–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24102; Directorate Identifier 2005–NM–244–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–300, 747–400, 747–400D, and 747SR Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Boeing Model 747–100 and –200 series airplanes. The existing AD currently requires repetitive inspections for cracking of the station 800 frame assembly, and repair if necessary. This proposed AD would retain the repetitive inspection requirements of the existing AD, but would expand the area to be inspected. This proposed AD also would reduce the initial inspection threshold, remove the adjustment of the compliance threshold and repetitive interval based on cabin differential pressure, and add airplanes to the applicability. This proposed AD results from several reports of cracks of the station 800 frame assembly on airplanes that had accumulated fewer total flight cycles than the initial inspection threshold in the existing AD. We are proposing this AD to detect and correct fatigue cracks that could extend and fully sever the frame, which could result in development of skin cracks that could lead to rapid depressurization of the airplane.

DATES: We must receive comments on this proposed AD by April 24, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6437; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''Docket No. FAA–2006–24102; Directorate Identifier 2005–NM–244–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or may can visit *http://dms.dot.gov.*

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

On July 12, 2001, we issued AD 2001–14–22, amendment 39–12333 (66 FR 38891, July 26, 2001), for certain Boeing Model 747–100 and –200 series airplanes. That AD requires repetitive detailed, surface high-frequency eddy current (HFEC), and open hole HFEC inspections for cracking of the station 800 frame assembly, and repair if necessary. That AD resulted from reports that operators had found fatigue cracks in the strap and inner chord angle at the station 800 frame, between stringers 14 and 18, on certain Boeing Model 747–100 and –200 series airplanes. We issued that AD to find and fix fatigue cracks that could extend and fully sever the frame, which could result in development of skin cracks that could lead to rapid depressurization of the airplane.

Actions Since Existing AD Was Issued

Since we issued AD 2001–14–22, we have received several reports of cracks of the station 800 frame assembly on airplanes that had accumulated fewer than 19,000 total flight cycles, which is the initial inspection threshold for AD 2001–14–22. Cracks between 0.4 and 0.8 inch in length were found at the inner chord angles on three airplanes that had accumulated between 15,735 and 16,428 total flight cycles. A crack indication was also found at the inner chord angle on an airplane that had accumulated 9,675 total flight cycles. In addition, Boeing found a crack at the aft inner chord angle on a Model 747–300 stretched upper deck airplane that had accumulated 23,475 total flight cycles. As a result of this finding, Boeing examined the Model 747–400 fatigue-test airplane and found significant damage in the affected area, including severed inner chord angles on both the left and right sides. The fatigue-test airplane had accumulated 54,000 test cycles.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 747–53A2451, Revision 1, dated November 10, 2005. The procedures in this alert service bulletin are essentially the same as those in Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000, which was referenced as the appropriate source of service information for accomplishing the required actions in AD 2001–14–22. However, Revision 1 of the alert service bulletin adds airplanes to the effectivity, and expands the inspection area for the detailed and surface HFEC inspections.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

Explanation of Change to Adjustment Based on Cabin Differential Pressure

Paragraph (b) of AD 2001–14–22 allows for adjustment to the compliance threshold by not counting the flight cycles in which cabin differential pressure is at 2.0 pounds per square inch (psi) or less. This proposed AD would not allow that adjustment. However, this proposed AD states that operators may continue to adjust the repetitive inspection interval based on a lower cabin differential pressure until the next scheduled inspection. Thereafter, this proposed AD would not allow such adjustment. We have determined that an adjustment of flight cycles due to a lower cabin differential pressure is not substantiated and will not be allowed for use in determining the flight-cycle threshold for this proposed AD. There have been several instances on other in-service issues where analytical rationales have indicated that pressurization cycles of less than 2.0 psi should not be counted. However, when fleet records have been examined, the airplanes engaging in such operations have the same or greater occurrences of crack findings compared with those on which all pressurized flights are counted. As a result, we carefully consider such matters based on all available factors, including individual operators' specific maintenance programs, technical rationale, and fleet experience. We have found that such provisions are applicable only to a small number of operators that may not pressurize their airplanes above 2.0 psi in all their flights. We have determined that the best way to handle such circumstances is for operators to request an alternative method of compliance (AMOC) in accordance with the procedures in paragraph (l) of this proposed AD, rather than by increasing the complexity of the AD by addressing each operator's unique situation.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other airplanes of the same type design. For this reason, we are proposing this AD, which would supersede AD 2001–14–22 and retain the requirements of the existing AD. This proposed AD would reduce the initial inspection threshold, remove the adjustment of the compliance threshold and repetitive interval based on cabin differential pressure, and add airplanes to the applicability. This proposed AD would require accomplishing the actions specified in the service bulletin described previously, except as discussed under ''Differences Between the Proposed AD and the Service Bulletin.''

Differences Between the Proposed AD and the Service Bulletin

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

Although the service bulletin specifies to send Boeing a report of any structural damage found while doing the inspections, this proposed AD would not include that requirement.

Explanation of Additional Changes to Existing AD

Boeing has received a Delegation Option Authorization (DOA). We have revised this proposed AD to delegate the authority to approve an alternative method of compliance for any repair that would be required by this proposed AD to the Authorized Representative for the Boeing DOA Organization rather than the Designated Engineering Representative (DER).

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

We have revised the applicability to reflect the model designations as published in the most recent type certificate data sheets.

This proposed AD would retain the repetitive inspection requirements of AD 2001–14–22. Since AD 2001–14–22 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result of this change, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2001–14–22	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraph (f).
Paragraph (b)	Paragraph (g).
Paragraph (c)	Paragraph (h).

Clarification of Inspections

We have changed all references to a ''detailed visual inspection'' in the existing AD to ''detailed inspection'' in this proposed AD. A definition of a detailed inspection is included in the service bulletin.

Costs of Compliance

There are about 900 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 156 airplanes of U.S. registry.

The inspections that are specified in AD 2001–14–22, and retained in this proposed AD, take between 12 and 14 work hours per airplane, depending on the airplane configuration. The average labor rate is $65 per work hour. Based on these figures, the estimated cost of the currently required actions is between $121,680 and $141,960, or between $780 and $910 per airplane, per inspection cycle.

The new proposed actions would take between 18 and 20 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the new actions specified in this proposed AD for U.S. operators is between $182,520 and $202,800, or between $1,170 and $1,300 per airplane, per inspection cycle.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–12333 (66 FR 38891, July 26, 2001) and adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2006–24102; Directorate Identifier 2005–NM–244–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by April 24, 2006.

Affected ADs

(b) This AD supersedes AD 2001–14–22.

Applicability

(c) This AD applies to all Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–300, 747–400, 747–400D, and 747SR series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from several reports of cracks of the station 800 frame assembly on airplanes that had accumulated fewer total flight cycles than the initial inspection threshold in the existing AD. We are issuing this AD to detect and correct fatigue cracks that could extend and fully sever the frame, which could result in development of skin cracks that could lead to rapid depressurization of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within

the compliance times specified, unless the actions have already been done.

Restatement of the Requirements of AD 2001–14–22

Repetitive Inspections

(f) For Boeing Model 747–100, 747–100B, 747–100B SUD, –200B, 747–200C, and 747–200F series airplanes, as identified in Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000: Do detailed, surface high-frequency eddy current (HFEC), and open-hole HFEC inspections, as applicable, for cracking of the station 800 frame assembly (including the inner chord strap, angles, and exposed web) between stringers 14 and 18, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000; or Boeing Alert Service Bulletin 747–53A2451, Revision 1, dated November 10, 2005; after the effective date of this AD, only Revision 1 of the service bulletin may be used. Except as provided by paragraph (g) of this AD, do the inspection at the applicable time specified in Table 1 of this AD, and repeat the inspections thereafter at intervals not to exceed 3,000 flight cycles until the initial inspections required by paragraph (h) of this AD are accomplished.

TABLE 1.—COMPLIANCE TIMES

Total flight cycles as of August 30, 2001 (the effective date of AD 2001–14–22)	Do the inspection in paragraph (f) of this AD at this time
(1) Fewer than 19,000	Before the accumulation of 19,000 total flight cycles, or within 1,500 flight cycles after August 30, 2001, whichever comes later.
(2) 19,000 or more, but 21,250 or fewer	Within 1,500 flight cycles or 12 months after August 30, 2001, whichever comes first.
(3) 21,251 or more	Within 750 flight cycles or 12 months after August 30, 2001, whichever comes first.

Adjustments to Compliance Time: Cabin Differential Pressure

(g) For Boeing Model 747–100, 747–100B, 747–100B SUD, –200B, 747–200C, and 747–200F series airplanes, as identified in Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000, that are inspected before the effective date of this AD: Except as provided by paragraph (i) of this AD, for the purposes of calculating the compliance threshold and repetitive interval for the actions required by paragraph (f) of this AD, the number of flight cycles in which cabin differential pressure is at 2.0 pounds per square inch (psi) or less need not be counted when determining the number of flight cycles that have occurred on the airplane, provided that the flight cycles with momentary spikes in cabin differential pressure above 2.0 psi are included as full pressure cycles. For this provision to apply, all cabin pressure records must be maintained for each airplane: NO fleet-averaging of cabin pressure is allowed.

New Requirements of This Ad

Repetitive Inspections of Expanded Area at a New Reduced Threshold

(h) For all airplanes, at the applicable time specified in Table 2 of this AD, except as provided by paragraph (i) of this AD, do the following inspections of the station 800 frame assembly in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2451, Revision 1, dated November 10, 2005: A detailed inspection for cracking of the inner chord strap, angles, and exposed web adjacent to the inner chords on the station 800 frame between stringer 14 and stringer 18; and surface HFEC and open-hole HFEC inspections for cracking of the inner chord strap and angles. Do the initial inspections at the applicable time specified in Table 2 of this AD, and repeat the inspections thereafter at intervals not to exceed 3,000 flight cycles. Accomplishing the initial inspections required by this paragraph terminates the inspection requirements of paragraph (f) of this AD.

TABLE 2.—REVISED COMPLIANCE TIMES

Total flight cycles as of the effective date of this AD	Do the inspections in paragraph (h) of this AD at this time
(1) Fewer than 16,000	Before the accumulation of 16,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever comes later.
(2) 16,000 or more, but 24,250 or fewer	Within 1,500 flight cycles or 12 months after the effective date of this AD, whichever comes first.
(3) 24,251 or more	Within 750 flight cycles or 12 months after the effective date of this AD, whichever comes first.

Adjustments to Compliance Time: Cabin Differential Pressure

(i) For the purposes of calculating the compliance threshold and repetitive interval for actions required by paragraphs (f) and (h) of this AD, on or after the effective date of this AD: All flight cycles, including the number of flight cycles in which cabin differential pressure is at 2.0 psi or less, must be counted when determining the number of flight cycles that have occurred on the airplane. However, for airplanes on which the repetitive interval for the actions required by paragraph (f) of this AD have been calculated in accordance with paragraph (g) of this AD by excluding the number of flight cycles in which cabin differential pressure is at 2.0 pounds psi or less: Continue to adjust the repetitive inspection interval in accordance with paragraph (g) of this AD until the initial inspections required by paragraph (h) of this AD are accomplished. Thereafter, no adjustment to compliance times based on paragraph (g) of this AD is allowed.

Repair

(j) If any cracking is detected during any inspection required by paragraph (f) or (h) of this AD, and the service bulletin specifies to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

No Report Required

(k) Although the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2451, including Appendix A, dated October 5, 2000; and Boeing Alert Service Bulletin 747–53A2451, Revision 1, dated November 10, 2005; describe procedures for reporting certain information to the manufacturer, this AD does not require that report.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane.

(4) AMOCs approved previously in accordance with AD 2001–14–22, are approved as AMOCs for the corresponding provisions of paragraphs (f) and (j) of this AD.

Issued in Renton, Washington, on February 28, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–3263 Filed 3–7–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24103; Directorate Identifier 2005–NM–241–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B4–600R Series Airplanes, A300 C4–605R Variant F Airplanes, A300 F4–600R Series Airplanes, and Model A310–300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus transport category airplanes. This proposed AD would require replacing the existing vent float valve with a new improved vent float valve. This proposed AD results from reports of failure of the vent float valve in the left-hand outboard section of the trimmable horizontal stabilizer. We are proposing this AD to prevent, in the event of a lightning strike to the horizontal stabilizer, sparking of metal parts and debris from detached and damaged float vales, or a buildup of static electricity, which could result in ignition of fuel vapors and consequent fire or explosion.

DATES: We must receive comments on this proposed AD by April 7, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–24103; Directorate Identifier 2005–NM–241–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.govROW* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for Franch, notified us that an unsafe condition may exist on certain Airbus Model A300 B4–600R series airplanes, A300 C4–605R Variant F airplanes, A300 F4–600R series airplanes, and Model A310–300 series airplanes. The DGAC advises that it has received reports of in-service failures of the vent float valve in the trim tank. The vent float valve is located in the left-hand outboard section of the trimmable horizontal stabilizer at Functional Item Number (FIN) position 280454. In the event of a lightning strike to the horizontal stabilizer, sparking of metal parts and debris from detached and damaged float vales, or a buildup of static electricity, could result in ignition of fuel vapors and consequent fire or explosion.

Relevant Service Information

Airbus has issued Service Bulletins A310–28–2155 (for Model A310–300 series airplanes) and A300–28–6081 (for A300 B4–600R series airplanes, A300 C4–605R Variant F airplanes, and A300 F4–600R series airplanes). Both service bulletins are dated February 16, 2005. The service bulletins describe procedures for replacing the existing vent float valve with a new improved vent float valve. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DGAC mandated the service information and issued French airworthiness directive F–2005–148, dated August 17, 2005, to ensure the continued airworthiness of these airplanes in France.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the

applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. We have examined the DGAC's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of these type designs that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Difference Between the French Airworthiness Directive and This Proposed AD

The applicability of French airworthiness directive F–2005–148 excludes airplanes on which Airbus Service Bulletin Airbus Service Bulletin A300–28–6081 (for Model A300 B4–605R and B4–622R airplanes, A300 C4–605R Variant F airplanes, and A300 F4–605R and F4–622R airplanes) or A310–28–2155 (for Model A310–304, –322, –324, and –325 airplanes) were accomplished in-service. Both service bulletins are dated February 16, 2005. However, we have not excluded those airplanes in the applicability of this proposed AD; rather, this proposed AD includes a requirement to accomplish the actions specified in that service bulletin. This requirement would ensure that the actions specified in the service bulletin and required by this proposed AD are accomplished on all affected airplanes. Operators must continue to operate the airplane in the configuration required by this proposed AD unless an alternative method of compliance is approved. This difference has been coordinated with the DGAC.

Costs of Compliance

This proposed AD would affect about 179 airplanes of U.S. registry. The proposed actions would take about 4 work hours per airplane, at an average labor rate of $65 per work hour. Required parts would be provided by the manufacturer at no cost to the operator. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $46,540, or $260 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2006–24103; Directorate Identifier 2005–NM–241–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by April 7, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A300 B4–605R and B4–622R airplanes, A300 C4–605R Variant F airplanes, A300 F4–605R and F4–622R airplanes, and Model A310–304, –322, –324, and –325 airplanes; certificated in any category, except those airplanes on which Airbus Modification 12897 has been accomplished in production.

Unsafe Condition

(d) This AD results from reports of broken vent float valve in the left-hand outboard section of the trimmable horizontal stabilizer. We are issuing this AD to prevent, in the event of a lightning strike to the horizontal stabilizer, sparking of metal parts and debris from detached and damaged float vales, or a buildup of static electricity, which could result in ignition of fuel vapors and consequent fire or explosion.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Action Heading

(f) Within 36 months after the effective date of this AD: Replace Intertechnique vent float valve, Part Number (P/N) L87–13–001, in the trim tank with P/N L87–13–003; in accordance with Airbus Service Bulletin A300–28–6081 (for Model A300 B4–605R and B4–622R airplanes, A300 C4–605R Variant F airplanes, and A300 F4–605R and F4–622R airplanes) or A310–28–2155 (for Model A310–304, –322, –324, and –325 airplanes). Both service bulletins are dated February 16, 2005.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, International Branch, ANM–116, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Parts Installation

(h) As of the effective date of this AD, no person may install a vent float valve, P/N L87–13–001, on any airplane.

Related Information

(i) French airworthiness directive F–2005–148, dated August 17, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on February 28, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–3264 Filed 3–7–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket Nos. RM06–8–000 and AD05–7–000]

Long-Term Firm Transmission Rights in Organized Electricity Markets; Long-Term Transmission Rights in Markets Operated by Regional Transmission Organizations and Independent System Operators; Notice of Extension of Time

March 2, 2006.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: On February 2, 2006, the Commission issued a Notice of Proposed Rulemaking which proposed to amend its regulations to require transmission organizations that are public utilities with organized electricity markets to make available long-term firm transmission rights that satisfy certain guidelines established in this proceeding. 71 FR 6693 (Feb. 9, 2006). The Commission is extending the date for filing reply comments on the proposed rule at the request of the American Public Power Association, the National Rural Electric Cooperative Association and the Transmission Access Policy Study Group.

DATES: The comment period for the proposed rule published at 71 FR 6693, February 9, 2006, is extended to April 3, 2006.

FOR FURTHER INFORMATION CONTACT: Jeffery S. Dennis (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–6027.

SUPPLEMENTARY INFORMATION: On February 27, 2006, the American Public Power Association (APPA), the National Rural Electric Cooperative Association (NRECA), and the Transmission Access Policy Study Group (TAPS) filed a joint motion for an extension of time to file reply comments in response to the Commission's Notice of Proposed Rulemaking (NOPR) issued February 2, 2006, in the above-docketed proceeding. *Long-Term Firm Transmission in Organized Electricity Markets*, 114 FERC ¶ 61,097 (2006). The motion states that due to the complexity of the issues addressed in the NOPR and the substantive number of initial comments that were filed in this docket, additional time is needed to prepare reply comments.

Upon consideration, notice is hereby given that an extension of time for filing reply comments is granted to and including April 3, 2006, as requested by APPA, NRECA and TAPS.

The Commission will publish a separate notice in the **Federal Register** announcing the extension of time to file reply comments in this proceeding.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3286 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3100

Minerals Management Service

30 CFR Part 203

[WO–310–06–1310–PP]

RIN 1004–AD82

Enhanced Oil and Natural Gas Production Through Carbon Dioxide Injection

AGENCY: Bureau of Land Management, Minerals Management Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Land Management (BLM) and the Minerals Management Service (MMS) request comments and suggestions to assist in preparing a proposed rule governing carbon dioxide injection for increased production and recovery of oil and natural gas. The rule would provide for royalty relief incentives to promote the capture, transportation, and injection of produced carbon dioxide (CO_2), natural CO_2, and other appropriate gases or other matter for injection/sequestration into oil and gas fields, to promote oil and natural gas production from the Outer Continental Shelf (OCS) and onshore Federal leases. We encourage members of the public to provide comments and suggestions to help clarify and define the requirements for enhanced oil and natural gas recovery production incentives as described in the Energy Policy Act of 2005.

DATES: We will accept comments and suggestions on the advance notice of proposed rulemaking until April 7, 2006.

ADDRESSES: You may submit comments by any of the following methods listed below. Federal rulemaking portal: *http://www.regulations.gov* (Follow the instructions for submitting comments.) Internet e-mail: *comments_washington@blm.gov*. (Include ''Attn: AD82'') Mail: Director (630), Bureau of Land Management, Administrative Record, Room 401–LS, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153. Personal or messenger delivery: Room 401, 1620 L Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: For onshore, Thomas J. Zelenka at (202) 452–0334 and for offshore, Marshall Rose at (703) 787–1536, as to the substance of the advance notice, or Ted Hudson at (202) 452–5042, as to procedural matters. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the above individuals.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Description of Information Requested

I. Public Comment Procedures

A. How Do I Comment on the Advance Notice of Proposed Rulemaking?

Your written comments should:

- Be specific;
- Explain the reason for your comments and suggestions; and
- Be about the issues outlined in the notice.

Comments and recommendations that will be most useful and likely to influence decisions on the content of the proposed rule are:

- Those supported by quantitative information or studies, and
- Those that include citations to and analyses of any applicable laws and regulations.

We are particularly interested in receiving comments and suggestions about the topics listed under Section III. Description of Information Requested.

If you wish to comment, you may submit your comments by any one of several methods, in each case referring to ''1004–AD82''.

- You may mail comments to Director (630), Bureau of Land Management, Administrative Record, Room 401 LS,

Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153.

• You may deliver comments to Room 401, 1620 L Street, NW., Washington, DC 20036.

• You may comment on the rule at the Federal eRulemaking Portal: *http://www.regulations.gov* following the instructions at that link.

• You may also comment via e-mail to: *comments_washington@blm.gov.*

BLM and MMS may not necessarily consider or include in the Administrative Record for the final rule comments that BLM receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I Review Comments Submitted by Others?

Comments, including names and street addresses of respondents, will be available for public review at the address listed under ''**ADDRESSES:** Personal or messenger delivery'' during regular business hours (7:45 a.m. to 4:15 a.m.), Monday through Friday, except holidays.

Individual respondents may request confidentiality, which we will honor to the extent allowable by law. If you wish to withhold your name or address, except for the city or town, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

II. Background

A. *Statutory:* The Energy Policy Act of 2005 (EPAct), at Section 354, Enhanced Oil and Natural Gas Production through Carbon Dioxide Injection, is intended: (1) To promote the capture, transportation, and injection of produced CO_2, natural CO_2, and other appropriate gases or other substances for sequestration into oil and gas fields; and (2) to promote oil and natural gas production from the OCS and onshore Federal leases by providing royalty incentives to use enhanced recovery techniques using injection of substances referred to above. The statute directs the Secretary to undertake a rulemaking to grant royalty relief ''if the Secretary determines that reduction of the royalty under a Federal oil and gas lease * * * is in the public interest and promotes the purposes of this section * * *''. The EPAct, at Section 354(b)(2), also directs the Secretary to issue an Advance Notice of Proposed Rulemaking within 180 days after the August 8, 2005, date of its enactment.

B. *Technical Review:* Traditional primary and secondary oil production methods typically recover one third of the oil in place in a field. This leaves behind two thirds of the oil as a target for enhanced oil recovery (EOR) techniques. Thermal, chemical, and gas flooding are three major EOR methods which have been developed and utilized for maximizing oil reserves recovery from onshore fields.

EOR is fairly advanced in some regions of the United States. Steam flooding is used to enhance production from many California fields because the oil can be very viscous. CO_2 flooding is common in the fields in New Mexico, West Texas, western Oklahoma, and Wyoming because commercial pipelines deliver the CO_2 gas to these regions from natural CO_2 sources or from natural gas processing plants. CO_2 is also available for some fields in Mississippi and Louisiana. EOR operations are not common in most of the rest of the nation because steam is not needed or CO_2 is not available. Where CO_2 from natural sources is not available nearby, the use of CO_2 sequestration from gas processing or other industrial plants may be an alternative source.

Studies conducted by DOE and industry estimate that 55 percent of oil and 33 percent of gas remain stranded offshore Louisiana using traditional primary and secondary recovery practices. Preliminary research suggests that one-tenth to one-third of that stranded resource could be recovered using CO_2 EOR technology. In Norway, the target for original oil left behind in place is about 45% and other new offshore projects are attempting further increases in the rate of recovery. Domestically, incentives to spur new technology may encourage additional technologies and recovery efficiencies.

C. *Ongoing Research and Development Activities:* The potential for enhanced oil recovery through CO_2 injection has been demonstrated to be a viable technology for mature onshore oil fields. Until recently, most of the CO_2 used for EOR projects has come from naturally-occurring reservoirs. New technologies are being developed to produce CO_2 from industrial applications such as natural gas processing, fertilizer, ethanol, and hydrogen plants in locations where naturally-occurring CO_2 reservoirs are not available.

Large scale field expansion potential for enhanced coal bed methane (ECBM) gas recovery through CO_2 and nitrogen gas (N_2) injection into coal bed natural gas reservoirs has not yet been demonstrated to be technically and economically feasible. Until more pilot performance testing can be successfully performed and evaluated for large project expansion, enhanced natural gas production potential remains to be realized.

III. Description of Information Requested

We are committed to carrying out the provisions of the EPAct. The diverse enhanced recovery (ER) techniques available for increasing oil and gas recovery from the OCS and onshore Federal lands suggest that a rule providing for a flexible, case-by-case assessment of each ER application for royalty relief would be the most logical approach to take.

The CO_2 and other gases or matter injection production incentive aims to promote additional oil and natural gas recovery from mature oil and natural gas fields by providing a royalty suspension volume of up to 5 million barrels of oil equivalent for each eligible lease, the maximum amount authorized under the EPAct. A lease may be eligible if:

• It is a lease for the production of oil and gas from the OCS or Federal onshore lands;

• The injection of produced CO_2, natural CO_2, and other appropriate gases or matter will be used as an enhanced recovery technique on such lease; and

• The Secretary determines the lease contains oil or gas that would likely not be produced without the royalty reduction provided in the EPAct.

The royalty relief, if authorized under a final rule and approved for an eligible lease, would apply only to production occurring on or after the date of publication of this advance notice of proposed rulemaking. Under Section 354(b)(4) of the EPAct, while relief is retroactive to the date of the advance notice of proposed rulemaking, lessees must pay royalty on production that occurs before publication of a final rule. However, lessees may request a refund of the royalties paid after publication of a final rule. In addition, pursuant to Section 354(b)(5) of the EPAct, royalty relief may be subject to oil and natural gas price threshold provisions or other limitations based on market price.

We are interested in receiving comments regarding incentive provisions that would encourage enhanced recovery techniques to increase oil and gas production from existing fields.

Topics we are considering for the proposed regulations include, but are not limited to, the following:

1. Is there an appropriate Federal role in providing production incentives for

enhanced oil and gas recovery projects or should such decisions be left to market forces?

2. If the Secretary determines that incentives are warranted, does the case-by-case assessment approach for enhanced recovery project evaluation provide the appropriate framework for the intended production incentives?

3. Should existing enhanced oil recovery (EOR) projects be considered to qualify for production royalty relief to promote additional oil recovery as the project nears the end of its economic life? If yes, how?

4. How should the assessment be structured with regard to determining whether royalty relief is needed? Is it reasonable to expect that such assessments can be consistently and reliably completed for a wide variety of projects? If the Secretary determines that relief is warranted, how should the amount of relief be calculated?

5. Should the relief awarded be conditioned on market price? If yes, how?

6. How should the production incentive be applied to the enhanced recovery projects to promote project expansions and maximum oil and gas recoveries?

7. Should this incentive be limited to new technology? Should other gases and matter be considered for EOR royalty relief?

8. How should royalty relief be structured for the additional production resulting from enhanced recovery methods?

9. How should production currently using CO_2 for recovery be differentiated from new production which results from an incentive?

10. How could we encourage the capture, transportation, and sequestration of CO_2 and promote other public interests in addition to enhanced oil recovery?

11. In making the determination of whether the royalty relief described in Section 354 would be in the public interest, how should the Secretary value the benefit associated with the sequestration of CO_2 or other appropriate gases used to increase oil and gas production?

12. How, where, and when in the process should the value of the CO_2 (or other gas) or the benefit of its sequestration be measured: at its source or upon its capture, transportation, or sequestration on the lease?

13. Are there recommended methodologies, economic models, or other precedents that the Secretary could consider in assessing the value of sequestration?

14. Can relief be structured to focus on sequestering CO_2 that would otherwise be released into the atmosphere or not used for productive purposes?

15. Should this royalty relief take into consideration any existing incentives available for energy production?

16. Are there other issues that should be considered?

Section 354(b)(1) of the EPAct requires that the Secretary determine that royalty reduction is in the public interest and promotes the purposes of the Act. Thus, the Secretary must determine whether the anticipated amount of additional production justifies the level of Federal subsidies that would be provided through such royalty reduction. As a result of comments received in response to this Advance Notice of Proposed Rulemaking, the Secretary may determine that the production royalty incentive provided for by Section 354 of the EPAct is either unnecessary to promote enhanced oil and gas recovery or is insufficient to increase oil and gas production through enhanced recovery. Therefore, the Secretary is not yet prepared to make the determination under Section 354(b)(1) of the EPAct that royalty relief for CO_2 injection is in the public interest and promotes the purpose of that section of the Act. However, if BLM and/or MMS adopt a royalty relief rule it would be applicable to any eligible production occurring on or after the publication date of this Advance Notice of Proposed Rulemaking in the **Federal Register**.

Dated: February 1, 2006.

Johnnie Burton,

Acting Assistant Secretary of the Interior.

[FR Doc. 06–2170 Filed 3–7–06; 8:45 am]

BILLING CODE 4310–84–P; 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3100

Minerals Management Service

30 CFR Part 203

[WO–310–06–1310–24 1A]

RIN 1004–AD81

Gas Hydrate Production Incentives

AGENCY: Bureau of Land Management, Minerals Management Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Land Management (BLM) and the Minerals Management Service (MMS) request comments and suggestions to assist in the preparation of proposed regulations governing Gas Hydrate Production Incentives. The rule would provide incentives to promote natural gas production from the natural gas hydrate resources on Federal lands in Alaska and in Federal waters on the Outer Continental Shelf. We encourage the public to provide comments and suggestions to help clarify and define the requirements for Gas Hydrate Production Incentives as described in the Energy Policy Act of 2005.

DATES: We will accept comments and suggestions on the advance notice of proposed rulemaking until April 7, 2006.

ADDRESSES: You may submit comments by any of the following methods listed below.

Federal rulemaking portal: *http://www.regulations.gov* (Follow the instructions for submitting comments.)

Internet e-mail: *comments_washington@blm.gov.* (Include ''Attn: AD81'').

Mail: Director (630), Bureau of Land Management, Administrative Record, Room 401–LS, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153. Personal or messenger delivery: Room 401, 1620 L Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: For onshore, Thomas J. Zelenka at (202) 452–0334 and for offshore, Marshall Rose at (703) 787–1536, as to the substance of the advance notice, or Ted Hudson at (202) 452–5042, as to procedural matters. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the above individuals.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Description of Information Requested

I. Public Comment Procedures

A. How Do I Ccomment on the Advance Notice of Proposed Rulemaking?

Your written comments should:

- Be specific;
- Explain the reason for your comments and suggestions; and
- Be about the issues outlined in the notice.

Comments and recommendations that will be most useful and likely to influence decisions on the content of the proposed rule are:

• Those supported by quantitative information or studies, and

• Those that include citations to and analyses of any applicable laws and regulations.

We are particularly interested in receiving comments and suggestions about the topics listed under Section III. Description and Information Requested.

If you wish to comment, you may submit your comments by any one of several methods, in each case referring to ''1004–AD81''.

• You may mail comments to Director (630), Bureau of Land Management, Administrative Record, Room 401 LS, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153.

• You may deliver comments to Room 401, 1620 L Street, NW., Washington, DC 20036.

• You may comment on this advance notice at the Federal eRulemaking Portal: *http://www.regulations.gov*, following the instructions at that link.

• You may also comment via email to: *comments_washington@blm.gov*.

We may not necessarily consider or include in the Administrative Record for the final rule comments received after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I Review Comments Submitted by Others?

Comments, including names and street addresses of respondents, will be available for public review at the address listed under **ADDRESSES** Personal or messenger delivery—during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays.

Individual respondents may request confidentiality, which we will honor to the extent allowable by law. If you wish to withhold your name or address, except for the city or town, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

II. Background

A. Statutory

The Energy Policy Act of 2005, at Section 353, GAS HYDRATE PRODUCTION INCENTIVE, is intended to ''promote natural gas production from the natural gas hydrate resources on the outer Continental Shelf and Federal lands in Alaska by providing royalty incentives.'' The statute directs the Secretary to conduct a rulemaking and grant royalty relief ''if the Secretary determines that such royalty relief would encourage production of natural gas from gas hydrate resources. . ..'' The Energy Policy Act of 2005, at Section 353(d) also directs the Secretary to issue an Advance Notice of Proposed Rulemaking within 180 days of the August 8, 2005, date of enactment.

B. Technical Review

Gas hydrates are crystalline substances composed of water and gas together in solid form far above the freezing point of water, in which a solid water-lattice accommodates gas molecules in a cage-like structure, or clathrate. The estimated amount of gas in the hydrate accumulations of the world greatly exceeds the volume of known conventional gas resources. However, the role that gas hydrate resources may play in contributing to the world's energy requirements will depend ultimately on the availability of producible gas hydrate resources and the cost to extract them.

The discovery of large gas hydrate accumulations in terrestrial permafrost regions of the Arctic and beneath the sea along the outer continental margins of the world's oceans has heightened interest in gas hydrate resources as a possible energy resource. However, technical issues need to be resolved before gas hydrate resources can be considered a viable option for affordable supplies of natural gas. The combined information from Arctic gas-hydrate studies shows that, in permafrost regions, gas hydrate resources may exist at subsurface depths ranging from about 130 to 2,000 meters. The presence of gas hydrate resources in offshore continental margins has been inferred mainly from anomalous seismic reflectors, known as bottom-simulating reflectors, that have been mapped at depths below the sea floor ranging from about 100 to 1,100 meters.

In 1995, the U.S. Geological Survey completed its most detailed assessment of U.S. gas hydrate resources. The USGS study estimated the in-place gas resource within the gas hydrate of the United States ranged from 112,000 trillion cubic feet to 676,000 trillion cubic feet, with a mean value of 320,000 trillion cubic feet of gas. Subsequent refinements of the data in 1997 have suggested that the mean should be adjusted slightly downward, to around 200,000 trillion cubic feet—still larger by several orders of magnitude than the estimated 1,200 trillion cubic feet of conventional recoverable gas resources and reserves in the United States.

Recently, several countries, including Japan, India, and the United States, launched ambitious national projects to further examine the resource potential of gas hydrate resources. These projects may help answer key questions dealing with the properties of gas hydrate reservoirs, the design of production systems, and, most importantly, the relative costs and economics of gas hydrate production.

Even though gas hydrate resources are known to occur in numerous marine and Arctic settings, little is known about the technology necessary to produce gas hydrate. Most of the existing gas hydrate ''resource'' assessments do not address the problem of gas hydrate recoverability. Proposed methods of gas recovery from gas hydrate resources usually deal with dissociating or ''melting'' in-situ gas hydrates by (1) heating the reservoir beyond hydrate formation temperatures, (2) decreasing the reservoir pressure below hydrate equilibrium, (3) injecting an inhibitor such as methanol or glycol into the reservoir to create conditions that could decrease hydrate stability, or (4) some combination of these methods. Gas hydrate computer production models and a limited number of research and development production tests have shown that gas can be produced from hydrate resources at sufficient rates to make gas hydrate a technically recoverable resource. However, the economic costs associated with the various proposed production schemes have not been assessed. Several recent studies have documented the need for extended gas hydrate production field tests in order to allow further development of various gas hydrate production technologies.

C. Ongoing Research and Development Activities

It is possible that gas hydrate resources may become an important global source of natural gas. For the MMS and BLM, gas hydrates are potentially a large untapped resource occurring on Federally-managed lands and waters. To develop a complete regional understanding of this potential energy resource, the Department of the Interior through MMS, BLM, and the U.S. Geological Survey (USGS), is actively assessing the energy resource potential of gas hydrate resources in the Outer Continental Shelf of the United States and onshore in northern Alaska. This ongoing work has combined the resource assessment responsibilities of MMS and USGS with the surface management and permitting responsibilities of MMS and BLM. As interest in gas hydrate resources

continues to grow, information generated from these activities will help guide these agencies to promote responsible development of this potential energy resource.

The Methane Hydrate Research and Development Act of 2000 (Pub. L. 106–193) authorized the expenditure of $43 million over 5 years and directed the U.S. Department of Energy (DOE), in consultation with USGS, MMS, the National Science Foundation, the Department of Defense, and the Department of Commerce, to commence basic and applied research to identify, explore, assess, and develop methane hydrate resources as a source of energy. Under this Act, DOE funded laboratory and field research on both Arctic and marine gas hydrate resources. The Energy Policy Act of 2005 renews the Methane Hydrate Research and Development Act. In addition, the Energy Policy Act of 2005 provides the Secretary of the Interior with the authority to create incentives through royalty relief for gas hydrate production. Such incentives may encourage new technology and advance the timing of recovery.

III. Description of Information Requested

We are committed to carrying out the provisions of the Energy Policy Act of 2005. The potential for natural gas production from gas hydrate resources exists but has not yet been demonstrated to be technically feasible. Until exploration, development and production technologies are better determined, a rule providing for a flexible case-by-case assessment of each gas hydrate application for royalty relief would appear to be the most logical approach.

The gas hydrate production incentive aims to promote natural gas production from gas hydrate resources by providing a royalty suspension volume of up to 30 billion cubic feet (Bcf) per eligible lease, the maximum amount authorized under the statute. If the Secretary determines, pursuant to Section 353(b)(3) of the Energy Policy Act of 2005, that royalty relief would encourage production of natural gas from gas hydrate resources, and adopts a regulation providing for such relief, a lease may be eligible for this royalty relief if it is:

- A lease under the Outer Continental Shelf (OCS) Lands Act; or
- An oil and gas lease for onshore Federal lands in Alaska;
- Issued prior to January 1, 2016, that commences natural gas production from gas hydrate resources prior to January 1, 2018.

Section 353(d)(2) requires that any final rule must define gas hydrate resources as both the natural gas content of gas hydrates within the hydrate stability zone and free natural gas trapped by and beneath the hydrate stability zone. The royalty relief, if authorized under a final rule and approved for a lease, would apply only to production occurring on or after the date of publication of this advance notice of proposed rulemaking, as provided by Section 353(b)(3) of the EPAct. While relief is retroactive to the date of this advance notice of proposed rulemaking, lessees must pay royalty on production that occurs before publication of a final rule but may request a refund after a final rule is published. In addition, pursuant to Section 353(b)(4) of the EPAct, the royalty relief may be conditioned on the market price of natural gas, and so may be subject to a natural gas price threshold or other market based limitations.

We are interested in receiving comments regarding incentive provisions that would encourage production of natural gas hydrate resources. Topics we are considering for the proposed regulations include, but are not limited to, the following:

1. If the Secretary determines that incentives are warranted, does a case-specific assessment approach for gas hydrate resources provide the appropriate framework for the intended incentives?

2. How should the assessment be structured with regard to determining whether royalty relief is needed? Is it reasonable to expect that such assessments can be consistently and reliably completed for a wide variety of projects? If the Secretary determines that relief is warranted, how should the amount of relief be calculated? What information should be required?

3. Given that the technologies needed to produce this hydrate resource are still in the early stages of development, should incentives be structured to adapt to changes in technology and project economics? If yes, how?

4. Should the relief awarded be conditioned on market price? If yes, how?

5. If an approach other than a case-specific approach is advocated, what decision criteria should be used? What methodology should be used? What information should be required? How would this approach address the evolution of the technologies and operational processes? Should the process be the same for onshore leases and offshore leases?

6. Are there other incentives that could be offered to encourage development of gas hydrate resources production?

7. How should royalty relief be structured for production of gas hydrate resources? How should royalty relief for production of gas hydrate resources relate to other royalty relief?

8. Should royalty relief for the production of gas hydrate resources differentiate between instances that produce hydrate resources directly, and those that produce free natural gas trapped beneath the hydrate stability zone?

9. Are there other issues that should be considered?

As a result of comments received in response to this Advance Notice of Proposed Rulemaking, the Secretary may determine that a production royalty incentive is either unnecessary to promote gas hydrate production or is insufficient to encourage production of natural gas from gas hydrate resources. If a production royalty is insufficient to encourage production, other options for promoting gas hydrate resources production, possibly in combination with the options discussed above, may need to be analyzed instead. Therefore, the Secretary is not yet prepared to make the determination under Section 353(b)(3) of the Energy Policy Act that royalty relief would encourage production of natural gas from gas hydrate resources. However, pursuant to that subsection of the Energy Policy Act, if BLM and/or MMS adopt a royalty relief rule it would be applicable to any eligible production occurring on or after the publication date of this Advance Notice of Proposed Rulemaking in the **Federal Register**.

Dated: February 1, 2006.

Johnnie Burton,

Acting Assistant Secretary of the Interior.

[FR Doc. 06–2169 Filed 3–7–06; 8:45 am]

BILLING CODE 4310–MR–P; 4310–84–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[FRL–8042–1]

Review of National Ambient Air Quality Standards for Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of review.

SUMMARY: This document describes EPA's plans and schedule for the review of the air quality criteria and national

ambient air quality standards (NAAQS) for lead. This review will take into account newly emerging research on the effects of airborne lead on human health and the environment. The schedule for this review incorporates Clean Air Scientific Advisory Committee (CASAC) review and is consistent with the recent decision made by the U.S. District Court, Eastern District of Missouri, Eastern Division that ordered completion of this lead review by September 1, 2008 (*Missouri Coalition for the Environment* v. *EPA*, Civil Action No. 4:04–CV–00660 (ERW) (E.D. Mo. Sept. 14, 2005)).

DATES: The target dates for major milestones in the lead NAAQS review are contained in a chart in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Ms. Ginger Tennant, Office of Air Quality Planning and Standards (C504–06), with regard to review of the standard, or Dr. Lori White, National Center for Environmental Assessment (B243–01), with regard to the air quality criteria document, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: (919) 541–4072 for Ms. Tennant and (919) 541–3146 for Dr. White; e-mail: *Tennant.Ginger@epa.gov* and *White.Lori@epa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On October 5, 1978, the EPA published a final rule setting primary (health-based) and secondary (welfare-based) NAAQS for lead under section 109 of the Clean Air Act (CAA), each set at 1.5 micrograms per cubic meter (μg/m^3), maximum arithmetic daily mean averaged over a calendar quarter (43 FR 46258). During the 1980s, EPA conducted an extensive review of the air quality criteria and NAAQS for lead under section 109(d)(1) of the CAA. With full involvement of CASAC and the public, this review led to publication of a revised air quality criteria document (1986), several supplemental documents covering important new studies (1986, 1990), an exposure analysis (1989), and a staff paper (1990). After consideration of these documents, EPA chose not to propose revision of the NAAQS.

On November 9, 2004 (69 FR 64926), EPA formally announced the beginning of the current lead NAAQS review and the start of the development of an updated AQCD by requesting the submission of recent scientific information on specified topics. The release of the first external review draft of the AQCD and the opening of a public comment period for this document was announced on December 2, 2005 (70 FR 72300).

Review Plans and Schedule

The EPA's plan to review the criteria and standards for lead are outlined in the table below, together with target dates for key milestones. As with all NAAQS reviews, the purpose is to update the criteria and to determine whether it is appropriate to retain or revise the standards in light of new scientific and technical information.

The lead NAAQS review, as with other NAAQS reviews, includes a rigorous assessment of relevant scientific information that will be presented in an AQCD prepared by EPA's National Center for Environmental Assessment. The development of the AQCD involves substantial external peer review through public workshops involving the scientific community at large and through iterative reviews of successive drafts by CASAC and the public. The final AQCD will reflect input received through these reviews and will serve to evaluate and integrate this scientific information to ensure that the review of the standards is based on sound science.

The EPA's Office of Air Quality Planning and Standards will also prepare a Staff Paper (SP) for the Administrator, drawing on information in the AQCD. The SP will evaluate the policy implications of the key studies and scientific information contained in the AQCD and identify critical elements that EPA staff believes should be considered in reviewing the standards. The SP is intended to bridge the gap between the scientific review in the AQCD and the public health and welfare policy judgments required of the Administrator in reviewing the lead NAAQS. For that purpose, the SP will present technical analyses including air quality analyses and assessments of human health risks and environmental effects, other factors relevant to the evaluation of the lead NAAQS, as well as staff conclusions and recommendations of options for the Administrator's consideration. The SP will also be reviewed by CASAC and the public, and the final SP will reflect the input received through these reviews.

The court-ordered schedule requires EPA to complete the initial draft of the AQCD no later than December 1, 2005; finalize the AQCD no later than October 1, 2006; prepare an initial draft of the SP no later than January 1, 2007; finalize the SP no later than November 1, 2007; have the proposed rulemaking notice signed no later than May 1, 2008; and have a final rulemaking concerning any revisions to the lead NAAQS signed no later than September 1, 2008. In order to meet this schedule for final rulemaking, EPA has advanced the target dates for some of these milestones. The schedule below represents EPA's best judgment of the target dates necessary for meeting the court-ordered deadlines. Accordingly, EPA intends to adhere closely to this schedule.

MAJOR MILESTONES IN LEAD NAAQS REVIEW

Major milestones	Completed/future target date(s)
Call for Information	November 9, 2004.
CASAC Teleconsultation on AQCD Development Plan	March 28, 2005.
Peer Review Workshops for AQCD	August 4–5 and 16–19, 2005.
First Draft AQCD for CASAC and Public Comment	December 1, 2005.
CASAC Meeting on First Draft AQCD	February 28 and March 1, 2006.
Plan for Human Health and Ecological Risk Assessments for CASAC and Public Comment	Late April 2006.
CASAC Consultation on Plan for Human Health and Ecological Risk Assessments	Late May 2006.
Second Draft AQCD for CASAC and Public Comment	Late May 2006.
CASAC Meeting on Second Draft AQCD	July 2006.
Complete Final AQCD	October 1, 2006.
First Draft SP and First Draft Human Health and Ecological Risk Assessment Reports for CASAC and Public Comment.	Late November 2006.
CASAC Meeting on First Draft SP and First Draft Human Health and Ecological Risk Assessment Reports.	Late January 2007.

MAJOR MILESTONES IN LEAD NAAQS REVIEW—Continued

Major milestones	Completed/future target date(s)
Second Draft SP and Second Draft Human Health and Ecological Risk Assessment Reports for CASAC and Public Comment.	Mid-June 2007.
CASAC Meeting on Second Draft SP and Second Draft Human Health and Ecological Risk Assessment Reports.	Late July 2007.
Complete Final SP and Final Human Health and Ecological Risk Assessment Reports	Late September 2007.
Publish Proposal Notice in FEDERAL REGISTER	Late February 2008.
Final Promulgation Notice Signed by Administrator	September 1, 2008.

List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: February 23, 2006.

Jeffrey S. Clark,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. E6–3225 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4091; FRL–8042–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Twenty-Six Individual Sources; Partial Withdrawal of Proposed Rule for Three Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial withdrawal of proposed rule.

SUMMARY: On April 18, 2000, EPA published a proposed rule (65 FR 20788) to approve reasonably available control technology (RACT) determinations submitted by the Pennsylvania Department of Environmental Protection (DEP) for twenty-six major sources of nitrogen oxides (NO_X) and/or volatile organic compounds (VOC). In separate final rules, EPA has already approved the RACT determinations for ten of the twenty-six sources covered by the April 18, 2000 proposed rule. In the rules portion of today's **Federal Register**, EPA is approving the RACT determinations for an additional thirteen of twenty-six sources covered by the April 18, 2000 proposed rule. EPA is hereby withdrawing its April 18, 2000 proposed rule with regard to the remaining three sources. The April 18, 2000 (65 FR 20788) proposed rule is being withdrawn with regard to Doverspike Brothers Coal Co., Hedstrom Corporation, and the thermal coal dryers at EME Homer City, LP. These three formerly RACT-subject sources have been permanently shut down and the Pennsylvania DEP has indicated to EPA that no RACT need be approved for them.

DATES: *Effective Date:* The proposed rule for Doverspike Brothers Coal Co., Hedstrom Corporation, and the thermal coal dryers at EME Homer City published at 65 FR 20788 is withdrawn as of March 8, 2006.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, (215) 814–2104, or by e-mail at *spink.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION: See the information provided in the proposed rule located in the Proposed Rules section of the April 18, 2000 **Federal Register** (65 FR 20788). EPA is withdrawing the proposed rule for only three sources, namely, Doverspike Brothers Coal Co., Hedstrom Corporation and the thermal coal dryers at EME Homer City, LP. These formerly RACT-subject sources have been permanently shut down and the Pennsylvania DEP has indicated to EPA that no RACT need be approved for them. The other actions in the April 18, 2000 **Federal Register** are not affected.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 28, 2006.

William Early,

Acting Regional Administrator, Region III.

[FR Doc. 06–2149 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0325; FRL–7750–8]

Ethylenediaminetetraacetic Acid Chemicals: Exemptions from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Agency is proposing to establish 16 new and amend three existing exemptions from the requirement of a tolerance for residues of various ethylenediaminetetraacetic acid (EDTA) chemicals in or on raw agricultural commodities when used as inert ingredients in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). This regulation eliminates the need to establish a maximum permissible level for residues of these EDTA chemicals.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0325, must be received on or before May 8, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0325, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov/*. Follow the on-line instructions for submitting comments.
- *Agency Website*: EDOCKET, EPA's electronic public and comment system was replaced on November 25, 2005, by an enhanced federal-wide electronic docket management and comment system located at *http://www.regulations.gov/*. Follow the on-line instructions.
- *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,

Washington, DC 20460–0001, Attention: Docket ID Number EPA–HQ–OPP–2005–0325.

• *Hand Delivery*: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number EPA–HQ–OPP–2005–0325. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2005–0325. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at*http://www.epa.gov/epahome/dockets.html.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460–0001; telephone number: (703) 305–6304; e-mail address: *boyle.kathryn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111)
• Animal production (NAICS code 112)
• Food manufacturing (NAICS code 311)
• Pesticide manufacturing (NAICS code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using regulations.gov, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available on E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*.

C. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).

ii. Follow directions. The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What is the Agency's Authority for Taking this Action?

This proposed rule is issued under section 408 of FFDCA, 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170). Section 408(e) of FFDCA authorizes EPA to establish, modify, or revoke tolerances, or exemptions from the requirement of a tolerance for residues of pesticide chemicals in or on raw agricultural commodities and processed foods.

III. What Action is the Agency Taking?

The Agency is proposing to establish 16 new and amend three existing tolerance exemptions for several EDTA chemicals. Currently, there are three tolerance exemptions for EDTA chemicals in 40 CFR 180.910: Disodium

zinc ethylenediaminetetraacetate dihydride, ethylenediaminetetraacetic acid, and ethylenediaminetetraacetic acid, tetrasodium salt. These exemptions are being amended to reflect a common nomenclature, add CAS Reg. Nos., and/or a 5% limitation of all EDTA chemicals in the pesticide product.

The tolerance exemptions for the tetrasodium salt and the disodium zinc are considered to be for both the hydrated and anhydrous forms. Thus, three of the new tolerance exemptions are for the hydrated forms of the tetrasodium salt and the disodium zinc salt.

The EDTA chemicals are a group of man-made chelating (binding) agents with a preferred affinity for heavier metals such as lead, mercury, cadmium, zinc, and aluminum. EDTA's ability to complex, bind, and remove such metals is used commercially to either promote or inhibit chemical reactions, depending on the application. EDTA has also been used under medical supervision to treat heavy metal poisoning. Large doses of EDTA (or one of its salts) function to scavenge the heavy metals from the body. EDTA preferentially binds with the heavy metal present with the resultant complex then being excreted.

The EDTA chemicals which are the subject of this proposed rule, the nomenclature which will be used and the CAS Reg. Nos. are in the Table below. These chemicals were selected based on information in the Agency's files which indicate use in pesticide products applied to food-use sites.

EDTA Chemical	CAS Reg. No.
Ethylenediaminetetraacetic acid (EDTA)	60–00–4
Ethylenediaminetetraacetic acid (EDTA) calcium disodium salt	62–33–9
Ethylenediaminetetraacetic acid (EDTA) disodium copper (II) salt	14025–15–1
Ethylenediaminetetraacetic acid (EDTA) disodium copper (II) salt, dihydrate	61916–40–3
Ethylenediaminetetraacetic acid (EDTA) disodium copper (II) salt, trihydrate	73637–19–1
Ethylenediaminetetraacetic acid (EDTA) disodium manganese (II) salt	15375–84–5
Ethylenediaminetetraacetic acid (EDTA) disodium manganese (I) salt, dihydrate	73637–20–4
Ethylenediaminetetraacetic acid (EDTA) disodium salt	139–33–3
Ethylenediaminetetraacetic acid (EDTA) disodium salt, dihydrate	6381–92–6
Ethylenediaminetetraacetic acid (EDTA) disodium zinc salt	14025–21–9
Ethylenediaminetetraacetic acid (EDTA) disodium zinc salt, dihydrate	73513–47–0
Ethylenediaminetetraacetic acid (EDTA) monosodium salt	17421–79–3
Ethylenediaminetetraacetic acid (EDTA) sodium iron (III) salt	15708–41–5
Ethylenediaminetetraacetic acid (EDTA) sodium salt	7379–28–4
Ethylenediaminetetraacetic acid (EDTA) tetrapotassium salt	5964–35–2
Ethylenediaminetetraacetic acid (EDTA) tetrasodium salt	64–02–8
Ethylenediaminetetraacetic acid (EDTA) tetrasodium salt, tetrahydrate	13235–36–4
Ethylenediaminetetraacetic acid (EDTA) tetrasodium salt, trihydrate	67401–50–7
Ethylenediaminetetraacetic acid (EDTA) tripotassium salt	17572–97–3

IV. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by these EDTA chemicals are summarized in this unit.

The data considered in this assessment included information located by the Office of Pesticide Programs on the internet, studies conducted by the National Toxicology Program (NTP) and the National Cancer Institute (NCI), several work products produced by the Cosmetic Ingredient Review, several evaluations by the World Health Organization, and articles from open literature. The Agency's overall conclusions are as follows; however, greater detail on the Agency's review and evaluation of these EDTA chemicals are in the EDTA Science Assessment, which is posted as a support document in the docket for this action (*see http://www.regulations.gov/*). It is noted that the Agency's review and evaluation covered a large group of 25 EDTA chemicals in which the available data from all of the chemicals was ''pooled'' for use as surrogate data.

As a group, the EDTA chemicals are not acutely toxic via the oral route of exposure. They are mild skin irritants and severe eye irritants.

Mutagenicity studies such as the mouse lymphoma study were negative for EDTA and its salts except for a few positive tests when administered with sterile distilled water. Genotoxicity studies for EDTA and its salts were

mixed positive and negative results, depending on assay type and cell type.

Trisodium EDTA was tested in a 2–year carcinogenicity study by the NCI. Their conclusions indicated that there were no compound-related signs of chemical toxicity, and tumor incidence was not related to treatment. This study was re-evaluated in 2003 with the conclusion that ''there is no concern for EDTA with regard to carcinogenicity.''

The Agency has evaluated 15 of the EDTA chemicals through the use of structure-activity-relationship (SAR) assessments. With one exception, these evaluations indicate no absorption of the EDTA chemicals through the skin, but predicted good absorption through the lungs and GI tract. The exception was EDTA, *per se*, which is expected to be absorbed through all routes of exposure. The Team performing the SARs indicated a low to moderate concern for human health effects. All concerns noted were considered to be due to the chelation and eventual excretion of metals such as calcium, magnesium, iron, and zinc in the mammalian body.

Other reviews indicate that EDTA is not totally absorbed when ingested. Various sources rate the absorption as poor to good with the upper limit on absorption being defined numerically as 20%. Elimination occurs mainly by the kidneys (95%) with some (5%) via the bile.

Various EDTA chemicals have been tested in repeated dose toxicity studies which included doses of up to 5% of the diet. Only diarrhea and lowered food consumption were reported in animals given 5% disodium EDTA. Taken together, all of the repeated dose toxicity studies reviewed indicate that the greatest risk in the mammalian body will occur when the EDTA attempts to scavenge the trace metals used and required by the body. The repeated conclusion of the various studies is that rats fed a low percent of an EDTA chemical in the diet with adequate minerals showed no signs of toxicity. The various developmental studies indicate that developmental effects will occur if the EDTA chemicals remove the necessary trace metals from the maternal body, so that none are available for the developing fetus.

The Agency's review and evaluation of EDTA and its various salts indicates that adverse effects occur only in the presence of mineral deficiencies. In fact, the toxic effects of EDTA are considered to be related to metal deficiencies, especially a deficiency of zinc. However, two critical pieces of information informed the Agency's evaluation of EDTA. Two developmental toxicity studies were performed using disodium EDTA. The Agency has reviewed the toxicological literature on both of these studies. In one study, rats were maintained on de-ionized water (water containing no trace minerals) and a semi-purified diet, and housed in nonmetallic caging. The test animals displayed both maternal and developmental effects. In another very similar study, rats that were maintained on tap water displayed no such effects. Thus, the availability of trace metals, particularly zinc, in the diet and drinking water work to prevent deficiencies.

Thus, test animals can consume large amounts of EDTA (up to 5% of the diet) with no adverse effects, provided that the trace metals needed by the body, are also included in the diet.

V. Aggregate Exposures

In examining aggregate exposure, section 408 of FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary exposure

1. *Food additive uses*. EDTA is used extensively as a food additive to sequester trace metals that catalyze the oxidation of oils, vitamins, and unsaturated fats that cause rancidity, flavor changes, and discoloration. For the calcium disodium salt of EDTA an acceptable daily intake of 2.5 milligram/kilogram (mg/kg) was established by the Joint FAO/WHO Expert Committee on Food Additives (JECFA) in 1973.

In the U.S., in food the permissible levels of the calcium disodium salt of EDTA, as specified in 21 CFR 172.120, range from 25 to 800 ppm. Use of calcium disodium EDTA as a food additive is permitted for direct addition to food for human consumption, as long as (1) the quantity of the substance added to food does not exceed the amount reasonably required to accomplish its intended physical, nutritive, or other technical effect in food, and (2) any substance intended for use in or on food is of appropriate food grade, and is prepared and handled as a food ingredient.

Disodium EDTA can also be used as a food additive for direct addition to food for human consumption in specified foods, as specified under 21 CFR 172.135.

For sodium iron EDTA, a provisional maximum tolerance daily intake of 0.8 mg/kg/bodyweight was established by the Joint FAO/WHO Committee.

In 1981, an article in a toxicology journal reported that the maximum human consumption of EDTA and its salts in foods was on the order of 0.4 mg/kg/day.

2. *Food contact surface sanitizing solutions*. The disodium and tetrasodium salts of EDTA are used in food contact surface sanitizing solutions, as specified in 40 CFR 180.940. A screening-level exposure estimate of this use was performed for the tetrasodium salt. The estimated exposure is 0.005 mg/kg/day.

3. *In pesticide products applied to agricultural crops*. The Agency is proposing to place a limitation of 5% of total EDTA in pesticide products. This limit was based on information in the Agency's files. To account for possible food residues as a result of application of an inert ingredient in a pesticide product, the Agency has developed a screening-level model for predicting dietary exposure to inert ingredients. The model assumes that the inert ingredients are used on all crops and 100% of all crops are ''treated'' with the inert ingredient. The results of the model are considered to over-estimate exposure to an inert ingredient in a pesticide product. The model is scalable and can be adjusted to account for lower percent in formulations. The scaled estimate for use of EDTA chemicals with a limitation of 5% in the formulation is 0.006 mg/kg/day.

B. Drinking Water

EDTA is a strong organic acid (approximately 1,000 times stronger than acetic acid). It has a high affinity for alkaline-earth ions (for example, calcium and magnesium) and heavy-metal ions (for example, lead and mercury). This affinity generally results in the formation of highly stable and soluble complexes. The EDTA chemicals are soluble in water, have low sorption to soil and sediments, have no significant vapor pressure, and have a biodegradation half-life of weeks to months. While EDTA chemicals are slow to degrade, aerobic biodegradation (mineralization to carbon dioxide and water) is the dominant mechanism. The rate of biodegradation of EDTA in soils is reported to vary depending upon environmental factors such as pH, temperature, soil classification, organic matter, and types and population of microbes.

There are significant releases of EDTA to the environment in domestic sewage (from use in detergents, soaps, and

cleaning products) and industrial effluents (bleaching of textiles and paper; processing of photographic material; electroplating; bottle cleaning; and industrial cleaning of pipe and tank systems). Detergent preparations are probably the predominant source of EDTA found in domestic sewage, contributing an estimated 100 micrograms/Liter (µg/L) to the total concentration of EDTA in average sewage streams, with smaller amounts probably originating from food and other consumer products.

After treatment, the effluent from sewage treatment plants is released to streams, rivers, and lakes, and is further diluted by the receiving waters. According to Toxnet (see *http://toxnet.nlm.nih.gov*) ethylenediamine tetraacetic acid has been detected in ground water (ranging from 5 to 25 µg/L), and drinking water derived from surface water (10 to 45 µg/L).

Using 45 µg/L, the estimated exposure via drinking water is 1.5 µg/kg/day or 0.0015 mg/kg/day for adult females and 4.5 µg/kg/day or 0.0045 mg/kg/day for children.

C. Other Non-Occupational

Several EDTA chemicals are used as chelating agents in cosmetics. Examples of products containing EDTA chemicals include: bubble baths, bath soaps and detergents, deodorants, facial makeups and lotions, colognes and toilet waters, hair products (shampoos, rinses, conditioners, dyes and colors), nail basecoats and undercoats, and nail creams and lotions. EDTA chemicals are also used in cleaning products and laundry detergents and to control the interactions of trace metals in pharmaceuticals, metal working, pulp and paper processing, rubber and polymer chemistry, and textile processing and dyeing.The available information indicates that the non-food uses of EDTA are more prevalent than the food-uses. The information in the Agency's files indicates that pesticide products applied to residential use sites generally contain less than 1% of EDTA in the formulated product.

Using this information on percents in formulation, the Agency has estimated short-term screening level dermal exposure estimates for EDTA chemicals using both EDTA, *per se*, and the tetrasodium salt of EDTA. Since the screening level estimates were identical for both of these chemicals, they can serve as surrogate estimates for all the EDTA chemicals. Note that inhalation exposure estimates are not used since the vapor pressure of EDTA chemicals is so low.

- For a typical cleaning product, the estimated exposure estimate is 0.028 mg/kg/day
- For a typical laundry detergent, the estimated exposure estimate is 0.0088 mg/kg/day
- For a cosmetic product, the estimated exposure is 0.0008 mg/kg/day

These modeled exposure estimates indicate that the exposures that could occur from the use of these EDTA chemicals in either residential pesticidal or consumer non-pesticidal products are less than the levels at which an adverse effect could occur.

VI. Cumulative Effects

Section 408 (b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular chemical's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticide chemicals for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to ethylene diaminetetraacetic acid and its various salts. The EDTA chemicals are a structurally-related group of chemicals, that travel through the mammalian body and are excreted. For the purposes of this tolerance action, therefore, EPA has not assumed that these chemical substances have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative/*.

VII. Safety Factor for Infants and Children

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database unless EPA concluded that a different margin of safety will be safe for infants and children.

EDTA chemicals are chelating agents or scavengers. Their function is to locate and then bind to metals. Many metals (iron, zinc, manganese) are required in the mammalian body in trace amounts for proper functioning of the mammalian body. Lack of these metals, and most particularly zinc, can lead to severe effects.

Various salts of EDTA have been tested in several developmental toxicity studies. Based on developmental studies in lab rodents, EDTA and salts should not posed a developmental concern. Results of a developmental study indicate no developmental effects are likely in rodents at doses up to 1,000 mg/kg/day. Adequate minerals in the diet and administration of tap water prevented possible developmental effects of EDTA during pregnancy. In a different developmental toxicity study, developmental effects observed in lab rodents were likely due to animals maintained on deionized water and a semi-purified diet, and housed in nonmetallic caging. It is unlikely that infants and children would be exposed to concentrations as high as the lab rodents studied. The maximum human consumption of EDTA and its salts in foods was reported to be on the order of 0.4 mg/kg/day. Infants and children, also, generally drink tap water instead of deionized or distilled water.

EDTA is also used therapeutically in adults and pregnant women. A therapeutic dose of 1.2 to 2.0 grams per day is generally given to adults. Information is also available indicating EDTA treatment of pregnant women is possible without affecting the development of the fetus. Treatments of EDTA to pregnant women include 75 mg/kg/day calcium disodium EDTA for 7 days and 1 gram twice a day for 3 days, under medical supervision. Healthy, normal infants were delivered 4 weeks and 8 days after chelation therapy, respectively.

EPA also believes there would be a very low exposure of infants to EDTA. First, premature or very young infants ingest only formula or breast milk. (It is generally recommended that infants not consume solid food until 4 to 6 months of age). Regulation of infant formulas is under the purview of the FDA (*www.fda.gov/fdac/features/596_baby.html*). Calcium disodium EDTA, disodium EDTA, and tetrasodium EDTA are used as direct food additives (21 CFR 172.120, 172.135, and 178.1010, respectively). However, all manufacturers of infant formula must begin with safe food ingredients, which are approved either generally as safe or approved as food additives for use in infant formula. Neither EDTA nor the salts of EDTA are currently approved by the FDA for use in infant formula. Therefore, infants consuming only infant formula or breast

milk would be exposed to very low amounts of EDTA. Second, even if young infants were to be fed some solid food, given the characteristics of EDTA and its salts, residues are not likely to be present at concentrations for potential sensitivity. Once past this several month time-period, there is no longer a concern for potential sensitivity to infants and children. Older infants, like adults, process EDTA through well understood metabolic pathways.

The comparison of two developmental toxicity studies performed using disodium EDTA clearly indicates that the presence of trace metals in the drinking water and diet, particularly zinc, work to prevent deficiencies. Based on this information concerning both toxicity and exposure, a safety factor analysis has not been used to assess the risk of ethylenediaminetetraacetic acid (EDTA) and its various salts. For the same reasons, the additional tenfold safety factor for the protection of infants and children is unnecessary.

VIII. Determination of Safety for U.S. Population, and Infants and Children

Based on the available toxicity data on ethylenediaminetetraacetic acid (EDTA) and its various salts, with particular emphasis on the comparison of the findings in the two developmental toxicity studies; the reviews and evaluations conducted by NTP, NCI, and WHO; the knowledge that trace metal supplementation occurs via the food and drinking water consumed by human beings; and considering the estimated exposures of the wide-spread existing uses of ethylenediaminetetraacetic acid (EDTA) and its various salts which are less than levels at which adverse effects were noted, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to residues of ethylenediaminetetraacetic acid (EDTA) and its various salts. EPA finds that establishing exemptions from the requirement of a tolerance for ethylenediaminetetraacetic acid (EDTA) and its various salts with the following limitation ''The concentration of all EDTA chemicals is not to exceed 5% in the formulated pesticide product'' will be safe for the general population including infants and children.

IX. Other Considerations

A. Endocrine Disruptors

FQPA requires EPA to develop a screening program to determine whether certain substances, including all pesticide chemicals (both inert and active ingredients), ''may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect. . .'' EPA has been working with interested stakeholders to develop a screening and testing program as well as a priority setting scheme. As the Agency proceeds with implementation of this program, further testing of products containing ethylenediaminetetraacetic acid and its various salts for endocrine effects may be required.

B. Analytical Method(s)

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Existing Exemptions

There are three existing tolerance exemptions for ethylenediaminetetraacetic acid, disodium zinc ethylenediaminetetraacetate dihydride, and ethylenediaminetetraacetic acid, tetrasodium salt in 40 CFR 180.910. These are the tolerance exemptions proposed for amendment as a result of this action. There are four existing tolerance exemptions for the disodium and tetrasodium EDTA salts in 40 CFR 180.940. These four exemptions are not the subject of this action.

D. International Tolerances

The Agency is not aware of any country requiring a tolerance or tolerance exemption for ethylenediamine tetraacetic acid and its various salts, nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

X. Conclusions

Accordingly, EPA proposes to establish 16 new and amend three existing exemptions from the requirement of a tolerance for residues of various ethylenediaminetetraacetic acid (EDTA) chemicals in or on raw agricultural commodities when used as inert ingredients in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. The concentration of all EDTA chemicals is not to exceed 5% in the formulated pesticide product.

XI. Statutory and Executive Order Reviews

This rule proposes to amend three existing and establish 16 new exemptions from the requirement of a tolerance under section 408(e) of FFDCA. The Agency is acting on its own initiative. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) Generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant impact on a substantial number of small entities. The Agency hereby certifies that this proposed action will not have significant negative economic impact on a substantial number of small entities. Establishing exemptions from the requirement of a pesticide tolerance, as is proposed, is in effect the removal of a regulatory restriction on pesticide residues in food and thus such an action will not have any negative economic impact on any entities, including small entities. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various

levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this proposed rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 27, 2006.

Lois Ross,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

2. Section 180.910, in the table, is amended by removing the entry for Disodium zinc ethylenediaminetetraacetate dihydride; by revising the entries for ethylenediaminetetraacetic acid and ethylenediaminetetraacetic acid (EDTA) tetrasodium salt and adding alphabetically the remaining entries as set forth below to read as follows:

§ 180.910 Inert ingredients used pre-and post-harvest; exemptions from the requirement of a tolerance.

Inert Ingredient	Limits	Uses
* * * * * *	*	
Ethylenediaminetetraacetic acid (EDTA) (CAS Reg. No.60–00–4)	The concentration of all EDTA chemicals is not to exceed 5% in the formulated pesticide product.	Sequestrant
Ethylenediaminetetraaceticacid (EDTA) calcium disodium salt (CAS Reg. No.62–33–9)	Do.	Do.
Ethylenediaminetetraacetic acid (EDTA) disodiumcopper (II) salt (CAS Reg. No. 14025–15–1)	Do.	Do.
Ethylenediaminetetraaceticacid (EDTA) disodiumcopper (II) salt, dihydrate(CAS Reg. No. 61916–40–3)	Do.	Do.
Ethylenediaminetetraaceticacid (EDTA) disodium copper (II) salt, trihydrate(CAS Reg. No. 73637–19–1)	Do.	Do.
Ethylenediaminetetraacetic acid (EDTA) disodiummanganese (II) salt (CAS Reg. No. 15375–84–5)	Do.	Do.
Ethylenediaminetetraacetic acid (EDTA) disodiummanganese (I) salt, dihydrate (CAS Reg. No. 73637–20–4)	Do.	Do.
Ethylenediaminetetraacetic acid (EDTA) disodium salt(CAS Reg. No. 139–33–3)	Do.	Do.
Ethylenediaminetetraaceticacid (EDTA) disodium salt, dihydrate (CAS Reg. No. 6381–92–6)	Do.	Do.
Ethylenediaminetetraacetic acid (EDTA) disodium zincsalt (CAS Reg. No. 14025–21–9)	Do.	Do.
Ethylenediaminetetraacetic acid (EDTA) disodium zinc salt, dihydrate (CAS Reg. No.73513–47–0)	Do.	Do.
Ethylenediaminetetraacetic acid (EDTA) monosodiumsalt (CAS Reg. No. 17421–79–3)	Do.	Do.
Ethylenediaminetetraacetic acid (EDTA) sodium iron(III) salt (CAS Reg. No. 15708–41–5)	Do.	Do.
Ethylenediaminetetraacetic acid (EDTA) sodium salt(CAS Reg. No. 7379–28–4)	Do.	Do.
Ethylenediaminetetraaceticacid (EDTA) tetrapotassiumsalt (CAS Reg. No. 5964–35–2)	Do.	Do.
Ethylenediaminetetraacetic acid (EDTA) tetrasodium salt(CAS Reg. No. 64–02–8)	Do.	Do.
Ethylenediaminetetraacetic acid (EDTA) tetrasodium salt, tetrahydrate (CAS Reg. No. 13235–36–4)	Do.	Do.
Ethylenediaminetetraaceticacid (EDTA) tetrasodium salt, trihydrate (CAS Reg. No.67401–50–7)	Do.	Do.
Ethylenediaminetetraacetic acid (EDTA) tripotassium salt (CAS Reg. No. 17572–97–3)	The concentration of all EDTA chemicals is not to exceed 5% in the formulated pesticide product.	Sequestrant
* * * * * *	*	

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BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[EPA–HQ–OPPT–2004–0126; FRL–7690–8]

Lead Hazard Information Pamphlet; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of EPA's new lead hazard information pamphlet for renovation activities, *Protect Your Family from Lead During Renovation, Repair & Painting,* for review and comment. There is an increased risk of lead-based paint poisoning during renovation activities, particularly to children under 6 years of age. To better inform families about the risks and to encourage greater public health and safety during renovation activities in target housing, EPA has developed a renovation-specific information pamphlet for families. This new pamphlet gives information on lead-based paint hazards in a home, lead testing, how to select a contractor, what precautions to take during the renovation, and proper cleanup activities. EPA is seeking comment on all aspects of the pamphlet's content and design. After reviewing the comments, EPA will publish a final version of the pamphlet that may be used to comply with the requirements of section 406(b) of the Toxic Substances Control Act (TSCA).

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPPT–2004–0126, must be received on or before April 7, 2006.

ADDRESSES: Submit your comments, identified by docket ID number EPA–HQ–OPPT–2004–0126, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov/*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID number EPA–HQ–OPPT–2004–0126. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2004–0126. EPA's policy is that all comments received will be included in the public docket without change and may be made available in the on-line docket at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov, or e-mail. The regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index at *http://www.regulations.gov/*. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in the online docket at *http://www.regulations.gov/* or in hard copy at the OPPT Docket, EPA Docket Center, EPA West, Rm. B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744, and the telephone number for the OPPT Docket, which is located in the EPA Docket Center, is (202) 566–0280.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Joshua B. Novikoff, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 566–0502; e-mail address: *novikoff.joshua@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be potentially affected by this action if you perform renovations in target housing for compensation. Target housing is defined as any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling (40 CFR 745.103). Potentially affected entities may include, but are not limited to:

- Renovators (NAICS 236118), e.g., general building contractors/operative builders, renovation firms, individual contractors.
- Special trade contractors, e.g., carpenters (NAICS 38350), painters (NAICS 238320), drywall workers and lathers (NAICS 238310), home improvement contractors.
- Landlords (NAICS 561110), e.g., multi-family housing property management firms and owners.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in 40 CFR 745.82. If you have any questions regarding the applicability of

this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity, obscene language, or personal threats.

viii. Make sure to submit your comments by the comment period deadline.

II. What Action Is the Agency Taking?

A. Development of a New Pamphlet

EPA has determined that there is a need for a new information pamphlet that addresses renovation-specific lead exposure concerns. Existing regulations at 40 CFR part 745, subpart E, require each person who performs a renovation for compensation of target housing (as defined under 40 CFR 745.103) to provide a lead hazard information pamphlet to owners and occupants of such housing prior to commencing the renovation. These regulations implement TSCA section 406(b). The pamphlet currently used, *Protect Your Family from Lead in Your HomeROW* was developed under the Congressional mandate in section 406(a) of TSCA.

Renovation activities create an increased risk of lead-based paint poisoning, particularly to children under 6 years of age, and the renovation-specific pamphlet will better inform families about such risks and encourage greater public health and safety during renovation activities in target housing. This new pamphlet gives information on lead-based paint hazards in a home, lead testing, how to select a contractor, what precautions to take during the renovation, and proper cleanup activities, while still incorporating the information already included in the original pamphlet and mandated in section 406(a) of TSCA.

In addition, EPA plans to modify *Protect Your Family from Lead During Renovation, Repair, & Painting* to provide information on new requirements to minimize the introduction of lead hazards resulting from the disturbance of lead-based paint during renovation, repair, and painting activities in most housing built before 1978. EPA proposed these requirements, *Lead; Renovation, Repair, and Painting Program*, in the **Federal Register** of January 10, 2006 (71 FR 1588) (FRL–7755–5). The proposal introduces lead training, certification, and safe work practice requirements for contractors involved in renovation, repair, and painting activities. The proposal would also modify the existing regulations at 40 CFR part 745, subpart E, that implement TSCA section 406(b) to require the distribution of this new pamphlet instead of the current pamphlet, *Protect Your Family from Lead in Your Home*. In the preamble to the proposal, EPA stated that it would also be publishing this **Federal Register** notice to announce the availability of *Protect Your Family from Lead During Renovation, Repair, & Painting* for notice and comment.

The Renovation, Repair, and Painting Program proposed rule, issued under the authority of TSCA section 402(c)(3), would require that renovators are trained in the use of lead safe work practices, that renovators and firms are certified, that providers of renovation training are accredited, and that renovators follow renovation work practice standards. The standards would apply to all persons who do renovation for compensation, including renovation contractors, maintenance workers in multi-family housing, painters, and contractors in other specialty trades.

The following are examples of work practices described in the proposal:

- Renovations would be performed by certified firms.
- Certified firms would use certified renovators to perform certain activities and would provide on-the-job-training for uncertified workers.
- Firms would post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area.
- Before beginning the renovation, the firm would isolate the work area so that no visible dust or debris leaves the work area while the renovation is being performed.
- Waste from renovation activities would be contained to prevent releases of dust and debris.
- After the renovation is complete, the firm would clean the work area. A certified renovator may verify the cleanliness of the work area using a procedure involving disposable cleaning cloths.

The proposed rule would apply to housing with lead-based paint built before 1978. EPA is proposing a two-phased approach, with the first phase focusing on rental and owner-occupied housing built before 1978 where a child has an increased blood lead level, in rental housing built before 1960 and in owner-occupied housing built before 1960 where children under age 6 reside. The second phase would apply to renovations in rental housing built between 1960 and 1978 and to owner-occupied housing built after 1960 and before 1978 where children under age 6 reside.

You may submit comments on the Renovation, Repair, and Painting Program proposed rule, identified by Docket ID number EPA–HQ–OPPT–2005–0049, online through the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments. Other methods for submitting comments are also described in the proposed rule.

B. Request for Comments

EPA is seeking public comment on all aspects of the new pamphlet's design. This includes the tone of the pamphlet, and the extent to which the current wording and design tend to support (or undermine) its effectiveness as an educational tool. One issue that EPA has considered is the need to balance technical accuracy with clarity and freedom from overly technical jargon. The extent to which the current draft is

clear and understandable is of primary concern to the Agency. In addition, EPA is particularly interested in how helpful the pamphlet is compared to the old pamphlet and how appropriately it addresses renovation-specific issues.

In designing the layout of the pamphlet, EPA has been aware of the need to develop a dynamic and engaging document while ensuring that the pamphlet can be easily and inexpensively reprinted. This approach has led the Agency to incorporate a layout and illustrations that anchor many of the pamphlet's key points while providing visual interest. EPA requests comment on whether the draft images may be altered in any way to increase their effectiveness.

In addition to soliciting public input through this notice, EPA conducted focus tests to obtain feedback on the draft pamphlet's current reading level, content, and graphic presentation. EPA conducted these tests during the spring of 2004 in Washington, DC and Arlington, VA. The tests consisted of written survey questions and moderated group discussions and were conducted with a group of homeowners and separately with a group of contractors. The focus tests proved valuable in providing overall impressions of the draft pamphlet's strengths and weaknesses. As a direct result of the feedback, EPA made revisions to clarify the intended audience and goal of the pamphlet and strengthen the message that renovation and remodeling work can be done safely if done properly. Revisions included highlighting the significance of lead dust; clarifying the message about the likelihood of the presence of lead, the responsibilities of contractors, and testing options; and better describing what constitutes lead safe work practices.

After reviewing the comments submitted in response to this notice, EPA will publish a final version of the pamphlet. The final version may be used to comply with the requirements of section 406(b) of the Toxic Substances Control Act (TSCA).

III. References

Reference 1 is available from the National Lead Information Clearinghouse (NLIC) at 1–800–424–LEAD or TDD: 1–800–526–5456 or the EPA Public Information Center at (202) 260–2080 and from the Internet at *www.epa.gov/lead/leadprot.htm*. Both references are available via *http://www.regulations.gov/* and can also be viewed in person at the EPA Docket Center.

1. U.S. Environmental Protection Agency, U.S. Consumer Product Safety Commission, and U.S. Department of Housing and Urban Development. *Protect Your Family from Lead in Your Home*. U.S. Government Printing Office, Washington, DC. June 2003.

2. U.S. Environmental Protection Agency, U.S. Consumer Product Safety Commission, and U.S. Department of Housing and Urban Development. *Protect Your Family from Lead During Renovation, Repair & Painting* draft pamphlet. U.S. Government Printing Office, Washington, DC. 2005.

List of Subjects in 40 CFR Part 745

Environmental protection, Housing renovation, Lead, Lead-based paint, Reporting and recordkeeping requirements.

Dated: March 1, 2006.

Susan B. Hazen,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E6–3283 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–345, MM Docket No. 01–269, RM–10249]

Radio Broadcasting Services; Antlers, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: At the request of Charles Crawford, the Audio Division dismisses the petition for rule making proposing the allotment of Channel 284A at Antlers, Oklahoma, as the community's third local aural transmission service. *See* 66 FR 52734, October 17, 2001. We also dismiss the counterproposals filed by Entravision Holdings, LLC and Radio One Licenses, Inc., because both counterproposals were considered and resolved in related proceedings.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–269, adopted February 15, 2006, and released February 17, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20054, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*. This document is not subject to the Congressional Review Act. The Commission, is, therefore, not required to submit a copy of this Report and Order to GAO, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because the proposed rule was dismissed.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 06–2131 Filed 3–7–06; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 71, No. 45
Wednesday, March 8, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (c) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Submit comments on or before May 8, 2006.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC 20523, (202) 712–1365 or via e-mail *bjohnson@usaid.gov*.

SUPPLEMENTARY INFORMATION:

OMB No.: OMB 0412–0565.

Form No.: N/A.

Title: Applicant's Certification That it Does Not Support Terrorist Organizations or Individuals.

Type of Review: Reinstatement.

Purpose: The United States Agency for International Development (USAID) needs to require applicants for assistance to certify that it does not and will not engage in financial transactions with, and does not and will not provide material support and resources to individuals or organizations that engage in terrorism. The purpose of this requirement is to assure that USAID does not directly provide support to such organizations or individuals, and to assure that recipients are aware of these requirements when it considers individuals or organizations are subrecipients.

Annual Reporting Burden:

Respondents: 2,000.

Total annual responses: 4,000.

Total annual hours requested: 1,500 hours.

Dated: February 28, 2006.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 06–2191 Filed 3–7–06; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 6, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Utility Service

Title: 7 CFR 1773, Policy on Audits of RUS Borrowers.

OMB Control Number: 0572–0095.

Summary of Collection: Under the authority of the Rural Electrification Act of 1936 (ACT), as amended 7 U.S.C. 901 *et seq.*, the Administrator is authorized and empowered to make loans under certain specified circumstances for the purpose of furnishing and improving telephone service in rural areas. RUS, in representing the Federal Government as Mortgagee, relies on the information provided by the borrowers in their financial statements to make lending decisions as to borrowers' credit worthiness and to assure that loan funds are approved, advanced and disbursed for proper Act purposes. Borrowers are required to furnish a full and complete report of their financial condition, operations and cash flows, in form and substance satisfactory to RUS.

Need and Use of the Information: RUS will collect information to evaluate borrowers' financial performance, determine whether current loans are at financial risk, and determine the credit worthiness of future losses. If information were not collected, it would delay RUS's analysis of the borrowers' financial strength, thereby adversely impacting current lending decisions.

Description of Respondents: Not-for-profit institutions; Business or other for-profit.

Number of Respondents: 1,500.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 16,677.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–3277 Filed 3–7–06; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 3, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Pamela_Beverly_OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Fruit and Vegetable Market News Reports.

OMB Control Number: 0581–0006.

Summary of Collection: Section 203(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621) directs and authorizes the collection of information and disseminating of marketing information including adequate outlook information on a market-area basis for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income and bring about balance between production and utilization of agriculture products. Market News provides all interested segments of the market chain with market information tends to equalize the competitive position of all market participants. The fruit and vegetable industries, through their organizations, or government agencies present formal requests that the Department of Agriculture issue daily, weekly, semi-monthly, or monthly market news reports on various aspects of the industry.

Need and Use of the Information: AMS will collect information for the production of Market News reports that are then available to the industry and other interested parties in various formats. Information is provided on a voluntary basis and is gathered through confidential telephone and face-to-face interviews by market reporters.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 18,174.

Frequency of Responses: Reporting: Weekly; Monthly.

Total Burden Hours: 119,787.

Agricultural Marketing Service

Title: Specified Commodities Imported into the United States Exempt from Import Requirements, 7 CFR Part 944, 980, and 999.

OMB Control Number: 0581–0167.

Summary of Collection: Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674) provides that when certain domestically produced commodities are regulated under a Federal marketing order; imports of the commodity must meet the same or comparable requirements. Import regulations apply only during those periods when domestic marketing order regulations are in effect. No person may import products for processing or other exempt purposes unless an executed Importers Exempt Commodity Form (FV–6) accompanies the shipment. The Civil Penalty Stipulation Agreement (FV–7) is a ''volunteer'' form that provides the Agricultural Marketing Service (AMS) with an additional tool to obtain resolution of certain cases without the cost of going to a hearing.

Need and Use of the Information: AMS utilizes the information to ensure that imported goods destined for exempt outlets are given no less favorable treatment than that afforded to domestic goods destined for such exempt outlets. The importers wishing to import commodities will use form FV–6, ''Importer's Exempt Commodity'', which requires a minimum amount of information.

Description of Respondents: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 491.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 907.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–3278 Filed 3–7–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Counties Payments Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The Forest Counties Payments Committee has scheduled a business meeting to discuss how it will provide Congress with the information specified in Section 320 of the Fiscal Year 2001 Interior and Related Agencies Appropriations Act. The meeting is open to the public.

DATES: The meeting will be held on April 7, 2006, from 9 a.m. until 12 p.m.

ADDRESSES: The meeting will be held in the Silver Baron E Conference Room, mezzanine level, at the Silver Legacy, 407 North Virginia Street, Reno, NV 89501.

FOR FURTHER INFORMATION CONTACT: Randle G. Phillips, Executive Director, Forest Counties Payments Committee, at (202) 208–6574 or via e-mail at *rphillips01@fs.fed.us*.

SUPPLEMENTARY INFORMATION: Section 320 of the Interior and Related Agencies Appropriations Act of 2001 created the Forest Counties Payments Committee to make recommendations to Congress on a long-term solution for making Federal payments to eligible States and counties in which Federal lands are situated. The Committee will consider the impact on eligible States and counties of revenues from the historic multiple use of Federal lands; evaluate the economic, environmental, and social benefits

which accrue to counties containing Federal lands; evaluate the expenditures by counties on activities occuring on Federal lands, which are Federal responsibilities; and monitor payments and implementation of The Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393).

Dated: February 28, 2006.

Timothy Decoster,

Director, Legislative Affairs.

[FR Doc. E6–3242 Filed 3–7–06; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Mendocino Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Mendocino County Resource Advisory Committee (RAC) will meet March 17, 2006 in Willits, California. Agenda items to be covered include: (1) Approval of minutes, (2) Public Comment, (3) Sub-Committees, (4) Discussion—items of interest, (5) Next agenda and meeting date.

DATES: The meeting will be held on March 17, 2006, from 9 a.m. until 12 noon.

ADDRESSES: The meeting will be held at the Mendocino County Museum, located at 400 E. Commercial St., Willits, California.

FOR FURTHER INFORMATION CONTACT: Robert Hurt, Committee Coordinator, USDA, Mendocino National Forest, Covelo Ranger District, 78150 Covelo Road, Covelo, CA 95428. (707) 983–8503; E-mail *rhurt@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Persons who wish to bring matters to the attention of the Committee may file written statements with the Committee staff by March 12, 2006. Public comment will have the opportunity to address the committee at the meeting.

Dated: March 2, 2006.

Blaine Baker,

Designated Federal Official.

[FR Doc. 06–2168 Filed 3–7–06; 8:45 am]

BILLING CODE 3410–11–M

ANTITRUST MODERNIZATION COMMISSION

Notice of Public Hearings

AGENCY: Antitrust Modernization Commission.

ACTION: Notice of public hearings.

SUMMARY: The Antitrust Modernization Commission will hold a public hearing on March 21, 2006. The topic of the hearing is a general overview of all topics being studied by the Commission.

DATES: March 21, 2006, 10 a.m. to 12 noon. Interested members of the public may attend. Registration is not required.

ADDRESSES: Federal Trade Commission, Headquarters Room 432, 600 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Andrew J. Heimert, Executive Director & General Counsel, Antitrust Modernization Commission: telephone: (202) 233–0701; e-mail: *info@amc.gov*. Mr. Heimert is also the Designated Federal Officer (DFO) for the Antitrust Modernization Commission.

SUPPLEMENTARY INFORMATION: The purpose of these hearings is for the Antitrust Modernization Commission to take testimony and receive evidence regarding the issues it is studying. The hearing will consist of one panel, beginning at 10 a.m. and concluding at noon. Materials relating to the hearings, including lists of witnesses and the prepared statements of the witnesses, will be made available on the Commission's Web site (*http://www.amc.gov*) in advance of the hearings.

Interested members of the public may submit written testimony on the subject of the hearing in the form of comments, pursuant to the Commission's request for comments. See 70 FR 28,902 (May 19, 2005). Members of the public will not be provided with an opportunity to make oral remarks at the hearing.

The AMC is holding this hearing pursuant to its authorizing statute. Antitrust Modernization Commission Act of 2002, Public Law 107–273, § 11057(a), 116 Stat. 1758, 1858.

Dated: March 3, 2006.

By direction of the Antitrust Modernization Commission.

Andrew J. Heimert,

Executive Director & General Counsel, Antitrust Modernization Commission.

[FR Doc. E6–3259 Filed 3–7–06; 8:45 am]

BILLING CODE 6820–YH–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on the African American Population

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of charter renewal.

SUMMARY: The Bureau of the Census (Census Bureau) is giving notice that it has renewed the Census Advisory Committee on the African American Population.

FOR FURTHER INFORMATION CONTACT: Jeri Green, Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 3627, Federal Office Building 3, Washington, DC 20233, telephone (301) 763–2070, TTY (301) 457–2540.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Federal Advisory Committee Act, Title 5, United States Code, Appendix 2, and the General Services Administration (GSA) rule on Federal Advisory Committee Management, Title 41, Code of Federal Regulations, Part 101–6, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Census Advisory Committee on the African American Population is in the public interest in connection with the performance of duties imposed by law on the Department of Commerce.

The Committee was first established in February 1985 to advise the Director of the U.S. Census Bureau on ways to reduce the differential undercount for all populations in the 1990 census with a particular emphasis and focus on the African American population. Upon meeting the standards set forth in Executive Order 12838, in that its charter is of compelling national interest and that other methods of obtaining public participation have been considered, the Committee was rechartered in the following years to provide input on subsequent decennial censuses: 1987, 1989, 1991, 1994, 1996, 1998, 2000, 2002, and 2004.

The Committee will consist of a Chair, Vice-Chair, and seven other members with a substantial interest in the conduct and outcome of the decennial census, the American Community Survey, and related programs. The Committee includes academicians, community leaders, and appropriate individuals from the public at large.

The Committee will function solely as an advisory body, and in compliance with provisions of the Federal Advisory Committee Act. Copies of the revised

charter will be filed with the appropriate Committees of the Congress and with the Library of Congress.

Dated: March 3, 2006.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. E6–3255 Filed 3–7–06; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on the American Indian and Alaska Native Population

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of charter renewal.

SUMMARY: The Bureau of the Census (Census Bureau) is giving notice that it has renewed the Census Advisory Committee on the American Indian and Alaska Native Population.

FOR FURTHER INFORMATION CONTACT: Jeri Green, Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 3627, Federal Office Building 3, Washington, DC 20233, telephone (301) 763–2070, TTY (301) 457–2540.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Federal Advisory Committee Act, Title 5, United States Code, Appendix 2, and the General Services Administration (GSA) rule on Federal Advisory Committee Management, Title 41, Code of Federal Regulations, Part 101–6, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Census Advisory Committee on the American Indian and Alaska Native Population is in the public interest in connection with the performance of duties imposed by law on the Department of Commerce.

The Committee was first established in February 1985 to advise the Director of the U.S. Census Bureau on ways to reduce the differential undercount for all populations in the 1990 census with a particular emphasis and focus on the American Indian and Alaska Native populations. Upon meeting the standards set forth in Executive Order 12838, in that its charter is of compelling national interest and that other methods of obtaining public participation have been considered, the Committee was rechartered in the following years to provide input on subsequent decennial censuses: 1987, 1989, 1991, 1994, 1996, 1998, 2000, 2002, and 2004.

The Committee will consist of a Chair, Vice-Chair, and seven other members with a substantial interest in the conduct and outcome of the decennial census, the American Community Survey, and related programs. The Committee includes academicians, community leaders, and appropriate individuals from the public at large.

The Committee will function solely as an advisory body, and in compliance with provisions of the Federal Advisory Committee Act. Copies of the revised charter will be filed with the appropriate Committees of the Congress and with the Library of Congress.

Dated: March 3, 2006.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. E6–3254 Filed 3–7–06; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on the Asian Population

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of charter renewal.

SUMMARY: The Bureau of the Census (Census Bureau) is giving notice that it has renewed the Census Advisory Committee on the Asian Population.

FOR FURTHER INFORMATION CONTACT: Jeri Green, Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 3627, Federal Office Building 3, Washington, DC 20233, telephone (301) 763–2070, TTY (301) 457–2540.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Federal Advisory Committee Act, Title 5, United States Code, Appendix 2, and the General Services Administration (GSA) rule on Federal Advisory Committee Management, Title 41, Code of Federal Regulations, Part 101–6, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Census Advisory Committee on the Asian Population is in the public interest in connection with the performance of duties imposed by law on the Department of Commerce.

The Committee was first established in February 1985 to advise the Director of the U.S. Census Bureau on ways to reduce the differential undercount for all populations in the 1990 census with a particular emphasis and focus on the Asian populations. Upon meeting the standards set forth in Executive Order 12838, in that its charter is of compelling national interest and that other methods of obtaining public participation have been considered, the Committee was rechartered in the following years to provide input on subsequent decennial censuses: 1987, 1989, 1991, 1994, 1996, 1998, 2000, 2002, and 2004.

The Committee will consist of a Chair, Vice-Chair, and seven other members with a substantial interest in the conduct and outcome of the decennial census, the American Community Survey, and related programs. The Committee includes academicians, community leaders, and appropriate individuals from the public at large.

The Committee will function solely as an advisory body, and in compliance with provisions of the Federal Advisory Committee Act. Copies of the revised charter will be filed with the appropriate Committees of the Congress and with the Library of Congress.

Dated: March 3, 2006.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. E6–3256 Filed 3–7–06; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on the Hispanic Population

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of charter renewal.

SUMMARY: The Bureau of the Census (Census Bureau) is giving notice that it has renewed the Census Advisory Committee on the Hispanic Population.

FOR FURTHER INFORMATION CONTACT: Jeri Green, Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 3627, Federal Office Building 3, Washington, DC 20233, telephone (301) 763–2070, TTY (301) 457–2540.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Federal Advisory Committee Act, Title 5, United States Code, Appendix 2, and the General Services Administration (GSA) rule on Federal Advisory Committee Management, Title 41, Code of Federal Regulations, Part 101–6, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Census Advisory Committee on the Hispanic Population is in the public interest in connection with the performance of duties imposed by law on the Department of Commerce.

The Committee was first established in February 1985 to advise the Director of the U.S. Census Bureau on ways to reduce the differential undercount for all populations in the 1990 census with a particular emphasis and focus on the Hispanic population. Upon meeting the standards set forth in Executive Order 12838 in that its charter is of compelling national interest and that other methods of obtaining public participation have been considered, the Committee was rechartered in the following years to provide advice on subsequent decennial censuses: 1987, 1989, 1991, 1994, 1996, 1998, 2000, 2002, and 2004.

The Committee will consist of a Chair, Vice-Chair, and seven other members with a substantial interest in the conduct and outcome of the decennial census, the American Community Survey, and related programs. The Committee includes academicians, community leaders, and appropriate individuals from the public at large.

The Committee will function solely as an advisory body, and in compliance with provisions of the Federal Advisory Committee Act. Copies of the revised charter will be filed with the appropriate Committees of the Congress and with the Library of Congress.

Dated: March 3, 2006.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. E6–3257 Filed 3–7–06; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on the Native Hawaiian and Other Pacific Islander Population

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of charter renewal.

SUMMARY: The Bureau of the Census (Census Bureau) is giving notice that it has renewed the Census Advisory Committee on the Native Hawaiian and Other Pacific Islander Population.

FOR FURTHER INFORMATION CONTACT: Jeri Green, Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 3627, Federal Office Building 3, Washington, DC 20233, telephone (301) 763–2070, TTY (301) 457–2540.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Federal Advisory Committee Act, Title 5, United States Code, Appendix 2, and the General Services Administration (GSA) rule on Federal Advisory Committee Management, Title 41, Code of Federal Regulations, Part 101–6, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Census Advisory Committee on the Native Hawaiian and Other Pacific Islander Population is in the public interest in connection with the performance of duties imposed by law on the Department of Commerce.

The Committee was first established in February 1985 to advise the Director of the U.S. Census Bureau on ways to reduce the differential undercount for all populations in the 1990 census with a particular emphasis and focus on the Native Hawaiian and Other Pacific Islander population. Upon meeting the standards set forth in Executive Order 12838, in that its charter is of compelling national interest and that other methods of obtaining public participation have been considered, the Committee was rechartered in the following years to provide input on subsequent decennial censuses: 1987, 1989, 1991, 1994, 1996, 1998, 2000, 2002, and 2004.

The Committee will consist of a Chair, Vice-Chair, and seven other members with a substantial interest in the conduct and outcome of the decennial census, the American Community Survey, and related programs. The Committee includes academicians, community leaders, and appropriate individuals from the public at large.

The Committee will function solely as an advisory body, and in compliance with provisions of the Federal Advisory Committee Act. Copies of the revised charter will be filed with the appropriate Committees of the Congress and with the Library of Congress.

Dated: March 3, 2006.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. E6–3253 Filed 3–7–06; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–805, A–351–817, A–405–802, A–428–816, A–201–809, A–455–802, A–485–803, A–469–803, A–401–805, A–412–814, A–583–080]

Cut–to-Length Carbon Steel Plate From Belgium, Brazil, Finland, Germany, Mexico, Poland, Romania, Spain, Sweden, and the United Kingdom and Carbon Steel Plate From Taiwan; Second Five-year (Sunset) Reviews of Antidumping Duty Orders and Antidumping Finding; Final Results

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On November 1, 2005, the Department of Commerce (the Department) initiated sunset reviews of the antidumping duty orders on cut–to-length carbon steel plate (CTL Plate) from Belgium, Brazil, Finland, Germany, Mexico, Poland, Romania, Spain, Sweden, and the United Kingdom and the antidumping finding on carbon steel plate from Taiwan, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). On the basis of the notices of intent to participate and adequate substantive responses filed on behalf of domestic interested parties and no response or inadequate responses from respondent interested parties, the Department conducted expedited sunset reviews of these antidumping duty orders and antidumping finding. As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders on CTL Plate from Belgium, Brazil, Finland, Germany, Mexico, Poland, Romania, Spain, Sweden, and the United Kingdom and the antidumping finding on carbon steel plate from Taiwan would likely lead to continuation or recurrence of dumping at the levels listed below in the section entitled ''Final Results of Sunset Reviews.''

EFFECTIVE DATE: March 8, 2006.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein, Robert James, or Abdelali Elouaradia, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone: (202) 482–1391, (202) 482–0649, or (202) 482–1374, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 2005, the Department initiated sunset reviews of the antidumping duty orders on CTL Plate from Belgium, Brazil, Finland, Germany, Mexico, Poland, Romania, Spain, Sweden, and the United Kingdom and the antidumping finding on carbon steel plate from Taiwan pursuant to section 751(c) of the Act. *See Initiation of Five-year (''Sunset'') Reviews*, 70 FR 65844 (November 1, 2005). For each of these orders, the Department received a notice of intent to participate from Nucor Corporation (Nucor), Mittal Steel USA ISG Inc. (Mittal), IPSCO, Inc. (IPSCO), Oregon Steel Mills, Inc. (Oregon Steel), and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers Union, AFL–CIO-CLC (USW) (collectively, domestic interested parties) within the deadline specified in 19 CFR 351.218(d)(1)(i). Domestic interested parties claimed interested party status under sections 771(9)(C) or (D) of the Act either as a U.S. producer of a domestic like product or as a certified union engaged in the manufacture of a domestic like product. With respect to the antidumping duty orders on CTL Plate from Brazil, Finland, Germany, Mexico, Romania, Spain, and Sweden and the antidumping finding on carbon steel plate from Taiwan, we did not receive any responses from respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited sunset reviews of these antidumping duty orders and the antidumping finding. With respect to the antidumping duty orders on CTL Plate from Belgium, Poland, and the United Kingdom, the Department received substantive responses from respondent interested parties within the deadline specified in 19 CFR 351.218(d)(3)(i).[1] However, on December 21, 2005, the Department determined that the substantive responses filed by respondent interested parties were inadequate. Specifically, for the Belgian, Polish, and British orders, the Department found that total exports of the subject merchandise to the United States by participating respondent interested parties were below the 50 percent threshold (by volume) that the Department normally will consider to be an adequate foreign response as provided for in 19 CFR 351.218(e)(1)(ii)(A). Therefore, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department also conducted expedited sunset reviews of the antidumping duty orders on CTL Plate from Belgium, Poland, and the United Kingdom.

Scope of the Antidumping Duty Orders (CTL Plate from Belgium, Brazil, Finland, Germany, Mexico, Poland, Romania, Spain, Sweden, and the United Kingdom)

The products covered by these antidumping duty orders include hot–rolled carbon steel universal mill plates (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot–rolled carbon steel flat–rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the United States Harmonized Tariff Schedule (HTSUS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included are flat–rolled products of non–rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'') -- for example, products which have been beveled or rounded at the edges. Excluded is grade X–70 plate. These HTSUS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

As a result of a changed circumstances review with respect to Finland, Germany, and the United Kingdom,[2] the order was partially revoked with respect to certain cut–to-length carbon steel plate with a maximum thickness of 80 mm in steel grades BS 7191, 355 EM and 355 EMZ, as amended by Sable Offshore Energy Project specification XB MOO Y 15 0001, types 1 and 2.

As a result of a decision by the Court of International Trade,[3] excluded from the scope of the antidumping duty order on CTL Plate from Belgium is cut-to-length floor plate imported by Duferco Steel, Inc. ''with patterns in relief derived directly from the rolling process.''

Scope of the Antidumping Finding (Carbon Steel Plate from Taiwan)

The merchandise covered by this antidumping finding is hot–rolled carbon steel plate, 0.1875 inch or more in thickness, over 8 inches in width, not in coils, not pickled, not coated or plated with metal, not clad, other than black plate, and not pressed or stamped to nonrectangular shape. The merchandise under review is currently classifiable under items 7208.40.30.30, 7208.40.30.60, 7208.51.00.30, 7208.51.00.45, 7208.51.00.60, 7208.52.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.13.00.00, 7211.14.00.30, 7211.14.00.45, 7211.90.00.00, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00 of the HTSUS. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

All issues raised in these sunset reviews are addressed in the ''Issues and Decision Memorandum'' from Stephen J. Claeys, Deputy Assistant Secretary for Operations, Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated March 1, 2006 (Decision Memorandum), which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the orders and finding were revoked. Parties can find a complete discussion of all issues raised in these sunset reviews and the corresponding recommendation in this public memorandum, which is on file in room B–099 of the main Department building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://ia.ita.doc.gov/frn/index.html*. The paper copy and electronic version of the Decision Memorandum are identical in content.

[1] In the case of the Belgian order, one respondent interested party also filed a waiver of participation.

[2] *See Certain Cut-to-Length Carbon Steel Plate from Finland, Germany and the United Kingdom: Final Results of Changed Circumstances Antidumping Duty and Countervailing Duty Reviews, and Revocation of Orders in Part*, 64 FR 46343 (August 25, 1999).

[3] *See Duferco Steel, Inc.* v. *United States*, 26 CIT 1241 (October 17, 2002).

Final Results of Sunset Reviews

We determine that revocation of the antidumping duty orders on CTL Plate from Belgium, Brazil, Finland, Germany, Mexico, Poland, Romania, Spain, Sweden, and the United Kingdom and the antidumping finding on carbon steel plate from Taiwan would likely lead to continuation or recurrence of dumping at the following percentage weighted–average margins:

BELGIUM

Manufacturers/Exporters	Weighted–Average Margin (Percent)
Forges de Clabecq, S.A.[4]	6.78
Fabrique de Fer Chaleroi, S.A. (FFC)	13.31[5]
All Other Belgian Manufacturers and Exporters	6.84

[4] The Department has never conducted a changed circumstance review finding that Duferco Clabecq S.A. (Duferco) is the successor-in-interest to Forges de Clabecq, S.A. As a result, Duferco is subject to the all others rate.

[5] For this sunset review, we have reported the rate calculated from the original investigation for FFC. The Department notes that in the first sunset review it reported to the International Trade Commission (ITC) a margin of 27.5 percent for FFC. *See Cut-to-Length Carbon Steel Plate From Belgium; Final Results of Expedited Sunset Review of Antidumping Duty Order*, 65 FR 18292 (April 7, 2000) and the accompanying Issues and Decision Memorandum at Comment 2. This rate was based on the 13.75 percent margin found in the 1995-1996 administrative review, doubled to account for a 100 percent finding of duty absorption. As stated in the final results of the first sunset review, the Department reported the 27.5 percent margin ''[c]onsistent with our stated policy of providing the Commission the higher of the margin the Department otherwise would have reported to the Commission or the most recent margin for that company adjusted to account for the Department's findings on duty absorption.'' *See id*. However, on March 22, 2000, the CIT found that the Department lacked authority to conduct a duty absorption inquiry for an antidumping order issued prior to January 1, 1995. *See SKF USA Inc.* v. *United States*, 24 CIT 174 (CIT 2000). Therefore, we are reporting to the ITC the higher calculated rate from the original investigation and we find that there is no basis to provide to the ITC a more recently calculated margin. *See* Decision Memorandum at 25–26.

BRAZIL

Manufacturers/Exporters	Weighted–Average Margin (Percent)
Usinas Siderurgicas de Minas Gerais S.A. (USIMINAS)/ Companhia Siderurgica Paulista (COSIPA)	42.68[6]

BRAZIL—Continued

Manufacturers/Exporters	Weighted–Average Margin (Percent)
All Other Brazilian Manufacturers and Exporters	75.54

[6] In the first sunset review of CTL Plate from Brazil, the Department reported one margin for USIMINAS and COSIPA because the Department had collapsed these companies and treated them as a single entity in the most recently completed administrative review. *See Certain Cut-to-Length Carbon Steel Plate from Brazil: Amendment of Final Results of Antidumping Duty Administrative Review*, 63 FR 20570 (April 27, 1998). Thus, we are reporting a single margin to the ITC for the two entities as we did in the first sunset review. *See* Decision Memorandum at 26.

FINLAND

Manufacturers/Exporters	Weighted–Average Margin (Percent)
Rautaruukki Oy	40.36
All Other Finnish Manufacturers and Exporters	40.36

GERMANY

Manufacturers/Exporters	Weighted–Average Margin (Percent)
Dillenger Huttenwerke	36.00
All Other German Manufacturers and Exporters	36.00

MEXICO

Manufacturers/Exporters	Weighted–Average Margin (Percent)
Altos Hornos de Mexico, S.A. de C.V.	49.25
All Other Mexican Manufacturers and Exporters	49.25

POLAND

Manufacturers/Exporters	Weighted–Average Margin (Percent)
All Polish Manufacturers and Exporters	61.98

ROMANIA

Manufacturers/Exporters	Weighted–Average Margin (Percent)
Metalexportimport SA	75.04
All Other Romanian Manufacturers and Exporters	75.04

SPAIN

Manufacturers/Exporters	Weighted–Average Margin (Percent)
Ensidesa	105.61
All Other Spanish Manufacturers and Exporters	105.61

SWEDEN

Manufacturers/Exporters	Weighted–Average Margin (Percent)
Svenskt Staal ABC	24.23
All Other Swedish Manufacturers and Exporters	24.23

TAIWAN

Manufacturers/Exporters	Weighted–Average Margin (Percent)
China Steel Corporation	34.00
All Other Taiwanese Manufacturers and Exporters	34.00

UNITED KINGDOM

Manufacturers/Exporters	Weighted–Average Margin (Percent)
British Steel plc[7]	109.22
All Other British Manufacturers and Exporters	109.22

[7] The Department has never conducted a changed circumstance review finding that Corus Group plc (Corus) is the successor-in-interest to British Steel plc. Therefore, Corus is subject to the ''all others'' rate.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the

regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: March 1, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–3297 Filed 3–7–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803]

Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Preliminary Results of Administrative Reviews and Preliminary Partial Rescission of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the ''Department'') is conducting administrative reviews of the antidumping duty orders on heavy forged hand tools, finished or unfinished, with or without handles, from the People's Republic of China (''PRC''). These reviews cover imports of subject merchandise from eighteen manufacturers and/or exporters. We preliminarily find that certain manufacturers and/or exporters sold subject merchandise at less than normal value (''NV'') during the period of review (''POR''). We are preliminarily rescinding the reviews for all four orders for Shanghai Xinike Trading Company (''SXT''), for the order on hammers/sledges for Shandong Huarong Machinery Co., Ltd. (''Huarong'') and Iron Bull Industrial Co., Ltd. (''Iron Bull''), and also for the order on picks/mattocks for Huarong and Iron Bull. In addition, we are preliminarily rescinding the review for Iron Bull with respect to the axes/adzes order. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries. We will issue the final review results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: March 8, 2006.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey (Respondents Huarong and Tianjin Machinery Import & Export Corporation (''TMC'')), Cindy Robinson (Respondent Iron Bull), and Nicole Bankhead (Respondent Shandong Machinery Import & Export Company (''SMC'')), AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2312, (202) 482–3797 and (202) 482–9068, respectively.

SUPPLEMENTARY INFORMATION:

Period of Review

The POR is February 1, 2004, through January 31, 2005.

Case History

General

On February 19, 1991, the Department published in the **Federal Register** four antidumping duty orders on heavy forged hand tools (''HFHTs'') from the PRC. *See Antidumping Duty Orders: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles From the People's Republic of China*, 56 FR 6622 (February 19, 1991). Imports covered by these orders comprise the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars/wedges); (3) picks/mattocks; and (4) axes/adzes. *See* the ''Scope of the Antidumping Duty Orders'' section below for the complete description of subject merchandise.

On February 1, 2005, the Department published an opportunity to request a review on all four antidumping duty orders on HFHTs from the PRC. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 70 FR 5136 (February 1, 2005). On February 25, 2005, the following companies requested an administrative review for certain orders: Huarong for the axes/adzes and bars/wedges order, SMC for bars/wedges and hammers/sledges, TMC for axes/adzes, hammers/sledges, and picks/mattocks, SXT for all four orders, and Iron Bull for all four orders. On February 28, 2005, the Petitioner requested administrative reviews of 16 companies,[1] covering all four antidumping duty orders. On March 23, 2005, the Department initiated the 14th administrative review of HFHTs from the PRC, for twenty-one companies in the axes/adzes and bars/wedges orders, and twenty companies in the hammers/sledges and picks/mattocks orders. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part* (''*Initiation*''), 70 FR 14643 (March 23, 2005).

On June 9, 2005, the Department transferred certain documents from the 13th Administrative Review of HFHTs on to the record of this review. *See Memo to the File from Hallie Noel Zink, Case Analyst: Heavy Forged Hand Tools from the People's Republic of China—Document Transfer*, dated June 9, 2005. On June 28, 2005, the Department placed TMC's verification report from the 13th Administrative Review of HFHTs on to the record of the instant review. *See Memo to the File from Hallie Noel Zink, Case Analyst: Heavy Forged Hand Tools from the People's Republic of China—Document Transfer*, dated June 28, 2005.

On October 21, 2005, the Department extended the time limit for the preliminary results of the instant review on HFHTs from the PRC. *See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 70 FR 62095 (October 28, 2005).

Duty Absorption

On April 5, 2005, the Petitioner requested that the Department conduct a duty absorption review to determine whether all initiated companies have absorbed antidumping duties in accordance with 19 CFR 351.213(j)(2004). On May 31, 2005, the Department issued a memo to the file stating that because the antidumping duty orders on HFHTs from the PRC have been in effect since 1991, they are ''transition orders'' in accordance with section 751(c)(6)(C) of the Act, and therefore the Department cannot not make a duty absorption determination. *See Memo to the File, from Hallie Zink, Case Analyst, through Alex Villanueva, Program Manager, re: Duty Absorption Request*, dated May 18, 2005.

Questionnaires and Responses

On April 6, 2005, the Department issued Section A, C and D of the

[1] Lianing Machinery Import and Export Corp (''LMC''), LIMAC, Huarong, Shandong Jinma Industrial Group Company (''Jinma''), SMC, Tianjin Machinery Import and Export Corporation (''TMC''), Changzhou Light Industrial Tools, Laoling Pangu Tools, Leiling Zhengtai Tools Co., Ltd, Jiangsu Sainty International Group Co., Ltd., Shanghai J.E. Tools, Shanxi Tianli Industries Co., Ltd. (''Shanxi Tianli''), Jafsam Metal Products (''Jafsam''), Suqian Foreign Trade Corp., Suqian Telee Tools, and Laiwu Zhongtai Forging.

antidumping duty questionnaire to all companies for which the Department initiated administrative reviews. On April 22, 2005, Shandong Jinma Industrial Group Co., Ltd. (''Jinma''), informed the Department that it had no shipments during the POR. Also on April 22, 2005, Jafsam, a company included in the *Initiation*, made an entry of appearance. On April 27, 2005, Shanxi Tianli faxed the Department a letter requesting an extension to respond to the Department's April 6, 2005, questionnaire. *See Memo to the File from Javier Barrientos, Case Analyst, Antidumping Duty Questionnaire Section A: Shanxi Tianli Industries Co., Ltd. Extension*, dated April 28, 2005, for more information regarding our attempts to contact Shanxi Tianli.

On May 2, 2005, the Department re-sent Section A, C and D of the antidumping questionnaire to all parties that had either not received the Department's first questionnaire or had not responded to the first questionnaire. *See Memo to the File from Irene Gorelik, case analyst, 14th Administrative Review of Heavy Forged Hand Tools from the PRC, 14th Administrative Review: Antidumping Duty Questionnaire*, dated May 4, 2005, for more information regarding the Department's re-sending of the antidumping duty questionnaire; *see also Memo to the File from Javier Barrientos, case analyst, 14th Review of Heavy Forged Hand Tools from the PRC: Initial Questionnaires Time Line*, dated July 1, 2005 (''*14th AR Timeline*''). On May 5, 2005, Respondents Huarong, SMC, and TMC stated that they are the same companies as those with slightly different names for which the Petitioner requested reviews. Thus, eighteen companies remained in the instant review. On May 10, 2005, Huarong, SMC, TMC, SXT, Iron Bull and Jafsam submitted copies of Chinese laws and regulations that relate to their separate rate status. On May 12, 2005, Shanxi Tianli, SXT and Jafsam withdrew from the instant review on HFHTs. Therefore, there were fifteen companies remaining, ten of which did not respond to the Department's questionnaire, one company, Jinma, that stated that it had no shipments during the POR, and four companies participating. *See 14th AR Timeline* for further details on the companies that did not respond and the Jinma section below for further details regarding Jinma's statement that it had no shipments.

On May 13, 2005, the Department received Section A responses from SMC, TMC, Iron Bull and Huarong, collectively ''Respondents.'' On May 27, 2005, the Department received Section C responses from SMC and TMC, and a Section C and D questionnaire response from Huarong. On June 3, 2005, the Department received Section D questionnaire responses from SMC and TMC, a Section C response from Iron Bull, and a response to Appendices V and VII from Huarong. On June 6, 2005, Iron Bull submitted its Section D response. On June 9, 2005, the Department requested that Iron Bull, SMC and TMC submit responses to Appendix VII of the initial questionnaire, issued on April 6, 2005, and that Iron Bull resubmit its Section C response. On June 16, 2005, Iron Bull, TMC and SMC submitted responses to Appendix VII of the Department's June 9, 2005, questionnaire. On June 9, 2005, the Department issued the first supplemental Section C questionnaire to Iron Bull, identifying numerous deficiencies. Iron Bull submitted its response on June 23, 2005. On June 22, 2005, the Department issued supplemental Section A questionnaires to TMC, SMC, Huarong and Iron Bull.

On July 1, 2005, the Department issued supplemental Section C and D questionnaires to TMC, SMC, Huarong and a second Section C supplemental questionnaire to Iron Bull. Between July 21, 2005, and July 27, 2005, SMC, Huarong, TMC and Iron Bull submitted their supplemental Section A questionnaire responses. On July 29, 2005, Huarong and SMC submitted their supplemental Section C and D questionnaire responses.

On August 3, 2005, Huarong and SMC submitted their Section C and D databases. On August 5, 2005, TMC submitted its supplemental Section C and D questionnaire response. On August 8, 2005, Iron Bull submitted its supplemental Section C and D database. On August 9, 2005, the Department sent Jinma a supplemental questionnaire concerning its April 22, 2005, letter. On August 11, 2005, the Department issued TMC a second supplemental Section A questionnaire. On August 19, 2005, the Department issued Iron Bull a second supplemental Section A questionnaire. On August 25, 2005, the Department issued Iron Bull a third supplemental Section C questionnaire, again outlining numerous deficiencies. On August 30, 2005, Jinma stated that it would no longer participate in the instant review.

On September 1, 2005, the Department issued TMC a supplemental Section C questionnaire, and TMC submitted its second supplemental Section A questionnaire response. On September 2, 2005, Iron Bull submitted its third supplemental Section C questionnaire response. On September 8, 2005, Iron Bull submitted an unsolicited Section C and D response. On September 27, 2005, the Department issued TMC a third supplemental Section A questionnaire along with a second supplemental Section D questionnaire.

On October 3, 2005, the Department issued Huarong a supplemental Section A, C and D supplemental questionnaire. On October 13, 2005, the Department sent Huarong additional questions. On October 17, 2005, the Department issued SMC an additional Section C and D questionnaire. On October 24, 2005, the Petitioner submitted deficiency comments on SMC and TMC's previous questionnaire responses. On October 25, 2005, TMC submitted its supplemental Section A and D responses and SMC submitted its supplemental Section A questionnaire response. On October 31, 2005, Huarong submitted its supplemental Section A, C and D questionnaire response.

On November 7, 2005, the Petitioner submitted deficiency comments on Iron Bull's previous questionnaire responses and also provided factual rebuttal information. SMC also submitted its supplemental Section C and D questionnaire response on November 7, 2005, and provided additional data on November 8, 2005. On November 9, 2005, the Petitioner submitted deficiency comments on Huarong's previous questionnaire responses. Also on November 9, 2005, SMC resubmitted its November 7, 2005, questionnaire responses correcting certain bracketing. On November 10, 2005, the Department sent an importer/customer in the instant review a questionnaire (''Customer A''). On November 14, 2005, Council Tool, an interested party, submitted deficiency comments on Iron Bull's previous questionnaire responses. On November 15, 2005, SMC submitted its supplemental Section A questionnaire response. On November 16, 2005, SMC submitted its ocean freight calculations. On November 21, 2005, the Department sent Huarong a supplemental Section A, C and D questionnaire. On November 23, 2005, SMC submitted its Section C and D questionnaire responses and the Department sent TMC a supplemental Section A, C and D questionnaire. On November 29, 2005, the Department received a response to the importer questionnaire from Importer A.

On December 5, 2005, SMC submitted its supplemental Section A questionnaire response. On December 6, 2005, Importer A provided supplemental information to its previous response. On December 12, 2005, Huarong submitted its supplemental Section A, C and D

questionnaire response and the Department sent SMC a supplemental questionnaire regarding its sales to third countries. On December 14, 2005, SMC submitted its supplemental Section C and D questionnaire response. On December 15, 2005, TMC submitted its supplemental Section A, C and D questionnaire response. On December 19, 2005, SMC submitted its response pertaining to third country sales. On December 21, 2005, TMC submitted its Section C and D database. On December 22, 2005, SMC submitted additional Section C and D data. On December 23, 2005, the Petitioner submitted deficiency comments regarding Importer A's response. On December 29, 2005, the Department sent SMC a supplemental Section A questionnaire requesting constructed export price (''CEP'') information. On December 30, 2005, SMC submitted an updated factors of production (''FOP'') database for Laiwu.

On January 5, 2006, the Department sent SMC a supplemental Section A questionnaire. On January 9, 2006, TMC submitted a supplemental Section C and Appendix VII questionnaire response. On January 17, 2006, the Petitioner submitted deficiency comments regarding TMC's questionnaire responses. On January 18, 2006, the Department sent SMC a letter requesting that it reconfigure its databases so they could be converted to SAS. On January 20, 2006, SMC submitted its supplemental Section A questionnaire response, its updated U.S. and FOP databases, and its CEP questionnaire response. On January 23, 2006, the Department issued Huarong and TMC supplemental Section A, C and D questionnaires. On January 25, 2006, the Department sent SMC a letter again requesting its CEP data and SMC also submitted additional Section A information. On January 26, 2006, the Department sent Huarong a letter requesting that it correct errors in its FOP database and SMC submitted hard copies of its updated databases submitted on January 20, 2006. On January 30, 2006, SMC submitted its second response to the Department's request for CEP data and the Petitioner submitted deficiency comments regarding SMC's previous questionnaire responses.

On February 3, 2006, Huarong and TMC submitted partial responses to the Department's January 23, 2006, supplemental questionnaires. On February 7, 2006, the Department issued SMC a supplemental Section A, C and D questionnaire and the Petitioner submitted provided comments on other case issues for the Department to consider in its preliminary results. On February 9, 2006, the Department sent Iron Bull a letter regarding certain information the Department had obtained from CBP. On February 15, 2006, Huarong and TMC submitted the remainder of their responses to the Department's January 23, 2006, supplemental questionnaires and the Council Tool Company, a domestic interested party, submitted comments for the Department to consider in the preliminary results. On February 17, 2006, the Department sent a letter again requesting affiliated party sales information from SMC and also sent a questionnaire to Customer A, through its counsel, requesting its downstream sales data and information about its bankruptcy status. On February 21, 2006, Iron Bull submitted its response to the Department's February 9, 2006, letter. On February 22, 2006, Customer A requested an extension until March 6, 2006, to respond to the Department's February 17, 2006, questionnaire, which the Department granted on February 24, 2006. On February 23, 2006, SMC responded to the Department's February 17, 2006, questionnaire. On February 24, 2006, SMC submitted its response to the Department's February 7, 2006, questionnaire.

Surrogate Values and Other Comments

On February 7, 2006, the Petitioner submitted surrogate values. On February 14, 2006, the Department released its surrogate country selection memorandum, choosing India as the primary surrogate country. *See Memorandum from Matthew Renkey, Case Analyst, through James C. Doyle, Office Director, Office 9, to The File, 14th Administrative Review of Heavy Forged Hand Tools from the People's Republic of China (''PRC''): Selection of a Surrogate Country* (''*Surrogate Country Memo*''), dated February 14, 2006.

Scope of the Antidumping Duty Orders

The products covered by these orders are HFHTs from the PRC, comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds); (2) bars over 18 inches in length, track tools and wedges; (3) picks and mattocks; and (4) axes, adzes and similar hewing tools. HFHTs include heads for drilling hammers, sledges, axes, mauls, picks and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wood splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff System of the United States (''HTSUS'') subheadings: 8205.20.60, 8205.59.30, 8201.30.00 and 8201.40.60. Specifically excluded from these investigations are hammers and sledges with heads 1.5 kg. (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. The HTSUS subheadings are provided for convenience and Customs purposes. The written description remains dispositive.

The Department has issued eight conclusive scope rulings regarding the merchandise covered by these orders: (1) On August 16, 1993, the Department found the ''Max Multi-Purpose Axe,'' imported by the Forrest Tool Company, to be within the scope of the axes/adzes order; (2) on March 8, 2001, the Department found ''18-inch'' and ''24-inch'' pry bars, produced without dies, imported by Olympia Industrial, Inc. and SMC Pacific Tools, Inc., to be within the scope of the bars/wedges order; (3) on March 8, 2001, the Department found the ''Pulaski'' tool, produced without dies by TMC, to be within the scope of the axes/adzes order; (4) on March 8, 2001, the Department found the ''skinning axe,'' imported by Import Traders, Inc., to be within the scope of the axes/adzes order; (5) on December 9, 2004, the Department found the ''MUTT,'' imported by Olympia Industrial, Inc., under HTSUS 8205.59.5510, to be within the scope of the axes/adzes order; (6) on May 23, 2005, the Department found 8-inch by 8-inch and 10-inch by 10-inch cast tampers, imported by Olympia Industrial, Inc. to be outside the scope of the orders; (7) on September 22, 2005, following remand, the U.S. Court of International Trade affirmed the Department's determination that cast picks are outside the scope of the order; and (8) on October 14, 2005, the Department found the Mean Green Splitting Machine, imported by Avalanche Industries, under HTSUS 8201.40.60, to be within the scope of the bars/wedges order.

Preliminary Partial Rescission

In accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding the review of Huarong with respect to the hammers/sledges and picks/mattocks orders, and Iron Bull with respect to the hammers/sledges, axes/adzes, and picks/mattocks orders, since Huarong reported that they made no shipments of subject hammers/sledges and picks/mattocks, and Iron Bull reported that they made no shipments of hammers/sledges, axes/adzes, and picks/mattocks.

On February 9, 2006, based on entry records the Department obtained from CBP, the Department requested clarification from Iron Bull as to whether it exported subject merchandise under the axes/adzes and picks/mattocks orders.

On February 21, 2006, the Department received clarification from Iron Bull that the entry records obtained by the Department were for sales of non-subject merchandise during the POR. Therefore, for these preliminary results, the Department finds that Iron Bull did not make sales of subject merchandise during the POR for the axes/adzes and picks/mattocks orders. However, the Department intends to request additional information from Iron Bull to support its statements that these entry records are for non-subject merchandise.

Our examination of shipment data from CBP for Huarong confirmed that there were no entries for Huarong of hammers/sledges or picks/mattocks during the POR. Consequently, because there is no evidence on the record to indicate that Huarong and Iron Bull had sales of subject merchandise in these orders during the POR, we are preliminarily rescinding the reviews of these orders for Huarong and Iron Bull. In addition, we are also preliminarily rescinding the review of SXT in accordance with 19 CFR 351.213(d)(1) because it withdrew from the instant review within 90 days of when the *Initiation* was published. *See* SXT withdrawal, dated May 12, 2005.

Separate Rates Determination

The Department has treated the PRC as a non-market economy (''NME'') country in all previous antidumping cases. *See, i.e., Automotive Replacement Glass Windshields From the People's Republic of China: Final Results of Administrative Review*, 70 FR 54355 (September 14, 2005). It is the Department's policy to assign all exporters of the merchandise subject to review that are located in NME countries a single antidumping duty rate unless an exporter can demonstrate an absence of governmental control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. To establish whether an exporter is sufficiently independent of governmental control to be entitled to a separate rate, the Department analyzes the exporter using the criteria established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''), as amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''). Under the separate rates criteria established in these cases, the Department assigns separate rates to NME exporters only if they can demonstrate the absence of both *de jure* and *de facto* governmental control over their export activities.

Absence of De Jure Control

Evidence supporting, though not requiring, a finding of the absence of *de jure* governmental control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *See Sparklers* at 20589.

In previous reviews of the HFHTs orders, the Department granted separate rates to SMC, Huarong and TMC. *See, i.e., Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews, Final Partial Rescission of Antidumping Duty Administrative Reviews, and Determination Not To Revoke in Part*, 69 FR 55581 (September 15, 2004) (''*Final Results of the 12th Review*''); *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Notice of Amended Final Results of Antidumping Duty Administrative Reviews*, 69 FR 69892 (December 1, 2004) (''*Amended Final Results of the 12th Review*''). However, it is the Department's policy to evaluate separate rates questionnaire responses each time a Respondent makes a separate rates claim, regardless of whether the Respondent received a separate rate in the past. *See, e.g., Manganese Metal From the People's Republic of China, Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12441 (March 13, 1998). In the instant reviews, SMC, Huarong, TMC and Iron Bull each submitted complete responses to the separate rates section of the Department's questionnaire. The evidence submitted in the instant review by these Respondents includes government laws and regulations on corporate ownership, business licences and narrative information regarding the companies' operations and selection of management. The evidence provided by SMC, Huarong, TMC, and Iron Bull supports a finding of a *de jure* absence of governmental control over their export activities because: (1) There are no controls on exports of subject merchandise, such as quotas applied to, or licenses required for, exports of the subject merchandise to the United States; and (2) the subject merchandise does not appear on any government list regarding export provisions or export licensing.

Absence of De Facto Control

The absence of *de facto* governmental control over exports is based on whether the Respondent: (1) Sets its own export prices independent of the government and other exporters; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management. *See Silicon Carbide*, 59 FR at 22587; *Sparklers*, 56 FR at 20589; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

In their questionnaire responses, SMC, Huarong, TMC and Iron Bull submitted evidence indicating an absence of *de facto* governmental control over their export activities. Specifically, this evidence indicates that: (1) Each company sets its own export prices independent of the government and without the approval of a government authority; (2) each company retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) each company has a general manager, branch manager or division manager with the authority to negotiate and bind the company in an agreement; (4) the general manager is selected by the board of directors or company employees, and the general manager appoints the deputy managers and the manager of each department; and (5) there is no restriction on any of the companies use of export revenues.

Therefore, the Department has preliminarily found that SMC, Huarong, TMC and Iron Bull have established *prima facie* that they qualify for separate rates under the criteria established by *Silicon Carbide* and *Sparklers*.

Affiliation

Based upon information on the record, the Department has preliminarily determined that SMC is affiliated with one of its United States customers, Customer A. Specifically, the Department finds that SMC and Customer A are affiliated through their joint ownership of another PRC company involved in the production and export of subject merchandise. *See Memorandum from Nicole Bankhead, Case Analyst, through Alex Villanueva, Program Manager, Office 9, to James C. Doyle, Director, Office 9, 14th Administrative Review of the Antidumping Duty Order on Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Affiliation*, dated February 28, 2006 (''*SMC Affiliation Memo*'') for further details regarding this issue. Based on this affiliation, the Department requested that SMC report the downstream sales from its affiliate, Customer A, to the first unaffiliated customer. *See* SMC section below for further details regarding the reporting of CEP sales.

Use of Facts Available

Section 776(a)(2) of the Act, provides that, if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Furthermore, section 776(b) of the Act states that ''if the administrating authority finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission (as the case may be), in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' *See also* Statement of Administrative Action (''SAA'') accompanying the Uruguay Round Agreements Act (''URAA''), H.R. Rep. No. 103–316 at 870 (1994).

In the instant reviews, Jinma, SMC, Huarong, TMC and Iron Bull significantly impeded both our ability to complete the review of the bars/wedges order, the hammers/sledges order, the picks/mattocks and the axes/adzes order which we conducted pursuant to section 751 of the Act, and to impose the correct antidumping duties, as mandated by section 731 of the Act. As discussed below, although SMC, Huarong, TMC and Iron Bull are entitled to separate rates, we preliminarily find that their failure to cooperate with the Department to the best of their ability in responding to the Department's request for information warrant the use of AFA in determining dumping margins for their sales of merchandise subject to certain HFHTs orders.

SMC

1. SMC's Unreported Sales of Axes/Adzes and Picks/Mattocks

Between May 13, 2005, and July 21, 2005, SMC reported that it only had sales of subject merchandise in the bars/wedges and hammers/sledges orders and thus only reported the sales and FOP data for these two orders. However, based on information in the Entry Summary CBP Form 7501s (''7501s'') provided by SMC in its July 21, 2005, supplemental Section A questionnaire response, the Department asked SMC whether certain merchandise identified on its 7501s was subject merchandise classified in the picks/mattocks and/or axes/adzes orders. SMC responded that it was subject merchandise classified under the axes/adzes and picks/mattocks orders, which was purchased from another supplier and sold to the United States in very small quantities during the POR. SMC further explained that it had ''determined to give up the opportunity for obtaining a low AD margin for these products.'' SMC provided the Q&V of its sales in the axes/adzes and picks/mattocks orders but not the sales and FOP data.

A. Use of Facts Available

Section 776(a)(2)(A) of the Act, provides that, if an interested party withholds information that has been requested by the Department, the Department may use facts otherwise available in making its determination. Similarly, section 776(a)(2)(C) of the Act states that the Department may, if an interested party ''significantly impedes a proceeding'' under the antidumping statute, use facts otherwise available in reaching the applicable determination. In this case, SMC withheld its sales and FOP data with respect to its U.S. sales of axes/adzes and picks/mattocks. SMC's failure to provide such data has significantly impeded our ability to complete the administrative review, pursuant to section 751 of the Act, and calculate the correct antidumping duties, as required by section 731 of the Act. Therefore, pursuant to sections 776(a)(2)(A) and (C) of the Act, we find it appropriate to base SMC's dumping margin for axes/adzes and picks/mattocks on facts available.

B. Application of Adverse Inferences for Facts Available

In this case, an adverse inference is warranted because SMC originally stated that it did not have sales of either axes/adzes or picks/mattocks to the United States during the POR. Only after reviewing SMC's 7501s did the Department find that SMC did have sales of what appeared to be subject merchandise axes/adzes and picks/mattocks. SMC then refused to provide the relevant U.S. sales and FOP data. By not providing the Department with such data, SMC necessarily failed to cooperate to the best of its ability to respond to the Department's request for information. Moreover, section 776(b) of the Act indicates that an adverse inference may include reliance on information derived from the petition, the final determination in the less-than-fair-value (''LTFV'') investigation, any previous administrative review, or any other information placed on the record. As AFA, we are assigning to SMC's sales of axes/adzes the rate of 193.95 percent, a calculated rate from the instant review, and to its sales of picks/mattocks the PRC-wide rate of 98.77 percent, which was used in the most recently completed administrative review of this antidumping order. *See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews, Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews*, 70 FR 54897 (September 19, 2005) *(''Final Results of the 13th Review'').*

2. SMC's Inability To Provide CEP Data for the Hammers/Sledges and Bars/Wedges Orders

For the reasons explained below, and pursuant to sections 776(a)(2)(A) and 776(a)(2)(B) of the Act, the Department has preliminarily determined that the use of partial facts available is warranted for SMC's affiliated party

sales to Customer A. On December 29, 2005, the Department issued SMC a questionnaire stating that the Department may find SMC affiliated with one of its United States customers, Customer A, and therefore requested that SMC report Customer A's sales to the first unaffiliated United States customer from Customer A and respond to the CEP section of the Department's original Section C questionnaire. *See* the Department's Supplemental questionnaire dated December 29, 2005 (''*Dec. 29th Questionnaire*''). On January 12, 2006, SMC requested an extension from January 17, 2006, until January 24, 2006, to respond to the *Dec. 29th Questionnaire.* The Department granted SMC a three-day extension until January 20, 2006, to provide the requested CEP data.

On January 20, 2006, SMC submitted its response to the *Dec. 29th Questionnaire.* SMC stated that it was unable to obtain information from Customer A because Customer A formally filed for Chapter 11 Bankruptcy on January 13, 2006, and was unable to respond to SMC's request. SMC noted that it tried to construct a CEP database based on available information, but was unsuccessful. SMC also provided the Chapter 11 Bankruptcy filing for Customer A.

On January 25, 2006, the Department sent SMC a letter again requesting the CEP data from Customer A in order for the Department to calculate accurate margins. The Department further requested that SMC provide documentation supporting its assertions regarding its attempts to contact Customer A and also proffer reasonable alternatives for establishing a CEP database if it was not provided.

SMC submitted its response to the Department's January 25, 2006, letter on January 30, 2006. According to SMC, it was unable to collect the requested data because, given the bankruptcy proceeding, Customer A could not respond to SMC's requests for data. SMC stated that it had been notified by Customer A that it had been advised by the U.S. trustee for the bankruptcy case that Customer A plans to completely liquidate its assets and put in permanent storage all materials by March 24, 2006. Accordingly, Customer A ''cannot report the requested sales 'to the first unaffiliated customer.' '' *See* SMC's January 30, 2006, second CEP questionnaire response. SMC further noted that it is unable to proffer a reasonable alternative for establishing a CEP database. Therefore, we preliminarily determined that the use of partial neutral facts available is appropriate for SMC's CEP sales through Customer A in accordance with sections 776(a)(2)(A) and 776(a)(2)(B) of the Act.

A. Use of Facts Available

The Department preliminarily finds that SMC, along with its affiliated U.S. customer, has acted to the best of its ability, and therefore we have not used an adverse inference, as provided under section 776(b) of the Act, to SMC's CEP sales. Specifically, though SMC was unable to provide the requested downstream sale information from Customer A, SMC documented its multiple attempts to gather this information from Customer A via fax, email, telephone calls and certified letters. *See* SMC's January 30, 2006, second CEP questionnaire response. In addition, SMC stated that it attempted to construct a CEP database based on available information, but was unable to do so. Furthermore, SMC has responded to all of the Department's questionnaires in the instant review and has thus participated to the best of its ability. Therefore, as neutral facts available for the preliminary results, the Department is applying the weighted average margin calculated for SMC's sales to its unaffiliated customers for its sales to its affiliated customer, Customer A. *See Analysis for the Preliminary Results of Heavy Forged Hand Tools from the People's Republic of China: Shandong Machinery Import&Export Company,* dated February 28, 2006.

However, as stated above in the *Questionnaires and Responses* section, the Department has sought additional information from both SMC and Customer A regarding CEP sales and Customer A's bankruptcy. SMC submitted its response on February 23, 2006, but SMC was still unable to provide the requested CEP sales and provided no additional information regarding Customer A's bankruptcy status. Furthermore, Customer A requested an extension until March 6, 2006, which the Department granted, to respond to the Department's February 17, 2006, questionnaire. Therefore, the Department intends to revisit the application of facts available in the final results.

Huarong

During the instant POR, Huarong had an agreement with a PRC company under which the PRC company would act as an ''agent'' for the vast majority of Huarong's U.S. sales of bars/wedges. When making ''agent'' sales, Huarong conducted all of the negotiations with the U.S. customer regarding price and quantity, and arranged for the foreign inland freight, international freight and marine insurance associated with these sales. However, Huarong used the ''agent's'' invoice for export/import purposes, with a commission paid to the ''agent.'' Huarong's entries were thus identified to CBP as being from Huarong's ''agent,'' entered at the ''agent's'' lower cash deposit rate, and would possibly have been liquidated at an assessment rate far less than would be appropriate for a sale made by Huarong. For a complete discussion of the Department's decision to apply AFA to Huarong for the bars/wedges order, *see Memorandum from Matt Renkey, case analyst, and Alex Villanueva, program manager, through James C. Doyle, Director, AD/CVD Operations, Office 9 to the File, 14th Administrative Review of Heavy Forged Hand Tools from the People's Republic of China: Application of Adverse Facts Available to Shandong Huarong Machinery Corporation Ltd.,* dated February 28, 2006 (''Huarong AFA Memo'').

A. Use of Facts Available

Section 776(a)(2)(C) of the Act states that the Department may, if an interested party ''significantly impedes a proceeding'' under the antidumping statute, use facts otherwise available in reaching the applicable determination. In this case, Huarong's invoice scheme with its ''agent'' has impeded our ability to conduct the administrative review, pursuant to section 751 of the Act, and calculate the correct antidumping duties, as required by section 731 of the Act. Therefore, pursuant to section 776(a)(2)(C) of the Act, we find it appropriate to base Huarong's dumping margin for bars/wedges on facts available.

B. Application of Adverse Inferences for Facts Available

In this case, an adverse inference is warranted because: (1) Huarong misrepresented the nature of its arrangement with the ''agent'' by portraying that company as a bona fide agent for the vast majority of Huarong's sales of bars/wedges to the United States; and (2) Huarong participated in a scheme that would have resulted in circumvention of the antidumping duty order by evading payment of the applicable cash deposit rates and would have evaded payment of its assessment rates. By engaging in a scheme designed to avoid the Department's calculation, Huarong necessarily failed to cooperate to the best of its ability to respond to the Department's request for information. Moreover, section 776(b) of the Act indicates that an adverse inference may include reliance on information derived from the petition, the final determination in the LTFV

investigation, any previous administrative review, or any other information placed on the record. As AFA, we are assigning to Huarong's sales of bars/wedges the rate of 139.31 percent, the highest rate applied to bars/wedges, which is also the PRC-wide rate, published in the most recently completed administrative review of this antidumping order. *See Final Results of the 13th Review; see also Huarong AFA Memo.*

TMC

During the instant period under review, TMC had agreements with several other PRC companies under which TMC would act as an ''agent'' for those companies' U.S. sales of bars/wedges, hammers/sledges and axes/adzes. Even though it was purportedly the ''agent'' for these sales, TMC neither negotiated the price and quantity with the U.S. customer, nor arranged the foreign inland freight, international freight and marine insurance associated with these sales, responsibilities an agent would perform. Rather, TMC performed nominal administrative tasks and permitted these companies simply to use TMC's invoices when exporting their subject bars/wedges, hammers/sledges and axes/adzes to the United States during the POR. Entries from these companies were thus identified to CBP as being from TMC, entered at TMC's lower cash deposit rate, and would have possibly been liquidated at an assessment rate far less than would be appropriate. For a complete discussion of the Department's decision to apply AFA to TMC for the bars/wedges, hammers/sledges, and axes/adzes orders, *see Memorandum from Matt Renkey, case analyst, and Alex Villanueva, program manager, through James C. Doyle, Director, AD/CVD Operations, Office 9 to the File, 14th Administrative Review of Heavy Forged Hand Tools from the People's Republic of China: Application of Adverse Facts Available to Tianjin Machinery Import & Export Corporation.*, dated February 28, 2006 (''*TMC AFA Memo*'').

A. Use of Facts Available

Section 776(a)(2)(C) of the Act states that the Department may, if an interested party ''significantly impedes a proceeding'' under the antidumping statute, use facts otherwise available in reaching the applicable determination. In this case, TMC's participation in an invoice scheme with other companies has impeded our ability to conduct the administrative review, pursuant to section 751 of the Act, and to calculate the correct antidumping duties, as required by section 731 of the Act. Therefore, pursuant to section 776(a)(2)(C) of the Act, we find it appropriate to base TMC's dumping margin for bars/wedges, hammers/sledges and axes/adzes on facts available.

B. Application of Adverse Inferences for Facts Available

Pursuant to section 776(b) of the Act, an adverse inference is warranted because: (1) TMC misrepresented the nature of its arrangement with these other companies by portraying itself as a *bona fide* sales agent for the majority of the other companies' sales of bars/wedges, hammers/sledges and axes/adzes to the United States; and (2) TMC participated in a scheme that would have resulted in circumvention of three antidumping duty orders. By engaging in a scheme designed to avoid the Department's calculation, TMC necessarily failed to cooperate to the best of its ability to respond to the Department's request for information. As a result, TMC participated in a scheme allowing other companies to evade payment of the accurate and applicable cash deposit rates and to evade the proper and applicable assessment rates. In accordance with Section 776(b) of the Act, as AFA, we are assigning an AFA rate of 139.31 percent to TMC's sales of merchandise covered by the antidumping duty order on bars/wedges, an AFA rate of 45.42 percent to TMC's sales of merchandise covered by the antidumping duty order on hammers/sledges and an AFA rate of 193.95 percent to TMC's sales of merchandise covered by the antidumping duty order on axes/adzes. *See Final Results of the 13th Review; see also TMC AFA Memo.*

Iron Bull

Between May and September 2005, Iron Bull was given four opportunities (including the original Section C questionnaire) to provide and revise its U.S. sales database. After reviewing Iron Bull's four Section C responses and its submitted U.S. sales database, we find that each one of Iron Bull's U.S. sales databases was unique and uncorrelated with its previously submitted U.S. sales database. We also find that all four of Iron Bull's responses were not clear and lacked narrative explanation, and all four of its U.S. sales databases contained numerous significant errors. Therefore, we have concluded that Iron Bull's responses and databases are unreliable and cannot be used to calculate an antidumping duty margin for its sales of bars/wedges for these preliminary results.

In addition, Iron Bull's own merchandise was claimed under other manufacturers' names on the CBP form 7501. Therefore, Iron Bull's U.S. sales database is incomplete, and Iron Bull and its affiliated U.S. importer appear to have used other manufacturers' IDs to avoid paying a higher dumping duty rate.

Moreover, we find that Iron Bull's agent sales scheme is mischaracterized and misrepresented and its agreement with its agent allowed its affiliated U.S. importer to evade paying the correct cash deposits, and potentially evade paying the correct amount of antidumping duties, thereby undermining the integrity of the antidumping duty administrative review process and impeding our ability to conduct the administrative review. For a complete discussion of the Department's decision to apply AFA to Iron Bull for the bars/wedges and other orders, *see Memorandum from Cindy Robinson, case analyst, and Alex Villanueva, program manager, through James C. Doyle, Director, AD/CVD Operations, Office 9 to the File, 14th Administrative Review of Heavy Forged Hand Tools from the People's Republic of China: Application of Adverse Facts Available to Iron Bull Industrial Co., Ltd.*, dated February 28, 2006 (''*Iron Bull AFA Memo*'').

A. Use of Facts Available

Section 776(a)(2)(C) of the Act states that the Department may, if an interested party ''significantly impedes a proceeding'' under the antidumping statute, use facts otherwise available in reaching the applicable determination. In this case, Iron Bull also repeatedly failed to provide the requested information in the form or manner requested by the Department in accordance with section 776(a)(2)(B)of the Act. Pursuant to section 782(d) of the Act, the Department provided three additional opportunities for Iron Bull to correct its U.S. sales database since its original Section C submission, but Iron Bull continued to submit unclear, inconsistent, unreliable, and unusable information. In accordance with section 782(e) of the Act, the Department has determined to disregard all of Iron Bull's original and subsequent responses.

In addition, Iron Bull and its affiliated U.S. importer used other manufacturers' IDs and claimed the antidumping duty rates of those manufacturers for subject merchandise produced and sold by Iron Bull to avoid the cash deposit rates in effect during the POR and to circumvent the antidumping duty order. We find that Iron Bull and its U.S. affiliated

importer impeded our ability to complete this administrative review under section 751 of the Act and to impose the correct antidumping duties, as mandated by section 731 of the Act.

Finally, Iron Bull's invoice scheme with its ''agent'' has impeded our ability to conduct the administrative review, pursuant to section 751 of the Act, and calculate the correct antidumping duties, as required by section 731 of the Act. Therefore, pursuant to section 776(a)(2)(C) of the Act, we find it appropriate to base Iron Bull's dumping margin for bars/wedges on facts available.

B. Application of Adverse Inferences for Facts Available

In this case, an adverse inference is warranted because Iron Bull repeatedly failed to provide the requested information in the form or manner requested by the Department in accordance with section 776(a)(2)(B)of the Act, despite repeated and clear instructions from the Department. By not providing the Department a timely, clear, reliable, and usable U.S. sales database for bars and wedges, Iron Bull necessarily failed to cooperate to the best of its ability to respond to the Department's request for information.

Furthermore, as noted, Iron Bull and its affiliated U.S. importer used another manufacturer's ID and applied that manufacturer's lower cash deposit rate, and possibly lower assessment rates, to Iron Bull's self-produced bars and wedges. Iron Bull misrepresented the nature of its arrangement with the ''agent'' by portraying that company as a *bona fide* agent for certain Iron Bull's sales of bars/wedges to the United States. Iron Bull's participation in the ''agent'' sales scheme resulted in circumvention of the antidumping duty order. By engaging in a scheme designed to avoid the Department's calculation, Iron Bull necessarily failed to cooperate to the best of its ability to respond to the Department's request for information.

Moreover, section 776(b) of the Act indicates that an adverse inference may include reliance on information derived from the petition, the final determination in the LTFV investigation, any previous administrative review, or any other information placed on the record. As AFA, we are assigning to Iron Bull's sales of bars/wedges the rate of 139.31 percent, the highest rate applied to bars/wedges, which is also the PRC-wide rate.

PRC-Wide Entity and Non-Responding Companies [2]

As mentioned in the ''Case History'' section above, the Department initiated these administrative reviews of the axes/adzes and bars/wedges orders for twenty-one PRC companies, and the hammers/sledges and picks/mattocks orders for twenty PRC companies. On April 6, 2005, the Department issued Section A, C and D of the antidumping duty questionnaires to all companies for which the Department initiated administrative reviews. *See Initiation*. Out of these companies, only SMC, TMC, Iron Bull, and Huarong, provided information demonstrating that they are entitled to a separate rate; therefore, the remaining companies are not entitled to a separate rate. Thus, we consider the thirteen companies that did not respond to the Department's questionnaires to be part of the PRC-wide entity. *See 14th AR Timeline*. In accordance with sections 776(a)(2)(A) and (B), as well as section 776(b) of the Act, we are assigning total AFA to the PRC-wide entity.

Under section 782(c) of the Act, a respondent has a responsibility not only to notify the Department if it is unable to provide the requested information but also to provide a full explanation as to why it cannot provide the information and suggest alternative forms in which it is able to submit the information. Because these companies did not establish their entitlement to a separate rate and failed to provide requested information, we find that, in accordance with sections 776(a)(2)(A) and (B) of the Act, it is appropriate to base the PRC-wide margin in these reviews on facts available. *See, e.g., Final Results of Antidumping Duty Administrative Review for Two Manufacturers/Exporters: Certain Preserved Mushrooms from the People's Republic of China*, 65 FR 50183, 50184 (August 17, 2000).

Section 776(b) of the Act permits the Department to use as AFA information derived in the LTFV investigation or any prior review. In selecting an AFA rate, where warranted, the Department's practice has been to assign respondents who fail to cooperate with the Department's requests for information the highest margin determined for any party in the LTFV investigation or in any administrative review. *See, e.g., Stainless Steel Plate in Coils from Taiwan; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 67 FR 5789 (February 7, 2002). As AFA, we are assigning to the PRC-wide entity's sales of axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks the rates of 193.95, 139.31, 45.42, and 98.77 percent, respectively.

Corroboration

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, secondary information used as facts available. Secondary information is defined as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* SAA at 870 and 19 CFR 351.308(d).

The SAA further provides that the term ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. Thus, to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only sources for calculated margins are administrative determinations. The rate selected as AFA for bars/wedges was calculated, *i.e.*, derived from verified information provided by TMC during the 1998–1999 administrative review, and was corroborated and used as the PRC-wide and AFA rate in the previous administrative review. *Id.* The AFA rate we are applying for the order on hammers/sledges was applied as ''best information available'' (the predecessor to AFA) during the LTFV investigation for the sole respondent China National Machinery Import & Export Corporation, and was again corroborated and used as the PRC-wide and AFA rate in the 13th review. *Id.* The AFA rate we are applying for the order on picks/mattocks was calculated in the fifth review, became the PRC-wide and AFA rate in the seventh review, and has been used since. *See, e.g., Final Results of the 13th Review*. No information has been presented in the current review that calls into question the reliability of the information used for these AFA rates. Thus, the Department finds that the information is reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin

[2] LMC, LIMAC, Jinma, Changzhou Light Industrial Tools, Laoling Pangu Tools, Leiling Zhengtai Tools Co., Ltd., Jiangsu Sainty International Group Co., Ltd., Shanghai J.E. Tools, Shanxi Tianli, Jafsam, Suqian Foreign Trade Corp., Suqian Telee Tools, and Laiwu Zhongtai Forging, collectively ''non-responding companies.''

continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review,* 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. *See D&L Supply Co.* v. *United States,* 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present with respect to the rates being used here. Moreover, the rates selected for axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks are the rates currently applicable to the PRC-wide entity. The Department assumes that if an uncooperative respondent could have demonstrated a lower rate, it would have cooperated. *See Rhone Poulenc, Inc.* v. *United States,* 899 F2d 1185 (Fed. Cir. 1990); *cf. Ta Chen Stainless Steel Pipe, Inc.* v. *United States,* 24 CIT 841 (2000) (respondents should not benefit from failure to cooperate).

The information used in calculating these margins was based on sales and production data of respondents in the current review or a prior review, together with the most appropriate surrogate value information available to the Department, chosen from submissions by the parties in that review, as well as gathered by the Department itself, or on ''best information available'' from the LTFV investigation. Furthermore, the calculations were subject to comment from interested parties in the proceeding. *See Final Results of the 13th Review.* Moreover, as there is no information on the record of this review that demonstrates that these rates are not appropriate to use as AFA, we determine that these rates have relevance. As these rates are both reliable and relevant, we determine that they have probative value. Accordingly, the selected rates of 193.95 percent for axes/adzes, 139.31 percent for bars/wedges, 45.42 percent for hammers/sledges, and 98.77 percent for picks/mattocks, the highest rates from any segment of this administrative proceeding (*i.e.*, the calculated and current PRC-wide rate for each order) have been corroborated, to the extent practicable and as necessary, in accordance with section 776(c) of the Act.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value (''NV''), in most circumstances, on the NME producer's factors of production, valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the surrogate values we have used in this investigation are discussed under the ''Normal Value'' Section below.

As discussed in the ''Separate Rates'' section, the Department considers the PRC to be an NME country. The Department has treated the PRC as an NME country in all previous antidumping proceedings. In accordance with section 771(18)(C)(I) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. We have no evidence suggesting that this determination should be changed. Therefore, we treated the PRC as an NME country for purposes of these reviews and calculated NV by valuing the FOP in a surrogate country.

The Department determined that India, Indonesia, Sri Lanka, Philippines, and Egypt are countries comparable to the PRC in terms of economic development. *See Memorandum from Ron Lorentzen, Office of Policy, Acting Director, to Alex Villanueva, Program Manager: Antidumping Duty Administrative Review of Heavy Forged Hand Tools (''Hand Tools'') from the People's Republic of China (PRC): Request for a List of Surrogate Countries,* dated May 5, 2005. We select an appropriate surrogate country based on the availability and reliability of data from the countries. *See Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (''Policy Bulletin*''), dated March 1, 2004. In this case, we have found that India is a significant exporter of comparable merchandise, merchandise classified under HTSUS subheadings 8205.20, 8205.59, 8201.30, and 8201.40, the subheadings applicable to subject hand tools, and is at a similar level of economic development pursuant to 733(c)(4) of the Act. *See Surrogate Country Memo.*

U.S. Price

The Department is calculating dumping margins for the picks/mattocks order for TMC, the axes/adzes order for Huarong, and the bars/wedges and hammers/sledges orders for SMC. There is no record evidence that these companies engaged in the ''agent'' sale scheme described above with respect to these sales. In accordance with section 772(a) of the Act, the Department calculated export prices (''EPs'') for sales to the United States for the participating Respondents receiving calculated rates because the first sale to an unaffiliated party was made before the date of importation and the use of constructed EP (''CEP'') was not otherwise warranted. We calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, we deducted from the starting price to unaffiliated purchasers foreign inland freight, brokerage and handling, international freight, marine insurance, warehousing, and containerization. For the Respondents receiving calculated rates, each of these services was either provided by a NME vendor or paid for using a NME currency, with two exceptions. For international freight and marine insurance, provided by a market economy provider and paid in U.S. dollars, we used the actual cost per kilogram of the freight. We based the deduction for other movement charges on surrogate values. *See Memorandum from Matt Renkey, Case Analyst, through Alex Villanueva, Program Manager, Office 9, to the File, 14th Administrative Review of HFHTs from the People's Republic of China (''PRC''): Surrogate Values for the Preliminary Results,* dated February 28, 2006 (''*Surrogate Values Memo*'') for details regarding the surrogate values for other movement expenses.

Normal Value

In accordance with section 773(c) of the Act, we calculated NV based on factors of production (''FOP'') reported by the Respondents for the POR. To calculate NV, we valued the reported FOP by multiplying the per-unit factor quantities by publicly available Indian surrogate values. In selecting surrogate values, we considered the quality, specificity, and contemporaneity of the available values. As appropriate, we

adjusted the value of material inputs to account for delivery costs. Where appropriate, we increased Indian surrogate values by surrogate inland freight costs. We calculated these inland freight costs using the shorter of the reported distances from the PRC port to the PRC factory, or from the domestic supplier to the factory. This adjustment is in accordance with the United States Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States*, 117 F. 3d 1401, 1407–1408 (Fed.Cir. 1997).

For those values not contemporaneous with the POR, we adjusted for inflation or deflation using data published in the IMF's *International Financial Statistics*. We excluded from the surrogate country import data used in our calculations imports from Korea, Thailand and Indonesia due to generally available export subsidies. *See China Nat'l Mach. Import & Export Corp.* v. *United States*, 293 F. Supp. 2d 1334 (CIT 2003), *aff'd* 104 Fed. Appx. 183 (Fed. Cir. 2004). Furthermore, we disregarded prices from NME countries. Finally, imports that were labeled as originating from an ''unspecified'' country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies. We converted the surrogate values to U.S. dollars as appropriate, using the official exchange rate recorded on the dates of sale of subject merchandise in this case, obtained from Import Administration's Web site at *http://www.ia.ita.doc.gov/*. For further detail, *see Surrogate Values Memo*.

Preliminary Results of the Review

As a result of our reviews, we preliminarily find that the following margins exist for the period February 1, 2004, through January 31, 2005:

Manufacturer/exporter	Weighted-average margin (percent)
Heavy Forged Hand Tools from the PRC: Axes/Adzes	
TMC	193.95
Huarong	193.95
SMC	193.95
PRC-Wide Rate	193.95
Heavy Forged Hand Tools from the PRC: Hammers/Sledges	
TMC	45.42
SMC	13.29
PRC-Wide Rate	45.42
Heavy Forged Hand Tools from the PRC: Picks/Mattocks	
TMC	51.83
SMC	98.77
PRC-Wide Rate	98.77
Heavy Forged Hand Tools from the PRC: Bars/Wedges	
TMC	139.31
Huarong	139.31
SMC	36.15
Iron Bull	139.31
PRC-Wide Rate	139.31

The PRC-wide rate applies to the thirteen companies that did not respond to the Department's original questionnaires.

Public Comment

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within ten days of the date of announcement of the preliminary results. An interested party may request a hearing within 30 days of publication of the preliminary results. *See* 19 CFR 351.310(c). Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, within five days after the time limit for filing case briefs. *See* 19 CFR 351.309(c)(1)(ii) and 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days of publication of the preliminary results. The assessment of antidumping duties on entries of merchandise covered by this review and future deposits of estimated duties shall be based on the final results of this review.

Assessment Rates

Upon completion of these administrative reviews, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), for the Respondents receiving calculated dumping margins, we calculated importer-specific per-unit duty assessment rates based on the ratio of the total amount of the dumping duties calculated for the examined sales to the total quantity of those same sales. These importer-specific per-unit rates will be assessed uniformly on all entries of each importer that were made during the POR. In accordance with 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the importer-specific assessment rate is *de minimis* (*i.e.*, less than 0.5 percent *ad valorem*). Lastly, for the Respondents receiving dumping rates based upon AFA, the Department, upon completion of these reviews, will instruct CBP to liquidate entries according to the AFA *ad valorem* rate. The Department will issue appraisement instructions directly to CBP upon the completion of the final results of these administrative reviews.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of these administrative reviews for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies named above will be the rates for those firms established in the final results of these administrative reviews; (2) for any previously reviewed or investigated PRC or non-PRC exporter, not covered in these reviews, with a separate rate, the cash deposit rate will be the company-specific rate established in the most recent segment of these proceedings; (3) for all other PRC exporters, the cash deposit rates will be the PRC-wide rates established in the final results of these reviews; and (4) the cash deposit rate for any non-PRC exporter of subject merchandise from the PRC who does not have its own rate will be the rate applicable to the PRC exporter that supplied the non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of

antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(I)(1) of the Act.

Dated: February 28, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–3296 Filed 3–7–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–837]

Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Japan: Final Results of Changed Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department has determined to apply an adverse facts available rate of 59.67 percent to Tokyo Kikai Seisakusho, Ltd. (TKS) in the 1997–1998 administrative review under section 776(b) of the Tariff Act of 1930, as amended (the Act), as a result of TKS' misconduct during this review. We are also rescinding the company–specific revocation with respect to TKS and reinstating the order with respect to TKS from September 1, 2000, through September 3, 2001, the day before the effective date of the sunset revocation. Upon the completion of this review, we will reopen for reconsideration the sunset review that resulted in revocation of this order.

EFFECTIVE DATE: March 8, 2006.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Kate Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4136, or (202) 482–4929 respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 10, 2005, the Department of Commerce (the Department) self–initiated a changed circumstances review of large newspaper printing presses and components thereof, whether assembled or unassembled (LNPPs), from Japan, to consider information contained in a recent federal court decision, *Goss International Corp. v. Tokyo Kikai Seisakusho, Ltd.*, 321 F.Supp.2d 1039 (N.D. Iowa 2004) (*Goss Int'l*). *See Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Japan: Initiation of Changed Circumstances Review*, 70 FR 24514 (May 10, 2005) (*Notice of Initiation*). As detailed in our *Notice of Initiation*, evidence was presented in that court proceeding demonstrating that TKS intentionally provided false information regarding its sale to the Dallas Morning News (DMN), the subject of the Department's 1997–1998 administrative review.

On September 13, 2005, the Department published a notice of preliminary results of changed circumstances review in which it preliminarily determined that it was appropriate to take the following course of action in order to protect the integrity of the Department's proceedings: (1) Revise TKS' margin for the 1997–1998 review to apply a rate of 59.67 percent based on adverse facts available, pursuant to section 776(b) of the Act; (2) rescind the company–specific revocation of the antidumping duty order for TKS because TKS no longer qualifies for revocation based on three consecutive administrative reviews resulting in zero dumping margins under 19 CFR 351.222(b); and (3) reconsider the sunset review which resulted in the revocation of the entire order, pursuant to section 751(c) of the Act. *See Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan: Preliminary Results of Changed Circumstances Review*, 70 FR 54019, 54023 (September 13, 2005) (*Preliminary Results*).

The interested parties submitted case and rebuttal briefs on October 20 and 27, 2005, respectively. Also in October 2005, several parties submitted letters addressing the preliminary results, including newspaper publishers *The Washington Post* and North Jersey Media Group, Inc. A public hearing and a closed hearing were held on November 15, 2005.

On January 26, 2006, we invited comments on the decision of the U.S. Court of Appeals for the Eighth Circuit in *Goss Int'l Corp. v. Man Roland Druckmaschinen Aktiengesellschaft*, No. 04–2604, 2006 U.S. App. LEXIS 1569 (8th Cir. Jan. 23, 2006), affirming the decision of the Iowa district court in *Goss Int'l*. Goss International Corporation, TKS, and Mitsubishi Heavy Industries, Ltd. filed comments on January 31, 2006.

Scope of the Changed Circumstances Review

The products covered by this changed circumstances review are large newspaper printing presses, including press systems, press additions and press components, whether assembled or unassembled, whether complete or incomplete, that are capable of printing or otherwise manipulating a roll of paper more than two pages across. A page is defined as a newspaper broadsheet page in which the lines of type are printed perpendicular to the running of the direction of the paper or a newspaper tabloid page with lines of type parallel to the running of the direction of the paper.

In addition to press systems, the scope of the review includes the five press system components. They are: (1) A printing unit, which is any component that prints in monocolor, spot color and/or process (full) color; (2) a reel tension paster (RTP), which is any component that feeds a roll of paper more than two newspaper broadsheet pages in width into a subject printing unit; (3) a folder, which is a module or combination of modules capable of cutting, folding, and/or delivering the paper from a roll or rolls of newspaper broadsheet paper more than two pages in width into a newspaper format; (4) conveyance and access apparatus capable of manipulating a roll of paper more than two newspaper broadsheet pages across through the production process and which provides structural support and access; and (5) a computerized control system, which is any computer equipment and/or software designed specifically to control, monitor, adjust, and coordinate the functions and operations of large newspaper printing presses or press components.

A press addition is comprised of a union of one or more of the press components defined above and the equipment necessary to integrate such components into an existing press system.

Because of their size, LNPP systems, press additions, and press components are typically shipped either partially assembled or unassembled, complete or incomplete, and are assembled and/or completed prior to and/or during the installation process in the United States. Any of the five components, or collection of components, the use of which is to fulfill a contract for LNPP systems, press additions, or press components, regardless of degree of

assembly and/or degree of combination with non–subject elements before or after importation, is included in the scope of this review. Also included in the scope are elements of a LNPP system, addition or component, which taken altogether, constitute at least 50 percent of the cost of manufacture of any of the five major LNPP components of which they are a part.

For purposes of the review, the following definitions apply irrespective of any different definition that may be found in customs rulings, U.S. customs law or the *Harmonized Tariff Schedule of the United States* (HTSUS): (1) The term ''unassembled'' means fully or partially unassembled or disassembled; and (2) the term ''incomplete'' means lacking one or more elements with which the LNPP is intended to be equipped in order to fulfill a contract for a LNPP system, addition or component.

This scope does not cover spare or replacement parts. Spare or replacement parts imported pursuant to a LNPP contract, which are not integral to the original start–up and operation of the LNPP, and are separately identified and valued in a LNPP contract, whether or not shipped in combination with covered merchandise, are excluded from the scope of this review. Used presses are also not subject to this scope. Used presses are those that have been previously sold in an arm's–length transaction to a purchaser that used them to produce newspapers in the ordinary course of business.

Also excluded from the scope are elements and components of LNPP systems, and additions thereto, which feature a 22–inch cut–off, 50–inch web width and a rated speed no greater than 75,000 copies per hour. *See Large Newspaper Printing Presses Components Thereof, Whether Assembled or Unassembled, from Japan: Final Results of Changed Circumstances Antidumping Duty Administrative Review and Intent to Revoke Antidumping Duty Order, In Part*, 64 FR 72315 (December 27, 1999). In addition to the specifications set out in this paragraph, all of which must be met in order for the product to be excluded from the scope of the review, the product must also meet all of the specifications detailed in the five numbered sections following this paragraph. If one or more of these criteria is not fulfilled, the product is not excluded from the scope of the review.

1. *Printing Unit*: A printing unit which is a color keyless blanket–to-blanket tower unit with a fixed gain infeed and fixed gain outfeed, with a rated speed no greater than 75,000 copies per hour, which includes the following features:
   - Each tower consisting of four levels, one or more of which must be populated.
   - Plate cylinders which contain slot lock–ups and blanket cylinders which contain reel rod lock–ups both of which are of solid carbon steel with nickel plating and with bearers at both ends which are configured in–line with bearers of other cylinders.
   - Keyless inking system which consists of a passive feed ink delivery system, an eight roller ink train, and a non–anilox and non–porous metering roller.
   - The dampener system which consists of a two nozzle per page spraybar and two roller dampener with one chrome drum and one form roller.
   - The equipment contained in the color keyless ink delivery system is designed to achieve a constant, uniform feed of ink film across the cylinder without ink keys. This system requires use of keyless ink which accepts greater water content.
2. *Folder*: A module which is a double 3:2 rotary folder with 160 pages collect capability and double (over and under) delivery, with a cut-off length of 22 inches. The upper section consists of three–high double formers (total of 6) with six sets of nipping rollers.
3. *RTP*: A component which is of the two–arm design with core drives and core brakes, designed for 50 inch diameter rolls; and arranged in the press line in the back–to-back configuration (left and right hand load pairs).
4. *Conveyance and Access Apparatus*: Conveyance and access apparatus capable of manipulating a roll of paper more than two newspaper broadsheets across through the production process, and a drive system which is of conventional shafted design.
5. *Computerized Control System*: A computerized control system, which is any computer equipment and/or software designed specifically to control, monitor, adjust, and coordinate the functions and operations of large newspaper printing presses or press components.

Further, this review covers all current and future printing technologies capable of printing newspapers, including, but not limited to, lithographic (offset or direct), flexographic, and letterpress systems. The products covered by this review are imported into the United States under subheadings 8443.11.10, 8443.11.50, 8443.30.00, 8443.59.50, 8443.60.00, and 8443.90.50 of the HTSUS. LNPPs may also enter under HTSUS subheadings 8443.21.00 and 8443.40.00. LNPP computerized control systems may enter under HTSUS subheadings 8471.49.10, 8471.49.21, 8471.49.26, 8471.50.40, 8471.50.80, and 8537.10.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the review is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by parties to this proceeding are listed in the appendix to this notice and addressed in the Decision Memorandum hereby adopted by this notice. The Decision Memorandum is on file in room B–099 of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov*. The paper and electronic versions of the Decision Memorandum are identical in content.

Final Results

We affirm our decision to apply an adverse facts available rate of 59.67 percent to TKS in the 1997–1998 administrative review under section 776(b) of the Act as a result of TKS' misconduct during this review. For a full discussion of the application of facts available and adverse inferences, see the *Preliminary Results*, 70 FR at 54021–23, and the Decision Memorandum accompanying this notice at Comment 5. This rate was corroborated at the preliminary results and we have uncovered no new information since the preliminary results that warrants modification of our analysis. *See also* AFA Rate Selection Memorandum dated September 6, 2005. In addition, because the rate for the 1997–1998 administrative review is no longer zero, TKS no longer qualifies for revocation of the antidumping duty order based on three consecutive administrative reviews resulting in zero dumping margins, pursuant to 19 CFR 351.222(b). Therefore, we are rescinding the revocation with respect to TKS and reinstating the order with respect to TKS from September 1, 2000, through September 3, 2001, the day before the effective date of the sunset revocation. *See* Comment 2 in the accompanying Decision Memorandum. Furthermore, upon the completion of this review, we will reopen for reconsideration the sunset review that resulted in

revocation of this order. We will conduct the sunset review following the procedures outlined in section 751(c) of the Act and 19 CFR 351.218. *See* Comment 3 in the accompanying Decision Memorandum.

This notice serves as advance notification that we will reopen a sunset review approximately 30 days after publication of these final results. This advance notification is not required by statute but is provided as a service to the international trading community.

We are issuing and publishing this determination and notice in accordance with sections 751(b) and 777(i)(1) of the Act and 19 CFR 351.216.

Dated: March 1, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix—Issues in the Decision Memorandum

Comment 1: Department's Authority to Conduct this Review
Comment 2: Department's Authority to Reinstate the Antidumping Duty Order
Comment 3: Department's Authority to Reconsider the Sunset Review which Resulted in Revocation of the Order
Comment 4: Allegations of TKS' Misconduct in the 1998–1999 and 1999–2000 Administrative Reviews
Comment 5: Adverse Facts Available Rate Applied to TKS

[FR Doc. E6–3295 Filed 3–7–06; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–851]

Amendment to Countervailing Duty Order on Dynamic Random Access Memory Semiconductors From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 8, 2006.

FOR FURTHER INFORMATION CONTACT: Steve Williams, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, Room 3069, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4619; or Matthew Walden, Office of the Chief Counsel for Import Administration, Office of the General Counsel, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2963.

SUPPLEMENTARY INFORMATION:

Background

In August 2003, the International Trade Commission (''Commission'') determined that an industry in the United States was materially injured by reason of subsidized imports of dynamic random access memory semiconductors (''DRAMS'') and DRAM modules from the Republic of Korea (''Korea''). *DRAMS and DRAM Modules from Korea*, Inv. No. 701–TA–431 (Final), USITC Pub. 3616 (Aug. 2003) (''*Final Injury Determination*''). On August 11, 2003, the Department of Commerce (''Department'') published a countervailing duty order on DRAMS from Korea. *See Notice of Countervailing Duty Order: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 47546 (Aug. 11, 2003) (''*CVD Order*'').

The Government of Korea subsequently requested dispute resolution at the World Trade Organization (''WTO'') to consider, *inter alia*, its claims that the *Final Injury Determination* was inconsistent with the *WTO Agreement on Subsidies and Countervailing Measures* (''SCM Agreement''). The matter was called ''United States – Countervailing Duty Investigation on Dynamic Random Access Memory Semiconductors (DRAMS) From Korea,'' WT/DS296, and was reviewed by a WTO panel. In its final report, the panel found, *inter alia*, that one aspect of the Commission's *Final Injury Determination* was not in conformity with the obligations of the United States under the SCM Agreement. The United States did not appeal this finding, although it appealed other aspects of the panel report. On July 20, 2005, the WTO Dispute Settlement Body (''DSB'') adopted the panel report, as modified by the Appellate Body.

After following the preliminary procedures required under section 129 of the Uruguay Round Agreements Act (''URAA''), by letter dated October 7, 2005, the United States Trade Representative (''USTR'') requested that the Commission issue a determination under section 129(a)(4) of the URAA that would render the Commission's action in the DRAMS investigation not inconsistent with the recommendations and rulings of the DSB. In February 2006, the Commission issued such a determination, elaborating upon and clarifying the one aspect of the *Final Injury Determination* found to be WTO–inconsistent, and continued to determine that the U.S. industry producing *DRAMS and DRAM modules was materially injured by reason of subsidized imports from Korea*. DRAMS and DRAM Modules from Korea, Inv. No. 701–TA–431 (Sec. 129), USITC Pub. 3839 (Feb. 2006).

USTR reviewed the Commission's determination under section 129 of the URAA and consulted with the Congressional committees as provided in section 129(a)(5) of the URAA. By letter dated March 1, 2006, USTR notified the Department of the Commission's determination and requested that it be implemented.

Amendment to Countervailing Duty Order on Dynamic Random Access Memory Semiconductors From the Republic of Korea

As described above, by letter dated March 1, 2006, USTR notified the Department that the Commission has issued a determination pursuant to section 129 of the URAA, that renders the Commission's Final Injury Determination, under section 705(b) of the Tariff Act of 1930, as amended, consistent with the recommendations and rulings of the DSB. In its section 129 determination the Commission continued to find that the domestic industry producing DRAMS and DRAM modules was materially injured by reason of subsidized imports from Korea. Also, pursuant to section 129 of the URAA, USTR requested that the Department implement the Commission's determination.

Consequently, the Department hereby amends the countervailing duty order on DRAMS from Korea to reflect the issuance and implementation of the above–referenced determination under section 129 of the URAA.

Dated: March 2, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–3298 Filed 3–7–06; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030106C]

Advisory Committee to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT); Spring Species Working Group Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Advisory Committee (Committee) to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT) announces its spring meeting with its Species Working Group Technical Advisors on March 27-28, 2006. The Committee will meet to discuss matters relating to ICCAT, including the results from the 2005 ICCAT meeting; the U.S. implementation of ICCAT decisions; the 2006 ICCAT and NMFS research and monitoring activities; the 2006 ICCAT activities; the Atlantic Tunas Convention Act-required consultation on the identification of countries that are diminishing the effectiveness of ICCAT; the results of the meetings of the Committee's Species Working Groups; and other matters relating to the international management of ICCAT species.

DATES: The open sessions of the Committee meeting will be held on March 27, 2006, from 8:45 a.m. to 3 p.m. and on March 28, 2006, from 8:30 a.m. to 9:15 a.m. and from 11 a.m. to 3:30 p.m. Closed sessions will be held on March 27, 2006, from 3 p.m. to approximately 6 p.m. and on March 28, 2006, from 9:15 a.m. to 11 a.m. and from 3:30 p.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Hilton Hotel Washington-Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910, 301–589–5200.

FOR FURTHER INFORMATION CONTACT: Erika Carlsen at (301) 713–2276.

SUPPLEMENTARY INFORMATION: The Advisory Committee to the U.S. Section to ICCAT will meet in open session to receive and discuss information on (1) the 2005 ICCAT meeting results and U.S. implementation of ICCAT decisions; (2) 2006 ICCAT and NMFS research and monitoring activities; (3) 2006 ICCAT activities; (4) the Atlantic Tunas Convention Act-required consultation on the identification of countries that are diminishing the effectiveness of ICCAT; (5) the results of the meetings of the Committee's Species Working Groups; and (6) other matters relating to the international management of ICCAT species. The public will have access to the open sessions of the meeting, but there will be no opportunity for public comment.

The Committee will meet in its Species Working Groups for a portion of the afternoon of March 27, 2006, and of the morning of March 28, 2006. These sessions are not open to the public, but the results of the species working group discussions will be reported to the full Advisory Committee during the Committee's morning and afternoon open session on March 28, 2006. The Committee may also go into executive session on the afternoon of March 28, 2006, to discuss sensitive information relating to upcoming intersessional meetings of ICCAT. This session would also be closed to the public.

Special Accommodations

The meeting location is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Erika Carlsen at (301) 713-2276 at least 5 days prior to the meeting date.

Dated: March 3, 2006.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–3301 Filed 3–7–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

National Defense University Visitors (BOV) Open Meeting

AGENCY: National Defense University, Department of Defense.

ACTION: Notice of open meeting.

SUMMARY: The President, National Defense University has scheduled a meeting of the Board of Visitors. Request subject notice be published in the **Federal Register.** The National Defense University Board of Visitors is a Federal Advisory Board. The Board meets twice a year in proceedings that are open to the public.

DATES: The meeting will be held on April 3–4, 2006 from 11:00 to 17:00 on the 3rd and continuing on the 4th from 8:30 to 13:30.

LOCATION: The Board of Visitors meeting will be held at Building 62, Marshall Hall, Room 155, National Defense University, 300 5th Avenue, Fort McNair, Washington, DC 20319–5066.

FOR FURTHER INFORMATION CONTACT: The point of contact for this notice of an ''Open Meeting'' is Ms. Tonya Barbee at (202) 685–3539, Fax (202) 685–3935 or *barbeet@ndu.edu*.

SUPPLEMENTARY INFORMATION: The future agenda will include discussions on Defense transformation, faculty development, facilities, information technology, curriculum development, post 9/11 initiatives as well as other operational issues and areas of interest affecting the day-to-day operations of the National Defense University and its components. The meeting is open to the public; limited space made available for observers will be allocated on a first come, first served basis.

Dated: March 1, 2006.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 06–2172 Filed 3–7–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Defense Threat Reduction Agency; Privacy Act of 1974; Systems of Records

AGENCY: Defense Threat Reduction Agency, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Defense Threat Reduction Agency is amending a system of records notice to its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on April 7, 2006 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the General Counsel, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6201.

FOR FURTHER INFORMATION CONTACT: Ms. Brenda Carter at (703) 325-1205.

SUPPLEMENTARY INFORMATION: The Defense Threat Reduction Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: March 1, 2006.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

HDTRA 007

Security Operations (December 14, 1998, 63 FR 68736).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with: ''Security Services''.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add the following to the first paragraph; ''and all visitors to DTRA''. Delete the second paragraph.

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete the following from entry; ''Department of Defense Form 1879, Standard Form SF 86, Reports of Investigation,''

* * * * *

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete the last sentence from entry.

* * * * *

HDTRA 007

SYSTEM NAME:

Security Services.

SYSTEM LOCATION:

Primary location: Security and counterintelligence Directorate, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6201.

Secondary locations: Security Office, Defense Threat Reduction Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Technology Security Directorate, Defense Threat Reduction Agency, 400 Army Navy Drive, Arlington, VA 22202–2884.

Albuquerque Operations, Defense Threat Reduction Agency, 1680 Texas Street, SE., Kirtland Air Force Base, Albuquerque, NM 87117–5669.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military and civilian personnel assigned to, or employed by Defense Threat Reduction Agency (DTRA); and all visitors to DTRA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; Social Security Number; date and place of birth; height; weight; hair and eye color; citizenship; grade/rank, services, organization, security clearance; date of clearance; date of investigation; type of investigation; Agency that conducted investigation; basis special accesses; courier authorization; continuous access roster expiration date; badge number; vehicle ID and decal number; special intelligence access; expiration date, agency, billet number; list of badges/passes issued; safes and open storage locations/custodians; conference title/duties/location; special access/briefings; visit requests; conference rosters; clearance and special access rosters; picture identification; and correspondence concerning adjudication/passing of clearances/accesses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 10450, Security Requirements for Government Employment; E.O. 12065, National Security Information; The Internal Security Act of 1950 (Pub. L. 831), Section 21, as amended and codified at 50 U.S.C. 797; The Atomic Energy Act of 1954, Section 145; and E.O. 9397 (SSN).

PURPOSE(S):

For use by officials and employees of the Defense Threat Reducation Agency in the performance of their official duties related to determining the eligibility of individuals for access to classified information, access to buildings and facilities, or to conferences over which DTRA has security responsibility.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552b(b)(3) as follows:

Officials and employees of Government contractors and other Government agencies in the performance of their official duties related to the screening and selection of individuals for security clearances and/or special authorizations, access to facilities or attending at conferences.

The ''Blanket Routine Uses'' published at the beginning of DTRA's compilation of systems of records notices apply to this system. Policies and practices of storing, retrieving, accessing, retaining, and disposing of records in the system:

STORAGE:

Automated records are stored on magnetic tapes, discs, computer printouts, hard drives, and DTRA computer server. Manual records are stored in paper file folders, card files and paper rosters.

RETRIEVABILITY:

Automated records are retrieved by individual's last name, Social Security Number, conference title, and by type of badge issued. Manual records are retrieved by individual's last name, Social Security Number, organization or subject file.

SAFEGUARDS:

The computer facility and terminals are located in restricted areas accessible only to authorized personnel. Manual records and computer printouts are available only to authorized persons with an official need to know. Buildings are protected by security forces and an electronic security system.

RETENTION AND DISPOSAL:

Computer records on individuals are moved to historical area of database files upon termination of an individual's affiliation with DTRA; personnel security files are retained for two years at which point the SF 312 is mailed to National Archives Repository and all other information is destroyed. Manual records of conference attendees, visitors, and visit certifications to other agencies are maintained for two years and destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Security and Counterintelligence Directorate, Defense Threat Reduction Agency, 8725 John J. Kingman Drive, Ft. Belvoir, VA 22060–6201.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Chief, Security and Counterintelligence Directorate, Defense Threat Reduction Agency, 8725 John J. Kingman Drive, Ft. Belvoir, VA 22060–6201.

Written requests for information should contain the full name, home address, Social Security Number, date and place of birth.

For personal visits, the individual must be able to provide identification showing full name, date and place of birth, and their Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Chief, Security and Counterintelligence Directorate, Defense Threat Reduction Agency, 8725 John J. Kingman Drive, Ft. Belvoir, VA 22060–6201.

Written requests for information should contain the full name, home address, Social Security Number, data and place of birth.

For personal visits, the individual must be able to provide identification showing full name, date and place of birth, and their Social Security Number.

CONTESTING RECORD PROCEDURES:

The DTRA rules for accessing records and for contesting contents and

appealing initial agency determinations are published in DTRA Instruction 5400.11B; 32 CFR part 318; or may be obtained from the Chief, Security and Counterintelligence Directorate, Defense Threat Reducation Agency, 8725 John J. Kingman Drive, Ft. Belvoir, VA 22060–6201.

RECORD SOURCE CATEGORIES:

Information is extracted from military and civilian personnel records, investigative files, and voluntarily submitted by the individual. Other Government agencies, law enforcement officials and contractors may provide the same data.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 318.

[FR Doc. 06–2173 Filed 3–7–06; 8:45am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice To Amend Systems of Records.

SUMMARY: The Department of the Navy is amending a system of records notice in its existing inventory or record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on April 7, 2006 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy system of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: March 1, 2006.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

NM05000–2

SYSTEM NAME:

Administrative Personnel Management System (November 25, 2005, 70 FR 71105).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add ''computer use responsibility agreements;'' between the words ''union memberships'' and ''other data.''

* * * * *

NM05000–2

SYSTEM NAME:

Administrative Personnel Management System.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.daps.dla.mil/sndl.htm*.

Commander, U.S. Joint Forces Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23551–2488.

Commander, U.S. Pacific Command, P.O. Box 64028, Camp H.M. Smith, HI 96861–4028.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian, (including former members and applicants for civilian employment), military and contract employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records and correspondence needed to manage personnel and projects, such as: Name; Social Security Number; date of birth; photo ID; grade and series or rank/rate; biographical data; security clearance; education; experience characteristics and training histories; qualifications; trade; hire/termination dates; type of appointment; leave; location; (assigned organization code and/or work center code); Military Occupational Series (MOS); labor code; payments for training, travel advances and claims; hours assigned and worked; routine and emergency assignments; functional responsibilities; access to secure spaces and issuance of keys; travel; retention group; vehicle parking; disaster control; community relations (blood donor, etc.); employee recreation programs; retirement category; awards; property custody; personnel actions/dates; violations of rules; physical handicaps and health/safety data; veterans preference; postal address; location of dependents and next of kin and their addresses; mutual aid association memberships; union memberships; computer use responsibility agreements; and other data needed for personnel, financial, line, safety and security management, as appropriate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).

PURPOSE(S):

To manage, supervise, and administer programs for all Department of the Navy civilian, military, and contractor personnel such as preparing rosters/locators; contacting appropriate personnel in emergencies; training; identifying routine and special work assignments; determining clearance for access control; record handlers of hazardous materials; record rental of welfare and recreational equipment; track beneficial suggestions and awards; controlling the budget; travel claims; manpower and grades; maintaining statistics for minorities; employment; labor costing; watch bill preparation; projection of retirement losses; verifying employment to requesting banking; rental and credit organizations; name change location; checklist prior to leaving activity; payment of mutual aid benefits; safety reporting/monitoring; and, similar administrative uses requiring personnel data. For use by arbitrators and hearing examiners in civilian personnel matters relating to civilian grievances and appeals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the

DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and automated records.

RETRIEVABILITY:

Name, Social Security Number, employee badge number, case number, organization, work center and/or job order, and supervisor's shop and code.

SAFEGUARDS:

Password controlled system, file, and element access based on predefined need-to-know. Physical access to terminals, terminal rooms, buildings and activities' grounds are controlled by locked terminals and rooms, guards, personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Destroy when no longer needed or after two years, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding officer of the activity in question. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.daps.dla.mil/sndl.htm*.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.daps.dla.mil/sndl.htm*.

The request should include full name, Social Security Number, and address of the individual concerned and should be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.daps.dla.mil/sandl.htm*.

The request should include full name, Social Security Number, and address of the individual concerned and should be signed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; Defense Manpower Data Center; employment papers; records of the organization; official personnel jackets; supervisors; official travel orders; educational institutions; applications; duty officer; investigations; OPM officials; and/or members of the American Red Cross.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 06–2171 Filed 3–7–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF ENERGY

Office of International Regimes and Agreements; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice has been issued under the authority of section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed subsequent arrangement under the Agreement for Cooperation Between the United States of America and the Government of the Argentine Republic Concerning Peaceful Uses of Nuclear Energy and the Agreement Between the United States of America and Australia Concerning Peaceful Uses of Nuclear Energy.

This subsequent arrangement concerns the retransfer of eleven fission counters from the Comision Nacional De Energia Atomica (CNEA) to the Australian Nuclear Science and Technology Organization (ANSTO) in Lucas Heights, Australia. Five of the fission counters contain 0.54 grams of U.S. obligated uranium, 0.48 grams in the isotope U–235. The other six fission counters contain 0.46 grams of U.S. obligated uranium, 0.41 grams in the isotope U–235. The material, which is currently in the form uranium ore concentrates (U3O8) and is located at CNEA's Instrumentation and Control Department, will be transferred to ANSTO for use at the new Australian Nuclear Research Reactor. CNEA originally obtained the material from the United States under a general license.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement is not inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Richard Goorevich,

Director, Office of International Regimes and Agreements.

[FR Doc. E6–3300 Filed 3–7–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–52–000]

Bluestem Pipeline, L.L.C.; Notice of Petition

February 28, 2006.

Take notice that on January 19, 2006, Bluestem Pipeline, L.L.C. (Bluestem), 9520 North May Avenue, Suite 300, Oklahoma City, Oklahoma 73120, filed in Docket No. CP06–52–000 a petition for a declaratory order pursuant to Rule 207 of the Commission's Rules and Regulations (18 CFR 385.207). Specifically, Bluestem requests a finding that upon Bluestem's acquisition of certain natural gas facilities located in Allen County, Kansas, from Southern Star Central Gas Pipeline, its ownership and operation of the facilities will not be subject to the Commission's jurisdiction pursuant to the gathering exemption provided in section 1(b) of the Natural Gas Act.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and

interventions in lieu of paper using the ''defiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''library'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is a ''subscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: March 20, 2006.

Magalia R. Salas,

Secretary.

[FR Doc. E6–3193 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. TS05–19–000, TS05–21–000]

Chandeleur Pipe Line Company, Sabine Pipe Line LLC; Notice of Filing

February 28, 2006.

On August 23, 2005 and October 5, 2005, the above-referenced companies filed a request for extension of time to comply with section 358.4(b)(3)(iv) of the Commission's regulations. This rule requires that the postings required by sections 358.4(b)(2) and 358.4(b)(3)(i), (ii) of the Commission's rules be updated within seven business days of any change.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit and original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

These filings are accessible online at *http://www.ferc.gov* using the ''eLibrary'' link and are available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TYY, call (202) 502–8659.

Comment Date: March 14, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3191 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–357–002]

Cheniere Creole Trail Pipeline Company; Notice of Amendment

February 28, 2006.

Take notice that on February 17, 2006, Cheniere Creole Trail Pipeline Company (Cheniere Creole Trail), 717 Texas Avenue, Suite 3100, Houston Texas 77002, pursuant to section 7(c) of the Natural Gas Act (NGA), filed in Docket No. CP05–357–002 to amend its pending application filed on May 23, 2005, to reflect the withdrawal of its request for authorization to construct and operate the 6.8-mile, 20-inch diameter Hackberry Lateral portion of its project. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding these applications should be directed to Patricia Outtrim, Cheniere Energy, Inc., 717 Texas Avenue, Suite 3100, Houston, Texas 77002, (713) 659–1361 or Lisa Tonery, King & Spalding LLP, 1185 Avenue of the Americas, New York, NY 10036, (212) 556–2307.

Any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Motions to intervene, protests and comments may be filed electronically via the Internet in lieu of paper, see 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: March 21, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3192 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL01–51–008; ER01–1649–008]

The Detroit Edison Company; Notice of Filing

February 28, 2006.

Take notice that on February 15, 2006, The Detroit Edison Company (Detroit Edison) filed Second Revised Replacement Sheet No. 25 of Detroit Edison's Distribution Interconnection Agreement with Dearborn Industrial Generation, LLC.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 8, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3195 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–232–000]

Dominion Cove Point LNG, LP; Notice of Proposed Changes in FERC Gas Tariff

February 28, 2006.

Take notice that on February 24, 2006, Dominion Cove Point LNG, LP (Cove Point) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to become effective April 1, 2006:

Sixth Revised Sheet No. 10
First Revised Sheet No. 12

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3205 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Applications for Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

March 1, 2006.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project Nos:* 271–088 and 271–089.

c. *Date filed:* February 9, 2006.

d. *Applicant:* Entergy Arkansas, Inc.

e. *Name of Project:* Carpenter-Remmel Project.

f. *Location:* The project is located on the Quachita River in Hot Springs and Garland Counties, Arkansas.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r) and 799 and 801.

h. *Applicant Contact:* Blake Hogue 141 West County Line Rd, Malvern, AR 72104, (501) 844–2148.

i. *FERC Contact:* Rebecca Martin at 202–502–6012, or e-mail *Rebecca.martin@ferc.gov*

j. *Deadline for filing comments and or motions:* April 3, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P–271–088 or P–271–089) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Applications:* P–271–088—The licensee requests Commission approval of a permit application, filed by Mike Tankersly of SJT Properties, Inc., to build three stationary, covered boat docks (13 slips total) and associated boardwalks on Lake Hamilton for the Bayshore Estates Subdivision.

P–271–089—The licensee requests Commission approval of a permit application, filed by Mr. R.A. Gibson for a Multi-Family Dock Permit, which would include two floating boat docks with six boat slips (12 slips total), twenty-four personal water craft docks, and associated boardwalk for a new multi-family housing development to be known as Paradise Bay Condominiums.

l. *Location of Applications:* The filings are available for review at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''e-Library'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online support at *FERCOnlineSupport@ferc.gov* or toll free (866) 208–3676 or TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit

comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3214 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–459–000, ER01–688–002]

IPP Energy LLC; Notice of Issuance of Order

March 2, 2006.

IPP Energy LLC (IPP) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy, capacity and ancillary at market-based rates. IPP also requested waiver of various Commission regulations. In particular, IPP requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by IPP.

On March 1, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the request for blanket approval under part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by IPP should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is March 31, 2006.

Absent a request to be heard in opposition by the deadline above, IPP is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of IPP, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of IPP's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3274 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–233–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

February 28, 2006.

Take notice that on February 24, 2006, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 107D, to be effective on March 26, 2006.

Iroquois proposes to remove language contained in section 28.22 of the General Terms and Conditions of its tariff that is related to shipper requests for discounts. Iroquois believes removal of such language is consistent with the Commission's Second Order on Remand issued in Williston Basin Interstate Pipeline Company, 110 FERC ¶ 61,210 (2005).

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state regulatory agencies and all parties to the proceeding.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*.

Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3206 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12555–001]

Mahoning Creek Hydroelectric Company; Notice of Intent To File License Application, Filing of Pre-Application Document, Commencement of Licensing Proceeding, Scoping Meetings, Solicitation of Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

February 28, 2006.

a. *Type of Filing:* Notice of Intent to File License Application for an Original License and Pre-Application Document; Commencing Licensing Proceeding.

b. *Project No.:* 12555–001.

c. *Date Filed:* January 27, 2005.

d. *Submitted By:* Mahoning Creek Hydroelectric Company (MCHC).

e. *Name of Project:* Mahoning Creek Hydroelectric Project.

f. *Location:* The proposed Mahoning Creek Hydroelectric Project would be located on Mahoning Creek in Armstrong and Jefferson Counties, Pennsylvania. The project would affect U.S. Army Corps of Engineer land and facilities.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Applicant Contact:* Mr. Clifford Phillips, Mahoning Creek Hydroelectric Company, LLC, 150 North Miller Road, Suite 450 C, Fairlawn, Ohio 44333, (330) 869–8451, *cliff.phillips@advancedhydrosolutions.com.*

i. *FERC Contact:* Kristen Murphy, (202) 502–6236 or via e-mail at *kristen.murphy@ferc.gov.*

j. We are asking Federal, State, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in paragraph o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. See 94 FERC ¶ 61,076 (2001).

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402 and (b) the State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Mahoning Creek Hydroelectric Company as the Commission's non-Federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. Mahoning Creek Hydroelectric Company filed a Pre-Application Document (PAD), including a proposed process plan and schedule with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations. The Commission issued Scoping Document 1 on February 27, 2006.

n. Copies of the PAD and Scoping Document 1 (SD1) are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number (P–12555) to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and SD1 as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to Commission staff related to the merits of the potential application (original and eight copies) must be filed with the Commission at the following address: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All filings with the Commission must include on the first page, the project name (Mahoning Creek Hydroelectric Project) and number (P–12555–001), and bear the heading ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by April 26, 2006.

Comments on the PAD and SD1, study requests, requests for cooperating agency status, and other permissible forms of communications with the Commission may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-filing'' link.

p. At this time, Commission staff intends to prepare a single Environmental Assessment for the project, in accordance with the National Environmental Policy Act.

Scoping Meetings

We will hold two scoping meetings at the times and places noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Evening Scoping Meeting

Date and Time: Wednesday, March 22, 2006, 7 p.m. (EST).

Location: West Shamokin High School, 178 Wolf Drive, Rural Valley, PA 16249.

Daytime Scoping Meeting

Date and Time: Thursday, March 23, 2006, 9 a.m. (EST).

Location: Indiana Holiday Inn, 1395 Wayne Avenue, Indiana, PA 15701.

For Directions: Please call Clifford Phillips at (330) 869–8451.

Scoping Document 1 (SD1), which outlines the subject areas to be addressed in the environmental document, has been mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the Web at http://www.ferc.gov, using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Depending on the extent of comments received, a Scoping Document 2 (SD2) may or may not be issued.

Site Visit

MCHC will conduct a tour of the proposed project on Wednesday, March 22, 2006, starting at 2 p.m. All participants interested in attending should meet at the parking lot adjacent to the Mahoning Creek dam. Anyone in need of directions should contact Mr. Clifford Phillips of MCHC at (330) 869–8451, or via *cliffphillips@advancedhydrosolutions.com*.

Scoping Meeting Objectives

At the scoping meetings, staff will: (1) Present a proposed list of issues to be addressed in the EA; (2) review and discuss existing conditions and resource agency management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximize coordination of Federal, State, and tribal permitting and certification processes; and (5) discuss requests by any Federal or State agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the Pre-Application Document in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n. of this document.

Scoping Meeting Procedures

The scoping meetings will be recorded by a stenographer and will become part of the formal Commission record on the project.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3196 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR06–11–000]

Washington Gas Light Company; Notice of Compliance Filing

March 2, 2006.

Take notice that on December 9, 2005, Washington Gas Light Company (Washington Gas) made a filing to comply with FERC Order 103 FERC ¶ 61,107 (May 1, 2003 Order) and the July 21, 2003 FERC Order approving Washington Gas' revised Firm Interstate Transportation Service Operating Statement, regarding the rates charged by Washington Gas for firm interstate transportation service from its facilities in Virginia to customer facilities located in West Virginia.

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: March 8, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3273 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. OR06–4–000; IS05–216–000, et al.]

Burlington Resources Trading Inc., Complainants v. Seminole Pipeline Company and Mid-America Pipeline Company, LLC, Respondents; Mid-America Pipeline Company, LLC; Notice of Complaint

March 1, 2006.

Take notice that on February 28, 2006, pursuant to Rules 206 and 212 of the Commission's Rules of Practice and Procedure (18 CFR 385.206, 385.212), sections 8, 9, 13, 15, and 16 of the Interstate Commerce Act (ICA) (49 U.S.C. App 8, 9, 13, 15, and 16 (1994), and the Commission's oil pipeline regulations at 18 CFR Part 343, Burlington Resources Trading Inc. filed a complaint, motion for summary disposition, motion to consolidate, and request for other relief, concerning rates for transportation of natural gas liquids on the pipeline systems of Mid-America Pipeline Company, LLC (MAPL) and Seminole Pipeline Company (Seminole).

Burlington Resources Trading Inc. certifies that copies of the complaint were served on representatives of MPL and Seminole, as well as all persons on the official service list.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer

and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time March 20, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3211 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–53–000]

Pacific Gas and Electric Company, Complainants v. Delta Energy Center, LLC, Los Esteros Critical Energy Facility, LLC, Respondents; Notice of Complaint

March 1, 2006.

Take notice that on February 28, 2006, Pacific Gas and Electric Company (PG&E) filed a complaint alleging that Delta Energy Center LLC and Los Esteros Critical Energy Facility, LLC, affiliates of Calpine Corporation, violated the Commission's Market Behavior Rules (Market Behavior Rule 3) issued under section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2005). PG&E requests prompt Commission action to remedy these violations.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time March 20, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3209 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC06–86–000, et al.]

Mirant Corporation and Its Public Utility Subsidiaries, et al.; Electric Rate and Corporate Filings

March 1, 2006.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Mirant Corporation and Its Public Utility Subsidiaries

[Docket No. EC06–86–000]

Take notice that on February 24, 2006, Mirant Corporation (Mirant) and its public utility subsidiaries (collectively, Applicants), on their own behalf and on behalf of any future acquirer of voting equity interests in Mirant that meets the criteria set forth therein, filed with the Commission an application (Application) requesting that the Commission grant blanket authorization for any future disposition or issuance of voting equity interests in Mirant with a value in excess of $10 million to any party, provided that any such disposition or issuance would neither: (i) Result in the acquiring party, together with its affiliates, holding a 5% or greater voting equity interest in Mirant, nor (ii) confer upon the acquiring party, together with its affiliates, any right to control (positively or negatively) the management or operations of any Mirant Public Utility (Future Transactions). Applicant states that no future transaction will have any adverse effect on competition, rates or regulation or will result in the cross-subsidization of a non-utility associate company or the pledge or encumbrances of utility assets for the benefit of an associate company.

Comment Date: 5 p.m. Eastern Time on March 17, 2006.

2. San Diego Gas & Electric Company v. Seller of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange; Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange

[Docket Nos. EL00–95–174 and EL00–98–160]

Take notice that on February 10, 2006, Portland General Electric Company (Portland) filed testimony in support of revised cost recovery inputs to be used in Portland's cost recovery analysis, along with an updated version of the cost recovery template and supporting tables previously submitted in this proceeding in compliance with the Commission's Order issued January 26, 2006.

Comment Date: 5 p.m. Eastern Time on March 13, 2006.

3. San Diego Gas & Electric Company v. Seller of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange; Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange

[Docket No. EL00–95–175, Docket No. EL00–98–161]

Take notice that on February 10, 2006, Powerex Corp. (Powerex) pursuant to

Commission Order issued on January 26, 2006, filed a Cost Recovery Report.

Comment Date: 5 p.m. Eastern Time on March 13, 2006.

4. Pinnacle West Capital Corporation

[Docket Nos. ER00–2268–005, ER00–2268–006, ER00–2268–007, EL05–10–000, ER99–4124–003, ER99–4124–004, ER99–4124–005, EL05–11–000, ER00–3312–004, ER00–3312–005, ER00–3312–006, EL05–12–000, ER99–4122–006, ER99–4122–007, ER99–4122–008, EL05–13–000]

Take notice that on February 24, 2006, Pennacle West Capital Corporation, *et al.*, brings additional authority in connection with it review of market-base rate authority and in particular use of a combined APS/SRP area as a relevant geographic market.

Comment Date: 5 p.m. Eastern Time on March 8, 2006.

5. Hawaiian Electric Industries, Inc.; Hawaiian Electric Company, Inc.

[Docket No. PH06–5–000]

Take notice that, on February 21, 2006, Hawaiian Electric Industries, Inc. (HEI) and Hawaiian Electric, Company, Inc. (HECO) jointly filed, on behalf of themselves and each of the holding companies in their holding company system Form 65B a petition seeking, pursuant to 18 CFR 366.3(c)(1) and 18 CFR 366.4(c)(1), a waiver of the Commission's regulations under the Public Utility Holding Company Act of 2005.

Comment Date: 5 p.m. Eastern Time on March 14, 2006.

6. Broad Street Contract Services, Inc.

[Docket No. PH06–7–000]

Take notice that on February 27, 2006, Broad Street Contract Services, Inc. (Broad Street) tendered for filing an Exemption Notification on behalf of itself and each of the holding companies in the same holding company system identified in FERC–65, seeking exemption from the requirements of the Public Utility Holding Company Act of 2005, 18 CFR 366.3(a) or 18 CFR 366.3(b).

Broad Street states that the Holding Companies include one power marketer authorized to sell energy at market-based rates.

Comment Date: 5 p.m. Eastern Time on March 20, 2006.

7. Mitsubishi Corporation; Diamond Generating Corporation; Diamond Frontier, LLC; Diamond Gateway, LLC; Diamond Georgia, LLC; Diamond Alabama, LLC; Diamond Washington, LLC; Diamond Oklahoma, LP; Diamond Alabama II, LLC; Wildflower Development LLC; Wildflower Generating Partners I LLC; Wildflower Energy, LP

[Docket No. PH06–9–000]

Take notice that on February 23, 2006, Mitsubishi Corporation; Diamond Generating Corporation; Diamond Frontier, LLC; Diamond Gateway, LLC; Diamond Georgia, LLC; Diamond Alabama, LLC; Diamond Washington, LLC; Diamond Oklahoma, LP; Diamond Alabama II, LLC; Wildflower Development LLC; Wildflower Generating Partners, I LLC; and Wildflower Energy, LP (collectively, Mitsubishi Companies), filed an Exemption Notification (FERC–65) seeking exemption from the requirements of the Public Utility Holding Company Act of 2005, 18 CFR 366.3(a) or 18 CFR 366.3(b).

Comment Date: 5 p.m. Eastern Time on March 16, 2006.

8. Tennessee Valley Authority

[Docket No. TX05–1–007]

Take notice that on February 21, 2006, Tennessee Valley Authority (TVA) filed a revised Transmission Impact Study Agreement, Facilities Study Agreement and an Interconnection Agreement with East Kentucky Power Cooperative, Inc. pursuant to the Commission's ''Final Order Directing Interconnection and Accepting Interconnection Agreement,'' issued January 19, 2006.

Comment Date: 5 p.m. Eastern Time on March 14, 2006.

9. Louisiana Energy and Power Authority v. Entergy Services, Inc.; Louisiana Energy and Power Authority v. Cleco Power

[Docket No. TX06–1–000]

Take notice that on February 17, 2006, Louisiana Energy and Power Authority (LEAP) hereby petitions, on behalf of itself and the Pool Members for which it operates a control area, the Commission to order Entergy Services, Inc. and Cleco Power to provide Network Integration Transmission Service under the respective Entergy and Cleco Open Access Transmission Tariffs that will enable LEPA to gain access to generation resources that are necessary to serve LEPA's load on a reasonable economic basis.

Comment Date: 5 p.m. Eastern Time on March 10, 2006.

10. Aero Energy LLC

[Docket No. TX06–2–000]

Take notice that on February 16, 2006, Aero Energy LLC (Aero Energy) filed an application for interconnection and transmission service on the Sagebrush Line pursuant to sections 210, 211 and 212 of the Federal Power Act. Aero Energy states that Sagebrush, a California general partnership, has refused Aero Energy access to the Sagebrush Line to interconnect with Southern California Edison Company's interstate transmission system.

Comment Date: 5 p.m. Eastern Time on March 10, 2006.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3185 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC06–52–000, et al.]

Cadillac Renewable Energy, LLC, et al.; Electric Rate and Corporate Filings

March 2, 2006.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Cadillac Renewable Energy LLC; NRG Cadillac, Inc.; Seville Energy LLC

[Docket No. EC06–52–001]

Take notice that on February 22, 2006, Cadillac Renewable Energy LLC, NRG Cadillac, Inc. and Seville Energy LLC (Applicants) submitted an Amendment to the Application pursuant to section 203 of the Federal Power Act for authorization of disposition of jurisdictional facilities.

Comment Date: 5 p.m. Eastern Time on March 8, 2006.

2. San Diego Gas & Electric Company v. Seller of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange; Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange

[Docket Nos. EL00–95–173 and EL00–98–159]

Take notice that on February 10, 2006, TransAlta Energy Marketing (US) Inc. filed a revised Cost Recovery Analysis with supporting information in compliance with the Commission's Order issued January 26, 2006, in Ordering Paragraph D.

Comment Date: 5 p.m. Eastern Time on March 13, 2006.

3. San Diego Gas & Electric Company v. Seller of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange; Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange

[Docket Nos. EL00–95–176 and EL00–98–162]

Take notice that on February 10, 2006, Sempra Energy Trading Corp. filed a Cost Recovery Analysis in compliance with the Commission's Order issued January 26, 2006.

Comment Date: 5 p.m. Eastern Time on March 13, 2006.

4. San Diego Gas & Electric Company v. Seller of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange; Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange

[Docket No. EL00–95–177 and EL00–98–163]

Take notice that on February 10, 2006, Avista Energy, Inc. filed a Cost Recovery Analysis in compliance with the Commission's Order issued January 26, 2006.

Comment Date: 5 p.m. Eastern Time on March 13, 2006.

5. New York Independent System Operator, Inc.

[Docket No. ER06–310–001]

Take notice that on February 21, 2006, the New York Independent System Operator, Inc. (NYISO) tendered for filing response to questions posed by a deficiency letter order on January 27, 2006.

Comment Date: 5 p.m. Eastern Time on March 9, 2006.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3275 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2114–116]

Public Utility District No. 2 of Grant County, WA; Notice of Availability of the Draft Environmental Impact Statement for the Priest Rapids Hydroelectric Project

February 28, 2006.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a new license for the Priest Rapids Hydroelectric Project No. 2114–116, located on the mid-Columbia River, near the city of Ellensburg, in portions of Grant, Yakima, Kittitas, Douglas, Benton, and Chelan Counties, Washington, and has prepared a draft Environmental Impact Statement (DEIS) for the project.

In the DEIS, Commission staff evaluate the applicant's proposal and the alternatives for licensing the proposed project. The DEIS documents the views of governmental agencies, non-governmental organizations, affected Indian tribes, the public, the license applicant, and Commission staff.

Comments should be filed with Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All comments must be filed by May 2, 2006, and should reference Project No. 2114–116. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and instructions on the Commission's Web site at ''e-Library'' *http://www.ferc.gov* under the link.

The Commission staff will consider comments made on the DEIS in preparing a final Environmental Impact

Statement (FEIS) for the project, which we expect to issue in August of this year. Before the Commission makes a licensing decision, it will take into account all concerns relevant to the public interest. The FEIS will be part of the record from which the Commission will make its decision.

Copies of the DEIS are available for review at the Commission's Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''e-Library'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact Charles Hall at (202) 502–6853 or at *charles.hall@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3200 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–9–000]

Florida Gas Transmission Company; Notice of Availability of the Environmental Assessment for the Proposed SR 91 Widening Project

March 1, 2006.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by Florida Gas Transmission Company (FGT) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the relocation, construction and abandonment of 11.15 miles of 36-inch-diameter pipeline and associated facilities in Broward County, Florida.

FGT indicates that the proposed facilities would accommodate the impending SR 91 highway relocation, enable it to provide an uninterrupted flow of natural gas to its existing customers and improve its natural gas transportation system.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Copies of the EA have been mailed to those individuals and entities which requested to be informed about the project during our initial comment period as described in the *Notice of Intent to Prepare an Environmental Assessment for the Proposed SR 91 Widening Project and Request for Comments on Environmental Issues* (NOI) on June 16, 2005.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your comments to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Gas Branch 2, PJ–11.2;
- Reference Docket No. CP06–9–000; and
- Mail your comments so that they will be received in Washington, DC on or before March 31, 2006.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on ''Sign-up.''

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm*.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3215 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11858–002]

The Nevada Power Company, Inc.; Elsinore Valley Municipal Water District; California; Notice of Intention To Hold Public Meetings for Discussion of the Draft Environmental Impact Statement for the Lake Elsinore Advanced Pumped Storage Project

March 1, 2006.

On February 17, 2006, the Commission staff delivered the Lake Elsinore Advanced Pumped Storage (LEAPS) Project Draft Environmental Impact Statement (draft EIS) to the Environmental Protection Agency and mailed it to resource and land management agencies, interested organizations, and individuals.

The draft EIS was noticed in the **Federal Register** on February 24, 2006, (71 FR 9819) and comments are due April 25, 2006. The draft EIS evaluates the environmental consequences and developmental benefits of issuing an original license for building, operating and maintaining the LEAPS Project, located in Riverside County, California. The project would occupy 2,412 acres of federal lands, including lands managed by the Cleveland National Forest. Besides evaluating the applicant's proposal, the draft EIS evaluates a FERC staff proposal and the no-action alternative.

Two public meetings, which will be recorded by an official stenographer, are scheduled as follows.

Date: Tuesday, April 4, 2006.
Time: 7–10 p.m. (PST).
Place: San Juan Capistrano Community Center, 25925 Camino del Avion, San Juan Capistrano, CA 92675.

Date: Wednesday, April 5, 2006.
Time: 7–10 p.m. (PST).
Place: Lake Elsinore Cultural Center, 183 N. Main Street, Lake Elsinore, CA 92530.

At these meetings, resource agency personnel and other interested persons will have the opportunity to provide oral and written comments and recommendations regarding the DEIS for the Commission's public record.

For further information, please contact Jim Fargo at e-mail address *james.fargo@ferc.gov*, or by telephone at (202) 502–6095.

Magalie R. Salas,
Secretary.

[FR Doc. E6–3212 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–66–000]

Port Barre Investments, L.L.C. (d/b/a Bobcat Gas Storage); Notice of Intent To Prepare an Environmental Assessment for the Proposed Bobcat Gas Storage Project and Request for Comments on Environmental Issues

February 28, 2006.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of a proposal by Port Barre Investments, L.L.C. (d/b/a Bobcat Gas Storage (Bobcat)) to construct a new salt cavern natural gas storage facility in St. Landry Parish, Louisiana.[1] The Bobcat Gas Storage Project would provide approximately 12 billion cubic feet of working natural gas storage capacity, capable of injecting gas at maximum rates of up to 900 million cubic feet per day (MMcfd) and delivering gas at maximum rates of up to 1,200 MMcfd. The facilities would include two solution mined storage caverns, a 37,880 horsepower (hp) compressor station, a leaching plant, brine disposal facilities, approximately 18.1 miles of pipeline, and metering and regulating stations.

This notice announces the opening of the scoping period that will be used to gather environmental input from the public and interested agencies on the project. Please note that the scoping comments are requested by March 31, 2006.

This notice is being sent to potentially affected landowners; Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American Tribes, other interested parties; local libraries and newspapers. State and local government representatives are asked to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a Bobcat company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the natural gas company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Proposed Project

Bobcat proposes to construct, own, and operate a high-deliverability natural gas storage project on an 84-acre parcel of land leased by Bobcat, located about 2.2 miles east of the Town of Port Barre, Louisiana. Two caverns would be solution mined in the Port Barre Salt Dome in four phases, over an approximate five-year time span. The project would include construction of the following:

(1) Gas Storage Site, including:
- Eight (8) 4,735 horsepower compressors, dehydration and appurtenant facilities (Bobcat Compressor Station);
- A leaching plant;
- 0.5 mile of non-jurisdictional electric distribution line;
- 2 freshwater and 2 cavern wells; and
- 0.5 mile of 16-inch-diameter freshwater pipeline.

(2) Brine Disposal Site, including three brine disposal wells;

(3) 1.5 miles of 16-inch-diameter brine disposal pipeline;

(4) 16.1 miles of 24-inch-diameter natural gas pipeline and appurtenances; and

(5) 5 interstate and 1 intrastate pipeline system interconnects, each with a regulator/meter station.

The location of the project facilities is shown in Appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would require about 261.9 acres of land. Following construction, about 104.3 acres would be maintained as new aboveground facility sites and right-of-

[1] Bobcat's application was filed with the Commission under section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices, other than appendix 1 (maps), are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

way. The remaining 157.6 acres of land would be restored and allowed to revert to its former use.

The EA Process

We [3] are preparing this EA to comply with the National Environmental Policy Act (NEPA) which requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA.

By this notice, we are also asking Federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. Agencies that would like to request cooperating status should follow the instructions for filing comments below.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

Currently Identified Environmental Issues

In the EA, we will discuss impacts that could occur as a result of the construction and operation of the project. We will also evaluate reasonable alternatives to the proposed project or portions of the project.

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Bobcat. This preliminary list of issues may be changed based on your comments and our analysis.

Project-related impact on:

- Noise sensitive areas (i.e., residences) located in proximity to construction operations and the proposed compressor facility;
- 12.0 acres of wetlands;
- 171.5 acres of agricultural land;
- 3 federally-listed threatened and endangered species potentially in the project area;
- 7 waterbody crossings; and
- The Chicot sole source aquifer.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations and routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas Branch 3.
- Reference Docket Number CP06–66–000.
- Mail your comments so that they will be received in Washington, DC on or before March 31, 2006.

Please note that the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments, you will need to create and account which can be created online.

Site Visit

On March 21, 2006, the OEP staff will conduct a pre-certification site visit of the planned Bobcat Gas Storage Project. We will view the proposed facility locations and pipeline route. Examination will be by automobile and on foot. Representatives of Bobcat will be accompanying the OEP staff.

All interested parties may attend. Those planning to attend must provide their own transportation and should meet at 9 a.m. (CST) in the lobby of the Holiday Inn, 5696 I–49 North Service Road, Opelousas, Louisiana on March 21, 2006.

For additional information, please contact the Commission's Office of External Affairs at 1–866–208–FERC (3372).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must send one electronic copy (using the Commission's eFiling system) or 14 paper copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, see Appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

If you wish to remain on our environmental mailing list, please return the Information Request Form included in Appendix 2. If you do not return this form, you will be removed from our mailing list.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TYY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm*.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3194 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

February 28, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12636–000.

c. *Date filed:* January 3, 2006.

d. *Applicant:* Mohawk Hydro Corporation.

e. *Name of Project:* Middle Mohawk Project.

f. *Location:* On the Mohawk River, in Montgomery and Schenectady Counties, New York. The existing facilities are owned by New York State Canal Corporation.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. James A. Besha, P.E., Albany Engineering Corporation, Agent for Mohawk Hydro Corp., 455 New Karner Road, Albany, NY 12205, (518) 456–7712.

i. *FERC Contact:* Robert Bell (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.fed.us/efi/doorbell.htm*. Please include the project number (P–12636–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed run-of-river project would consist of the following eight Developments:

Lock #8 Development: (1) An existing 530-foot-long, 14-foot-high bridge type dam constructed primarily of steel, (2) an existing reservoir having a surface area of 336 acres, with a storage capacity of 3,360 acre-feet and a normal water surface elevation of 224 feet USGS, (3) a proposed intake structure, (4) two proposed powerhouses containing 18 generating units having a total installed capacity of 6 MW, (5) a proposed 1,800-foot-long, 34.5 kV transmission line, and (6) appurtenant facilities.

The development would have an annual generation of 16 gigawatt-hours which would be sold to a local utility.

Lock #9 Development: (1) An existing 530-foot-long, 15-foot-high bridge type dam constructed primarily of steel, (2) an existing reservoir having a surface area of 428 acres, with a storage capacity of 4,280 acre-feet and a normal water surface elevation of 239 feet USGS, (3) a proposed intake structure, (4) two proposed powerhouses containing 18 generating units having a total installed capacity of 6 MW, (5) a proposed 200-foot-long, 13.2 kV transmission line, and (6) appurtenant facilities.

The development would have an annual generation of 17.6 gigawatt-hours which would be sold to a local utility.

Lock #10 Development: (1) An existing 500-foot-long, 15-foot-high bridge type dam constructed primarily of steel, (2) an existing reservoir having a surface area of 414 acres, with a storage capacity of 4,140 acre-feet and a normal water surface elevation of 254 feet USGS, (3) a proposed intake structure, (4) two proposed powerhouses containing 18 generating units having a total installed capacity of 6 MW, (5) a proposed 1,500-foot-long, 115 kV transmission line, and (6) appurtenant facilities.

The development would have an annual generation of 17.3 gigawatt-hours which would be sold to a local utility.

Lock #11 Development: (1) An existing 588-foot-long, 12-foot-high bridge type dam constructed primarily of steel, (2) an existing reservoir having a surface area of 414 acres, with a storage capacity of 4,140 acre-feet and a normal water surface elevation of 266 feet USGS, (3) a proposed intake structure, (4) two proposed powerhouses containing 18 generating units having a total installed capacity of 6 MW, (5) a proposed 700-foot-long, 34.5 kV transmission line, and (6) appurtenant facilities.

The development would have an annual generation of 16.1 gigawatt-hours which would be sold to a local utility.

Lock #12 Development: (1) An existing 460-foot-long, 11-foot-high bridge type dam constructed primarily of steel, (2) an existing reservoir having a surface area of 737 acres, with a storage capacity of 7,370 acre-feet and a normal water surface elevation of 277 feet USGS, (3) a proposed intake structure, (4) two proposed powerhouses containing 18 generating units having a total installed capacity of 6 MW, (5) a proposed 400-foot-long, 13.2 kV transmission line, and (6) appurtenant facilities.

The development would have an annual generation of 11.7 gigawatt-hours which would be sold to a local utility.

Lock #13 Development: (1) An existing 370-foot-long, 8-foot-high bridge type dam constructed primarily of steel, (2) an existing reservoir having a surface area of 464 acres, with a storage capacity of 4,640 acre-feet and a normal water surface elevation of 285 feet USGS, (3) a proposed intake structure, (4) a proposed powerhouse containing 9 generating units having a total installed capacity of 3 MW, (5) a proposed 200-foot-long, 13.2 kV transmission line, and (6) appurtenant facilities.

The development would have an annual generation of 7.3 gigawatt-hours which would be sold to a local utility.

Lock #14 Development: (1) An existing 430-foot-long, 8-foot-high bridge type dam constructed primarily of steel, (2) an existing reservoir having a surface area of 219 acres, with a storage capacity of 2,190 acre-feet and a normal water surface elevation of 293 feet USGS, (3) a proposed intake

structure, (4) a proposed powerhouse containing 9 generating units having a total installed capacity of 3 MW, (5) a proposed 200-foot-long, 13.2 kV transmission line, and (6) appurtenant facilities.

The development would have an annual generation of 5.8 gigawatt-hours which would be sold to a local utility.

Lock #15 Development: (1) An existing 430-foot-long, 8-foot-high bridge type dam constructed primarily of steel, (2) an existing reservoir having a surface area of 578 acres, with a storage capacity of 5,780 acre-feet and a normal water surface elevation of 293 feet USGS, (3) a proposed intake structure, (4) two proposed powerhouses containing 18 generating units having a total installed capacity of 6 MW, (5) a proposed 200-foot-long, 13.2 kV transmission line, and (6) appurtenant facilities.

The development would have an annual generation of 5.8 gigawatt-hours which would be sold to a local utility. The total installed capacity for all eight proposed developments is 41 MW and the total annual generation is 97.6 gigawatt-hours.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3197 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

February 28, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Competing Preliminary Permit.

b. *Project No:* 12640–000.

c. *Date Filed:* January 13, 2006.

d. *Applicant:* City of Grafton, West Virginia.

e. *Name of Project:* Tygart Dam Hydroelectric Project.

f. *Location:* The project would be located on the Tygart Creek, in Taylor County, West Virginia. The project would use the Tygart Dam owned by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Mayor, G. Thomas Barlett, City of Grafton, West Virginia, I West Main Street, Grafton, WV 26354, (304) 265–1412. EXT 16, and Mr. Jeffrey M. Kossak, Arrington Associates, 730 5th Avenue, Suite 1901, New York, NY 10019, (212) 245–2722.

i. *FERC Contact:* Mr. Robert Bell, (202) 502–6062.

j. Deadline for filing motions to intervene, protests and comments: 30 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy

Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12640–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Competing Application:* Project No. 12613–000, Date Filed: September 19, 2005, Notice Issued: November 18, 2005, Due Date: January 17, 2006.

l. *Description of Project:* The proposed project would use the U.S. Army Corps of Engineer's Tygart Dam and consist of: (1) A proposed powerhouse containing two generating units with a total installed capacity of 20 megawatts, (3) a proposed 6,700-foot-long, 138-kilovolt transmission line, and (4) appurtenant facilities. The project would have an annual generation of 117 gigawatt hours, which would be sold to a local utility.

m. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

r. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3198 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

February 28, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Competing Preliminary Permit.

b. *Project No:* 12647–000.

c. *Date Filed:* January 30, 2006.

d. *Applicant:* Eastern Shoshone Tribe of the Wind River, Wyoming.

e. *Name of Project:* Bull Lake Dam Project.

f. *Location:* The project would be located on the Bull Lake Creek, in Fremont County, Wyoming. The project would use the Bull Lake Dam owned by the U.S. Bureau of Reclamation.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Mr. Ivan Posey, Shoshone Business Council, P.O. Box 217, Fort Washakie, WY 82514, (307) 332–3532.

i. *FERC Contact:* Mr. Robert Bell, (202) 502–6062.

j. *Deadline for filing motions to intervene, protests and comments:* 30 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12647–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the

Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Competing Application:* Project No. 12602–000, Date Filed: July 1, 2005, Notice Issued: November 1, 2005, Due Date: December 31, 2005.

l. *Description of Project:* The proposed project using the U.S. Bureau of Reclamation's Bull Lake Dam would consist of: (1) A proposed 260-foot-long, 8.5-foot-diameter, steel penstock, (2) a proposed powerhouse containing a generating unit with an installed capacity of 4 megawatts, (3) a proposed 2-mile-long 25 kilovolt transmission line, and (4) appurtenant facilities. The project would have an annual generation of 26 gigawatt hours which would be sold to a local utility.

m. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

r. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3199 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing; Ready for Environmental Analysis; and Soliciting Motions To Intervene, Protests, Comments on Application and Settlement Agreement; and Recommendations, Terms and Conditons and Prescriptions

February 28, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License and approval of Settlement Agreement.

b. *Project No.:* 2170–029.

c. *Date Filed:* Application—April 22, 2005; Settlement Agreement August 31, 2005.

d. *Applicant:* Chugach Electric Association.

e. *Name of Project* Cooper Lake Hydroelectric Project.

f. *Location:* On Cooper Lake, approximately 4.8 river miles from the mouth of Cooper Creek in south central Alaska, 55 air miles south of Anchorage.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)–825(r) and Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Burke Wick, Chugach Electric Association, 5601 Minnesota Drive, Anchorage, Alaska 99519. (907) 762–4779.

i. *FERC Contact:* David Turner (202) 502–6091 or *david.turner@ferc.gov*.

j. Deadline for filing motions to intervene, protests, comments on application and settlement agreement, recommendations, terms and conditions and prescriptions: 60 days from the issuance date of this notice; Applicant reply comments are due 105 days from issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene and protests may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. This application has been accepted, and is ready for environmental analysis.

l. *The existing project consists of:* (1) The Cooper Lake Dam, a 52-foot-high earth-and-rockfilled structure; (2) the 2,620-acre, 5-mile-long Cooper Lake Reservoir; (3) two vertical-shaft Francis turbines with a total capacity of 19.38 megawatts; (4) an intake structure located on Cooper Lake; (5) a tunnel and penstock extending 10,686 feet east from the intake to the powerhouse; a (6) 6.3-mile-long, 69-kV transmission line from the powerhouse to Quartz Creek Substation; and 90.4-mile-long, 115-kV transmission line from the Quartz Creek Substation to Anchorage.

A new dam is proposed to be constructed on Stetson Creek to divert water into Cooper Lake to provide flow releases for fish habitat improvements in Cooper Creek.

m. Chugach Electric filed on August 31, 2005, a Settlement Agreement on behalf of itself, and the U.S. Forest Service, U.S. Fish and Wildlife Service, National Park Service, National Marine Fisheries Service, Kenaitze Indian Tribe, Alaska Department of Fish and Game, Alaska Department of Natural Resources, The Fish for Cooper Creek Coalition, Alaska Flyfishers Association, and the Alaska Center for the Environment. The purpose of the Settlement Agreement is to resolve among the signatories all issues associated with issuance of a new license for the project regarding economic and power considerations, water quality and temperature, instream flows, fish habitat, visual resources, recreation and cultural resources. The Parties to the Settlement jointly request the Commission accept and incorporate into any new license for the project, the protection, mitigation, and enhancement measures and proposed license articles stated in the Settlement Agreement.

n. A copy of the application and settlement agreement is on file with the Commission and is available for public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC online support at *ferconlinesupport@ferc.gov* or toll-free at 1–866–208–3676, or for Text Telephone (TTY) call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

o. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requiremens of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3201 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License, and Soliciting Comments, Motions To Intervene, and Protests

February 28, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 2935–018.

c. *Date Filed:* February 1, 2006.

d. *Applicants:* Enterprise Mill, LLC (transferor), Melaver/Enterprise Mill, LLC (transferee).

e. *Name and Location of Project:* The Enterprise Mill Project is located on the Augusta Canal and Savannah River in Richmond County, Georgia.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

g. *Applicant Contacts:* For the transferor: Clayton B. Boardman, III, Enterprise Mill, LLC, 1450 Greene Street, Suite 500, Augusta, GA 30901, (706) 262–4005.

For the transferee: Denis Blackburn, CFO, Melaver/Enterprise Mill, LLC, 114 Barnard Street, Suite 2B, Savannah, GA 31401, (912) 236–0781.

h. *FERC Contact:* Robert Bell at (202) 502–6062.

i. *Deadline for Filing Comments, Protests, and Motions to Intervene:* 30 days from issuance date.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the Project Number on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing a document with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

j. *Description of Application:* The Applicants seek Commission approval

to transfer the license for the Enterprise Mill Project from the Enterprise Mill, LLC to Melaver/Enterprise Mill, LLC.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number (P–2935) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. Comments, Protests, or Motions to Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. Filing and Service of Responsive Documents: Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicants specified in the particular application.

o. Agency Comments: Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicants. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants' representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3204 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, Protests, Recommendations, and Terms and Conditions

March 1, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 12649–000.

c. *Date filed:* January 30, 2006.

d. *Applicant:* East Bay Municipal Utility District.

e. *Name of Project:* Briones Energy Recovery Project.

f. *Location:* The Briones Energy Recovery Project would be located in the existing pipeline, which supplies the Orinda Water Treatment Plant in Contra Costa County, California.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Dennis Diemer, East Bay Municipal Utility District, 375 Eleventh Street, Oakland, CA 94607, (866) 403–2683.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing responsive documents:* The Commission directs, pursuant to section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, motions to intervene, protests, recommendations, terms and conditions, and prescriptions concerning the application be filed with the Commission by April 30, 2006. All reply comments must be filed with the Commission by May 15, 2006.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper: See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Project:* The proposed small conduit hydroelectric project would consist of a proposed 1-megawatt generating unit in the 36-inch diameter pipe at the Briones Pumping Plant. The average annual energy production would be 1,364 megawatt-hours.

m. This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street, NE., Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, P–12644, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for review and reproduction at the address in item h above.

n. *Development Application:* Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

o. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a competing development application. A notice of intent must be served on the applicant(s) named in this public notice.

p. *Protests or Motions to Intervene:* Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the

Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

q. All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''COMMENTS'', ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3213 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01–5–000]

Electronic Tariff Filings; Notice of Technical Conference, Comment Deadline and Electronic Format Manual

March 1, 2006.

Take notice that on March 28, 2006, Federal Energy Regulatory Commission (Commission) staff will host a technical conference to discuss the electronic tariff and rate case filing software that has been developed in connection with the Notice of Proposed Rulemaking (NOPR) requiring electronic tariff filings. *Electronic Tariff Filings, Notice of Proposed Rulemaking,* 69 FR 43929 (July 23, 2004) FERC Stats. & Regs., Proposed Regulations ¶ 32,575 (July 8, 2004). The technical conference will be held from 9 a.m. until 4 p.m. (EDT) at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in the Commission Meeting Room. The agenda shall include a demonstration of the electronic tariff filing software. Topics to be discussed include the tariff conversion process and the electronic tariff filing process.

The Commission hereby establishes May 30, 2006 as the final date for comments on the July 8, 2004 NOPR. *See Electronic Tariff Filings, Notice of Additional Proposals and Procedures,* 70 FR 40941 (July 15, 2005) FERC Stats. & Regs., ¶ 35,551 (July 6, 2005).

Information related to this conference is available on the Commission's Web site (*http://www.ferc.gov;* click on eTariff under the Documents and Filings Heading). The software is available to download and test at *http://www.ferc.gov/docs-filing/etariff.asp*. An updated draft electronic format manual for electronic tariff and rate filings to be made in conformance with the NOPR describes the specific requirements for making electronic filings (*http://www.ferc.gov/docs-filing/etariff/fil-soft-help/electronic-manual.pdf*). An early prototype of a viewer to be used by the public to access tariffs is being made available (*http://www.ferc.gov/docs-filing/etariff/tariff-public-viewer.asp*). This public viewer is expected to be enhanced significantly by the time the electronic tariff filing is implemented. Further, the company registration window is available for viewing on the FERC Web site (*http://www.ferc.gov/images/docs-filing/etariff_init_reg.gif*). The registration window is not yet functional, but is presented to show the information that will be required for jurisdictional companies to provide when they register and obtain a ''Company Identification Number'' for the purpose of electronically submitting tariff filings with the Commission.

A free webcast of this event is available through *http://www.ferc.gov*. Anyone with Internet access who desires to view this event can do so by navigating to *http://www.ferc.gov*'s Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or contact Danelle Perkowski or David Reininger at 703–993–3100.

The conference is open to the public to attend, and pre-registration is not required.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For more information about this conference, please contact Keith Pierce, Office of Energy Markets and Reliability at (202) 502–8525 or *Keith.Pierce@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3208 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2619–012 and 2603–012—North Carolina Mission and Franklin Hydroelectric Projects]

Duke Power; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

February 28, 2006.

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular

phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the North Carolina State Historic Preservation Officer (hereinafter, SHPO) and the Advisory Council on Historic Preservation (hereinafter, Council) pursuant to the Council's regulations, 36 CFR part 800, implementing section 106 of the National Historic Preservation Act, as amended, (16 U.S.C. section 470 f), to prepare and execute two programmatic agreements for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the Mission Hydroelectric Project No. 2619–012 (SHPO Reference Number ER03–0343) and at the Franklin Hydroelectric Project No 2603–012 (SHPO Reference Number ER03–0342).

The programmatic agreements, when executed by the Commission, the SHPO, and the Council, would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with each license until each license expires or is terminated (36 CFR 800.13(e)). The Commission's responsibilities pursuant to section 106 for the Mission and Franklin Projects would be fulfilled through the execution of a programmatic agreement for each project, which the Commission proposes to draft in consultation with certain parties listed below. The executed programmatic agreement for each project would be incorporated into any Order issuing a license for the respective project.

Duke Power, as licensee for Project Nos. 2619 and 2603, and the Eastern Band of Cherokee Indians have expressed an interest in these proceedings and are invited to participate in consultations to develop the programmatic agreements.

For purposes of commenting on the programmatic agreement, we propose to restrict the service list for the aforementioned project as follows:

Don Klima or Representative, Advisory Council on Historic Preservation, The Old Post Office Building, Suite 803, 1100 Pennsylvania Avenue, NW., Washington, DC 20004.

Jennifer Huff or Representative, Duke Power, P.O. Box 1006, Mail Code EC12Y, Charlotte, NC 28201–1006.

Renee Gledhill-Earley, North Carolina Department of Cultural Resources, 4617 Mail Service Center, Raleigh, NC 27699–4617.

Eastern Band of Cherokee Indians, Attention: Tyler Howe, THPO, Qualla Boundary, P.O. Box 455, Cherokee, NC 28719.

Any person on the official service list for the above-captioned proceeding may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason(s) why there is an interest to be included. Also please identify any concerns about historic properties, including Traditional Cultural Properties. If historic properties are to be identified within the motion, please use a separate page, and label it Non-Public Information.

An original and 8 copies of any such motion must be filed with Magalie R. Salas, the Secretary of the Commission (888 First Street, NE., Washington, DC 20426, and must be served on each person whose name appears on the official service list. Please put the project names ''Mission Project'' and ''Franklin Project'' and numbers ''P–2619–012'' and ''P–2603–012'' on the front cover of any motion. If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on any motion or motions filed within the 15 day period.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3202 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.2010.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2692–032]

Duke Power; North Carolina Nantahala Hydroelectric Project; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible For Inclusion in the National Register of Historic Places

February 28, 2006.

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the North Carolina State Historic Preservation Officer (hereinafter, SHPO) and the Advisory Council on Historic Preservation (hereinafter, Council) pursuant to the Council's regulations, 36 CFR Part 800, implementing section 106 of the National Historic Preservation Act, as amended, (16 U.S.C. section 470f), to prepare and execute a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the Nantahala Hydroelectric Project No. 2692–032 (SHPO Reference Number ER03–2409).

The programmatic agreement, when executed by the Commission, the SHPO, and the Council, would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13(e)). The Commission's responsibilities pursuant to section 106 for the Nantahala Falls Project would be fulfilled through the programmatic agreement, which the Commission proposes to draft in consultation with certain parties listed below. The executed programmatic agreement would be incorporated into any Order issuing a license.

Duke Power, as licensee for Project No. 2692, and the Eastern Band of Cherokee Indians have expressed an interest in this preceding and are invited to participate in consultations to develop the programmatic agreement.

For purposes of commenting on the programmatic agreement, we propose to restrict the service list for the aforementioned project as follows:

Don Klima or Representative, Advisory Council on Historic Preservation, The Old Post Office Building, Suite 803, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20004.

Jennifer Huff or Representative, Duke Power, P.O. Box 1006, Mail Code EC12Y, Charlotte, NC 28201–1006.

Renee Gledhill-Earley, North Carolina Department of Cultural Resources, 4617 Mail Service Center, Raleigh, NC 27699–4617.

Eastern Band of Cherokee Indians, Attention: Tyler Howe, THPO, Qualla Boundary, P.O. Box 455, Cherokee, NC 28719.

[1] 18 CFR 385.2010.

Rodney Snedecker, United States Forest Service, P.O. Box 2750, Asheville, NC 28802.

Any person on the official service list for the above-captioned proceeding may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason(s) why there is an interest to be included. Also please identify any concerns about historic properties, including Traditional Cultural Properties. If historic properties are to be identified within the motion, please use a separate page, and label it Non-Public Information.

An original and 8 copies of any such motion must be filed with Magalie R. Salas, the Secretary of the Commission (888 First Street, NE, Washington, DC 20426, and must be served on each person whose name appears on the official service list. Please put the project name ''Nantahala Project'' and number ''P–2692–032'' on the front cover of any motion. If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on any motion or motions filed within the 15 day period.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3203 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Combined Notice of Filings for ''ES'' Dockets

March 1, 2006.

Take notice that, effective March 15, 2006, the Commission will include ''Applications for Authorization of the Issuance of Securities or the Assumption of Liabilities'' under 18 CFR 34 in Combined Notices of Filings for publication in the **Federal Register**. Due to the anticipated increase in the number of ''ES'' filings, the Commission will no longer issue individual notices for these filings, except in the case of Errata notices pertaining to these filings. A Combined Notice of Filings may include both ''ER'' (electric rate) and ''ES'' dockets.

The Secretary of the Commission is making the following changes to the filing procedures for ''Applications for Authorization of the Issuance of Securities or the Assumption of Liabilities'' received on or after March 15, 2006:

1. A draft form of notice and diskette are no longer required for ''ES'' filings.

2. Filers requesting a comment period shorter than the standard 21 days after the filed date must clearly state such request in the ''Re:'' section of the filing. For example:

Re: Hot Spring Power Company, Docket No. ES05__, Request for shortened comment period.

The notices issued under the combined notice method will be added to eLibrary and published in the **Federal Register** under the name ''Combined Notice of Filings.'' The notices will list up to 20 ''ER'' and ''ES'' docketed filings that are already in eLibrary. The listing for each filing will include:

Docket Number: This docket number is a hyperlink to the eLibrary docket sheet.

Applicant(s): The applicant name(s) as it appears on the filing.

Description: A basic description of the filing that is a hyperlink to the document in eLibrary.

Filed Date: The date the document was filed with the Secretary of the Commission.

Accession Number: The eLibrary accession number is a hyperlink to the ''Info'' area of eLibrary for the document. If the accession number for the filing changes after issuance of the combined notice, the user will have to search eLibrary to access the document.

Comment Date: This is the date/time for the filing of comments on the particular filing.

The Combined Notice of Filings will be indexed in eLibrary as: ''Combined Notice of Filings, (date)'' under each docket included in the notice. If the Commission issues more than one combined notice on any given day, the second notice will be indexed as: ''Combined Notice of Filings, (date) #2'' and so forth.

For general information about the Combined Notice of Filings method, contact Mary Lynch or Capria Johnson at 202–502–8400.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3210 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD06–5–000]

Office of Energy Projects (OEP); Notice of Intent to Prepare an Effectiveness Assessment of the Natural Gas Facility Interagency Agreement

February 28, 2006.

In May 2002, the Federal Energy Regulatory Commission (FERC or Commission), the Bureau of Land Management, the Fish and Wildlife Service, the Environmental Protection Agency, the Forest Service, the Department of Transportation, the Army Corps of Engineers, the National Marine Fisheries Service, the Advisory Council on Historic Preservation, and the Department of Energy signed an agreement entitled ''Interagency Agreement on Early Coordination of Required Environmental and Historic Preservation Reviews Conducted in Conjunction with the Issuance of Authorizations to Construct and Operate Interstate Natural Gas Pipelines Certificated by the Federal Energy Regulatory Commission'' (IA).

As a result of the IA, the signatory agencies formed a working group to coordinate each agency's implementation of the IA (Working Group). Among its tasks, the Working Group committed to the periodic evaluation of the effectiveness of the IA. On behalf of the Working Group, FERC is leading the effort to initiate this assessment. To achieve the maximum benefit, including evaluation of the Commission's Pre-Filing Process, a series of telephone conferences and interactive public workshops are planned. The participants will include individuals who have participated in the Commission's National Environmental Policy Act (NEPA) process since the enactment of the IA, and will cover both pipeline and liquefied natural gas (LNG) projects in various regions of the United States. These include individuals from Federal, state and local agencies, regulated natural industry, Native American tribes, affected property owners, citizens, non-government organizations and other stakeholders.

Since many of the signatory federal agencies have prepared internal guidelines to more effectively implement the IA, the assessment will also collect feedback on each agency's implementation, to determine whether they are effective or need revision to improve the review of future natural gas projects.

The FERC or its contractor will be contacting individuals to collect specific information about experiences working with the IA and/or agency guidance. We are looking for a broad cross-section of responses—large and small projects; involving multiple agencies or a single agency; and projects involving the Commission's Pre-Filing Process. The information gathered from this assessment will be compiled and presented to the Working Group to assist in determining whether the IA and the signatory agencies' current internal guidelines are furthering the intended goals. The information will also be used to gage whether agencies are fulfilling the expeditious completion of proceedings by issuing the necessary permits or authorizations for natural gas projects.

At this time, we are considering the following projects for our assessment (note this project list may change and is not final):

- *ANR Pipeline Company:* West Leg Project, (CP02–434–000);
- *Columbia Gas Transmission Corporation:* Line 1278 Replacement Project, (CP04–34–000);
- *Transwestern Pipeline Company:* San Juan 2005 Expansion, (CP04–104–000);
- *Golden Pass LNG:* Golden Pass LNG Project, (CP04–386–000);
- *Vista del Sol LNG:* Vista del Sol LNG Project, (CP04–395–000);
- *Northwest Pipeline Corporation:* Northwest Capacity Replacement Project, (CP05–32–000); and
- *Entrega Gas Pipeline, LLC:* Entrega Pipeline Project, (CP04–413–000).

Public Participation

You are encouraged to participate and provide comments about the Commission's NEPA process as it relates to the IA and/or the Commission's Pre-Filing Process. To expedite the receipt and consideration of your comments, electronic submission of comments is strongly encouraged. See Title 18 CFR 385.2001(a)(1)(iii) and the instructions on the FERC Internet Web site (*http://www.ferc.gov*) under the eFiling link and the link to the User's Guide. Before you can submit comments you will need to create a free account by clicking on ''Sign-up'' under ''New user.'' You will be asked to select a type of submission you are making. This type of submission is considered a ''Comment on Filing.'' Comments submitted electronically must be submitted by March 31, 2006.

If you wish to mail comments, please mail your comments so that they will be received in Washington, DC on or before March 31, 2006 and carefully follow these instructions:

Send an original and two copies of your letter to:

- Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.
- Label one copy of your comments for the attention of Gas 1, DG2E; and
- Reference Docket No. AD06–5–000 on the original and both copies.

Everyone who responds to this notice or provides comments will be retained on our Gas Outreach mailing list.

We will issue a separate notice announcing the workshops' planned dates, locations and times. If you have any questions regarding the IA Effectiveness Assessment, the upcoming/planned public workshops, or would like to be placed on our Gas Outreach mailing list for this task, please call Alisa Lykens, Gas Outreach Manager, at (202) 502–8766.

Magalie R. Salas,

Secretary.

[FR Doc. E6–3207 Filed 3–7–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2005–0014; FRL–8042–7]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; General Hazardous Waste Facility Standards; EPA ICR Number 1571.08, OMB Control Number 2050–0120

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on February 28, 2006. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before April 7, 2006.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–RCRA–2005–0014, to (1) EPA online using *www.regulations.gov* (our preferred method), or by mail to: RCRA Docket (5305T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Norma Abdul-Malik, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8753; fax number: (703) 308–8617; e-mail address: *abdul-malik.norma@epamail.epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On September 8, 2005 (70 FR 53356), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–RCRA–2005–0014, which is available for online viewing at *www.regulations.gov*, or in person viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for RCRA Docket is (202) 566–0270.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: General Hazardous Waste Facility Standards (Renewal).

ICR numbers: EPA ICR No. 1571.08, OMB Control No. 2050–0120.

ICR status: This ICR is currently scheduled to expire on February 28, 2006. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Section 3004 of the Resource Conservation and Recovery Act (RCRA), as amended, requires that the U.S. Environmental Protection Agency (EPA) develop standards for hazardous waste treatment, storage, and disposal facilities (TSDFs) as may be necessary to protect human health and the environment. Subsections 3004(a)(1), (3), (4), (5), and (6) specify that these standards include, but not be limited to, the following requirements:

- Maintaining records of all hazardous wastes identified or listed under subtitle C that are treated, stored, or disposed of, and the manner in which such wastes were treated, stored, or disposed of;
- Operating methods, techniques, and practices for treatment, storage, or disposal of hazardous waste;
- Location, design, and construction of such hazardous waste treatment, disposal, or storage facilities;
- Contingency plans for effective action to minimize unanticipated damage from any treatment, storage, or disposal of any such hazardous waste; and
- Maintaining or operating such facilities and requiring such additional qualifications as to ownership, continuity of operation, training for personnel, and financial responsibility as may be necessary or desirable.

The regulations implementing these requirements are codified in the *Code of Federal Regulations* (CFR) Title 40, parts 264 and 265. The collection of this information enables EPA to properly determine whether owners/operators or hazardous waste treatment, storage, and disposal facilities meet the requirements of Section 3004(a) of RCRA.

Burden Statement: The annual public reporting burden for this collection of information is estimated to average 185 hours per response, and the annual public recordkeeping burden for this collection of information is estimated to average 254 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Business or other for profit.

Estimated Number of Respondents: 1,531.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 652,312.

Estimated Total Annual Cost: $45,907,000, which includes $13,000 annual capital/startup costs, $629,000 annual O&M costs and $45,265,000 annual labor costs.

Changes in the Estimates: There is a decrease of 66,747 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. EPA believes that this lower burden reflects a more accurate portrait of the existing burden on the regulated community.

Dated: February 27, 2006.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–3284 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–O–PA–2004–0010; FRL–8042–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Spill Prevention, Control and Countermeasure (SPCC) Plans (Renewal), EPA ICR No. 0328.11, OMB Control No. 2050–0021

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before April 7, 2006.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OPA–2004–0010, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *superfund.docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Superfund Docket, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Hugo Paul Fleischman, EPA/OSWER/OEM, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–1968; fax number: 202–564–2625; e-mail address: *fleischman.hugo@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On December 13, 2004 (69 FR 72191), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received two relevant comments during the comment period, which are addressed in the ICR. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OPA–2004–0010, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Superfund Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone

number for the Superfund Docket is (202) 566–0276.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: Spill Prevention, Control and Countermeasure (SPCC) Plans (Renewal).

ICR numbers: EPA ICR No. 0328.11, OMB Control No. 2050–0021.

ICR Status: This ICR is scheduled to expire on February 28, 2006. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The primary data collection activities required by the Oil Pollution Prevention regulation (40 CFR part 112) are the preparation and maintenance of the SPCC Plan along with preparing records of inspections and tests. In preparing a Plan, the owner or operator of a new facility must prepare and implement an SPCC Plan in accordance with the guidelines set forth in 40 CFR part 112 before beginning facility operations. Section 112.3 requires the owner or operator to maintain a copy of the SPCC Plan at the facility, if the facility is normally attended for at least four hours per day or, if not, at the nearest field office. In the event of certain discharges of oil into navigable waters, a facility owner or operator must submit information described in § 112.4(a) to the Regional Administrator within 60 days. Additionally, the facility owner or operator must amend his Plan in accordance with § 112.7 whenever there is a change in the facility's design, construction, operation, and maintenance that materially affects the facility's potential to discharge oil into navigable waters.

EPA does not collect SPCC Plans or related records from facilities on a routine basis. Preparation, implementation, and maintenance of the SPCC Plan by the facility helps prevent oil discharges and mitigate the environmental damage caused by such discharges. Therefore, the primary user of the data is the facility itself.

Although the facility is the primary user of the data, EPA uses the data in certain situations. EPA's primary use of the data contained in an SPCC Plan is to ensure that a facility is in full compliance with all elements of the SPCC regulation, including design and operation specifications and inspection requirements. EPA reviews SPCC Plans as part of EPA's inspection program and when information is submitted because of an oil discharge. A Regional Administrator may require a facility owner or operator to amend the SPCC Plan if he finds that the facility has not met the requirements of the regulation or that Plan amendment is necessary to prevent and contain discharges of oil. If a facility does not amend its SPCC Plan, it may face civil penalties under the Clean Water Act.

State and local governments are also users of the data. The information provided in SPCC Plans (*e.g.*, facility configuration, capabilities, and potential risks) is not necessarily available elsewhere and can greatly assist local emergency preparedness planning efforts. The Plan should be compatible and coordinated with local emergency plans, including those developed under Title III of the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99–499). Coordination with state governments is facilitated by the provision in § 112.4(c) requiring that, after certain discharges, information on the discharge be sent to the relevant state agencies. The flexibility with respect to formatting in this rule promotes greater coordination with State planning efforts because the use of plans prepared pursuant to state regulations is encouraged. None of the information to be gathered for this collection is believed to be confidential.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 4 hours per response for existing facilities and 38 hours per response for newly regulated facilities. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: The industries that are likely to be covered by the SPCC regulation fall into many North American Industrial Classification System (NAICS) categories, including those associated with petroleum and non-petroleum oil production, processing (refining), distribution, storage, and consumption. Oil production facilities (28 percent), farms (25 percent), and electric utilities (8 percent) account for most of the SPCC-regulated facilities.

Estimated Number of Respondents: 623,288.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 2,385,701 hours.

Estimated Total Annual Cost: $158 million, includes $52 million annualized capital and O&M costs and $106 million labor costs.

Changes in the Estimates: There is an increase of 796,449 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is due to adjustments to the estimates for the number of affected facilities, burden values, and labor rates.

Dated: February 23, 2006.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–3285 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2005–0562; FRL–8042–2]

Board of Scientific Counselors, Science to Achieve Results (STAR)/ Greater Research Opportunities (GRO) Fellowship Subcommittee Meeting—April 2006

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of one meeting (via conference call) of the Board of Scientific Counselors (BOSC) Science to Achieve Results (STAR)/ Greater Research Opportunities (GRO) Fellowship Subcommittee.

DATES: The public conference call will be held on Monday, April 3, 2006 from 3 p.m. to 5 p.m. All times noted are eastern time. The meeting may adjourn early if all business is finished. Requests for the draft agenda or for making oral presentations at the conference call will be accepted up to 1 business day before the conference call.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2005–0562, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Send comments by electronic mail (e-mail) to: *ORD.Docket@epa.gov*, Attention Docket ID No. EPA–HQ–ORD–2005–0562.
- *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2005–0562.
- *Mail:* Send comments by mail to: Board of Scientific Counselors, Science to Achieve Results (STAR)/Greater Research Opportunities (GRO) Fellowship Subcommittee—Winter/ Spring 2006 Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW, Washington, DC, 20460, Attention Docket ID No. EPA–HQ–ORD–2005–0562.
- *Hand Delivery or Courier.* Deliver comments to: EPA Docket Center (EPA/ DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2005–0562. Note: this is not a mailing address. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2005–0562. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Board of Scientific Counselors, Science to Achieve Results (STAR)/ Greater Research Opportunities (GRO) Fellowship Subcommittee—Winter/ Spring 2006 Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Lorelei Kowalski, Mail Code 8104–R, Office of Science Policy, Office of Research and Development, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via phone/voice mail at: (202) 564–3408; via fax at: (202) 565–2911; or via e-mail at: *kowalski.lorelei@epa.gov*.

SUPPLEMENTARY INFORMATION:

General Information

Participation in the conference call will be by teleconference only—meeting rooms will not be used. Members of the public who wish to obtain the call-in number and access code to participate in the conference call may contact Lorelei Kowalski, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above, by 4 working days prior to the conference call.

The purpose of the conference call is to resolve any outstanding issues, and to finalize, if possible, the subcommittee's draft report (which is then submitted to the BOSC Executive Committee for review/approval). Proposed agenda items for the conference call include, but are not limited to: discussion of responses to charge questions, and resolution of comments on other parts of the draft report. The conference call is open to the public. Details on the purpose of the STAR/GRO Fellowship Subcommittee can be obtained by reviewing the subcommittee charge at: *http://www.epa.gov/osp/bosc/subcomm-star.htm*.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Lorelei Kowalski at (202) 564–3408 or *kowalski.lorelei@epa.gov*. To request accommodation of a disability, please contact Lorelei Kowalski, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: March 1, 2006.

Kevin Y. Teichman,

Director, Office of Science Policy.

[FR Doc. E6–3226 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0149; FRL–7765–2]

Pesticide Product; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing a new active ingredient not included in any currently registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Comments must be received on or before March 22, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) numberEPA–HQ–OPP–2006–0149, by one of the following methods:

- *http://www.regulations.gov/*. Follow the on-line instructions for submitting comments.
- *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

Hand Delivery: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number EPA–HQ–OPP–2006–0149. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0149. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be captured automatically and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at*http://www.epa.gov/epahome/docket.htm/*.

Docket: All documents in the docket are listed in the regulation.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov/* or in hard copy at the Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Barbara Mandula, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–7378; e-mail address: *mandula.barbara@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532) .

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Registration Applications

EPA received an application as follows to register a pesticide product containing an active ingredient not included in any currently registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Product Containing Active Ingredients not Included in any Currently Registered Products

File Symbol 82681–R. Applicant: ARI Inc. 700 Research Center Blvd., Fayetteville, AR 72701. *Product Name:* Lockdown™ retro. *Active ingredient: Colletotrichum gloeosporioides f. sp. aeschynomene (Cga)* at 45%. *Proposed classification/use:* Mycoherbicide/ Control of Northern jointvetch on rice crops in Arkansas, Louisiana, and Mississippi.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: February 23, 2006.

Janet L. Anderson,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 06–2014 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0497; FRL–7764–3]

Propiconazole; Notice of Receipt of Request(s) to Amend to Terminate Uses of Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily amend their registrations to terminate uses of certain products containing the pesticide propiconazole. The requests would terminate propiconazole use in or on apparel, furnishings (except shower curtains), and carpet fiber. The requests would not terminate the last propiconazole products registered for use in the U.S. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw their requests within this period. Upon acceptance of these requests, any sale, distribution, or use of products listed in this notice will be permitted only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before April 7, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0497, by one of the following methods:

- *http://www.regulations.gov/*. Follow the on-line instructions for submitting comments.
- *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number EPA–HQ–OPP–2005–0497. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2005–0497. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be captured automatically and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/docket.htm/*.

Docket: All documents in the docket are listed in the regulation.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov/* or in hard copy at the Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Stacey Grigsby, Antimicrobials Division (7510C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6440; fax number: (703)308–6467; e-mail address: *grigsby.stacey@epa.gov*. or Christina Scheltema, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–2201; fax number: (703)308–8005; e-mail address: *scheltema.christina@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a

wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background on the Receipt of Requests to Amend Registrations to Delete Uses

This notice announces receipt by EPA of requests from registrants Janssen Pharmaceutica Inc. and Syngenta Crop Protection Inc. to amend product registrations to terminate certain antimicrobial uses of propiconazole as a material preservative. In letters dated January 27 and January 30, 2006, respectively, Janssen and Syngenta requested the voluntary termination of certain uses of pesticide product registrations identified in this notice. Specifically, these registrants have requested that EPA terminate use of propiconazole on apparel (including aprons, bibs, dresses, footwear, gloves, gowns, hosiery, intimate apparel, linings, shirts, sports apparel, and uniforms); furnishings (except shower curtains) (including blankets, cloths, curtains, draperies, furniture coverings, linens, mattress and pillow ticking, mattress pads, and napkins); and carpet fiber. The registrants are no longer supporting these uses and wish to have them removed from all product labels. The registrants will be retaining use of propiconazole in carpet backing, shower curtains, and all other uses associated with the product registrations listed in Table 1 of Unit III.

III. What Action is the Agency Taking?

This notice announces receipt by EPA of requests from registrants to amend product registrations to terminate certain uses of propiconazole product registrations listed above. The affected products and the registrants making the requests are identified in Tables 1 and 2 of this unit.

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be canceled or amended to terminate one or more pesticide uses. Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation or use termination. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The propiconazole registrants have requested that EPA waive the 180–day comment period. EPA will provide a 30–day comment period on the proposed requests.

Unless a request is withdrawn by the registrant within 30 days of publication of this notice, or if the Agency determines that there are substantive comments that warrant further review of this request, an order will be issued amending the affected product registrations.

TABLE 1.—PROPICONAZOLE PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT

Registration No.	Product name	Company
43813–16	WOCOSEN 250 EC	Janssen Pharmaceutica Inc.
43813–19	WOCOSEN 100 SL	Janssen Pharmaceutica Inc.
43813–37	WOCOSEN 500 SL	Janssen Pharmaceutica Inc.
43813–41	WOCOSEN 150 EC	Janssen Pharmaceutica Inc.
43813–43	WOCOSEN 450 EC	Janssen Pharmaceutica Inc.
100–1233	PROPI-Shield	Syngenta Crop Protection Inc.

Table 2 of this unit includes the names and addresses of record for the registrants of the products listed in Table 1 of this unit.

TABLE 2.—REGISTRANTS REQUESTING AMENDMENTS

EPA Company No.	Company name and address
43813	Janssen Pharmaceutica Inc. Plant and Material Protection Division1125 Trenton-Harbourton Road Titusville, NJ 08560–0200
100	Syngenta Crop Protection Inc. PO Box 18300 Greensboro, NC 27419–8300

IV. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

V. Procedures for Withdrawal of Request and Considerations for Reregistration of Propiconazole

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before April 7, 2006. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. If the request for use termination is granted as discussed above, the Agency intends to issue a cancellation order that will allow the registrant to continue to sell and distribute existing stocks of products bearing old labeling for 18 months after the date of the use termination order. Persons other than the registrant may continue to sell and/or use existing stocks of cancelled products until such stocks are exhausted, provided that such use is consistent with the terms of the previously approved labeling on, or that accompanied, the cancelled product. The order will specifically prohibit any use of existing stocks that is not consistent with such previously approved labeling. If, as the Agency currently intends, the final cancellation order contains the existing stocks provision just described, the order will be sent only to the affected registrants of the cancelled products. If the Agency determines that the final cancellation order should contain existing stocks provisions different than the ones just described, the Agency will publish the cancellation order in the **Federal Register**.

List of Subjects

Environmental protection, Pesticides and pests, Propiconazole.

February 28, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–3228 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0540; FRL–7765–5]

Notice of Filing of Pesticide Petitions for Establishment of Regulations for Residues of Azoxystrobin and Its Z-Isomer in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of azoxystrobin and its Z-isomer in or on various commodities.

DATES: Comments must be received on or before April 7, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0540 and pesticide petition numbers (PPs) 3E6637, 3E6749, 4E6823, and 5E6916, by one of the following methods:

- *http://www.regulations.gov/*. Follow the on-line instructions for submitting comments.
- *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number EPA-HQ-OPP–2005–0540. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA-HQ-OPP–2005–0540. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The www.regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going at regulations.gov, your e-mail address will be captured automatically and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA

Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm/*.

Docket: All documents in the docket are listed in the regulation.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, U. S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; 703–305–6463; e-mail: *madden.barbara@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

- i. Identify the document by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrved at your estimate in sufficient detail to allow for it to be reproduced.
- vi. Provide specific examples to illustrate your concerns, and suggest alternatives.
- vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

EPA is printing a summary of each pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that these pesticide petitions contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of these pesticide petitions. Additional data may be needed before EPA rules on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of the petitions included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov/*. To locate this information on the home page of EPA's Electronic Docket, select ''Quick Search'' and type the OPP docket ID number. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

1. *PP 3E6637*. Interregional Research Project No. 4 (IR–4), Rutgers University, 681 U. S. Highway #1 South, North Brunswick, NJ 08902–3390, proposes to establish tolerances for residues of the fungicide azoxystrobin (methyl (E)–2–{2–[6–(2–cyanophenoxy) pyrimidin–4–yloxy]phenyl}–3–methoxyacrylate) and its Z-isomer (methyl (Z)–2–{2–[6–(2–cyanophenoxy)pyrimidin–4–yloxy]phenyl}–3–methoxyacrylate) in or on food commodities Spice Subgroup 19B, except black pepper at 38.0 parts per million (ppm);

2. *PP 3E6749*. Oil seeds of crambe, flax, Indian mustard, field mustard, black mustard, rapeseed, Indian rapeseed, safflower, and sunflower at 0.5 ppm;

3. *PP 4E6823*. Herb Subgroup 19A, fresh at 50.0 ppm and Herb Subgroup 19A, dried at 260.0 ppm;

4. *PP 5E6916*. Citrus, dried pulp at 20.0 ppm and citrus, oil at 40.0 ppm; Fruit, citrus, Group 10 at 10.0 ppm; Vegetable, foliage of legumes, Group 7, at 30.0 ppm; Vegetable, fruit, Group 8 (except tomato) at 2.0 ppm; pea and bean, succulent shelled, Subgroup 6B at 0.5 ppm; pea and bean, dried shelled (except soybean) Subgroup 6C at 0.5 ppm; animal feed, nongrass, Group 18, forage at 30.0 ppm, and animal feed, nongrass Group 18, hay at 55.0 ppm.

An adequate analytical method for the above commodities, gas chromatography with nitrogen-phosphorus detection (GC-NPD) or in mobile phase by high performance liquid chromatography with ultra-violet detection (HPLC-UV) is available for enforcement purposes with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances. The Analytical Chemistry section of the EPA concluded that the method(s) are adequate for enforcement. Analytical methods are also available for analyzing

meat, milk, poultry, and eggs which also underwent successful independent laboratory validations.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 24, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 06–2104 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0070; FRL–7763–8]

Experimental Use Permit; Receipt of Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application 72821–EUP–1 from BHN Research requesting an experimental use permit (EUP) for the plant-incorporated protectant *Bacillus thuringiensis* subsp *kurstaki* (Cry1A(c)) in tomatoes. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments must be received on or before April 7, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0070, by one of the following methods:

- *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number EPA–HQ–OPP–2006–0070. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0070. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov your e-mail address will be captured automatically and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/docket.htm*.

Docket: All documents in the docket are listed in the regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov/* or in hard copy at the Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Leonard Cole, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5412; e-mail address: *cole.leonard@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are interested in agricultural biotechnology or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetics Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

BHN has applied to amend/extend 72821–EUP–1 for tomato plants expressing *Bacillus thuringiensis* subsp *kurstaki* (Cry1A(c)) protein to allow the planting of 500 acres of tomatoes in the following States: California, Florida, Georgia, Illinois, Missouri, Puerto Rico, and Virginia.

III. What Action is the Agency Taking?

Following the review of the BHN Research application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

IV. What is the Agency's Authority for Taking this Action?

The specific legal authority for EPA to take this action is under FIFRA section 5.

List of Subjects

Environmental protection, Experimental use permits.

Dated: March 1, 2006.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E6–3282 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2006–0211; FRL–7767–5]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from February 13, 2006 to February 24, 2006, consists of the PMNs and TME both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments, identified by the docket identificatioin (ID) number EPA–HQ–OPPT–2006–0211 and the specific PMN number or TME number, must be received on or before April 7, 2006.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket ID number EPA–HQ–OPPT–2006–0211. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744, and the telephone number for the OPPT Docket, which is located in the EPA Docket Center, is (202) 566–0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

EDOCKET, EPA's electronic public docket and comment system was replaced on November 25, 2005 by an enhanced federal-wide electronic docket management and comment system located at *http://www.regulations.gov/*. Follow the on-line instructions.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected

from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number and specific PMN number or TME number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number EPA–HQ–OPPT–2006–0211. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *oppt.ncic@epa.gov*, Attention: Docket ID Number EPA–HQ–OPPT–2006–0211 and PMN Number or TME Number. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *By hand delivery or courier*. Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2006–0211 and PMN Number or TME Number. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the specific PMN number you are commenting on in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from February 13, 2006 to February 24, 2006, consists of the PMNs and TME both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs and TMEs

This status report identifies the PMNs and TME both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 24 PREMANUFACTURE NOTICES RECEIVED FROM: 02/13/06 TO 02/24/06

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–06–0299	02/10/06	05/10/06	Sachem, inc.	(G) Destructive use catalyst for microporous filter material manufacture.	(G)1,6-hexanediaminium,n,n,n,n', vegolysin
P–06–0300	02/10/06	05/10/06	Zeon Chemicals L.P.	(S) Barrier film for food packaging	(G) Cyclized hydrocarbon resin
P–06–0301	02/14/06	05/14/06	Cytec Industries Inc.	(G) mineral flocculant	(G) modified anionic polyacrylamide
P–06–0302	02/15/06	05/15/06	CBI	(G) Automotive coatings	(G) Acrylic polymer with styrene, peoxide initiated
P–06–0303	02/15/06	05/15/06	CBI	(G) Biopolymer treatment	(S) Alpha-amylase
P–06–0304	02/15/06	05/15/06	CBI	(G) Open, non-dispersive use, dye for synthetic fibers	(G) Chromium complex of substituted hydroxynaphthylazo hydroxynaphthalene and substituted hydroxyphenylazo hydroxynaphthalene, sodium salt
P–06–0305	02/15/06	05/15/06	CBI	(G) Open, non-dispersive use, dye for synthetic fibers	(G) Chromium complex of substituted hydroxynaphthylazo hydroxynaphthalene and substituted hydroxyphenylazo hydroxynaphthalene, sodium salt
P–06–0306	02/16/06	05/16/06	CBI	(S) Polyurethane coating	(G) Aqueous polyurethane dispersion
P–06–0307	02/17/06	05/17/06	BASF Corporation	(G) Automotive application	(G) Polyester urethane
P–06–0308	02/17/06	05/17/06	BASF Corporation	(G) protective jacketting	(G) Polyester urethane
P–06–0309	02/21/06	05/21/06	Aoc L.L.C.	(S) Polyester component for gelcoat resin or spray up of fiberglass reinforced plastic parts	(S) 1,3-benzenedicarboxylic acid, polymer with 2,2-dimethyl-1,3-propanediol, 1,2-ethanediol, 2,5-furandione and 1,2-propanediol, phenylmethyl ester
P–06–0310	02/21/06	05/21/06	Cytec Surface Specialities Inc.	(G) Coatings and inks	(G) Alkenoic acid, reaction products with alkoxylated polyalcohol and alkylamine
P–06–0311	02/21/06	05/21/06	Cytec Surface Specialities Inc.	(G) Coatings and inks	(G) Alkanoic acid, polymer with alkoxylated polyol, reaction products with alkylamine
P–06–0312	02/21/06	05/21/06	Cytec Surface Specialities Inc.	(G) Coatings and inks	(G) Fatty acids, dimers, polymers with alkenoic acid and aromatic polyol
P–06–0313	02/21/06	05/21/06	Cytec Surface Specialities Inc.	(G) Coatings and inks	(G) Alkenoic acid, modified vinylic copolymer
P–06–0314	02/21/06	05/21/06	CBI	(S) Dispersing agent for crop protection; dispersing agent for home care cleaners	(G) Polyoxyalkylene siloxane
P–06–0315	02/21/06	05/21/06	Yh America, Inc., Sealant Division	(S) One component adhesive, urethane or epoxide	(S) Glycerol propoxylate,N dibutytin diilaurate, polypropylene glycol, tetramethylxylene diisocyanate
P–06–0316	02/22/06	05/22/06	J.M. Huber Corporation	(S) Flame retardant	(G) Aluminum trihydrate surface treated

I. 24 PREMANUFACTURE NOTICES RECEIVED FROM: 02/13/06 TO 02/24/06—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–06–0317	02/23/06	05/23/06	CBI	(G) Open, non-dispersive use.	(G) Polycarbonate polyurethane
P–06–0318	02/23/06	05/23/06	CBI	(G) Open, non-dispersive use.	(G) Polycarbonate polyurethane resin
P–06–0319	02/23/06	05/23/06	The Dow Chemical Company	(S) Organic intermediate	(G) Pyridyl ethyl thioacetate
P–06–0320	02/23/06	05/23/06	CBI	(G) Open, non-dispersive use.	(G) Polycarbonate dispersion
P–06–0321	02/23/06	05/23/06	CBI	(G) Polymeric intermediate	(G) Functional polyetheramine derivative
P–06–0322	02/23/06	05/23/06	CBI	(S) Aqueous dispersion of polymer for leather finishing	(G) (substituted)dicarboxylic acid, polymer with fatty acid, dioic acid, (substituted)dio, hydrazine, hydroxypoly[(substituted)diyl], (substituted) propanoic acid and (substituted)cyclohexane, compound with trialkylamine

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received:

II. 1 TEST MARKETING EXEMPTION NOTICES RECEIVED FROM: 02/13/06 TO 02/24/06

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–06–0003	02/14/06	03/30/06	Cytec Industries Inc.	(G) Modified anionic polyacrylamide	(G) mineral flocculant

In Table III of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

III. 45 NOTICES OF COMMENCEMENT FROM: 02/13/06 TO 02/24/06

Case No.	Received Date	Commencement Notice End Date	Chemical
P–03–0008	02/15/06	01/19/06	(G) Hydroxyester acrylate, polymer with alkanediol polymer and isocyanate.
P–03–0692	02/22/06	02/01/06	(G) Rosin, polymer with a monocarboxylic acid, phenols, maleic anhydride, formaldehyde and pentaerythritol.
P–04–0237	02/21/06	02/08/06	(G) Alkanolamine carboxylate salt
P–04–0238	02/21/06	02/08/06	(G) Alkanolamine carboxylate salt
P–04–0239	02/21/06	02/08/06	(G) Alkanolamine carboxylate salt
P–04–0240	02/21/06	02/08/06	(G) Alkoxylated amine carboxylate salt
P–04–0241	02/21/06	02/08/06	(G) Alkanolamine carboxylate salt
P–04–0277	02/15/06	01/25/06	(S) Extracts (petroleum), light paraffinic distillate solvent, hydrotreated, arom. hydrocarbon-rich
P–04–0278	02/15/06	01/25/06	(S) Extracts (petroleum), heavy paraffinic distillate solvent, hydrotreated, arom. hydrocarbon-rich
P–04–0281	02/21/06	02/08/06	(G) Alkali carboxylate salt
P–04–0282	02/21/06	02/08/06	(G) Alkali carboxylate salt
P–04–0700	02/10/06	01/24/06	(S) Poly(oxy-1,2-ethanediyl), .alpha.-(1-oxo-2-propenyl)-.omega.-[3-[1,3,3,3-tetramethyl-1-[(trimethylsilyl)oxy]disiloxanyl]propoxy]-
P–04–0701	02/10/06	01/24/06	(S) Poly(oxy-1,2-ethanediyl), .alpha.-(2-methyl-1-oxo-2-propenyl)-.omega.-[3-[1,3,3,3-tetramethyl-1-[(trimethylsilyl)oxy]disiloxanyl]propoxy]-
P–05–0144	02/22/06	02/05/06	(G) Phthalate type polyester
P–05–0274	02/10/06	02/02/06	(G) Polyester carbonate-based polyurethane-polyurea
P–05–0347	02/21/06	02/09/06	(G) Poly[oxy(alkyldiyl),.alpha.-hydro-.omega.-hydroxy-, acrylated-blocked polymer with 1,1'methylenebis[isocyanatobenzene],
P–05–0397	02/14/06	01/19/06	(G) .beta.-ketoester and .beta.-diketone, polymers with bisphenol a diglycidyl ether homopolymer diacrylate 3- (c10-16)-alkyloxy)-2-hydroxypropyl ethers, 1,6-hexanediol diacrylate, polyethylene glycol monoacrylate ether with trimethylolpropane (3:1), and alkyl acrylate, reaction products with alkyl amine and alkanol amine
P–05–0567	02/10/06	02/02/06	(G) Hexanediol polycarbonate-based polyurethane-polyurea

III. 45 NOTICES OF COMMENCEMENT FROM: 02/13/06 TO 02/24/06—Continued

Case No.	Received Date	Commencement Notice End Date	Chemical
P–05–0593	02/10/06	01/26/06	(S) Siloxanes and silicones, di-me, 3-hydroxypropyl group-terminated, diethers with polyethylene glycol monoacrylate, polymers with acrylic acid and n,n,n-trimethyl-2-[(1-oxo-2-propenyl)oxy]ethanaminium chloride, disodium (disulfite)- and peroxydisulfuric acid ([(ho)s(o)2]2o2) diammonium salt-initiated
P–05–0594	02/10/06	01/26/06	(S) Siloxanes and silicones, di-me, 3-hydroxypropyl group-terminated, diethers with polyethylene glycol monoacrylate, polymers with acrylic acid and n,n,n-trimethyl-2-[(1-oxo-2-propenyl)oxy]ethanaminium chloride, sodium salts, disodium (disulfite)- and peroxydisulfuric acid ([(ho)s(o)2]2o2) diammonium salt-initiated
P–05–0595	02/10/06	01/26/06	(S) Siloxanes and silicones, di-me, 3-hydroxypropyl group-terminated, diethers with polyethylene glycol monoacrylate, polymers with acrylic acid and n,n,n-trimethyl-2-[(1-oxo-2-propenyl)oxy]ethanaminium chloride, potassium salts, disodium(disulfite)- and peroxydisulfuric acid ([(ho)s(o)2]2o2) diammonium salt-initiated
P–05–0596	02/10/06	01/27/06	(S) Siloxanes and silicones, di-me, 3-hydroxypropyl group-terminated, diethers with polyethylene glycol monoacrylate, polymers with acrylic acid and n,n,n-trimethyl-2-[(1-oxo-2-propenyl)oxy]ethanaminium chloride, ammonium salts, disodium(disulfite)- and peroxydisulfuric acid ([(ho)s(o)2]2o2) diammonium salt-initiated
P–05–0597	02/10/06	01/26/06	(S) Siloxanes and silicones, di-me, 3-hydroxypropyl group-terminated, diethers with polyethylene glycol monoacrylate, polymers with acrylic acid and n,n,n-trimethyl-2-[(1-oxo-2-propenyl)oxy]ethanaminium chloride, disodium (disulfite)- and peroxydisulfuric acid ([(ho)s(o)2]2o2) diammonium salt-initiated, compounds with triethanolamine
P–05–0598	02/10/06	01/26/06	(S) Siloxanes and silicones, di-me, 3-hydroxypropyl group-terminated, diethers with polyethylene glycol monoacrylate, polymers with acrylic acid and n,n,n-trimethyl-2-[(1-oxo-2-propenyl)oxy]ethanaminium chloride, disodium (disulfite)- and peroxydisulfuric acid ([(ho)s(o)2]2o2) diammonium salt-initiated, compds. with 2-amino-2-methyl-1-propanol
P–05–0677	02/22/06	02/02/06	(G) Dialkyl carbonate epoxy polymer with substituted triol
P–05–0741	02/21/06	01/26/06	(G) Peroxyalkanoic acid
P–05–0751	02/21/06	01/31/06	(G) Hydroxyalkyl carboxylic acid, polymer with alkylamine, dialkyl carbonate, alkanediol, alkyldiisocyanate, compound with alkylamine
P–05–0753	02/21/06	01/20/06	(G) Modified polyacrylamide
P–05–0760	02/13/06	01/30/06	(G) Pyrazolylazo pyrazol derivative
P–05–0761	02/13/06	01/30/06	(G) Pyridylazo thiazol derivative
P–05–0762	02/13/06	01/30/06	(G) Carbonyl bis(imino phenyleneazo) derivative
P–05–0763	02/13/06	01/30/06	(G) Pyridylazo pyrazol derivative
P–05–0781	02/15/06	02/03/06	(G) Formaldehyde, polymer with 6-phenyl-1,3,5-triazine-2,4-diamine and 1,3,5-triazine-2,4,6-triamine, alkylated
P–05–0818	02/15/06	01/25/06	(S) Distillates (petroleum), heavy thermal cracked, hydrotreated
P–05–0828	02/21/06	02/10/06	(G) Hydrogenated fatty acid magnesium salts
P–06–0013	02/15/06	02/01/06	(G) Ethanone, 1-[9-ethyl-6-(2-methylbenzoyl)-heteropolycyclic]-, 1-(o-acetyloxime)
P–06–0015	02/21/06	02/08/06	(G) Sulphonated azo dye
P–06–0030	02/17/06	01/19/06	(G) Polymer of acrylate and methacrylate esters, azo-initiated
P–06–0034	02/10/06	02/05/06	(G) Terpolymer of substituted aromatic olefins
P–06–0071	02/10/06	01/25/06	(S) Siloxanes and silicones, di-me, 3-hydroxypropyl group-terminated, diethers with polyethylene glycol monoacrylate, polymers with acrylic acid and 2-methyl- 2-[(1-oxo-2-propenyl)amino]-1-propanesulfonic acid monosodium salt, disodium (disulfite)- and peroxydisulfuric acid ([(ho)s(o)2]2o2) diammonium salt-initiated
P–06–0072	02/10/06	01/25/06	(S) Siloxanes and silicones, di-me, 3-hydroxypropyl group-terminated, diethers with polyethylene glycol monoacrylate, polymers with acrylic acid and 2-methyl- 2-[(1-oxo-2-propenyl)amino]-1-propanesulfonic acid monosodium salt, sodium salts, disodium (disulfite)- and peroxydisulfuric acid ([(ho)s(o)2]2o2) diammonium salt-initiated
P–06–0073	02/10/06	01/25/06	(S) Siloxanes and silicones, di-me, 3-hydroxypropyl group-terminated, diethers with polyethylene glycol monoacrylate, polymers with acrylic acid and 2-methyl- 2-[(1-oxo-2-propenyl)amino]-1-propanesulfonic acid monosodium salt, potassium salts, disodium (disulfite)- and peroxydisulfuric acid ([(ho)s(o)2]2o2) diammonium salt-initiated/ENT≤
P–06–0074	02/10/06	01/25/06	(S) Siloxanes and silicones, di-me, 3-hydroxypropyl group-terminated, diethers with polyethylene glycol monoacrylate, polymers with acrylic acid and 2-methyl- 2-[(1-oxo-2-propenyl)amino]-1-propanesulfonic acid monosodium salt, ammonium salts, disodium (disulfite)- and peroxydisulfuric acid ([(ho)s(o)2]2o2) diammonium salt-initiated

III. 45 NOTICES OF COMMENCEMENT FROM: 02/13/06 TO 02/24/06—Continued

Case No.	Received Date	Commencement Notice End Date	Chemical
P–06–0075	02/10/06	01/25/06	(S) Siloxanes and silicones, di-me, 3-hydroxypropyl group-terminated, diethers with polyethylene glycol monoacrylate, polymers with acrylic acid and 2-methyl-2-[(1-oxo-2-propenyl)amino]-1-propanesulfonic acid monosodium salt, disodium (disulfite)- and peroxydisulfuric acid ([(ho)s(o)2]2o2) diammonium salt-initiated, compounds with triethanolamine
P–06–0076	02/10/06	01/25/06	(S) Siloxanes and silicones, di-me, 3-hydroxypropyl group-terminated, diethers with polyethylene glycol monoacrylate, polymers with acrylic acid and 2-methyl- 2-[(1-oxo-2-propenyl)amino]-1-propanesulfonic acid monosodium salt, disodium (disulfite)- and peroxydisulfuric acid ([(ho)s(o)2]2o2) diammonium salt-initiated, compounds with 2-amino-2-methyl-1-propanol

List of Subjects

Environmental Protection, Chemicals, Premanufacturer Notices.

Dated: March 2, 2006.

Carolyn Thornton,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 06–2182 Filed 3–7–06; 8:45 am]

BILLING CODE 6560–50–S

EXPORT-IMPORT BANK

[Public Notice 81]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank, as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. Our customers will be able to submit this form on paper or electronically. The form has been updated in the following ways;

- The format has been changed in order to standardize its outline with those used for medium-term insurance and guarantees and exporter short-term single sale insurance.
- Information requested in order for the applicant to obtain special insurance coverages has been taken out of the body of the application and put in appendixes.
- Information about the end-user and agent is now requested.
- Legal certification have been updated.
- The application also more explicitly states the financial information that is required to be submitted with the application.

DATES: Written comments should be received on or before May 8, 2006 to be assured of consideration.

ADDRESSES: Direct all comments and requests for additional information to Angela Beckham, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3418.

SUPPLEMENTARY INFORMATION:

Title and Form Number: Application for Financial Institution Short-term Single-Buyer Insurance, EIB 92–41.

OMB Number: Presently part of OMB # 3048–0009 collection. Going forward we would like this form to have its own OMB number.

Type of Review: Regular.

Need and Use: The information requested enables the financial institution applicant to provide Ex Im Bank with the information necessary to obtain legislatively required assurance of repayment and fulfills other statutory requirements.

Affected Public: The form affects entities involved in the export of U.S. goods and services.

Estimated Annual Respondents: 265.

Estimated Time Per Respondent: 1 hour.

Estimated Annual Burden: 265 hours.

Frequency of Reporting or Use: As needed, each time a financial institution seeks short-term insurance for an export sale to a single buyer.

Dated: March 2, 2006.

Solomon Bush,

Agency Clearance Officer.

BILLING CODE 6690–01–M

EIB # 92-41
Expire

Export-Import Bank of the United States

APPLICATION FOR FINANCIAL INSTITUTION SHORT-TERM, SINGLE-BUYER INSURANCE

This application is to be completed by a financial institution (or a broker acting on its behalf) in order to obtain a short-term insurance policy covering transactions to a single foreign buyer. Repayment terms can be up to 360 days.

An online version of this application is available on Ex-Im Bank's web site. Ex-Im Bank encourages customers to apply on line, as it will facilitate our review and allow customers a faster response time. Additional information on how to apply for Ex-Im Bank insurance can be found at Ex-Im's web site http://www.exim.gov.

Send this completed application to Ex-Im Bank, 811 Vermont Ave NW, Washington, D.C. 20571. Ex-Im Bank will also accept e-mailed pdf and faxed applications. Ex-Im Bank will not require the originals of these applications to be mailed. The application must be PDF scans of original applications and all required attachments. (Fax number 202.565.3380, e-mail exim.applications@exim.gov)

APPLICATION FORM

Applicant/Lender

The applicant is the financial institution that extends the Ex-Im Bank insured loan to the buyer.

Applicant legal name: State:

Contact person: Country:

Position title: E-mail:

Street Address: Phone:

Fax:

City: Postal Code:

Broker (if applicable):

Name of Broker:

Ex-Im Bank Broker #:

Contact Person:

Phone number:

Fax:

E-mail:

1. GENERAL QUESTIONS

A. Coverage Types Requested

Risk coverage

☐ Comprehensive Risk
☐ Political Risk

Type of credit

☐ Buyer credit (based on applicant's relationship with the buyer or guarantor)
☐ Supplier credit (based on the applicant's relationship with the exporter or supplier)

APPLICATION FOR FINANCIAL INSTITUTION, SHORT-TERM SINGLE-BUYER INSURANCE

Is this a resubmission of a previously withdrawn, returned or denied application, or a renewal for an existing policy?

☐ Yes
☐ No

If yes, indicate previous transaction number: _____

B. Primary Reason for applying for this policy

☐ Risk Mitigation

☐ Financing

☐ To offer more competitive terms

C. Primary point of contact for this applicant/application

☐ Lender

☐ Broker

2. SPECIAL COVERAGES

Check the boxes for the special coverages that apply to this transaction. Complete and attach the requested forms, where applicable.

☐ Shipment to address in the U.S.	☐ Services	☐ Additional Named Insured Attachment III - ANI required
☐ Foreign Currency Coverage -indicate currency _____ - currency of supply contract ☐ US dollar ☐ foreign currency	☐ Bulk Agriculture	☐ Documentary Cover (question applicable only to supplier credits) Attachment II required
☐ Warehouse – Attachment IV Required	☐ Other	

APPLICATION FOR FINANCIAL INSTITUTION, SHORT-TERM SINGLE-BUYER INSURANCE

3. PARTICIPANTS

Provide information on the additional participants to the transaction.

Exporter

The exporter is the U.S. entity that contracts with the buyer for the sale of the U.S. goods and services.

Applicant legal name: State:

Contact person: Country:

E-mail:

Position title:

Phone:

Street Address:

City: Postal Code: Fax:

Supplier

The supplier is the U.S. entity that manufactures the goods and/or performs the services to be exported. Check ☐ if the exporter is the supplier and there are no additional suppliers. Enter any additional suppliers, or check ☐ various:

Supplier legal name: State:

Contact person: Country:

E-mail:

Position title:

Phone:

Street Address:

City: Postal Code: Fax:

Buyer The buyer is the entity that contracts with the exporter for the purchase of U.S. goods and services.

Buyer legal name: Postal Code :

Contact person: Country:

E-mail:

Position title:

Phone:

Street Address:

Fax:

City:

Guarantor

The guarantor is the person or entity that agrees to repay the credit if the buyer does not. Refer to the short-term credit standards to determine in what circumstances personal or corporate guarantors are required.

Is a guarantor involved in this transaction? Yes ☐ No ☐

APPLICATION FOR FINANCIAL INSTITUTION, SHORT-TERM SINGLE-BUYER INSURANCE

If yes, is the guarantor ☐ an individual or ☐ a company?

Guarantor legal name:

Contact person: Country:

E-mail:

Position title:

Phone:

Street Address:

Fax:

City: Postal Code:

End-user

The end-user is the foreign entity that uses the U.S. goods and services:

Check if the end-user is also the buyer. ☐

End-user legal name: Province :

Contact person: Country:

E-mail:

Position title:

Phone:

Street Address:

Fax:

City: Postal Code:

Agent:

An agent is a business entity or individual located in the country of the borrower or buyer who has assisted in the sourcing, packaging, and/or preparation of a request for support from Ex-Im Bank, and which will receive compensation in some form for their services.

Is an agent involved in this transaction? yes☐ no☐

If yes, add the agent information below:

Agent legal name: Province :

Contact person: Country:

E-mail:

Position title:

Phone:

Street Address:

Fax:

City: Postal Code:

APPLICATION FOR FINANCIAL INSTITUTION, SHORT-TERM SINGLE-BUYER INSURANCE

Related Parties
Describe any direct or indirect ownership or family relationship that exists between any of the participants. If none, so indicate:
☐ None.

_____

_____

Primary Source of Repayment (PSOR)
The PSOR is the entity whose financial statements form the basis of Ex-Im Bank's evaluation of reasonable assurance of repayment, i.e. the entity whose financial statements Ex-Im Bank uses to supply calculate the ratios for short-term credit standards compliance. For this transaction, indicate whether the PSOR is:

☐ the buyer,

☐ the corporate guarantor, or

☐ business combination, (e.g. the consolidated or combined financial statements of the buyer and one or more corporate guarantors.). If business combination, indicate which entities comprise the combination_____

Is the PSOR a financial institution? Yes ☐ No ☐

Select the risk category: Private sector☐ Public sector ☐

Does the PSOR have a bond rating? Yes ☐ No ☐

If yes, indicate the name of the rating agency, rating, and the date of the rating.

_____

_____

4. TRANSACTION DESCRIPTION AND ELIGIBILITY

Provide a description of the products or service, including their NAICs code, if known:

_____

Answer the following questions about the products or services.
Is each product produced or manufactured in the United States? yes☐ no ☐

Has at least one-half of the value, exclusive of mark-up, been added by labor or material exclusively of United States origin? yes☐ no ☐

Are these products on the munitions control list? yes☐ no ☐

Are the products new or used? new☐ used ☐

Are the products capital goods that will be used to produce exportable products? yes☐ no ☐

Will any value be added to the product after export from the U.S.? yes☐ no ☐

If yes, provide an explanation: _____

Has this transaction been considered by any other export credit insurer? yes☐ no ☐

If yes, provide an explanation: _____

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5. FINANCED AMOUNTS AND STRUCTURE

Enter the %s for each payment term the exporter will extend to the buyer

Payment terms requested				(number of days)				
Payment type	Sight	Up to 30	Up to 60	Up to 90	Up to 120	Up to 180	Up to 270	Up to 360
Cash Against Documents								
Sight Draft Documents Against Payment								
Sight Draft Documents Against Acceptance								
Open Acct.								
Prom Note								

Enter the details of the transaction below:

This application is for: ☐ Single financing
☐ Revolving line

Indicate whether: ☐ the transaction is still being negotiated
☐ the financing mandate has been received

Credit Limit requested: $ _____

Requested effective date: _____

6. CREDIT INFORMATION ON THE PSOR

☐ The information requested in Attachment I: Credit Information is attached.

7. NOTICES AND CERTIFICATIONS

Anti-Lobbying Disclosure Form

Please sign the Anti-Lobbying Statement (Attachment V) and, if applicable, the Disclosure Form available at www.exim.gov/pub/ins/pdf/lll.pdf and include a copy of the signed form(s) with your application.

Certifications

The applicant certifies that neither it, nor its Principals, have within the past 3 years been a) debarred, suspended, declared ineligible from participating in, or voluntarily excluded from participation in, a Covered Transaction, b) formally proposed for debarment, with a final determination still pending, c) indicted, convicted or had a civil judgment rendered against it for any of the offenses listed in the Regulations, d) delinquent on any substantial debts owed to the U.S. Government or its agencies or instrumentalities as of the date of execution of this application; or e) the undersigned has received a written statement of exception from Ex-Im Bank attached to this certification, permitting participation in this Covered Transaction despite an inability to make certifications a) through d) in this paragraph.

The applicant further certifies that it has not and will not knowingly enter into any agreements in connection with the Goods and Services with any individual or entity that has been debarred, suspended, declared ineligible from participating in, or voluntarily excluded from participation in a Covered Transaction. All capitalized terms not defined herein shall have the meanings set forth in the Ex-Im Bank Suspension and Debarment Regulations at 12 C.F.R. Part 413 (Regulations).

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In addition, the applicant further certifies that it has not, and will not, engage in any activity in connection with this transaction that is a violation of a) the Foreign Corrupt Practices Act of 1977, 15 U.S.C. 78dd-1, et seq. (which provides for civil and criminal penalties against individuals who directly or indirectly make or facilitate corrupt payments to foreign officials to obtain or keep business), b) the Arms Export Control Act, 22 U.S.C. 2751 et seq., c) the International Emergency Economic Powers Act, 50 U.S.C. 1701 et seq., or d) the Export Administration Act of 1979, 50 U.S.C. 2401 et seq.; nor been found by a court of the United States to be in violation of any of these statutes within the preceding 12 months, and to the best of its knowledge, the performance by the parties to this transaction of their respective obligations does not violate any other applicable law.

The applicant certifies that the representation made and the facts stated in this document and any attachments are true, to the best of its knowledge and belief, and it has not misrepresented or omitted any material facts, and if any of the certifications made herein become untrue, Ex-Im Bank will be promptly informed of such changes. The applicant further understands that these certifications are subject to the penalties for fraud against the U.S. Government (18 USC 1001, et seq.).

Notices

The applicant is hereby notified that information requested by this application is done so under authority of the Export-Import Bank Act of 1945, as amended (12 USC 635 et seq.); provision of this information is mandatory and failure to provide the requested information may result in Ex-Im Bank being unable to determine eligibility for support. The information provided will be reviewed to determine the participants' ability to perform and pay under the transaction referenced in this application. Ex-Im Bank may not require the information and applicants are not required to provide information requested in this application unless a currently valid OMB control number is displayed on this form (see upper right of each page).

Public Burden Statement: Reporting for this collection of information is estimated to average 1 hour per response, including reviewing instructions, searching data sources, gathering information, completing, and reviewing the application. Send comments regarding the burden estimate, including suggestions for reducing it, to Office of Management and Budget, Paperwork Reduction Project OMB# 3048-0009, Washington, D.C. 20503.

Applicant (Financial Institution) Name: _____

Name and title of authorized officer: _____

Signature of authorized officer: _____

Date: _____

APPLICATION FOR FINANCIAL INSTITUTION, SHORT-TERM SINGLE-BUYER INSURANCE

Attachment I: Credit Information Requirements

Directions: The required credit information depends on the type of PSOR (non-financial institution or a financial institution) and on the amount of credit support requested. Check the boxes that are applicable to your transaction.

1. ☐ The PSOR is not a financial institution

a) Provide details of the applicant's experience with the buyer

Does the applicant have any experience with the buyer? ☐ yes ☐ no

If yes, provide the following information:

Date of first transaction with the buyer: _____

Date of first credit transaction with the buyer: _____

Has the applicant visited the buyer? ☐ yes ☐ no

If yes, indicate the date of the last visit and provide a call report._____

Describe the credit facilities extended to the buyer: ☐ short-term
☐ medium-term
☐ long-term
☐ security
☐ none

Total credit limit available to the buyer/corporate guarantor _____

Total outstanding short-term balances _____

Total outstanding medium-term or long-term balances _____

Credit performance ☐ satisfactory ☐ unsatisfactory

Has the applicant ever had credit insurance for the buyer or corporate guarantor before? ☐ yes ☐ no

If yes, enter the name of the insurer, and coverage dates and amounts _____

_____

b) Provide the applicable supporting financial information on the PSOR.

Check the box that applies to your transaction and provide the information noted below the box

☐ The transaction is for an amount up to $1 million:

- A credit report on the PSOR dated within six months of the application
- Two trade references on the PSOR of similar amounts and payment terms and dated within six months of the application
- the applicant's credit memorandum on the PSOR
- the applicant's call report on the PSOR (if applicable)
- audited or signed unaudited financial statements with notes for the last 2 fiscal years which adequately disclose financial condition and afford a reasonable basis for reliance on the information provided

☐ The transaction is over $1 million

- A bank reference on the PSOR not older than 6 months from the date of application
- A credit report on the PSOR dated within six months of the application
- Two trade references on the PSOR of similar amounts and payment terms and dated within six months of the application
- The applicant's credit memorandum on the PSOR
- The applicant's call report on the PSOR (if applicable)

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- Three fiscal year end audited financial statements with notes and the most recent interim statements with notes if the last fiscal year end is more than nine months prior to application

2. ☐ PSOR is a financial institution

a) Provide details of the applicant's experience with the financial institution guarantor. Include dates and amounts of previous transactions with the PSOR or indicate ☐ none

_____

b) Provide the applicable supporting financial information on the PSOR:

Check the box that applies to your transaction and provide the information noted below the box

☐ The transaction is for an amount up to $1 million:
- One short-term debt rating of the PSOR from S&P, Moody's or Fitch. Rating must be B, P-3 or F3 or better.

☐ The transaction is for between $1,000,001 and $10,000,000
- One short-term debt rating of the PSOR from S&P, Moody's or Fitch. Rating must be B, P-3 orF3 or better.

- If the PSOR does not have an acceptable current market rating, provide most recently published audited financial statements that adequately disclose financial condition and were prepared in accordance with accounting principles that afford a reasonable basis for reliance on the information provided.

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Attachment II. Documentary Cover Attachment

If the credit is a supplier credit, and documentary cover is requested, provide the following:
- A bank reference on the exporter dated within six months of the application
- Two trade references on the exporter dated six months of the application
- Financial statements on the exporter as follows
  - $500,000 or less signed by an authorized office for the exporter
  - $500,001 - $999,999 reviewed by a CPA with notes attached
  - $1,000,000 or more audited by a CPA with opinion and notes attached

Note that typically documentary cover is only provided for a supplier credit when the exporter/supplier is a small business. Call Ex-Im Bank's Trade Finance and Insurance Division at 202-565-3600 with further questions.

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Attachment III: Additional Named Insured Questionnaire

Indicate the name of the additional named insured as follows:

Legal Name: _____

Address: _____

City: _____

State: _____

Country: _____

Zip/ Postal Code: _____

Relationship to Applicant: _____

Role in the transaction: _____

Contact: _____

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Attachment IV – Warehouse Information

If you requested the Special Coverage – Warehouse, answer the following questions about the warehouse

Warehouse Type:

- ☐ Owned or controlled by exporter
- ☐ Bonded warehouse
- ☐ Neither, provide details

Warehouse Location:

City _____

State/Province _____

Country _____

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Attachment V

Anti-Lobbying Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:
If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, ``Disclosure Form to Report Lobbying," (available at www.exim.gov/pub/ins/pdf/lll.pdf) in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

[FR Doc. 06–2177 Filed 3–7–06; 8:45 am]
BILLING CODE 6690–01–C

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

February 27, 2006.

SUMMARY: The Federal Communications Commission, as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13, and as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 7, 2006. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Leslie F. Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., DC 20554 or via the Internet to *Leslie.Smith@fcc.gov* or Kristy L. LaLonde, Office of Management and Budget (OMB), Room 10236 NEOB, Washington, DC 20503, (202) 395–3087 or via the Internet at *Kristy_L._LaLonde@omb.eop.gov*. If you would like to obtain or view a copy of this revised information collection, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Leslie F. Smith at (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0436.

Title: Equipment Authorization—Cordless Telephone Security Coding.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 60.

Estimated Time per Response: 1.5 hours.

Frequency of Response: Recordkeeping; One time and on occasion reporting requirements.

Total Annual Burden: 90 hours.

Total Estimated Cost: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission requires that cordless telephone security features protect the public switched telephone network from unintentional line seizure and telephone dialing. These features prevent unauthorized access to the telephone line, the dialing of calls in response to signals other than those from the owner's handset and the unintentional ringing of a cordless telephone handset. Use of the cordless telephone security features reduces the harm caused by some cordless telephones to the ''911'' Emergency Service Telephone System and the telephone network in general.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 06–2088 Filed 3–7–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 03–123; DA 06–387]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission seeks comment on a petition for clarification filed by Communication Service for the Deaf (CSD) requesting the Commission to clarify that the providers of American Sign Language (ASL)-to-Spanish Video Relay Service (VRS) are not required to offer the service 24 hours a day and 7 days a week to be eligible for compensation from the Interstate Telecommunications Relay Service (TRS) Fund (Fund).

DATES: Comments are due on or before April 7, 2006. Reply comments are due on or before April 24, 2006.

ADDRESSES: You may submit comments identified by CG Docket No. 03–123, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Federal Communications Commission's Web site: *http://www.fcc.gov/cgb/ecfs/*. Follow the instructions for submitting comments.
- Mail: Parties who choose to file by paper should also submit their comment on diskette. These diskettes should be submitted, along with three paper copies to Dana Jackson, Consumer & Governmental Affairs Bureau, Disability Rights Office, 445 12th Street, SW., Room 3–C418, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case (CG Docket No. 03–123)), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's contractor at Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone (202) 418–0539 or TTY: (202) 418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Dana Jackson, (202) 418–2247 (voice), (202) 418–7989 (TTY), or e-mail *Dana.Jackson@fcc.gov*.

SUPPLEMENTARY INFORMATION: On July 19, 2005, the Commission released *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order on Reconsideration, FCC 03–139, CC Docket No. 98–67 and CG Docket No. 03–123, which published in the **Federal Register** on August 31, 2005 (70 FR 51642), reversing its conclusion that translation from ASL into Spanish is not a TRS eligible for compensation from the Fund. Also, on July 19, 2005, the Commission released *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, FCC 05–140, CC Docket No. 98–67 and CG Docket No. 03–123, which published in the **Federal Register** on August 31, 2005 (70 FR 51649), establishing a mandatory speed of answer requirement for VRS, requiring VRS to be offered 24 hours a day, 7 days a week. This is a summary of the Commission's public notice DA 06–387, released February 22, 2006. Pursuant to §§ 1.415 and 1.419 of the Commission rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov*. Filers should follow the instructions provided on the Web site for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response. All comments received are viewable by the general public at any time through the Web site.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All

hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.

Pursuant to § 1.1206 of the Commission s rules, 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are subject to disclosure.

The full text of document DA 06–387 and copies of any subsequently filed documents relating to this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document and copies of subsequently filed documents in this matter may also be purchased from the Commission's contractor at Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact the Commission's contractor at their Web site *http://www.bcpiweb.com* or by calling 1–800–378–3160. A copy of the Petition for Rulemaking may also be found by searching ECFS at *http://www.fcc.gov/cgb/ecfs* (insert CG Docket No. 03–123 into the proceeding block).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). Document DA 06–387 can also be downloaded in Word and Portable Document Format (PDF) at *http://www.fcc.gov/cgb.dro.*

Synopsis

On July 19, 2005, the Commission concluded that non-shared language Spanish translation VRS—*i.e.*, relay service in which the communication assistant (CA) translates what is signed in ASL into spoken Spanish, and *vice versa*—is a form of TRS compensable from the Fund. Also, on July 19, 2005, the Commission concluded that, effective January 1, 2006, providers seeking compensation from the Fund for offering VRS must offer the service 24 hours a day, 7 days a week.

The public notice seeks comment on whether ASL-to-Spanish VRS, if provided, must be offered 24 hours a day, 7 days a week to be eligible for compensation from the Fund.

Federal Communications Commission.

Jay Keithley,

Deputy Bureau Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. 06–2085 Filed 3–7–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–06–65–B (Auction No. 65); DA 06–299]

Auction of 800 MHz Air-Ground Radiotelephone Service Licenses Scheduled for May 10, 2006; Notice of Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 65

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the procedures and minimum opening bids for the upcoming auction of new nationwide commercial Air-Ground Radiotelephone Service licenses in the 800 MHz band. This document is intended to familiarize prospective bidders with the procedures and minimum opening bids for this auction.

DATES: Auction No. 65 is scheduled to begin on May 10, 2006.

FOR FURTHER INFORMATION CONTACT: *For legal questions:* Brian Carter at (202) 418–0660.

For general auction questions: Jeff Crooks at (202) 418–0660.

For service rules questions: Erin McGrath or Richard Arsenault (legal); or Jay Jackson or Moslem Sawez (technical) at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction No. 65 Procedures Public Notice* released on February 21, 2006. The complete text of the *Auction No. 65 Procedures Public Notice,* including attachments and related Commission documents is available for public inspection and copying from 8 a.m. to 4:30 p.m. Monday through Thursday or from 8 a.m. to 11:30 a.m. on Friday at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The *Auction No. 65 Procedures Public Notice* and related Commission documents may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–488–5300, facsimile 202–488–5563, or you may contact BCPI at its Web site: *http://www.BCPIWEB.com.* When ordering documents from BCPI please provide the appropriate FCC document number, for example, DA 06–299. The *Auction No. 65 Procedures Public Notice* and related documents are also available on the Internet at the Commission's Web site: *http://wireless.fcc.gov/auctions/65/.*

I. General Information

A. Introduction

1. The Wireless Telecommunications Bureau announces the procedures and minimum opening bid amounts for the upcoming auction of new nationwide commercial Air-Ground Radiotelephone Service licenses in the 800 MHz band scheduled for May 10, 2006 (Auction No. 65). On January 10, 2006, in accordance with section 309(j)(3) of the Communications Act of 1934, as amended, the Bureau released a public notice seeking comment on a reserve price and minimum opening bid amounts and the procedures to be used in Auction No. 65. The Bureau received one comment in response to the *Auction No. 65 Comment Public Notice,* 71 FR 3513, January 23, 2006.

i. Background of Proceeding

2. On February 22, 2005, the Commission released the *Air-Ground Order,* 70 FR 19377, April 13, 2005, in which it adopted a flexible regulatory approach to determine the future band configuration of the four megahertz of dedicated spectrum in the 800 MHz commercial Air-Ground Radiotelephone Service. Based on the band configuration proposals submitted by interested parties in the proceeding, the Commission decided to assign nationwide air-ground licenses under one of three alternative band configurations, implementing the band plan receiving the highest gross aggregate bid in an auction. The Commission also requested comment on competitive bidding rules for the 800 MHz commercial Air-Ground Radiotelephone Service.

3. On December 9, 2005, the Commission released the *Air-Ground Reconsideration Order and R&O,* 70 FR 76414, December 27, 2005, in which it resolved petitions for reconsideration of the *Air-Ground Order* and adopted competitive bidding rules for the 800 MHz commercial Air-Ground Radiotelephone Service.

4. Licensees in the 800 MHz Air-Ground Radiotelephone Service will be permitted to provide any type of air-ground service (*i.e.*, voice telephony, broadband Internet, data, etc.) to aircraft

of any type, and serve any or all aviation markets (commercial, government, and general). A licensee must provide service to aircraft and may not provide ancillary land mobile or fixed services in the 800 MHz air-ground spectrum.

ii. Licenses To Be Auctioned

5. Auction No. 65 will offer nationwide commercial licenses in the 800 MHz band in three alternative band configurations: (1) Band Plan 1, comprised of two overlapping, shared, cross-polarized 3 MHz licenses (Licenses A and B, respectively), (2) Band Plan 2, comprised of an exclusive 3 MHz license and an exclusive 1 MHz license (Licenses C and D, respectively), and (3) Band Plan 3, comprised of an exclusive 1 MHz license and an exclusive 3 MHz license (Licenses E and F, respectively), with the blocks at opposite ends of the band from Band Plan 2. Licenses in only one of these mutually incompatible band configurations will be awarded. The band plan that receives the highest aggregate gross bid in the auction will be implemented, and licenses composing that configuration will be awarded to winning bidders subject to review of their long-form license applications. Because the three band configurations are mutually incompatible, applications for licenses in different band plans will be mutually exclusive.

6. No party may obtain a controlling interest, either at auction or by a post-auction transaction, in new licenses for more than three megahertz of spectrum (either shared or exclusive) in the band. No single party, therefore, may win or hold more than one license in any of the available band configurations.

7. A complete list of the licenses available in Auction No. 65 and their descriptions is also included in Attachment A of the *Auction No. 65 Procedures Public Notice.*

B. Rules and Disclaimers

i. Relevant Authority

8. Prospective applicants must familiarize themselves thoroughly with the Commission's general competitive bidding rules set forth in Title 47, part 1, of the Code of Federal Regulations, including recent amendments and clarifications; rules relating to the 800 MHz Air-Ground Radiotelephone Service contained in Title 47, part 22, of the Code of Federal Regulations; and rules relating to applications, practice and procedure contained in Title 47, part 1, of the Code of Federal Regulations. Prospective applicants must also be thoroughly familiar with the procedures, terms and conditions (collectively, terms) contained in this public notice and the Commission's decisions in proceedings regarding competitive bidding procedures, application requirements, and obligations of Commission licensees.

9. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of most auctions-related Commission documents, including public notices, can be retrieved from the FCC Auctions Internet site at *http://wireless.fcc.gov/auctions.*

ii. Prohibition of Collusion

10. To ensure the competitiveness of the auction process, 47 CFR 1.2105(c) of the Commission's rules prohibits applicants for licenses in any of the same geographic license areas from communicating with each other about bids, bidding strategies, or settlements unless such applicants have identified each other on their short-form applications (FCC Forms 175) as parties with whom they have entered into agreements under 47 CFR 1.2105(a)(2)(viii). Because all of the licenses available in Auction No. 65 have the same service area, i.e., they are nationwide, this prohibition will apply to all applicants. Thus, all applicants (unless they have identified each other on their FCC Form 175 applications as parties with whom they have entered into agreements under 47 CFR 1.2105(a)(2)(viii)) must affirmatively avoid all communications with or disclosures to each other that affect or have the potential to affect bids or bidding strategy, which may include communications regarding the post-auction market structure. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction. This prohibition applies to all applicants regardless of whether such applicants become qualified bidders or actually bid.

11. For purposes of this prohibition, 47 CFR 1.2105(c)(7)(i) defines applicant as including all officers and directors of the entity submitting a short-form application to participate in the auction, all controlling interests of that entity, as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application.

12. Applicants for licenses for any of the same geographic license areas must not communicate directly or indirectly about bids or bidding strategy. Because all of the licenses available in Auction No. 65 have the same service area, all applicants are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more applicants, and conveys information concerning the substance of bids or bidding strategies between such applicants. Also, if the authorized bidders are different individuals employed by the same organization (e.g., law firm, engineering firm, or consulting firm), a violation similarly could occur. In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule. A violation of the anti-collusion rule could occur in other contexts, such as an individual serving as an officer of two or more applicants.

13. The Commission's rules do not prohibit applicants from entering into otherwise lawful bidding agreements before filing their short-form applications, as long as they disclose the existence of the agreement(s) in their short-form applications. If parties agree in principle on all material terms prior to the short-form filing deadline, each party to the agreement must identify the other party or parties to the agreement on its short-form application under 47 CFR 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the short-form filing deadline, they should not include the names of parties to discussions on their applications, and they may not continue negotiations, discussions or communications with any other applicants after the short-form filing deadline.

14. By electronically submitting its short-form application, each applicant certifies its compliance with 47 CFR 1.2105(c). However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted.

15. Section 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of

information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Thus, 47 CFR 1.65 requires an auction applicant to notify the Commission of any substantial change to the information or certifications included in its pending short-form application. Applicants are therefore required by 47 CFR 1.65 to report to the Commission any communications they have made to or received from another applicant after the short-form filing deadline that affect or have the potential to affect bids or bidding strategy unless such communications are made to or received from parties to agreements identified under 47 CFR 1.2105(a)(2)(viii). In addition, 47 CFR 1.2105(c)(6) provides that any applicant that makes or receives a communication prohibited by 47 CFR 1.2105(c) must report such communication to the Commission in writing immediately, and in no case later than five business days after the communication occurs.

16. Applicants that are winning bidders will be required to disclose in their long-form applications the specific terms, conditions, and parties involved in all bidding consortia, joint ventures, partnerships, and other arrangements entered into relating to the competitive bidding process.

17. Any applicant found to have violated the anti-collusion rule may be subject to sanctions. Applicants are also reminded that, regardless of compliance with the Commission's rules, they are subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. Compliance with the disclosure requirements of the Commission's anti-collusion rule will not necessarily insulate a party from enforcement of the antitrust laws. If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, it may be subject to forfeiture of its upfront payment, down payment, or full bid amount and may be prohibited from participating in future auctions.

18. A summary listing of documents issued by the Commission and the Bureau addressing the application of the anti-collusion rule may be found in Attachment E of the *Auction No. 65 Procedures Public Notice.* These documents are available on the Commission's auction anti-collusion Web page.

iii. Incumbent Licensee

19. In the *Air-Ground Order*, the Commission granted Verizon Airfone Inc., (Verizon Airfone or Airfone) the only incumbent service provider in the 800 MHz air-ground band, a nonrenewable license to operate in the band for five years. This license will expire on May 13, 2010. Verizon Airfone must remove its incumbent narrowband operations from three megahertz of spectrum in the band within two years of the initial grant date of a new license in the band, but may continue to operate in the remaining one megahertz of the band until the expiration of its nonrenewable license. The Commission has directed the Bureau to adopt reporting requirements so that Airfone's transition of its base stations and its subscribers' aircraft to operations in one megahertz of the 800 MHz air-ground band may be monitored. Accordingly, the Bureau issued a public notice enumerating such requirements on February 6, 2006. Airfone must file its initial transition status report with the Commission six months from the date of the grant of any new license in the band and at each of the three six-month intervals thereafter.

20. In addition, if Airfone, or an affiliate of Airfone, wins an exclusive 3 MHz license at auction, the Bureau will issue a public notice within 60 days of the grant of such a license that will require the company (1) to include in each status report information regarding the transition of its existing subscribers from its narrowband system to a broadband system and (2) to file additional status reports at six-month intervals from the conclusion of the two-year transition period until the expiration of its five-year nonrenewable license.

iv. Interference Protection

21. Ground stations in the Air-Ground Radiotelephone Service that operate in the 849–851 MHz range will be subject to the same interference abatement obligation rules adopted for cellular services in the 800 MHz Order.

a. International Coordination

22. To promote interoperable communications and to manage interference, some of the ground station locations in North America and channel block assignments of the 800 MHz air-ground band have been predetermined consistent with bilateral agreements with Mexico and with Canada. These agreements, which provide for coordinated use of the 800 MHz air-ground frequencies over North American airspace, are based on a narrow bandwidth channel scheme, and therefore may need to be renegotiated to provide for more flexible use of this spectrum based on the band plan configuration that is implemented as a result of the auction.

b. Quiet Zone

23. Stations in the 800 MHz Air-Ground Radiotelephone Service must protect the radio quiet zones set forth in the Commission's rules. Licensees are cautioned that they must receive the appropriate approvals directly from the relevant quiet zone entity prior to operating within the areas described in the Commission's rules.

v. Spectrum Sharing Plan

24. If Band Plan 1, which is comprised of two overlapping 3 MHz licenses, is implemented, the new licensees will be required to jointly file a spectrum sharing and site selection plan with the Bureau within six months of the initial grant of their spectrum licenses, and they will be required to notify the Bureau of any changes to the plan. The Bureau will issue a public notice prior to the commencement of Auction No. 65 in which it will specify the filing requirements for such a plan. This approach will provide parties with overlapping spectrum licenses flexibility to configure their systems without having to adhere to minimum spacing requirements or site locations predetermined by the Commission.

vi. Due Diligence

25. Potential bidders are reminded that they are solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the 800 MHz Air-Ground Radiotelephone Service licenses in this auction. The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC licensee in the 800 MHz Air-Ground Radiotelephone Service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular service, technology, or product, nor does an FCC license constitute a guarantee of business success. Applicants should perform their individual due diligence before proceeding as they would with any new business venture.

26. Potential bidders are strongly encouraged to conduct their own research prior to the beginning of bidding in Auction No. 65 in order to determine the existence of any pending

administrative or judicial proceedings that might affect their decision regarding participation in the auction. Participants in Auction No. 65 are strongly encouraged to continue such research throughout the auction. In addition, potential bidders should perform technical analyses sufficient to assure themselves that, should they prevail in competitive bidding for a specific license, they will be able to build and operate facilities that will fully comply with the Commission's technical and legal requirements.

27. Applicants should also be aware that certain pending and future applications (including those for modification), petitions for rulemaking, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal oppositions, and applications for review before the Commission may relate to particular applicants or incumbent licensees or the licenses available in Auction No. 65. In addition, pending and future judicial proceedings may relate to particular applicants or incumbent licensees or the licenses available in Auction No. 65. Prospective bidders are responsible for assessing the likelihood of the various possible outcomes, and considering their potential impact on spectrum licenses available in this auction.

28. Applicants should perform due diligence to identify and consider all proceedings that may affect the spectrum licenses being auctioned and that could have an impact on the availability of spectrum for Auction No. 65. In addition, although the Commission may continue to act on various pending applications, informal objections, petitions, and other requests for Commission relief, some of these matters may not be resolved by the time of the auction.

29. Applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 65.

30. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases.

31. Potential applicants are strongly encouraged to physically inspect any prospective ground station sites and also to familiarize themselves with the environmental assessment obligations.

vii. Bidder Alerts

32. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 65 to deceive and defraud unsuspecting investors.

33. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326–2222 and from the SEC at (202) 942–7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center.

viii. National Environmental Policy Act Requirements

34. Licensees must comply with the Commission's rules regarding implementation of the National Environmental Policy Act (NEPA). The construction of a wireless antenna facility is a federal action and the licensee must comply with the Commission's NEPA rules for each such facility. The Commission's NEPA rules require, among other things, that the licensee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corps of Engineers and the Federal Emergency Management Agency.

C. Auction Specifics

i. Auction Date

35. Bidding in Auction No. 65 will begin on Wednesday, May 10, 2006, as announced in the *Auction No. 65 Comment Public Notice.* The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all licenses will be conducted on each business day until bidding has stopped on all licenses.

ii. Auction Title

36. Auction No. 65—800 MHz Air-Ground Radiotelephone.

iii. Bidding Methodology

37. The bidding methodology for Auction No. 65 will be simultaneous multiple round bidding. The Commission will conduct this auction over the Internet using the FCC's Integrated Spectrum Auction System (ISAS or FCC Auction System), and telephonic bidding will be available as well. Qualified bidders are permitted to bid electronically via the Internet or by telephone.

iv. Pre-Auction Dates and Deadlines

38. Dates and Deadlines.

Auction Seminar—March 14, 2006
Short-Form Application (FCC Form 175) Filing Window Opens—March 14, 2006; 12 p.m. ET
Short-Form Application (FCC Form 175) Filing Deadline—March 24, 2006; 6 p.m. ET
Upfront Payment (via wire transfer) Deadline—April 17, 2006; 6 p.m. ET
Mock Auction—May 8, 2006
Auction Begins—May 10, 2006

v. Requirements for Participation

39. Those wishing to participate in the auction must: submit a short-form application (FCC Form 175) electronically prior to 6 p.m. Eastern Time (ET), March 24, 2006, following the electronic filing procedures set forth in Attachment C to the *Auction No. 65 Procedures Public Notice;* submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) before 6 p.m. ET, April 17, 2006; comply with all provisions outlined in this Public Notice and applicable Commission rules.

vi. General Contact Information

40. *See Auction No. 65 Procedures Public Notice* for the General Contact Information Table.

II. Short-Form Application (FCC Form 175) Requirements

41. An application to participate in an FCC auction, referred to as a short-form application or FCC Form 175, provides information used in determining whether the applicant is legally, technically, and financially qualified to participate in Commission auctions for licenses or permits. The short-form application is the first part of the Commission's two-phased auction application process. In the first phase of this process, parties desiring to participate in the auction file streamlined, short-form applications in which they certify under penalty of perjury as to their qualifications. Eligibility to participate in bidding is based on the applicant's short-form application and certifications as well as its upfront payment. In the second phase of the process, winning bidders file a more comprehensive long-form application.

42. Entities seeking licenses available in Auction No. 65 must file a short-form application electronically via the FCC Auction System before 6 p.m. ET on March 24, 2006, following the procedures prescribed in Attachment C of the *Auction No. 65 Procedures Public Notice.* If an applicant claims eligibility for a bidding credit, the information provided in its FCC Form 175 will be used in determining whether the applicant is eligible for the claimed

bidding credit. Applicants bear full responsibility for submitting accurate, complete and timely short-form applications. All applicants must certify on their short-form applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license. Applicants should read the instructions set forth in Attachment C of the *Auction No. 65 Procedures Public Notice* carefully and should consult the Commission's rules to ensure that, in addition to the materials all the information that is required under the Commission's rules is included with their short-form applications.

43. An entity may not submit more than one short-form application for a single auction. In the event that a party submits multiple short-form applications, only one application will be accepted for filing.

44. Applicants also should note that submission of a short-form application constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

A. Preferences for Small Businesses

i. Bidding Credits

45. A bidding credit represents the amount by which a bidder's winning bid will be discounted. For Auction No. 65 bidding credits will be available to small businesses and very small businesses, and consortia thereof, as follows: a bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years (small business) will receive a 15 percent discount on its winning bid; and a bidder with attributed average annual gross revenues that do not exceed $15 million for the preceding three years (very small business) will receive a 25 percent discount on its winning bid.

46. Bidding credits are not cumulative; a qualifying applicant receives either the 15 percent or 25 percent bidding credit on its winning bid, but not both.

47. Every applicant that claims eligibility for a bidding credit as either a small business or a very small business, or a consortium of small businesses or very small businesses, will be required to provide information regarding revenues attributable to the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests on its FCC Form 175 short-form application to establish that it satisfies the applicable eligibility requirement. Applicants considering claiming eligibility as a designated entity in Auction No. 65 should review carefully the recently released *CSEA/Part 1 Designated Entity FNPRM*, 71 FR 6992, February 10, 2006. In the *CSEA/Part 1 Designated Entity FNPRM*, the Commission tentatively concluded that it should ''restrict the award of designated entity benefits to an otherwise qualified designated entity where it has a material relationship with a large in-region incumbent wireless service provider,'' and sought comment on how to define the elements of such a restriction. The Commission also sought comment on whether to restrict the award of designated entity benefits where an otherwise qualified designated entity has a material relationship with a large entity that has a significant interest in communications services. The Commission further proposed that in the event that any designated entity applicants have filed an application to participate in an auction prior to the effective date of any designated entity rule changes adopted pursuant to the *CSEA/Part 1 Designated Entity FNPRM*, such applicants be required to amend their applications on or after the effective date of the rule changes with a statement declaring, under penalty of perjury, that the applicant is qualified as a designated entity pursuant to 47 CFR 1.2110 of the Commission's rules effective as of the date of the statement. Finally, the Commission noted that under this proposal the Bureau will establish any detailed procedures necessary for making required amendments and announce such procedures by public notice. Accordingly, applicants considering claiming eligibility as a designated entity in Auction No. 65 should monitor further proceedings pursuant to the *CSEA/Part 1 Designated Entity FNPRM* to assure their ability to comply with any changes to the designated entity rules that the Commission may adopt that are applicable to applicants in Auction No. 65.

ii. Tribal Land Bidding Credits

48. Tribal land bidding credits will not be available in Auction No. 65. The Commission's tribal land bidding credits are intended to provide incentives for wireless telecommunications carriers to serve individuals living on tribal lands. More specifically, tribal land bidding credits are intended for winning bidders that use licenses to deploy facilities and provide service to federally recognized tribal areas that are either unserved by any telecommunications carrier or that have a wireline telephone subscription or penetration rate of 85 percent or less. Commercial Air-Ground Radiotelephone Service licenses, however, must be used to provide service to aircraft and may not be used to provide ancillary land mobile or fixed services. Because 800 MHz air-ground licenses may not be used to provide terrestrial telephone service, tribal land bidding credits will not be available to winning bidders in Auction No. 65 under 47 CFR 1.2110(f)(3).

iii. Installment Payments

49. Installment payment plans will not be available in Auction No. 65.

B. License Selection

50. In Auction No. 65, applicants must select the licenses on which they want to bid from the *Eligible Licenses* list. The applicant may select all the licenses in the list or select individual licenses from the list. There will be no opportunity to change license selection after the short-form filing deadline. It is critically important that an applicant confirm its license selection before submitting its short-form application because the FCC Auction System will not accept bids on licenses that an applicant has not selected on its FCC Form 175.

C. Consortia and Joint Bidding Arrangements

51. Applicants will be required to identify in their short-form applications all parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings that relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure. Applicants also will be required to certify under penalty of perjury in their short-form applications that they have not entered and will not enter into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified in the application, regarding the amount of their bids, bidding strategies, or the particular licenses on which they will or will not bid. If an applicant has had discussions, but has not reached a joint bidding agreement by the short-form application filing deadline, it would not include the names of parties to the discussions on its application and may

not continue such discussions with any applicants after the deadline.

52. After the filing of short-form applications, a party holding a non-controlling, attributable interest in one applicant will be permitted to acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with other applicants provided that (i) the attributable interest holder certifies that it has not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has formed a consortium or entered into a joint bidding arrangement; and (ii) the arrangements do not result in a change in control of any of the applicants. While the anti-collusion rules do not prohibit non-auction-related business negotiations among auction applicants, applicants are reminded that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies.

D. Ownership Disclosure Requirements

53. All applicants must comply with the uniform Part 1 ownership disclosure standards and provide information required by 47 CFR 1.2105 and 1.2112 of the Commission's rules. Specifically, in completing the short-form application, applicants will be required to fully disclose information on the real party or parties in interest and ownership structure of the applicant.

54. An applicant's most current ownership information on file with the Commission, if in an electronic format compatible with the short-form application (FCC Form 175), will automatically be entered into the applicant's short-form application. Applicants are responsible for ensuring that the information submitted in their FCC Form 175 is complete and accurate. Accordingly, applicants should carefully review any information automatically entered to confirm that it is complete and accurate as of the deadline for filing the short-form application. Applicants can update any information that needs to be changed directly in the short-form application.

E. Bidding Credit Revenue Disclosures

55. To determine which applicants qualify for bidding credits as small businesses or very small businesses, the Commission considers the gross revenues of the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests. Therefore, entities applying to bid as small businesses or very small businesses (or consortia of small businesses or very small businesses) will be required to disclose on their FCC Form 175 short-form applications the gross revenues of each of the following for the preceding three years: (1) The applicant, (2) its affiliates, (3) its controlling interests, and (4) the affiliates of its controlling interests. Certification that the average annual gross revenues of such entities and individuals for the preceding three years do not exceed the applicable limit is not sufficient. In order to comply with the Commission's disclosure requirements for bidding credit eligibility, an applicant must provide separately for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests, the gross revenues for each of the preceding three years. If the applicant is applying as a consortium of small businesses or very small businesses, this information must be provided for each consortium member.

56. Controlling interests include individuals and entities with either *de facto* or *de jure* control of the applicant. Typically, ownership of at least 50.1 percent of an entity's voting stock evidences *de jure* control. *De facto* control is determined on a case-by-case basis. The following are some common indicia of de facto control: The entity constitutes or appoints more than 50 percent of the board of directors or management committee; the entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; the entity plays an integral role in management decisions. Officers and directors of an applicant are also considered to have a controlling interest in the applicant. The Commission does not impose specific equity requirements on controlling interest holders. Once the principals or entities with a controlling interest are determined, only the revenues of those principals or entities, the affiliates of those principals or entities, and the applicant and its affiliates will be counted in determining small business eligibility.

57. In recent years the Commission has made modifications to its rules governing the attribution of gross revenues for purposes of determining small business eligibility. These changes include exempting the gross revenues of the affiliates of a rural telephone cooperative's officers and directors from attribution to the applicant if certain specified conditions are met. The Commission has also clarified that, in calculating an applicant's gross revenues under the controlling interest standard, it will not attribute the personal net worth, including personal income, of its officers and directors to the applicant.

58. Each member of a consortium of small or very small businesses that applies to participate in Auction No. 65 must individually meet the definition of small business or very small business adopted by the Commission for the 800 MHz Air-Ground Radiotelephone Service. Each consortium member must disclose its gross revenues along with those of its affiliates, its controlling interests, and the affiliates of its controlling interests. Although the gross revenues of the consortium members will not be aggregated for purposes of determining the consortium's eligibility as a small business or very small business, this information must be provided to ensure that each individual consortium member qualifies for any bidding credit awarded to the consortium.

F. Provisions Regarding Former and Current Defaulters

59. Each applicant must state under penalty of perjury on its short-form application whether or not the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by 47 CFR 1.2110, have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any Federal agency. In addition, each applicant must certify under penalty of perjury on its short-form application that, as of the short-form filing deadline, the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by 47 CFR 1.2110, are not in default on any payment for Commission licenses (including down payments) and that they are not delinquent on any non-tax debt owed to any Federal agency. Prospective applicants are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

60. Former defaulters, i.e., applicants, including any of their affiliates, any of their controlling interests, or any of the affiliates of their controlling interests, that in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies—are eligible to bid in Auction No. 65, provided that they are otherwise qualified. However, former

defaulters are required to pay upfront payments that are 50 percent more than the normal upfront payment amounts.

61. Current defaulters, i.e., applicants, including any of their affiliates, any of their controlling interests, or any of the affiliates of their controlling interests, that are in default on any payment for any Commission licenses (including down payments) or are delinquent on any non-tax debt owed to any Federal agency as of the filing deadline for applications to participate in this auction—are not eligible to bid in Auction No. 65.

62. Applicants are encouraged to review the Bureau's previous guidance on default and delinquency disclosure requirements in the context of the short-form application process. The Commission considers outstanding debts owed to the United States Government, in any amount, to be a serious matter. The Commission adopted rules, including a provision referred to as the red light rule, that implement the Commission's obligations under the Debt Collection Improvement Act of 1996, which governs the collection of claims owed to the United States. Under the red light rule, the Commission will not process applications and other requests for benefits filed by parties that have outstanding debts owed to the Commission. In the same rulemaking order, the Commission explicitly declared, however, that the Commission's competitive bidding rules are not affected by the red light rule. As a consequence, the Commission's adoption of the red light rule does not alter the applicability of any of the Commission's competitive bidding rules, including the provisions and certifications of 47 CFR 1.2105 and 1.2106, with regard to current and former defaults or delinquencies. Applicants are reminded, however, that the Commission's Red Light Display System, which provides information regarding debts owed to the Commission, may not be determinative of an auction applicant's ability to comply with the default and delinquency disclosure requirements of 47 CFR 1.2105. Thus, while the red light rule may ultimately prevent the processing of long-form applications by auction winners, an auction applicant's red light status is not necessarily determinative of its eligibility to participate in this auction or to its upfront payment obligation.

63. Prospective applicants for Auction No. 65 should note that all long-form applications filed after the close of competitive bidding will be reviewed for compliance with the Commission's red light rule, and such review may result in the dismissal of a winning bidder's long-form application.

G. Other Information

64. Applicants owned by members of minority groups and/or women, as defined in 47 CFR 1.2110(c)(3), may identify themselves in filling out their short-form applications regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of designated entities in its auctions.

H. Minor Modifications to Short-Form Applications (FCC Form 175)

65. After the deadline for filing short-form applications (FCC Forms 175) at 6 p.m. ET on March 24, 2006, applicants are permitted to make only minor changes to their applications. Applicants are not permitted to make major modifications to their applications.

66. Any application amendment and related statements of fact must be certified by: (1) The applicant, if the applicant is an individual, (2) one of the partners, if the applicant is a partnership, (3) an officer, director, or duly authorized employee, if the applicant is a corporation, (4) a member who is an officer, if the applicant is an unincorporated association, (5) the trustee, if the applicant is an amateur radio service club, or (6) a duly elected or appointed official who is authorized to make such certifications under the laws of the applicable jurisdiction, if the applicant is a governmental entity.

67. An applicant must make permissible minor changes to its short-form application, as such changes are defined by 47 CFR 1.2105(b), on-line. Applicants must click on the SUBMIT button in the FCC Auction System for the changes to be submitted and considered by the Commission.

68. In addition, applicants should submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: *auction65@fcc.gov*.

I. Maintaining Current Information in Short-Form Applications (FCC Form 175)

69. Section 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Changes that cause a loss of or reduction in eligibility for a bidding credit must be reported immediately. If an amendment reporting substantial changes is a ''major amendment'' as defined by 47 CFR 1.2105, the major amendment will not be accepted and may result in the dismissal of the short-form application.

III. Pre-Auction Procedures

A. Auction Seminar—March 14, 2006

70. On Tuesday, March 14, 2006, the FCC will conduct a seminar for parties interested in participating in Auction No. 65 at the Federal Communications Commission headquarters, located at 445 12th Street, SW., Washington, DC. The seminar will provide attendees with information about pre-auction procedures, completing FCC Form 175, auction conduct, the FCC Auction System, auction rules, and the 800 MHz Air-Ground Radiotelephone Service rules.

71. To register, complete the registration form, Attachment B of the *Auction No. 65 Procedures Public Notice* and submit it by Monday, March 13, 2006. Registrations are accepted on a first-come, first-served basis.

B. Short-Form Application (FCC Form 175)—Due Before 6 p.m. ET on March 24, 2006

72. In order to be eligible to bid in this auction, applicants must first submit an FCC Form 175 application electronically via the FCC Auction System. This application must be received at the Commission prior to 6 p.m. ET on March 24, 2006. Late applications will not be accepted. There is no application fee associated with filing an FCC Form 175. However, to be eligible to bid, an applicant must submit an upfront payment.

73. Applications may generally be filed at any time beginning at noon ET on March 14, 2006, until 6 p.m. ET on March 24, 2006. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their applications multiple times until the filing deadline on March 24, 2006.

C. Application Processing and Minor Corrections

74. After the deadline for filing FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (1) Those applications accepted for filing; (2) those applications rejected; and (3)

those applications that have minor defects that may be corrected, and the deadline for resubmitting such corrected applications.

75. As described more fully in the Commission's rules, after the March 24, 2006, short-form filing deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections, change control of the applicant, or claim eligibility for a higher bidding credit).

D. Upfront Payments—Due April 17, 2006

76. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and sent by facsimile to Mellon Bank in Pittsburgh, PA. All upfront payments must be received in the proper account at Mellon Bank before 6 p.m. ET on April 17, 2006.

i. Making Auction Payments by Wire Transfer

77. Wire transfer payments must be received before 6 p.m. ET on April 17, 2006. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline.

78. At least one hour before placing the order for the wire transfer (but on the same business day), applicants must send by facsimile a completed FCC Form 159 (Revised 2/03) to Mellon Bank at (412) 209–6045. On the cover sheet of the facsimile, write ''Wire Transfer—Auction Payment for Auction No. 65.'' In order to meet the Commission's upfront payment deadline, an applicant's payment must be credited to the Commission's account before the deadline. Applicants are responsible for obtaining confirmation from their financial institution that Mellon Bank has timely received their upfront payment and deposited it in the proper account.

79. Please note that: all payments must be made in U.S. dollars; all payments must be made by wire transfer; upfront payments for Auction No. 65 go to a lockbox number different from the lockboxes used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments; failure to deliver the upfront payment by the April 17, 2006, deadline will result in dismissal of the application and disqualification from participation in the auction.

ii. FCC Form 159

80. A completed FCC Remittance Advice Form (FCC Form 159, Revised 2/03) must be faxed to Mellon Bank to accompany each upfront payment. Proper completion of FCC Form 159 (Revised 2/03) is critical to ensuring correct crediting of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment D of the *Auction No. 65 Procedures Public Notice*. An electronic pre-filled version of the FCC Form 159 is available after submitting the FCC Form 175. Payors using a pre-filled FCC Form 159 are responsible for ensuring that all of the information on the form, including payment amounts, is accurate. The FCC Form 159 can be completed electronically, but must be filed with Mellon Bank via facsimile.

iii. Upfront Payments and Bidding Eligibility

81. In the *Part 1 Order*, 62 FR 13540, March 21, 1997, the Commission delegated to the Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction. In addition, in the *Part 1 Fifth Report and Order*, 65 FR 522323, August 29, 2000, the Commission ordered that former defaulters be required to pay upfront payments 50 percent greater than non-former defaulters. For purposes of this calculation, the applicant includes the applicant itself, its affiliates, its controlling interests, and affiliates of its controlling interests, as defined by 47 CFR 1.2110 of the Commission's rules.

82. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed an upfront payment amount of $100,000 per license. The Bureau further proposed that the amount of the upfront payment would determine a bidder's bidding eligibility in bidding units. For Auction No. 65, the Bureau proposed to assign 100,000 bidding units per license. The number of bidding units for a given license is fixed and does not change during the auction as prices change.

83. Because the mutually incompatible band configurations and the three megahertz eligibility restriction limit a bidder to winning only a single license, the Bureau proposed to permit a bidder with 100,000 bidding units of eligibility to bid or be active simultaneously on any or all of the licenses it selected on its FCC Form 175, rather than being limited to activity on a single license with 100,000 bidding units as our usual activity and eligibility rules would require. Under our proposal, an upfront payment of $100,000, or $150,000 if the applicant is a former defaulter, would give a bidder 100,000 bidding units of eligibility, which in turn would permit the bidder to be active on any or all of the licenses it selected on its FCC Form 175. Under this proposal, it would be unnecessary to acquire more than 100,000 bidding units of bidding eligibility. The Bureau received no comments concerning our proposals regarding the amount of upfront payments and the number of bidding units for each license available in Auction No. 65.

84. The Bureau adopts the above proposals. In order to bid on a license, qualified bidders that applied for any or all licenses on FCC Form 175 must have eligibility of 100,000 bidding units. Therefore, an applicant that is not a former defaulter must submit a total upfront payment of at least $100,000 in order to have 100,000 bidding units, or else the applicant will not be eligible to participate in the auction. An applicant that is a former defaulter must submit an upfront payment of at least $150,000 in order to have 100,000 bidding units. If a former defaulter fails to submit an upfront payment of at least $150,000, the applicant will not be eligible to participate in the auction. If an applicant fails to submit the upfront payment required to establish eligibility to bid in the auction by the upfront payment deadline, it will not be permitted to establish such eligibility after the upfront payment deadline.

85. With 100,000 bidding units a bidder may be active on any or all licenses selected on its FCC Form 175, although it may win only one license. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount, an applicant must purchase 100,000 bidding units. The total upfront payment does not affect the total dollar amount a bidder may bid on any given license.

86. The upfront payments and bidding units for each license are set forth in Attachment A of the *Auction No. 65 Procedures Public Notice*.

iv. Applicants' Wire Transfer Information for Purposes of Refunds of Upfront Payments

87. The Commission will use wire transfers for all Auction No. 65 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information

be supplied to the FCC. Applicants can provide the information electronically during the initial short-form filing window after the form has been submitted. Applicants are reminded that information submitted as part of their FCC Form 175 will be available to the public. Accordingly, the pertinent information for wire transfers should not be included in the FCC Form 175. Wire Transfer Instructions can also be manually sent by facsimile to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Gail Glasser, at (202) 418–2843. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise. For additional information, please call Gail Glasser at (202) 418–0578.

E. Auction Registration

88. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and who have timely submitted upfront payments sufficient to make them eligible to bid.

89. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight mail. The mailing will be sent only to the contact person at the contact address listed in the FCC Form 175 and will include the SecurID cards that will be required to place bids, the Integrated Spectrum Auction System (ISAS) Bidder's Guide, and the Auction Bidder Line phone number.

90. Qualified bidders that do not receive this registration mailing will not be able to submit bids. Therefore, any qualified bidder that has not received this mailing by noon on Thursday, May 4, 2006, should call (717) 338–2888. Receipt of this registration mailing is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

91. In the event that SecurID cards are lost or damaged, only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's short-form application may request replacement registration material. Qualified bidders requiring the replacement of these items must call Technical Support.

F. Remote Electronic Bidding

92. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. Qualified bidders are permitted to bid electronically and telephonically. Each applicant should indicate its bidding preference—electronic or telephonic—on the FCC Form 175. In either case, each authorized bidder must have its own SecurID card, which the FCC will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID cards, while applicants with two or three authorized bidders will be issued three cards. For security purposes, the SecurID cards, the telephonic bidding phone number, and the Integrated Spectrum Auction System (ISAS) Bidder's Guide are only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that each SecurID card is tailored to a specific auction; therefore, SecurID cards issued for other auctions or obtained from a source other than the FCC will not work for Auction No. 65.

93. Please note that the SecurID cards can be recycled and the Bureau encourages bidders to return the cards to the FCC. The Bureau will provide pre-addressed envelopes that bidders may use to return the cards once the auction is over.

G. Mock Auction—May 8, 2006

94. All qualified bidders will be eligible to participate in a mock auction on Monday, May 8, 2006. The mock auction will enable applicants to become familiar with the FCC Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

IV. Auction Event

95. The first round of bidding for Auction No. 65 will begin on Wednesday, May 10, 2006. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

A. Auction Structure

i. Simultaneous Multiple Round Auction

96. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed to award all licenses in Auction No. 65 in a simultaneous multiple round auction. The Bureau received no comments on this proposal. Licenses will be offered in three mutually incompatible band configurations, and the band plan that receives the highest gross bids in the auction will be implemented. The Bureau believes the simultaneous multiple-round auction is an appropriate auction design given these circumstances, and the Bureau adopts its proposal. In a simultaneous multiple round auction, all licenses are available during the entire auction, and bids are accepted on any license until the auction concludes. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction until bidding stops on every license.

ii. Activity Rule

97. The procedures the Bureau establish in the *Auction No. 65 Procedures Public Notice* for upfront payments and bidding eligibility, the amount of the upfront payment submitted by a bidder determines the bidder's bidding eligibility in terms of bidding units. A bidder must have 100,000 bidding units of eligibility to participate in Auction No. 65—i.e., to bid on at least one license—and may hold a maximum of 100,000 bidding units of eligibility. Any reduction in a bidder's eligibility will effectively preclude the bidder from further bidding in the auction.

98. In order to ensure that an auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. For Auction No. 65, the Bureau proposed the following activity requirement: In each round of the auction, a bidder desiring to maintain its eligibility to participate in the auction is required to be active (place a bid or hold the provisionally winning bid) on at least one license. Under this proposal, failure to maintain the required activity level has the effect of eliminating the bidder from further bidding in the auction unless an activity rule waiver is used. The Bureau received no comments on this proposal.

99. The Bureau adopts this proposal for Auction No. 65 because the Bureau believes it is an appropriate procedure for ensuring that the auction will proceed at a reasonable pace. Thus, in Auction No. 65, in each round of the auction, a bidder desiring to maintain its eligibility to participate in the auction is required to be active on at least one license. A bidder is considered active on a license in the current round if it is either the provisionally winning bidder at the end of the previous bidding round or if it submits a bid in the current round. If a bidder fails to be active on at least one license in a round, it must use one of the limited number of activity rule waivers allotted to it in order to maintain its eligibility to continue bidding in the auction. If the bidder has no activity rule waivers

remaining, its eligibility will be reduced and it will no longer be permitted to place bids in the auction.

iii. Activity Rule Waivers

100. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed that each bidder in the auction be provided with three activity rule waivers. The Bureau received no comments on this issue. The Bureau adopts its proposal that each bidder be provided with three activity rule waivers. The Bureau are satisfied that providing three waivers over the course of the auction will give bidders a sufficient number of waivers and flexibility, while also safeguarding the integrity of the auction.

101. Bidders may use an activity rule waiver in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's failure to be active on at least one license in the current round. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity rule waivers can be either applied proactively by the bidder (a proactive waiver) or applied automatically by the FCC Auction System (an automatic waiver) and are principally a mechanism for auction participants to avoid the loss of bidding eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

102. The FCC Auction System assumes that bidders with insufficient activity would prefer to apply an activity rule waiver (if available) rather than lose bidding eligibility, which in this auction would have the effect of precluding the bidder from further bidding in the auction. Therefore, the system will automatically apply a waiver at the end of any bidding round in which a bidder fails to be active (place a bid or hold the provisionally winning bid) on at least one license unless the bidder has no activity rule waivers available. If a bidder has no waivers remaining and does not satisfy the required activity requirement, it will no longer be permitted to place bids in the auction.

103. Finally, a bidder may apply an activity rule waiver proactively as a means to keep the auction open without placing a bid. If a bidder proactively applies an activity waiver (using the apply waiver function in the FCC Auction System) during a bidding round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. However, an automatic waiver applied by the FCC Auction System in a round in which there are no new bids will not keep the auction open. A bidder cannot submit a proactive waiver after submitting a bid in a round, and submitting a proactive waiver will preclude a bidder from placing any bids in that round.

Note: Applying a waiver is irreversible; once a proactive waiver is submitted that waiver cannot be unsubmitted, even if the round has not yet closed.

iv. Auction Stopping Rules

104. For Auction No. 65, the Bureau proposed to employ a simultaneous stopping rule approach. The Bureau also sought comment on a modified version of the simultaneous stopping rule. The modified version of the stopping rule would close the auction for all licenses after the first round in which no bidder applies a waiver or submits any new bids on any license on which it is not the provisionally winning bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the provisionally winning bidder would not keep the auction open under this modified stopping rule.

105. The Bureau further proposed retaining the discretion to keep the auction open even if no new bids or proactive waivers are submitted. In this event, the effect will be the same as if a bidder had applied a waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either use an activity rule waiver (if it has any left) or lose bidding eligibility.

106. In addition, the Bureau proposed that the Bureau reserve the right to declare that the auction will end after a specified number of additional rounds (special stopping rule). If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) and the auction will close.

107. The Bureau proposed to exercise these options only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity, or where it appears likely that the auction will not close within a reasonable period of time. The Bureau noted that before exercising these options, the Bureau is likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity.

108. The Bureau received no comments concerning the auction stopping rules. The Bureau believes that the proposed stopping rules are appropriate for Auction No. 65, because of its experience in prior auctions demonstrates that these stopping rules balance the interests of administrative efficiency and maximum bidder participation. Therefore, the Bureau adopts the above proposals. Auction No. 65 will begin under the simultaneous stopping rule approach, and the Bureau will retain the discretion to employ the other versions of the stopping rule.

v. Auction Delay, Suspension, or Cancellation

109. Because the Bureau approach to notification of delay during an auction has proven effective in resolving exigent circumstances in previous auctions, the Bureau adopts its proposed auction cancellation rules. By public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. The Bureau emphasize that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

B. Bidding Procedures

i. Round Structure

110. The initial schedule of bidding rounds will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction. Each bidding round is followed by the release of round results. Multiple bidding rounds may be conducted in a given day. Details regarding round results formats and locations will also be included in the qualified bidders public notice.

111. The FCC has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

ii. Reserve Price or Minimum Opening Bid

112. Section 309(j) of the Communications Act of 1934, as amended, calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when applications for FCC licenses are subject to auction (*i.e.*, because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. Consistent with this mandate, the Commission directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction. Among other factors, the Bureau must consider the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the extent of interference with other spectrum bands, and any other relevant factors that could have an impact on the spectrum licenses being auctioned. The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.

113. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed to establish minimum opening bids and an aggregate reserve price for Auction No. 65, and to retain the discretion to lower the minimum opening bids. Specifically, for Auction No. 65, the Bureau proposed to set minimum opening bids for each license and to establish a published aggregate reserve price for the entire band. Under the proposal for an aggregate reserve price, if the sum of the provisionally winning gross bids at the close of bidding did not meet or exceed the aggregate reserve price, the Commission would cancel the auction and no licenses would be awarded.

114. More specifically, for Auction No. 65, the Bureau proposed to set minimum opening bids on a license-by-license basis as follows:

Licenses	Bandwidth	Minimum opening bid
A and B	3 MHz (2 MHz shared).	$1,500,000
C and F	3 MHz	2,800,000
D and E	1 MHz	200,000

115. The Bureau also proposed to establish a published reserve price of $5,000,000 for the entire band.

116. In the alternative, the Bureau sought comment on whether, consistent with section 309(j), the public interest would be served by having no minimum opening bid or reserve price.

117. Verizon Airfone filed comments supporting the Bureau's proposed minimum opening bids but opposing the use of a reserve price in Auction No. 65. According to Verizon Airfone, the Bureau has no historical data on which to base its proposed reserve price, and it should let the marketplace decide the value of the licenses being auctioned. Verizon Airfone further argues that if the Bureau deems a reserve price to be necessary, it should set reserve prices for each individual license rather than an aggregate reserve price for the band because one license is likely to be valued more highly than the other and a bidder for the more highly valued license could be responsible for a disproportionate amount of any aggregate reserve price.

118. The Bureau adopts its proposed minimum opening bids. The minimum opening bid amounts the Bureau adopts for Auction No. 65 are reducible at the discretion of the Bureau. The Bureau emphasize, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.*, before bidders have used all of their activity waivers. During the course of the auction, the Bureau will not entertain requests to reduce the minimum opening bid amount on specific licenses.

119. The Bureau does not adopt its proposal for an aggregate reserve price. The Bureau recognizes that, although a reserve price might be useful in meeting our obligation under section 309(j)(3)(C) of the Communications Act to attempt to recover for the public a portion of the value of the spectrum, there are insufficient data to use to determine an appropriate reserve price for licenses to provide air-ground services. The Bureau therefore concludes that it should not establish a reserve price for this auction.

120. The minimum opening bid amounts for each license available in Auction No. 65 are set forth in Attachment A of the *Auction No. 65 Procedures Public Notice.*

iii. Minimum Acceptable Bid Amounts and Bid Increment Amounts

121. The minimum acceptable bid amount for a license will be equal to its minimum opening bid amount until the bids placed enable the FCC Auction System to calculate a higher price for the license. If such a price can be calculated, the minimum acceptable bid amount for the license will be determined in a two-step process: (a) The FCC Auction System designates a price for each license. For licenses with provisionally winning bids, this price will be equal to the amount of the provisionally winning bid. For non-provisionally winning licenses, the price will be equal to the amount of the highest bid placed on the license by any non-provisionally winning bidder. (b) The price is increased using the minimum acceptable bid percentage to determine the minimum acceptable bid.

122. Specifically, the minimum acceptable bid amount will be calculated by multiplying the license price times one plus the minimum acceptable bid percentage.

123. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed to use a minimum acceptable bid percentage of 5 percent. The Bureau received no comment on this issue. The Bureau believes that a minimum acceptable bid percentage of 5 percent will permit bidders to express their values while allowing the auction to proceed at an appropriate pace. The Bureau therefore adopt our proposal, and the Bureau will begin the auction with a minimum acceptable bid percentage of 5 percent. The Bureau will round the result using our standard rounding procedures.

124. In each round, each eligible bidder will be able to place a bid on a particular license for which it applied in any of nine different amounts. The FCC Auction System will list the nine acceptable bid amounts for each license. These nine acceptable bid amounts consist of the minimum acceptable bid amount for the license and additional amounts calculated using the minimum acceptable bid amount and the bid increment percentage. The first additional acceptable bid amount equals the minimum acceptable bid amount times one plus the bid increment percentage, rounded.

125. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed to use a bid increment percentage of 5 percent. The Bureau received no comment on this issue. The Bureau believes that a bid increment percentage of 5 percent will give bidders the flexibility to speed up the pace of the auction, if appropriate. The Bureau therefore adopts its proposal, and the Bureau will begin the auction using a bid increment percentage of 5 percent. The Bureau will round the results using our standard rounding procedures.

126. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed to retain the discretion to change the minimum acceptable bid amounts, the minimum acceptable bid percentage, the bid increment percentage, and the number of acceptable bid amounts if the Bureau determine that circumstances so dictate. No comments were received on this issue. The Bureau adopts this proposal. Therefore, the Bureau retains

the discretion to change the minimum acceptable bid amounts, the minimum acceptable bid percentage, the bid increment percentage, and the number of acceptable bid amounts if it determines that circumstances so dictate. The Bureau will do so by announcement in the FCC Auction System during the auction. The Bureau may also use its discretion to adjust the minimum bid increment amount without prior notice if circumstances warrant.

iv. Provisionally Winning Bids

127. At the end of each bidding round, the FCC Auction System will determine the provisionally winning bids by considering all of the bids that have been placed in the auction. Subject to the restriction that a single bidder cannot have more than one provisionally winning bid, the system will determine which combinations of licenses, and hence, which band plan option, has the highest aggregate gross bid amount. The only licenses that can have provisionally winning bids are those of the band plan option with the highest gross bid; the licenses of the other band plan options will not have provisionally winning bids.

128. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed to use a random number generator to select a single bid from among the tied gross bids, if a provisionally winning bid must be selected from among identical bids amounts submitted on a license in a given round (i.e., tied bids). No comments were received on this proposal. Therefore, the Bureau adopts its proposal. A pseudo-random number generator based on the L'Ecuyer algorithms will be used to assign a random number to each bid. The tied gross bid with the highest random number wins the tiebreaker. The remaining bidders, as well as the provisionally winning bidder, can submit higher bids in subsequent rounds. However, if the auction were to end with no other bids being placed, the winning bidder would be the one that placed the selected provisionally winning bid.

129. Similarly, in the event of identical aggregate high gross bid amounts on more than one band plan (i.e., tied band plans), the tie between band plans will be broken based on the random numbers of the corresponding bids. The tied band plan with the highest sum of random numbers will become the band plan for which there are provisionally winning bids.

130. A consequence of the mutually incompatible band configurations and the three megahertz eligibility restriction is that a bid that does not become a provisionally winning bid at the conclusion of the round in which it was placed may become a provisionally winning bid at the conclusion of a subsequent round.

131. Bidders are reminded that provisionally winning bids count toward activity for purposes of the activity rule.

v. Bidding

132. During a round, a bidder may submit bids for as many licenses as it wishes (providing that it is eligible to bid) or remove bids placed in the current bidding round. Bidders also have the option of submitting and removing multiple bids during a round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid entered as that bidder's bid for the round.

133. All bidding will take place remotely either through the FCC Auction System or by telephonic bidding. There will be no on-site bidding during Auction No. 65. Please note that telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, five to ten minutes are necessary to complete a telephonic bid submission.

134. A bidder's ability to bid on specific licenses is determined by two factors: (1) The licenses applied for on the bidder's FCC Form 175 and (2) the bidder's eligibility. The bid submission screens will allow bidders to submit bids on only those licenses for which the bidder applied on its FCC Form 175.

135. In order to access the bidding function of the FCC Auction System, bidders must be logged in during the bidding round using the passcode generated by the SecurID card and a personal identification number (PIN) created by the bidder. Bidders are strongly encouraged to print a round summary for each round after they have completed all of their activity for that round.

136. In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts. For each license, the FCC Auction System will list the nine acceptable bid amounts in a drop-down box. Bidders use the drop-down box to select from among the acceptable bid amounts. The FCC Auction System also includes an upload function that allows bidders to upload text files containing bid information.

137. Until a bid has been placed on a license, the minimum acceptable bid amount for that license will be equal to its minimum opening bid amount. Once there are bids on a license, minimum acceptable bids for a license will be determined.

138. Finally, bidders are cautioned to select their bid amounts carefully because, as explained below, although bids can be removed before the round ends, no withdrawals will be allowed in Auction No. 65, even if a bid was mistakenly or erroneously made.

vi. Bid Removal and Bid Withdrawal

139. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed bid removal and bid withdrawal procedures. With respect to bid withdrawals, the Bureau proposed that bidders not be permitted, in any round, to withdraw bids made in previous rounds. The Bureau received no comments on this issue.

140. The Commission has recognized that bid withdrawals may be an important tool to help bidders avoid incomplete aggregations of licenses and pursue efficient backup strategies as information becomes available during the course of an auction. In Auction No. 65, however, bidders may win only one license and therefore will not face risks of being unable to secure desired aggregations of licenses. In addition, the Bureau believes that given the small number of licenses in the auction and the nature of the licenses being offered, bidders will not need to use bid withdrawals to pursue backup strategies in the same way bidders may need to do in some auctions. Moreover, in previous auctions, the Bureau has observed instances in which bid withdrawals arguably may have been used for strategic, anticompetitive purposes. While the Bureau continue to recognize that bid withdrawals may play an important role in an auction, the Bureau note that bid withdrawals have not been available in several auctions. Therefore, the Bureau adopts its proposal.

141. With respect to bid removals during the course of a bidding round, the Bureau proposed that bidders have the option of removing any bid placed in a particular round before the close of that round. The Bureau believes that providing this option will enhance bidder flexibility during the auction, without creating the opportunities for anticompetitive behavior that can be associated with withdrawals of bids placed in previous rounds, and therefore the Bureau adopts the proposed procedures for Auction No. 65. Thus, before the close of a bidding round, a bidder has the option of

removing any bids placed in that round. By using the remove bids function in the FCC Auction System, a bidder may effectively unsubmit any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. A bid that is removed does not count toward meeting the bidding activity rule. After a round closes, a bidder may no longer remove a bid.

vii. Round Results

142. Bids placed during a round will not be made public until the conclusion of that round. After a round closes, the Bureau will compile reports of all bids placed, current provisionally winning bids, new minimum acceptable bid amounts, and bidder eligibility status (bidding eligibility and activity rule waivers) and will post the reports for public access. Reports reflecting bidders' identities for Auction No. 65 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

viii. Auction Announcements

143. The FCC will use auction announcements to announce items such as schedule changes. All FCC auction announcements will be available by clicking a link in the FCC Auction System.

ix. Maintaining the Accuracy of FCC Form 175 Information

144. As noted in the *Auction No. 65 Procedures Public Notice*, after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. Applicants must click on the SUBMIT button in the FCC Auction System for the changes to be submitted and considered by the Commission. In addition, applicants should submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: *auction65@fcc.gov*.

V. Post-Auction Procedures

A. Down Payments

145. After bidding has ended, the Commission will issue a public notice declaring the auction closed and identifying winning bidders as well as down payments and final payments due.

146. Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for Auction No. 65 to 20 percent of the net amount of its winning bid (gross bid less any applicable small business or very small business bidding credit).

B. Final Payments

147. Each winning bidder will be required to submit the balance of the net amount of its winning bid within 10 business days after the deadline for submitting down payments.

C. Long-Form Application (FCC Form 601)

148. Within ten business days after release of the auction closing notice, each winning bidder must electronically submit a properly completed long-form application (FCC Form 601) for the license it won through Auction No. 65. Winning bidders that are small businesses or very small businesses must demonstrate their eligibility for a small business or very small business bidding credit. Further filing instructions will be provided to auction winners at the close of the auction.

D. Ownership Disclosure Information Report (FCC Form 602)

149. At the time it submits its long-form application (FCC Form 601), each winning bidder also must comply with the ownership reporting requirements as set forth in 47 CFR 1.913, 1.919, and 1.2112. An ownership disclosure record is automatically created in the Universal Licensing System (ULS) for any applicant that submits an FCC Form 175. However, winning bidders will be required to review and confirm that this information is complete and accurate as of the date of filing FCC Form 601. Further instructions will be provided to winning bidders at the close of the auction.

E. Default and Disqualification

150. Any high bidder that defaults or is disqualified after the close of the auction (i.e., fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). In the *CSEA/Part 1 Report and Order*, adopted January 24, 2006, 71 FR 6214, February 7, 2006, the Commission modified its rules to provide that it will, as part of its determination of competitive bidding procedures in advance of each auction, establish the appropriate level, from 3 percent up to a maximum of 20 percent, for the additional payment component of default payments, which the previous rule fixed at 3 percent. The Commission adopted this rule modification after the release of the *Auction No. 65 Comment Public Notice*. The Bureau released a separate public notice seeking comment on the appropriate level of the additional payment component of default payments for Auction No. 65.

151. In the event of a default, the Commission may re-auction the license or offer it to the next highest bidder (in descending order) at its final bid amount. In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant.

F. Refund of Remaining Upfront Payment Balance

152. All applicants that submit upfront payments but that after the close of the auction are not winning bidders for a license in Auction No. 65 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. All refunds will be returned to the payer of record, as identified on the FCC Form 159, unless the payer submits written authorization instructing otherwise.

153. Bidders that drop out of the auction completely may be eligible for a refund of their upfront payments before the close of the auction. A bid that does not become a provisionally winning bid at the conclusion of the round in which it was placed may become a provisionally winning bid at the conclusion of a subsequent round. Consequently, any applicant that places a bid may become a provisionally winning bidder before the close of the auction, even if the bidder is no longer eligible to place new bids. Only bidders that have placed no bids during the course of the auction and have lost all eligibility may be considered to have dropped out of the auction completely. Such bidders seeking a refund must submit a written refund request. If the applicant has completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions, Taxpayer Identification Number (TIN) and FCC Registration Number (FRN). Send refund requests to: Federal Communications Commission, Financial Operations Center, Auctions Accounting Group, Gail Glasser, 445 12th Street, SW., Room 1–C864, Washington, DC 20554.

Federal Communications Commission.

Gary Michaels,

Deputy Chief, Auctions and Spectrum Access Division, WTB.

[FR Doc. E6–3287 Filed 3–7–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2761]

Petitions for Reconsideration of Action in Rulemaking Proceeding

February 16, 2006.

Petitions for Reconsideration have been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to these petitions must be filed by March 23, 2006. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject:

In the Matter of Review of Improving Public Safety Communications in the 800 MHz Band (WT Docket No. 02–55).

In the Matter of Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels (WT Docket No. 02–55).

In the Matter of Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems (ET Docket No. 00–258).

In the Matter of Amendment of Section 2.106 for the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile Satellite Service (ET Docket No. 95–18).

Number of Petitions Filed: 12.

Marlene H. Dortch,

Secretary.

[FR Doc. E6–3288 Filed 3–7–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011722–002.
Title: New World Alliance/Maersk Line Slot Exchange Agreement.
Parties: A.P. Moller-Maersk A/S (''Maersk''); APL Co. Pte. Ltd./American President Lines, Ltd.; Hyundai Merchant Marine Co., Ltd.; and Mitsui O.S.K. Lines, Ltd.
Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.
Synopsis: The amendment changes Maersk's trade name and restates the agreement to show this change throughout.

Agreement No.: 011728–003.
Title: Maersk Line/APL Mediterranean Slot Charter Agreement.
Parties: A.P. Moller-Maersk A/S (''Maersk'') and American President Lines, Ltd./APL Co. Pte. Ltd. (''APL'').
Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.
Synopsis: The amendment changes Maersk's trade name and restates the agreement to show this change throughout.

Agreement No.: 011745–007.
Title: Evergreen/Italia Marittima/Hatsu Marine Alliance Agreement.
Parties: Evergreen Marine Corp. (Taiwan) Ltd.; Italia Marittima S.p.A.; and Hatsu Marine Ltd.
Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor, LLP; 61 Broadway; Suite 3000; New York, NY 10006–2802.
Synopsis: The amendment changes Lloyd Triestino's name to Italia Marittima S.p.A. and renames and restates the agreement.

Agreement No.: 011796–002.
Title: CMA CGM/Italia Marittima S.P.A. Slot Exchange, Sailing and Cooperative Working Agreement.
Parties: CMA CGM, S.A. and Italia Marittima S.p.A.
Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor, LLP; 61 Broadway; Suite 3000; New York, NY 10006–2802.
Synopsis: The amendment changes Lloyd Triestino's name to Italia Marittima S.p.A. and renames and restates the agreement.

Agreement No.: 011843–002.
Title: ITS/ZIM Cross Space Charter and Sailing Agreement.
Parties: Italia Marittima S.p.A. and Zim Integrated Shipping Services, Ltd.
Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor, LLP; 61 Broadway; Suite 3000; New York, NY 10006–2802.
Synopsis: The amendment changes Lloyd Triestino's name to Italia Marittima S.p.A. and renames and restates the agreement.

Agreement No.: 011895–001.
Title: Crowley/Maersk Line Trinidad Space Charter Agreement.
Parties: A.P. Moller-Maersk A/S (''Maersk'') and Crowley Liner Service, Inc.
Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.
Synopsis: The amendment changes Maersk's trade name and restates the agreement to show this change throughout.

Agreement No.: 011913–001.
Title: King Ocean/Maersk Line Space Charter Agreement.
Parties: A.P. Moller-Maersk A/S (''Maersk'') and King Ocean Services Limited.
Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.
Synopsis: The amendment changes Maersk's trade name and restates the agreement to show this change throughout.

Agreement No.: 011927–001.
Title: ITS/Hatsu MUS Slot Charter Agreement.
Parties: Italia Marittima S.p.A. and Hatsu Marine Ltd.
Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor, LLP; 61 Broadway; Suite 3000; New York, NY 10006–2802.
Synopsis: The amendment changes Lloyd Triestino's name to Italia Marittima S.p.A. and renames and restates the agreement.

Agreement No.: 011947.
Title: Grimaldi/Sallaum Space Charter Agreement.
Parties: Grimaldi Compagnia di Navigazione (''Grimaldi'') and Sallaum Lines SAL (''Sallaum'').
Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.
Synopsis: The agreement authorizes Grimaldi to charter space to Sallaum for the carriage of motor vehicles and other

cargo from ports on the U.S. Atlantic Coast to the ports of Lome, Togo and Cotonou, Benin.

Agreement No.: 011948.

Title: CMA–CGM/CSCL Cross Space Charter, Sailing and Cooperative Working Agreement—Central China/US West Coast, Yang Tse/AAC 2 Service.

Parties: CMA–CGM, S.A. and China Shipping Container Lines Co., Ltd./ China Shipping Container Lines (Hong Kong) Co., Ltd.

Filing Party: Brett M. Esber, Esq.; Blank Rome LLP; Watergate; 600 New Hampshire Ave., NW., Washington, DC 20037.

Synopsis: The agreement authorizes the parties to share vessel space in the trade between ports in the Far East and ports on the Pacific Coast of North America.

Agreement No.: 011949.

Title: U.S. Flag Roll-On Roll-Off Carrier Vessel Schedule Discussion and Voluntary Adherence Agreement.

Parties: American Roll-On Roll-Off Carrier, LLC and Waterman Steamship Corporation.

Filing Party: John P. Vayda, Esq.; Nourse & Bowles, LLP; One Exchange Plaza; 55 Broadway; New York, NY 10006–3030.

Synopsis: The agreement authorizes the parties to discuss and voluntarily adhere to the scheduling of their sailings between U.S. Atlantic and Gulf Coast ports and ports on the Mediterranean Sea and in the Middle East.

By Order of the Federal Maritime Commission.

Dated: March 3, 2006.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E6–3258 Filed 3–7–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 3, 2006.

A. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. DS Holding Company, Inc., Omaha, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of DB Holding Company, Inc., parent of Omaha State Bank, all located in Omaha, Nebraska.

B. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105–1579:

1. ICB Financial, Ontario, California; to acquire 100 percent of the voting shares of Western State Bank, Duarte, California.

Board of Governors of the Federal Reserve System, March 3, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–3252 Filed 3–7–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of January 31, 2006

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on January 31, 2006.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long-run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with increasing the federal funds rate to an average of around 4–½ percent.

The vote encompassed approval of the paragraph below for inclusion in the statement to be released shortly after the meeting:

''The Committee judges that some further policy firming may be needed to keep the risks to the attainment of both sustainable economic growth and price stability roughly in balance. In any event, the Committee will respond to changes in economic prospects as needed to foster these objectives.''

By order of the Federal Open Market Committee, February 27, 2006.

Vincent R. Reinhart,

Secretary, Federal Open Market Committee.

[FR Doc. E6–3279 Filed 3–7–06; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Notice.

SUMMARY: The FTC is soliciting public comments on proposed information requests to beverage alcohol manufacturers. These comments will be considered before the FTC submits a request for Office of Management and Budget (OMB) review under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3520, of compulsory process orders to alcohol advertisers for information concerning, *inter alia*, compliance with voluntary advertising placement provisions, sales and marketing expenditures, and the status of third-party review of complaints regarding compliance with voluntary advertising codes.

DATES: Comments must be received on or before May 8, 2006.

[1] Copies of the Minutes of the Federal Open Market Committee Meeting on January 31, 2006, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, DC 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to the ''Alcohol Reports: Paperwork Comment, FTC File No. P064505'' to facilitate the organization of the comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission/Office of the Secretary, Room H–135 (Annex J), 600 Pennsylvania Avenue, NW., Washington, DC 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, as prescribed below. However, if the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled ''Confidential.'' [1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible. Alternatively, comments may be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *AlcoholReport@ftc.gov*.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Janet Evans or Mamie Kresses, Attorneys, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580; telephone: (202) 326–2125 or (202) 326–2070.

SUPPLEMENTARY INFORMATION: The FTC previously published reports on voluntary advertising self-regulation by the alcohol industry in September 1999 and September 2003. The data contained in the reports was based on information submitted to the Commission, pursuant to compulsory process, by U.S. beverage alcohol advertisers. The FTC has authority to compel production of this information from advertisers under Section 6 of the FTC Act, 15 U.S.C. 46. The Commission believes that it is in the public interest to collect updated data from alcohol advertisers on sales and marketing expenditures, compliance with the industry's self-imposed regulatory code concerning advertising placement, and the status of third-party review of complaints regarding compliance with the industry's self-regulatory advertising standards, and to publish a report on the data obtained.

The Commission intends to address its information requests to the ultimate parent of alcohol advertisers in order to assure that no relevant data from affiliated or subsidiary companies goes unreported. Because the number of separately incorporated companies affected by the Commission's requests will presumably exceed ten entities, the Commission intends to seek OMB clearance under the Paperwork Reduction Act (''PRA'') before requesting any information from beverage alcohol advertisers.

Under the PRA, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3), 5 CFR 1320.3(c). As required by the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB grant the clearance for the proposed information collection requirements.

The FTC invites comment on: (1) Whether the proposed collections of information are necessary for the proper performance of the functions of the FTC, including whether the information will have practical utility; (2) the accuracy of the FTC's estimate of the burden of the proposed collections of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of collecting the information on those who are to respond, including through the use of collection techniques or other form of information technology, *e.g.*, permitting electronic submissions of responses. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before May 8, 2006.

A. Information Requests to the Beverage Alcohol Industry

1. Description of the Collection of Information and Proposed Use

The FTC proposes to send information requests to the ultimate parent company of up to twelve advertisers of beer, wine, or distilled spirits in the United States (''industry members''). The information requests will seek, among other information, data regarding: (1) Sales of beverage alcohol; (2) expenditures to advertise and promote beverage alcohol in measured and non-measured media; (3) compliance with the 30% product placement standard contained in the industry's self-regulatory codes; and (4) third-party or other external compliance review mechanisms; to the extent industry members possess such data.

It should be noted that subsequent to this notice any destruction, removal, mutilation, alteration, or falsification of documentary evidence that may be responsive to this information collection within the possession or control of a person, partnership or corporation subject to the FTC Act may be subject to criminal prosecution. 15 U.S.C. 50; *see also* 18 U.S.C. 1505.

Confidentiality: Section 6(f) of the FTC Act, 15 U.S.C. 46(f), bars the Commission from publicly disclosing trade secrets or confidential commercial or financial information it receives from persons pursuant to, among other methods, special orders authorized by Section 6(b) of the FTC Act. Such information also would be exempt from disclosure under the Freedom of Information Act. 5 U.S.C. 552(b)(4). Moreover, under Section 21(c) of the FTC Act, 15 U.S.C. 57b–2(c), a submitter who designates a submission as confidential is entitled to 10 days' advance notice of any anticipated public disclosure by the Commission, assuming that the Commission has determined that the information does not, in fact, constitute 6(f) material. Although materials covered under one or more of these various sections are protected by stringent confidentiality constraints, the FTC Act and the Commission's rules authorize disclosure in limited circumstances (*e.g.*, official requests by Congress, requests from other agencies for law enforcement

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

purposes, administrative or judicial proceedings). Even in those limited contexts, however, the Commission's rules may afford protections to the submitter, such as advance notice to seek a protective order in litigation. *See* 15 U.S.C. 57b–2; 16 CFR 4.9–4.11.

Finally, the information presented in the study will not reveal company-specific data. *See* 15 U.S.C. 57b–2(d)(1)(B). Rather, the Commission anticipates providing information on an anonymous or aggregated basis, in a manner sufficient to protect individual companies' confidential information, to provide a factual summary of how the alcohol industry self-regulation has operated for the specified period.

2. Estimated Hours Burden

The FTC staff's estimate of the hours burden is based on the time required to respond to each information request. Because beverage alcohol companies vary in size, the number of products that they sell, and the extent and variety of their advertising and promotion efforts, the FTC staff has provided a range of the estimated hours burden. As noted above, each company will receive information requests pertaining to four categories. Based upon its knowledge of the industry, the staff estimates, on average, that the time required to gather, organize, format, and produce responses to each of the four information categories will range between 15 and 120 hours for most companies, but that the largest companies could require as many as 280 hours for the most time-consuming category, that is, placement information. The total estimated burden per company is based on the following:

Identify, obtain and organize sales information, prepare response: 15–35 hours.

Identify, obtain, and organize information on advertising and marketing expenditures, prepare response: 25–65 hours.

Identify, obtain, and organize placement information, prepare response: 120–280 hours.

Identify, obtain, and organize information regarding compliance review, prepare response: 10–20 hours.

FTC staff anticipates that the cumulative hours burden to respond to the information requests will be between 170 hours and 400 hours per company. Nonetheless, in order to be conservative, the FTC estimates that the burden per company for each of up to twelve intended recipients will be 400 hours. Accordingly, staff's estimate of the total burden is 4,800 hours. These estimates include any time spent by separately incorporated subsidiaries and other entities affiliated with the ultimate parent company that has received the information requests.

3. Estimated Cost Burden

It is difficult to calculate with precision the labor costs associated with this data production, as they entail varying compensation levels of management and/or support staff among companies of different sizes. Although financial, marketing, legal, and clerical personnel may be involved in the information collection process, FTC staff has assumed that mid-management personnel and outside legal counsel will handle most of the tasks involved in gathering and producing responsive information and has applied an average hourly wage of $250/hour for their labor. FTC staff anticipates that the labor costs per company will range between $42,500 (170 hours × $250/hour) and $100,000 (400 hours × $250/hour). Nonetheless, in order to be conservative, the FTC estimates that the total labor costs per company will be $100,000.

FTC staff estimates that the capital or other non-labor costs associated with the information requests are minimal. Although the information requests may necessitate that industry members maintain the requested information provided to the Commission, they should already have in place the means to compile and maintain business records.

William Blumenthal,

General Counsel.

[FR Doc. E6–3244 Filed 3–7–06; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Support, Training and Capacity Building for Infectious Disease Surveillance Networks in Affected Countries in Southeast Asia, Africa and Other Regions of the World

AGENCY: Office of the Secretary, Office of Public Health Emergency Preparedness, HHS.

ACTION: Notice.

Announcement Type: Single Source, Cooperative Agreement.

Funding Opportunity Number: Not applicable.

Catalog Of Federal Domestic Assistance Number: The OMB Catalog of Federal Domestic Assistance number is pending.

SUMMARY: This is a project to enhance the surveillance, epidemiological investigation and laboratory diagnostic capabilities in countries in S.E. Asia, Africa and other regions of the world that are at risk for an avian influenza (H5N1) outbreak or where such an outbreak has already occurred. Such enhancements will help establish an early warning system that could prevent and contain the spread of an avian influenza pandemic to the United States.

DATES: To receive consideration, applications must be received no later than 5 p.m. Eastern Time on April 7, 2006.

ADDRESSES: Applications must be received by the Office of Grants Management, Office of Public Health and Science, Department of Health and Human Services, 1101 Wootten Parkway, Rockville, MD 20857.

FOR FURTHER INFORMATION, CONTACT: Lily O. Engstrom, Senior Policy Advisor to the Assistant Secretary for Public Health Emergency Preparedness, Office of Public Health Emergency Preparedness, Department of Health and Human Services at (202) 205–2882.

SUPPLEMENTARY INFORMATION: In the last century, three influenza pandemics have struck the United States and the world, and viruses from birds contributed to all of them. In 1918, the first pandemic killed over half-a-million Americans and more than 20 million people worldwide. One-third of the U.S. population was infected, and American life expectancy was reduced by 13 years. Following the 1918 outbreak, influenza pandemics in 1957 and 1968 killed tens of thousands of Americans and millions across the world. The recent limited outbreak of Severe Acute Respiratory Syndrome (SARS) suggests the danger that a modern pandemic would present.

The H5N1 strain of avian flu has become the most threatening influenza virus in the world, and any large-scale outbreak of this disease among humans would have grave consequences for global public health. Influenza experts have warned that the re-assortment of different H5N1 viruses over the past seven years greatly increases the potential for the viruses to be transmitted more easily from person to person. Medical practitioners have also discovered several other, new avian viruses that can be transmitted to humans.

The U.S. Government is concerned that a new influenza virus could become efficiently transmissible among humans. Now spreading through bird populations across Asia, reaching into Europe, the Middle East and, most recently, Africa, the H5N1 strain has infected domesticated birds such as

ducks and chickens and long-range migratory birds. In 1997, the first recorded H5N1 outbreak in humans took place in Hong Kong. H5N1 struck again in late 2003 and has, as of March 1, 2006, resulted in 174 confirmed cases and 92 deaths world-wide, a 53 percent mortality rate. As of now, the H5N1 avian flu is primarily an animal disease; H5N1 infection in humans has been the result of contact with sick poultry. Unless people come into direct, sustained contact with infected birds, it is unlikely they will contract the disease. The concern is that the virus will acquire the ability for sustained transmission among humans.

In the fight against avian and pandemic flu, early detection is the first line of defense. A pandemic is like a forest fire. If caught early, it might be extinguished with limited damage. But if left undetected, it can grow into an inferno that spreads quickly. The President has charged the Federal Government to take immediate steps to ensure early warning of an avian flu outbreak among animals and humans anywhere in the world. It is in the interest of the U.S. Government to help establish early warning surveillance systems and laboratory capabilities in various regions of the world that would enable early detection, reporting, identification and investigation of any H5N1 outbreaks. The development of such capabilities could make a significant difference in preventing and containing the spread of an avian influenza pandemic to the United States.

On November 1, 2005, President Bush announced the National Strategy for Pandemic Influenza, and the following day Secretary Michael O. Leavitt released the HHS Pandemic Influenza Plan. The President directed all relevant Federal departments and agencies to take steps to address the threat of avian and pandemic flu. Drawing on the combined efforts of Government officials and the public health, medical, veterinary, and law-enforcement communities, as well as the private sector, this strategy is designed to meet three critical goals: detecting human or animal outbreaks that occur anywhere in the world; protecting the American people by stockpiling vaccines and antiviral drugs, while improving the capacity to produce new vaccines; and preparing to respond at the Federal, State, and local levels in the event an avian or pandemic influenza reaches the United States. The U.S. National Strategy for Pandemic Influenza can be found at *http://www.pandemicflu.gov*.

One of the primary objectives of both the National Strategy and the HHS Pandemic Influenza Plan is to leverage global partnerships to increase preparedness and response capabilities around the world ''with the intent of stopping, slowing or otherwise limiting the spread of a pandemic to the United States.'' [1] Pillars Two and Three of the National Strategy set out clear goals of ensuring rapid reporting of outbreaks and containing such outbreaks beyond the borders of the United States, by taking the following actions:

Working through the International Partnership on Avian and Pandemic Influenza, as well as through other political and diplomatic channels, such as the United Nations and the Asia-Pacific Economic Cooperation Forum, to ensure transparency, scientific cooperation and rapid reporting of avian and human influenza cases;

Supporting the development of the proper scientific and epidemiological expertise in affected regions to ensure early recognition of changes in the pattern of avian or human influenza outbreaks;

Supporting the development and sustainment of sufficient host-country laboratory capacities and diagnostic reagents in affected regions, to provide rapid confirmation of cases of influenza in animals and humans;

Working through the International Partnership to develop a coalition of strong partners to coordinate actions to limit the spread of an influenza virus with pandemic potential beyond the location where it is first detected; and

Providing guidance to all levels of government in affected nations on the range of options for infection-control and containment.

We rely upon our international partnerships with the United Nations, international organizations and private non-profit organizations to amplify our efforts and will engage them on both a multilateral and bilateral basis. Our international effort to contain and mitigate the effects of an outbreak of pandemic influenza is a central component of our overall strategy. In many ways, the character and quality of the U.S. response and that of our international partners may play a determining role in the magnitude and severity of a pandemic.

The International Partnership on Avian and Pandemic Influenza stands in support of multinational organizations. Members of the Partnership have agreed that the following 10 principles will guide their efforts:

1. International cooperation to protect the lives and health of our people;

2. Timely and sustained high-level global political leadership to combat avian and pandemic influenza;

3. Transparency in reporting of influenza cases in humans and in animals caused by virus strains that have pandemic potential, to increase understanding and preparedness, especially to ensure rapid and timely response to potential outbreaks;

4. Immediate sharing of epidemiological data and samples with the World Health Organization (WHO) and the international community to detect and characterize the nature and evolution of any outbreaks as quickly as possible by utilizing, where appropriate, existing networks and mechanisms;

5. Rapid reaction to address the first signs of accelerated transmission of H5N1 and other highly pathogenic influenza strains so that appropriate international and national resources can be brought to bear;

6. Prevention and containment of an incipient epidemic through capacity building and in-country collaboration with international partners;

7. Working in a manner complementary to and supportive of expanded cooperation with and appropriate support of key multilateral organizations (including the WHO, Food and Agriculture Organization and World Organization for Animal Health);

8. Timely coordination of bilateral and multilateral resource allocations; dedication of domestic resources (human and financial); improvements in public awareness; and development of economic and trade contingency plans;

9. Increased coordination and harmonization of preparedness, prevention, response and containment activities among nations, complementing domestic and regional preparedness initiatives and encouraging, where appropriate, the development of strategic regional initiatives; and

10. Actions taken based on the best available science.

Through the Partnership and other bilateral and multilateral initiatives, we will promote these principles and support the development of an international capacity to prepare, detect and respond to an influenza pandemic.

In support of the President's National Strategy and consistent with the principles of the International Partnership, this cooperative agreement, while contemplating a global approach, will begin in this first phase with a focus on countries in Southeast Asia and Africa. The program funded by this cooperative agreement intends to combine the efforts and the resources of the U.S. Department of Health and

[1] National Strategy for Pandemic Influenza, p. 2.

Human Services (HHS) and the Reseau International des Instituts Pasteur (RIIP) network of research and surveillance to enhance outbreak surveillance and investigation capacity beginning in Southeast Asia and Africa. The Institut Pasteur—Cambodia (IPC) in its capacity as the National Influenza Reference Center, in agreement with the Cambodian Ministry of Health, the Cambodian Ministry of Agriculture, the World Health Organization (WHO) and the United Nations Food and Agriculture Organization (FAO), has initiated an outbreak surveillance and investigation system supported by rigorous laboratory identification of genotype Z of avian influenza virus H5N1.

This cooperative agreement will enhance laboratory capacity at IPC to enable it to support the Cambodian Ministry of Health's Influenza-Like-Illness (ILI) surveillance program. IPC currently provides all laboratory testing services required for ILI surveillance, both for animal and human specimens. This service is conducted for and on behalf of the Cambodian Ministry of Health and the Cambodian Ministry of Agriculture, Forestry and Fisheries, both of which are fully informed of all testing results. Under this cooperative agreement, it is anticipated that there will be a gradual but progressive shift to include National Institute of Public Health (NIPH) staff in the cataloguing of specimens and ultimately, when capacity is adequate, actual testing of samples in the NIPH laboratory.

To achieve enhanced laboratory capacity at IPC in support of ILI surveillance, this cooperative agreement will fund the following:

Costs connected with the testing of ILI surveillance samples from both Cambodia and Laos at IPC;

A portion of annual maintenance costs for the newly built Biosafety-Level (BSL)–3 laboratory at IPC;

Installation of appropriate enhancements of physical security at the IPC campus to ensure that only authorized persons have access to the BSL–3 suite and to safeguard the equipment and collections of virus samples kept in the laboratory; and Costs for IPC to undertake human and animal surveillance for H5N1 avian influenza in both Cambodia and Laos. This component of the agreement will include building field-investigation as well as laboratory capacity.

This cooperative agreement also contemplates funding other activities in support of ILI surveillance programs in Cambodia and Laos, including technical assistance to the respective Ministries of Health to implement and expand their surveillance programs.

This cooperative agreement will also support capacity building at the three Institut Pasteur—affiliated laboratories in Viet Nam (National Institute of Hygiene and Epidemiology [NIHE]—Hanoi, Institut Pasteur—Ho Chi Minh City, and Institut Pasteur—Nha Trang). Specifically, this agreement will fund the following:

Enhanced interoperable communications among the three RIIP-affiliated laboratories in Viet Nam and between them and HHS agencies as well as the WHO Secretariat and Regional Office for the Western Pacific; and placement of a qualified international biosafety/biosecurity technical advisor for two years at the newly constructed BSL–3 laboratory at NIHE.

This cooperative agreement will also fund the enhancement of capacity in RIIP affiliated laboratories in Africa. Such enhanced capacity will be directed at improving human and animal surveillance for H5N1 and other infectious respiratory diseases.

Finally, this cooperative agreement will fund the creation of one post-doctoral position for U.S. citizens in the Influenza Laboratory at Institut Pasteur—Paris to focus exclusively on influenza surveillance in Southeast Asia, Africa and other parts of the world impacted by H5N1.

No funds provided under this cooperative agreement may be used to support any activity that duplicates another activity supported by any component of HHS. All funded activities must be coordinated with the Office of Public Health Emergency Preparedness (HHS), with in-country Centers for Disease Control and Prevention (CDC) offices, and with the respective Ministries of Health.

I. Funding Opportunity Description

Authority: Sections 301, 307, 1701 and 2811 of the Public Health Service Act, 42 U.S.C. 241, 242l, 300u, 300hh–11.

Purpose: The purposes of the program are to:

Enhance cooperation between the HHS and RIIP institutes to support and increase influenza outbreak-investigation, surveillance, and training capacity in Southeast Asia; Enhance laboratory capacities for H5N1 diagnosis in the Cambodian Ministry of Health's Influenza-Like Illness (ILI) surveillance program;

Enhance and expand IPC's capacity to conduct human and animal surveillance activities in Cambodia and Laos;

Enhance and expand the training capacity for H5N1 avian influenza surveillance and epidemiology within the RIIP network in Cambodia, Laos and Viet Nam, as well as provide and expand biosafety and biosecurity training for BSL–3 facilities in this region;

Enhance communications and interoperable connectivity among the three RIIP-affiliated laboratories in Vietnam;

Enhance security at the BSL–3 laboratory suite and related physical plant for Institut Pasteur—Cambodia; and

Enhance laboratory capacities in African countries that are at risk for an H5N1 outbreak or where there has already been an H5N1 outbreak in order to strengthen early detection and diagnosis of influenzas in animals and humans.

Measurable outcomes of the program will be in alignment with the President's National Strategy and the principles of the International Partnership on Avian and Pandemic Influenza, and one (or more) of the following performance goal(s) for the agency pursuant to the President's initiative on pandemic influenza preparedness:

To detect animal and human outbreaks before they spread around the world;

To take immediate steps to ensure early warning of an avian flu outbreak among animals or humans in affected regions; and

To strengthen a new international partnership on avian influenza.

Grantee Activities

Grantee activities for this program are as follows:

Enhance laboratory capacities for H5N1 diagnosis in the National Influenza Reference Center (virology unit, IPC) in support of the Cambodian Ministry of Health's ILI surveillance program, based on the enhancement of diagnostic test sensitivity, on testing an increased number of Cambodian and Laotian samples as well as on development of a valid serological test (microneutralization test) for human influenza infection;

Enhance and expand training capacity for H5N1 surveillance and epidemiology in Cambodia, Laos and Viet Nam;

Support surveillance for influenza-like illness (ILI), severe pneumonia and other respiratory diseases, to be carried out through and/or on behalf of the respective Ministries of Health in outpatient departments of Provincial hospitals in Cambodia and Laos;

Strengthen the capacity for early detection and early warning of avian influenza outbreaks in Cambodia, Laos and Viet Nam;

Provide support (financial and technical) to systematic, extensive epidemiological and viral investigations following any confirmed H5N1 human or animal cases in Cambodia and Laos;

Enhance laboratory capabilities in affected and at-risk nations in Africa to perform surveillance and diagnosis of H5N1 in humans and animals; and

Coordinate activities that are conducted under this cooperative agreement with other relevant institutes (members) of the RIIP.

All influenza virus information obtained or developed as a result of the foregoing activities or other activities funded under this cooperative agreement shall be shared with HHS as well as within the WHO Global influenza network and WHO Collaborating Centers of Influenza. As part of its proposal, RIIP shall submit a plan for ensuring that such information is shared in a timely, accurate, thorough and reliable manner with HHS and WHO. Such plan will also address the sharing with HHS of specimen and other viral material obtained by RIIP as a result of activities funded under this cooperative agreement.

In addition, this cooperative agreement will provide limited and specific funding, as detailed below, for the following activities:

Security Enhancements to BSL–3 laboratory suite and related physical plant for IPC.

A BSL–3 laboratory at IPC will substantially enhance capacity in Cambodia to isolate and work with the A/H5N1 virus and other emerging infectious diseases. It is essential that the physical security (including biosecurity and entry-control systems) for the BSL–3 suite be sufficient to ensure the integrity of the laboratory and prevent unauthorized access.

Funding for this activity will match, on a one-time basis, investments by Institut Pasteur up to $50,000 USD for costs connected with acquiring and installing entry-control systems and other physical-security enhancements (including vehicular barriers, cameras, monitors and locking devices) for the BSL–3 suite and related physical plant.

Enhanced communications and interoperable connectivity among the three RIIP affiliated laboratories in Viet Nam (NIHE—Hanoi, Institut Pasteur—Ho Chi Minh City, and Institut Pasteur—Nha Trang) and between them and HHS agencies as well as the WHO Secretariat and Regional Office for the Western Pacific.

The occurrence of A/H5N1 avian influenza in Viet Nam highlights the need to build critical public health capacity in that country. The three Institut Pasteur network laboratories (i.e., NIHE—Hanoi, Institut Pasteur—Ho Chi Minh City, and Institut Pasteur—Nha Trang) are at the very core of Viet Nam's public health response to avian influenza and other emerging diseases. It is essential that these laboratories have the capacity to communicate (by voice, data and video) with each other, the WHO Secretariat, HHS (including both the Centers for Disease Control and Prevention [CDC] and the National Institutes of Health [NIH]) and the Paris headquarters of Institut Pasteur in real time and at high speed. This enhanced capability will enable the laboratories to consult with scientific experts around the world and provide important disease surveillance data in a timely manner. Advancements in the understanding of A/H5N1 and other emerging diseases is heavily dependent on communications technology—so common in the developed world yet in need of substantial and accelerated enhancements in Viet Nam.

Funding for this activity will match, on a one-time basis, investments made by the Institut Pasteur in the three laboratories up to a total of $200,000 USD for costs associated with hardware, software and installation required to develop this interoperable connectivity. Funding will also match Institut Pasteur's investments in maintenance of this communications system at the three laboratories, up to a total of $10,000 USD per year for three years.

Support for an international biosafety/biosecurity technical advisor for the new BSL–3 laboratory suite at NIHE, a member laboratory of the Institut Pasteur Network located in Hanoi, Viet Nam, as well as support for a short-term virologist to lead the virology laboratory in Laos.

A BSL–3 laboratory at NIHE will enhance capacity in Viet Nam to isolate and work with A/H5N1 avian influenza and other emerging infectious diseases. Since BSL–3 biosafety/biosecurity practices are complicated and require 100 percent compliance at all times that the laboratory is operational, it is essential that NIHE and its employees have on-site access to an international technical advisor with substantial biosafety/biosecurity experience. This will ensure the safe and efficient operation of the laboratory and provide critically important on-the-job training to NIHE scientists and technicians who work in the BSL–3 suite.

Funding for this activity will match costs incurred by Institut Pasteur related to assigning an experienced, full-time international BSL–3 biosafety/biosecurity technical advisor to NIHE, up to $100,000 USD per year for two years.

Human and animal surveillance and training capacity building in Cambodia and Laos. A/H5N1 is an avian disease, which makes animal sampling essential to any meaningful surveillance program. IPC operates a state-of-the-art laboratory in Phnom Penh, Cambodia, and has an established working relationship with the appropriate health and agriculture authorities in the national Governments of Cambodia and Laos. IPC is, therefore, uniquely qualified to undertake animal and human disease surveillance in these countries. IPC is also an important training asset in the region and can leverage existing and new programs to maximize animal surveillance training for Cambodian and Laotian nationals.

At the invitation of the Ministry of Health, Institut Pasteur is in the process of establishing a presence in Laos to support disease surveillance and other public health activities. There is a critical need to enhance virology laboratory capacity in Laos. Such augmented capacity will be essential to the success of any meaningful surveillance program targeted at influenza and other respiratory diseases. The cooperative agreement will support the placement of a technical advisor in Laos to assist with virology capacity building.

Funding for animal and human surveillance and training capacity building will be up to $225,000 for the first year (to include support for the technical advisor in virology) and up to $175,000 USD for the second and third year of this agreement.

Human and animal surveillance and training capacity building in Africa. H5N1 has spread to Africa and RIIP has several laboratories uniquely positioned to assist with surveillance activities on this continent. It is essential that investments in capacity building at these laboratories be made as soon as practicable so that a foundation for early infectious disease warning in Africa will be established in time to track the spread of H5N1 in animals and humans. This cooperative agreement will match investments made by Institut Pasteur in such capacity building in Africa up to $250,000 for each year of this agreement.

The Influenza Laboratory at Institut Pasteur—Paris will support a number of the activities undertaken pursuant to this cooperative agreement. Additional capacity is required to ensure that this laboratory is capable of responding in a timely manner to developments in the field. This cooperative agreement will support the creation of a post-doctoral position in the Institut Pasteur—Paris

Influenza Laboratory. Candidates for this position must be U.S. citizens not presently studying or working in France at the time of application. Funding for this activity, which will include salary and any necessary equipment and supplies, will be $100,000 USD for each year of the agreement.

HHS, particularly the Office of Public Health Emergency Preparedness, will be substantially involved with the design and implementation of the described grantee activities. HHS staff activities for this program are as follows:

Provide expert assistance in the design, implementation and delivery of instruction to individuals selected for epidemiology training and laboratory-support training;

Provide liaison through HHS employees at U.S. Embassies in host countries with local Ministries of Health and Agriculture and other host-nation organizations, as appropriate and as relevant to the achievement of the purposes of this cooperative agreement; and

Provide oversight of activities that are supported by funds awarded through this cooperative agreement.

II. Award Information

This project will be supported through the cooperative agreement mechanism. OPHEP anticipates making only one award. The anticipated start date is approximately May 1, 2006, and the anticipated period of performance is approximately May 1, 2006, through April 30, 2009. OPHEP anticipates that approximately $1,455,000 will be available for the first 12-month budget period. The total amount that may be requested by the Pasteur Foundation is $2,625,000 for three years. Indirect costs will not be covered by the funds in this cooperative agreement.

Approximate Current Fiscal Year Funding: $1,455,000.

Approximate Total Project Period Funding: $2,625,000.

Funds under this cooperative agreement shall not be applied to indirect costs.

Funding Breakdown:

Activity	Current year funding	Year 2 funding	Year 3 funding	Total funding per activity
Enhanced communications (matching funds)	$200,000	.....	.....	$200,000
Maintenance of communications systems (matching funds)	10,000	$10,000	$10,000	30,000
Security and biosecurity enhancements (matching funds)	50,000	.....	.....	50,000
International biosafety/biosecurity technical advisor (matching funds)	100,000	100,000	.....	200,000
Enhancement of laboratory capacity at IPC	435,000	.....	.....	435,000
Virology laboratory training	85,000	.....	.....	85,000
H5N1 avian influenza animal and human surveillance (including virology technical advisor for Laos)	225,000	175,000	175,000	575,000
Influenza Post-Doctoral position	100,000	100,000	100,000	300,000
Enhancement of laboratory diagnostic capabilities in African nations (matching funds)	250,000	250,000	250,000	750,000
Grand Total	1,455,000	635,000	535,000	2,625,000

Approximate Number of Awards: 1.

Ceiling of Individual Award Range: Maximum dollar amount for the first 12-month budget period is $1,455,000, and will not include payment of any indirect costs.

Throughout the project period, the commitment of HHS to the continuation of funding will depend on the availability of funds, evidence of satisfactory progress by the recipient (as documented in required reports), demonstrated commitment of the recipient to the principles of the International Partnership on Avian and Pandemic Influenza, and the determination that continued funding is in the best interest of the Federal Government and continues to meet the goals of the U.S. National Strategy for Pandemic Influenza.

III. Eligibility Information

1. Eligible Applicants

The only eligible applicant that can apply for this funding opportunity is the Pasteur Foundation, a U.S. not-for-profit affiliate of the Institut Pasteur. In making this award, HHS will be able to capitalize on Pasteur's existing Reseau International des Instituts Pasteur (RIIP), a worldwide network of research and surveillance institutes. Since its creation, the Institut Pasteur has had an international calling, and from its earliest days Pasteur scientists have traveled around the world to study and combat epidemics. The first Institut Pasteur outside of France was created in 1891 in Saigon. The RIIP is made up of 29 institutions spread out across five continents, and unites 8,800 people, most of whom the institutions recruit locally.

With regard to Southeast Asia, the RIIP is strategically positioned to study the natural history of A/H5N1 avian influenza virus. The RIIP network in Asia has undertaken a number of research and surveillance programs that focus on acute respiratory infections, of both viral and bacterial origin in Viet Nam, Cambodia and Laos. The network is also engaged in surveillance activities in other regions of the world, including Africa.

The RIIP Institutes in Southeast Asia have been providing a beneficial service in the region by working with the local Ministries of Health in their epidemiological investigations, and by providing laboratory diagnosis of both human and animal influenza samples. One RIIP program is specifically looking at the natural history and circulation of the A/H5N1 virus in and around the locations where it has previously emerged in human or avian populations. RIIP active and current involvement in the region includes the following:

In 2004, NIHE in Hanoi and the Pasteur Institute collected throat swabs and serum samples from family members and contacts of victims, as well as from random poultry workers. Through the first months of 2004, NIHE collected several hundred samples in northern Viet Nam; Pasteur got several dozen more in the south. In addition to patients, their contacts and poultry workers were tested by using the RT–PCR assay; the results were overwhelmingly negative. The two institutes were unable to check for antibodies to the virus in blood samples, a sign of past infection, because the most sensitive procedure, the micro-neutralization assay, requires a BSL–3 laboratory. Consequently, they shipped the samples to HHS/CDC in Atlanta, Georgia, where tests confirmed the negative findings.

In New Caledonia, the Pasteur Institute aimed to evaluate the annual incidence of influenza and to identify the circulating viral types and subtypes

to gather information for the local vaccination program and regional influenza surveillance. In 1999, the Institute set up a surveillance network that included sentinel practitioners in Noumea and the virology department of the Pasteur Institute. Influenza circulated in New Caledonia every year, regularly during the Southern Hemisphere winter, and occasionally during March–May. Isolates were generally consistent with world surveillance, except in 1999, when a new A/H5N1 variant was identified. This study emphasizes the need for regular influenza surveillance, even when performed on a limited scale. The study also identified the optimal time for local vaccination to be in December or January of each year.

RIIP has a long history of making important public health and biomedical science contributions in Africa. The RIIP network in Africa includes laboratories in Algeria, Cameroon, the Ivory Coast, Madagascar, Niger, the Central African Republic, Senegal, Morocco and Tunis. These facilities provide a unique, existing capability that can be leveraged to enhance H5N1 surveillance and disease detection in the region.

2. Cost-Sharing or Matching Funds

Matching funds are required for this program. HHS will pay $2,625,000 or 68 percent of the total costs of $3,855,000 while the Pasteur Foundation will provide $1,230,000 or 32 percent of total costs.

3. Other

If an applicant requests a funding amount greater than the ceiling of the award range, HHS will consider the application non-responsive, and the application will not enter into the review process. HHS will notify the applicant that the application did not meet the submission requirements.

Special Requirements

If the application is incomplete or non-responsive to the special requirements listed in this section, the application will not enter into the review process. HHS will notify the applicant that the application did not meet submission requirements.

HHS will consider late applications non-responsive. Please see section on ''Submission Dates and Times.''

Title 2 of the United States Code Section 1611 states that ''an organization described in Section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting a grant, loan, or an award.''

IV. Application and Submission Information

1. Address To Request Application Package

Application kits may be requested by calling (240) 453–8822 or writing to the Office of Grants Management, Office of Public Health and Science, Department of Health and Human Services, 1101 Wootten Parkway, Suite 550, Rockville, MD 20852. Applicants may also fax a written request to the OPHS Office of Grants Management at (240) 453–8823 to obtain a hard copy of the application kit. Applications must be prepared using Form OPHS–1.

2. Content and Form of Submission

Application: Applicants must submit a project narrative in English, along with the application forms, in the following format:

Maximum number of pages: 50. If your narrative exceeds the page limit, HHS will only review the first 50 pages within the page limit;

Font size: 12-point, unreduced;

Single-spaced;

Paper size: 8.5 by 11 inches;

Page-margin size: One inch;

Number all pages of the application sequentially from page one (Application Face Page) to the end of the application, including charts, figures, tables, and appendices;

Print only on one side of page;

Hold application together only by rubber bands or metal clips, and o not bind it in any other way.

The narrative should address activities to be conducted over the entire project period and must include the following items in the order listed:

Understanding of the requirements. The application shall include a discussion of your organization's understanding of the need, purpose and requirements of this cooperative agreement, as well as the President's National Strategy and the principles of the International Partnership on Avian and Pandemic Influenza. The discussion shall be sufficiently specific, detailed and complete to clearly and fully demonstrate that the applicant has a thorough understanding of all the technical requirements of this announcement.

A Project Plan. The project plan must demonstrate that the organization has the technical expertise to carry out the work/task requirements of this announcement. The plan must contain sufficient detail to clearly describe the proposed means for conducting the ''Grantee Activities'' described in Section I, and shall include a complete explanation of the methods and procedures the applicant will use. The project plan shall include discussions of the following elements:

- Objectives;
- Methods to accomplish the purposes of the cooperative agreement and the ''Grantee Activities'';
- Detailed time line for accomplishment of each activity;
- Ability to respond to emergencies;
- Ability to respond to situations on weekends and after hours; and
- Coordination with HHS, the WHO Secretariat and Regional Office, the FAO, and the World Organization for Animal Health (OIE).

Staffing and Management Plan. The applicant must provide a project staffing and management plan, which must include time lines and sufficient detail to ensure that it can meet the Federal Government's requirements in a timely and efficient manner.

- The applicant must provide resumes that identify the educational and experience level of any individual(s) who will perform in a key position and other qualifications to show the key individuals' ability to comply with the minimum requirements of this announcement.
- The applicant must provide a summary of the qualifications of non-key personnel. Resumes must be limited to three pages per person.
- The proposed staffing plan must demonstrate the applicant's ability to recruit/retain/replace personnel who have the knowledge, experience, local-language skills, training and technical expertise commensurate with the requirements of this announcement. The plan must demonstrate the applicant's ability to provide bi-lingual personnel to train and mentor host-country participants.

Performance Measures. The applicant must provide measures of effectiveness that will demonstrate accomplishment of the objectives of this cooperative agreement and progress toward the goals of the President's National Strategy. Measures of effectiveness must relate to the performance goals stated in the ''Purpose'' section of this announcement. Measures must be objective and quantitative, and must measure the intended outcomes. The applicant must submit a section on measures of effectiveness with its application, and they will be an element for evaluation. In addition, the applicant shall insert the following as measures of applicant's performance:

- Number of new epidemiologists actually trained and employed from each designated country;
- Number of new laboratorians actually trained in virologic techniques

and employed in each designated country;

- Whether the RIIP institutes in Cambodia and Viet Nam establish formal and reliable communication links with the WHO Global Outbreak Alert and Response Network (GOARN), the WHO Global Influenza Surveillance Network, and the equivalent animal disease surveillance networks at the FAO and OIE;
- The number, accuracy, thoroughness and timeliness of reports to the WHO Global Influenza Surveillance Network from the RIIP laboratories receiving funding under this agreement;
- The number, accuracy, thoroughness, and timeliness of other notifications submitted to the WHO Secretariat and HHS regarding potential or actual outbreaks of ILI or other respiratory diseases anywhere in the world; and
- The timely and successful appointment of a candidate for the post-doctoral position funded under this agreement.

Budget Justification. The budget justification, which will be limited to 10 pages, will count against the overall 50-page limit. This justification must comply with the criteria for applications. The applicant must submit, at a minimum, a cost proposal fully supported by information adequate to establish the reasonableness of the proposed amount.

The applicant may include additional information in the application appendices, which will not count toward the narrative page limit. This additional information includes the following: Curricula Vitae, Resumes, Organizational Charts, Letters of Support, etc.

An agency or organization is required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the Federal government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, access *www.dunandbradstreet.com*, or call 1–866–705–5711.

Additional requirements that could require submission of additional documentation with the application appear in section ''VI.2. Administrative and National Policy Requirements.''

3. Submission Dates and Times

To be considered for review, applications must be received by the Office of Grants Management, Office of Public Health and Science, by 5 p.m. Eastern Time on April 7, 2006. Applications will be considered as meeting the deadline if they are received on or before the deadline date. The application due date in this announcement supercedes the instructions in the OPHS–1.

Submission Mechanisms

The Office of Public Health and Science (OPHS), which is serving as the awarding agency for the Office of Public Health Emergency Preparedness, provides multiple mechanisms for the submission of applications, as described in the following sections. Applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of applications submitted using any of these mechanisms. Applications submitted to the OPHS Office of Grants Management after the deadlines identified below will not be accepted for review. Applications which do not conform to the requirements of the cooperative agreement announcement will not be accepted for review and will be returned to the applicant.

Applications may be submitted electronically only via the electronic submission mechanisms specified below. Any applications submitted via any other means of electronic communication, including facsimile or electronic mail, will not be accepted for review. While applications are accepted in hard copy, the use of the electronic application submission capabilities provided by the OPHS eGrants system or the *www.Grants.gov* Web site Portal is encouraged.

Electronic grant application submissions must be submitted no later than 5 p.m. Eastern Time on the deadline date specified in the ''Submission Dates and Times'' section of this announcement using one of the electronic submission mechanisms specified below. All required hard copy original signatures and mail-in items must be received by the OPHS Office of Grants Management no later than 5 p.m. Eastern Time on the next business day after the deadline date specified in the ''Submission Dates and Times'' section of this announcement.

Applications will not be considered valid until all electronic application components, hard copy original signatures, and mail-in items are received by the OPHS Office of Grants Management according to the deadlines specified above. Application submissions that do not adhere to the due date requirements will be considered late and will be deemed ineligible.

The applicant is encouraged to initiate electronic applications early in the application development process, and to submit prior to or early on the due date. This will allow sufficient time to address any problems with electronic submissions prior to the application deadline.

Electronic Submissions via the OPHS eGrants System

The OPHS electronic grants management system, eGrants, provides for applications to be submitted electronically. Information about this system is available on the OPHS eGrants website, *https://egrants.osophs.dhhs.gov*, or may be requested from the OPHS Office of Grants Management at (240) 453–8822.

When submitting applications via the OPHS eGrants system, applicants are required to submit a hard copy of the application face page (Standard Form 424) with the original signature of an individual authorized to act for the applicant agency and assume the obligations imposed by the terms and conditions of the grant award. If required, applicants will also need to submit a hard copy of the Standard Form LLL and/or certain Program related forms (e.g., Program Certifications) with the original signature of an individual authorized to act for the applicant agency.

Electronic applications submitted via the OPHS eGrants system must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. The applicant may identify specific mail-in items to be sent to the Office of Grants Management separate from the electronic submission; however, these mail-in items must be entered on the eGrants Application Checklist at the time of electronic submission, and must be received by the due date requirements specified above. Mail-In items may only include publications, resumes, or organizational documentation.

Upon completion of a successful electronic application submission, the OPHS eGrants system will provide the applicant with a confirmation page indicating the date and time (Eastern Time) of the electronic application submission. This confirmation page will also provide a listing of all items that constitute the final application submission, including all electronic application components, required hard copy original signatures, and mail-in items, as well as the mailing address of the OPHS Office of Grants Management where all required hard copy materials must be submitted.

As items are received by the OPHS Office of Grants Management, the electronic application status will be updated to reflect the receipt of mail-in items. It is recommended that the applicant monitor the status of its application in the OPHS eGrants system to ensure that all signatures and mail-in items are received.

Electronic Submissions via the *www.Grants.gov* Web Site Portal

The Grants.gov Web site Portal provides organizations with the ability to submit applications for OPHS grant opportunities. Organizations must successfully complete the necessary registration processes in order to submit an application. Information about this system is available on the Grants.gov Web site, *http://www.grants.gov*.

In addition to electronically submitted materials, applicants may be required to submit hard copy signatures for certain Program related forms, or original materials as required by the announcement. It is imperative that the applicant review both the cooperative agreement announcement as well as the application guidance provided within the Grants.gov application package to determine such requirements. Any required hard copy materials or documents that require a signature must be submitted separately via mail to the OPHS Office of Grants Management and, if required, must contain the original signature of an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the cooperative agreement award.

Electronic applications submitted via the Grants.gov Web site Portal must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. All required mail-in items must be received by the due date specified above. Mail-In items may only include publications, resumes or organizational documentation. Upon completion of a successful electronic application submission via the Grants.gov Web site Portal, the applicant will be provided with a confirmation page from Grants.gov indicating the date and time (Eastern Time) of the electronic application submission as well as the Grants.gov Receipt Number. It is critical that the applicant print and retain this confirmation as well as a copy of the entire application package for its records.

All applications submitted via the Grants.gov Web site Portal will be validated by Grants.gov. Any applications deemed ''Invalid'' by the Grants.gov Web site Portal will not be transferred to the OPHS eGrants system, and OPHS has no responsibility for any application that is not validated and transferred to OPHS from the Grants.gov Web site Portal. Grants.gov will notify the applicant regarding the application validation status. Once the application is successfully validated by the Grants.gov Web site Portal, applicants should immediately mail all required hard copy materials to the OPHS Office of Grants Management to be received by the deadlines specified above. It is critical that the applicant clearly identify the Organization name and Grants.gov Application Receipt Number on all hard copy materials.

Once the application is validated by Grants.gov, it will be electronically transferred to the OPHS eGrants system for processing. Upon receipt of both the electronic application from the Grants.gov Web site Portal, and the required hard copy mail-in items, applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of the application submitted using the Grants.gov Web site Portal.

Applicants should contact Grants.gov regarding any questions or concerns about the electronic application process used by the Grants.gov Web site Portal.

Mailed or Hand-Delivered Hard Copy Applications

Applicants who submit applications in hard copy (via mail or hand-delivered) are required to submit an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Mailed or hand-delivered applications will be considered as meeting the deadline if they are received by the OPHS Office of Grant Management on or before 5 p.m. Eastern Time on the deadline date specified in the ''Submission Dates and Times'' section of this announcement. The application deadline date requirement specified in this announcement supersedes the instructions in the OPHS–1. Applications that do not meet the deadline will be returned to the applicant unread.

4. Intergovernmental Review of Applications

Executive Order 12372 does not apply to this program.

5. Funding Restrictions

Restrictions, which applicants must take into account while preparing the budget, are as follows:

Alterations and renovations (A&R) are prohibited on grants/cooperative agreements to foreign recipients. Alterations and renovations are defined as work that changes the interior arrangements or other physical characteristics of an existing facility or of installed equipment so that it can be used more effectively for its currently designated purpose or adapted to an alternative use to meet a programmatic requirement. Recipients may not use funds for A&R (including modernization, remodeling, or improvement) of an existing building. Recipients may not use funds for planning, organizing or convening conferences. Reimbursement of pre-award costs is not allowed. Recipients may spend funds for reasonable program purposes, including personnel, travel, supplies, and services. Recipients may purchase equipment if deemed necessary to accomplish program objectives; however, they must request prior approval in writing from HHS/OPHEP officials for any equipment whose purchase price exceeds $10,000 USD.

The costs generally allowable in grants/cooperative agreements to domestic organizations are allowable to foreign institutions and international organizations, with the following exception: With the exception of the American University, Beirut and the WHO Secretariat, HHS will not pay indirect costs (either directly or through sub-award) to organizations located outside the territorial limits of the United States, or to international organizations, regardless of their location. Recipients may contract with other organizations under this program; however, the applicant must perform a substantial portion of the project activities (including program management and operations) for which it is requesting funds. Contracts will require prior approval in writing from HHS/OPHEP. Recipients may not use funds awarded under this cooperative agreement to support any activity that duplicates another activity supported by any component of HHS.

Applicants shall state all requests for funds in the budget in U.S. dollars. Once HHS makes an award, HHS will not compensate foreign recipients for currency-exchange fluctuations through the issuance of supplemental awards. The funding recipient must obtain annual audits of these funds (program-specific audit) by a U.S.-based audit

firm with international branches and current licensure/authority in-country, and in accordance with International Accounting Standards or equivalent standard(s) approved in writing by HHS. A fiscal Recipient Capability Assessment may be required, prior to or post award, to review the applicant's business management and fiscal capabilities regarding the handling of U.S. Federal funds.

6. Other Submission Requirements

None.

V. Application Review Information

1. Criteria

HHS will evaluate applications against the following factors:

Factor 1: Project Plan (35 Points)

HHS will evaluate the extent to which the proposal demonstrates that the organization has the technical expertise to carry out the work/task requirements described in this announcement. HHS will evaluate the applicant's project plan to determine the extent to which it provides a clear, logical and feasible technical approach to meeting the goals of this announcement in terms of workflow, resources, communications and reporting requirements for accomplishing work in each of the operational task areas, which HHS will evaluate as equally weighted sub-factors, as follows:

Design and implementation of a recruitment program that identifies potential participants for training in epidemiology and laboratory procedures with specific focus on influenza and other acute respiratory infections;

Work with HHS to design and implement a process that identifies local individuals who have experience, training or education relevant to conducting epidemiological surveys or laboratory procedures, recruits those individuals to participate in RIIP training, and creates a pool of highly qualified candidates for positions within the host-country Ministries of Health or Agriculture;

Design and implement a training program that assigns selected participants to work under the tutelage of senior RIIP scientists in support of ILI research, disease surveillance and public health activities;

Train a minimum of one local person in epidemiology each year in each RIIP institute in Cambodia and Viet Nam (a total of four), and a minimum of one local person as a laboratorian skilled in influenza diagnostics each year in each RIIP institute in Cambodia and Viet Nam (a total of four);

Provide real-time notification of possible outbreaks of influenza in humans or animals from any RIIP institute anywhere in the world, but especially from RIIP institutes in Southeast Asia and Africa, and submit notification to HHS, the WHO Secretariat and Regional Office, FAO, and OIE; and

Provide enhanced reporting of ILI and animal influenza information through its worldwide network of institutions engaged with and linked to the WHO Global Outbreak Alert and Response Network (GOARN), the WHO Global Influenza Surveillance Network, and the relevant disease surveillance networks at the FAO and OIE.

Factor 2. Staffing and Management Plan. (30 Points)

(a) *Personnel.* HHS will evaluate the relevant educational and/or work experience qualifications of key personnel, senior project staff, and subject-matter specialists to determine the extent to which they meet the requirements listed in this announcement.

(b) *Staffing Plan.* HHS will evaluate the staffing plan to determine the extent to which the applicant's proposed organizational chart reflects proper staffing to accomplish the work described in this announcement, and the extent of the applicant's ability to recruit/retain/replace personnel who have the knowledge, experience, local-language skills, training and technical expertise to meet requirements of the positions.

Factor 3. Performance Measures (20 Points)

HHS will evaluate the applicant's description of performance measures, including measures of effectiveness, to determine the extent to which the applicant proposes objective and quantitative measures that relate to the performance goals stated in the ''Purpose'' section of this announcement, including the goals of the President's National Strategy, and whether the proposed measures will accurately measure the intended outcomes.

Factor 4: Understanding of the Requirements (15 Points)

HHS will evaluate the extent of the applicant's understanding of the operational tasks identified in this announcement to ensure successful performance of the work in this project. Because the focus of the work will be on countries in Southeast Asia and Africa, the applicant must demonstrate an understanding of the cultural, ethnic, political and economic factors that could affect successful implementation of this cooperative agreement.

The applicant's proposal must also demonstrate understanding of the functions, capabilities and operating procedures of host-country Ministries of Health and Agriculture and international organizations such as the WHO and FAO, and describe the applicant's ability to work with and within those organizations. The applicant must also demonstrate an understanding of the U.S. National Strategy for Pandemic Influenza and a commitment to the principles of the International Partnership on Avian and Pandemic Influenza.

2. Review and Selection Process

HHS/OPHEP will review applications for completeness. An incomplete application or an application that is non-responsive to the eligibility criteria will not advance through the review process. HHS will notify applicants if their applications did not meet submission requirements.

An objective review panel, which could include both Federal employees and non-Federal members, will evaluate complete and responsive applications according to the criteria listed in the ''V.1. Criteria'' section above. The objective review process will follow the policy requirements as stated in the GPD 2.04

VI. Award Administration Information

1. Award Notices

The successful applicant will receive a Notice of Award (NoA). The NoA shall be the only binding, authorizing document between the recipient and HHS. An authorized Grants Management Officer will sign the NoA, and mail it to the recipient fiscal officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review by mail.

2. Administrative and National Policy Requirements

A successful applicant must comply with the administrative requirements outlined in 45 CFR part 74 and part 92 as appropriate. The FY 2006 Appropriations Act requires that when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, the issuance shall clearly state the percentage and dollar amount of the total costs of the program or project that will be financed with Federal money and the percentage and

dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

3. Reporting Requirements

The applicant must provide HHS with an original, plus two hard copies, as well as an electronic copy of the following reports in English:

1. A quarterly progress report, due no less than 30 days after the end of each quarter of the budget period. The progress report for the third quarter of the year will serve as the non-competing continuation application. The quarterly progress report must contain the following elements:

a. Activities and Objectives for the Current Budget Period;

b. Financial Progress for the Current Budget Period;

c. Proposed Activity Objectives for the New Budget Period;

d. Budget;

e. Measures of Effectiveness; and

f. Additional Requested Information.

2. An annual progress report, due 90 days after the end of the budget period, which must contain a detailed summary of the elements required in the quarterly progress report;

3. Final performance reports, due no more than 90 days after the end of the project period; and

4. A Financial Status Report (FSR) SF–269 is due 90 days after the close of each 12-month budget period.

Recipients must mail the reports to the Grants Management Specialist listed in the ''Agency Contacts'' section of this announcement.

VII. Agency Contacts

For program technical assistance, contact: Lily O. Engstrom, Senior Policy Advisor to the Assistant Secretary for Public Health Emergency Preparedness, Office of Public Health Emergency Preparedness, OS, HHS, Telephone: 202.205.4727, E-mail: *lily.engstrom@hhs.gov*.

For financial, grants management, or budget assistance, contact: Grants Management Specialist, Office of Grants Management, Office of Public Health and Science, 11101 Wootten Parkway, Suite 550, Rockville, MD 20857, Telephone: (240) 453–8822, E-mail Address: *kcampbell@osophs.dhhs.gov*.

Dated: March 2, 2006.

Stewart Simonson,

Assistant Secretary for Public Health Emergency Preparedness, Department of Health and Human Services.

[FR Doc. E6–3251 Filed 3–7–06; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the National Advisory Council for Healthcare Research and Quality.

DATES: The meeting will be held on Friday, April 7, 2006, from 8:30 a.m. to 4 p.m. and is open to the public.

ADDRESSES: The meeting will be held in Room 800, the Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Deborah Queenan, Coordinator of the Advisory Council, at the Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland, 20850, (301) 427–1330. For press-related information, please contact Karen Migdail at (301) 427–1855.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Mr. Donald L. Inniss, Director, Office of Equal Employment Opportunity Program, Program Support Center, on (301) 443–1144 no later than March 24, 2006. Agenda, roster, and minutes from previous council meetings are available from Ms. Bonnie Campbell, Committee Management Officer, Agency for Healthcare Quality and Research, 540 Gaither Road, Rockville, Maryland, 20850. Ms. Campbell's phone number is (301) 427–1554.

SUPPLEMENTARY INFORMATION:

I. Purpose

Section 921 of the Public Health Service Act (42 U.S.C. 299c) established the National Advisory Council for Healthcare Research and Quality. In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director, Agency for Healthcare Research and Quality (AHRQ), on matters related to actions of the Agency to enhance the quality, improve the outcomes, reduce the costs of health care services, improve access to such services through scientific research, and to promote improvements in clinical practice and in the organization, financing, and delivery of health care services.

The Council is composed of members of the public appointed by the Secretary, and Federal ex-officio members.

II. Agenda

On Friday, April 7, 2006, the meeting will convene at 8:30 a.m. with the call to order by the Council Chair. The agenda will include the Director's update on the status of the Agency's current research, programs, and initiatives; a discussion of ambulatory care safety; and the findings on breast cancer from AHRQ's Effective Healthcare initiative. The official agenda will be available on AHRQ's Web site at *http://www.ahrq.gov* no later than March 31, 2006.

The meeting will adjourn at 4 p.m.

Dated: February 27, 2006.

Carolyn M. Clancy,

Director.

[FR Doc. 06–2189 Filed 3–7–06; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Clinical Laboratory Improvement Advisory Committee, Centers for Disease Control and Prevention, of the Department of Health and Human Services, has been renewed for a 2-year period extending through February 19, 2008.

For further information, contact Robert Martin, M.D., Executive Secretary, Centers for Disease Control and Prevention, Department of Health and Human Services, 4470 Buford Highway, M/S G–25, Chamblee, Georgia 30341, telephone 770–488–8295 or fax 7770–488–8282.

The Director, Management and Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 2, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–3261 Filed 3–7–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Government-Owned Inventions; Availability for Licensing and Cooperative Research and Development Agreements (CRADAs)

AGENCY: Centers for Disease Control and Prevention Technology Transfer Office; Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The invention named in this notice is owned by agencies of the United States Government and is available for licensing in the United States (U.S.) in accordance with 35 U.S.C. 207, and is available for cooperative research and development agreements (CRADAs) in accordance with 15 U.S.C. 3710a, to achieve expeditious commercialization of results of federally funded research and development. A provisional patent application has been filed. A Patent Cooperation Treaty (PCT) application and national stage foreign patent applications claiming priority to the Patent Cooperation Treaty (PCT) application are expected to be filed within the appropriate deadlines to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing and CRADA information, and information related to the technology listed below, may be obtained by writing to Suzanne Seavello Shope, J.D., Technology Licensing and Marketing Scientist, Technology Transfer Office, Centers for Disease Control and Prevention (CDC), Mailstop K–79, 4770 Buford Highway, Atlanta, GA 30341, telephone (770)488–8613; facsimile (770)488–8615; or e-mail *sshope@cdc.gov*. A signed Confidential Disclosure Agreement (available under Forms at *http://www.cdc.gov/tto*) will be required to receive copies of unpublished patent applications and other information.

Diagnostics

Immunoassay for Diagnosis of Orthopoxvirus Infection

A CDC-developed immunoassay may be used for the diagnosis of infection with Orthopoxviruses (*e.g.* Monkeypox, Variola) by detection of acute phase immune responses that correlate to recent infection. With recent recognition of Orthopox viruses as emerging infectious agents with zoonotic transmission capabilities as well as select agents for bioterrorism, assays for the detection or diagnosis of infections are sought. This assay provides a rapid and simple method for detection of infection with these viruses related to zoonotic transmission or bioterrorism events involving such viruses.

Use of the assay produced high levels of sensitivity during the 2003 Monkeypox outbreak in North America when compared to PCR. Commercialization of the ELISA test may provide a standard screening tool for diagnosis of Orthopoxvirus as well as a surveillance tool for exposure.

The immunoassay may also be useful at the state level for BT surveillance including an opportunity for use in reference labs. Reagents used in the assay are available through CDC laboratories and for commercial development of the assay. Further refinement of the assay may result in the development of additional reagents for incorporation into the assay.

Inventors: Kevin L. Karem, Inger K. Damon and Joanne L. Patton.

CDC Ref. #: I–014–04.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–3267 Filed 3–7–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Government-Owned Inventions; Availability for Licensing and Cooperative Research and Development Agreements (CRADAs)

AGENCY: Centers for Disease Control and Prevention, Technology Transfer Office, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The invention named in this notice is owned by agencies of the United States Government and is available for licensing in the United States (U.S.) in accordance with 35 U.S.C. 207, and is available for cooperative research and development agreements (CRADAs) in accordance with 15 U.S.C. 3710a, to achieve expeditious commercialization of results of federally funded research and development. A provisional patent application has been filed. In addition, the invention is protected by copyright registration. A Patent Cooperation Treaty (PCT) application and national stage foreign patent applications claiming priority to the Patent Cooperation Treaty (PCT) application are expected to be filed within the appropriate deadlines to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing and CRADA information, and information related to the technology listed below, may be obtained by writing to Suzanne Seavello Shope, J.D., Technology Licensing and Marketing Scientist, Technology Transfer Office, Centers for Disease Control and Prevention (CDC), Mailstop K–79, 4770 Buford Highway, Atlanta, GA 30341, telephone (770)488–8613; facsimile (770)488–8615; or e-mail *sshope@cdc.gov*. A signed Confidential Disclosure Agreement (available under Forms at *www.cdc.gov/tto*) will be required to receive copies of unpublished patent applications and other information.

Software

Computer Software for Automating Permeation Testing Data Analysis

Data analysis for chemical protective clothing (CPC) permeation testing involves a number of equations and experimental factors. Experimenter bias and possible calculation errors are critical issues when determining permeation parameters. In order to compare results among different laboratories and manufacturers, the normalized breakthrough time is required since it is not dependent on the detection limits of the analytical system. However, calculating the normalized breakthrough time requires the use of polynomial curve fitting, polynomial derivatives, and quadratic equations. Solving these equations, without a computer program, would be very difficult. Therefore, a unique computer program using Microsoft Visual C++, referred to as ''Permeation Calculator'', has been developed at the National Institute for Occupational Safety and Health/National Personal Protective Technology Laboratory (NIOSH/NPPTL) to calculate the permeation parameters. The program imports data and then calculates the permeation parameters;

including breakthrough detection time, ASTM normalized breakthrough time, European normalized breakthrough time, and steady-state permeation rate. The calculation of these parameters is based on a series of strategies, approaches, and algorithms. At the end, the program displays all the permeation parameters as a report file that can be saved as a Microsoft Excel file or a text file. The program reduces the time spent on data analysis from hours to seconds.

Inventors: Pengfei Gao and Beth Tomasovic.

CDC Ref.#: I–011–05.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–3268 Filed 3–7–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Child Care Case-Level Report.

OMB No.: 0970–0167.

Description: Section 658K of the Child Care and Development Block Grant Act of 1990 (Pub. L. 101–508, 42 U.S.C. 9858) requires that States and Territories submit monthly case-level data on the children and families receiving direct services under the Child Care and Development Fund. The implementing regulations for the statutorily required reporting are at 45 CFR 98.70. Case-level reports, submitted quarterly or monthly (at grantee option) include monthly sample or full population case-level data. The data elements to be included in these reports are represented in the ACF–801. Disaggregate data is used to determine program and participant characteristics as well as costs and levels of child care services provided. This provides ACF with the information necessary to make reports to Congress, address national child care needs, offer technical assistance to grantees, meet performance measures, and conduct research. Consistent with the statute and regulations, ACF requests extension of the ACF–801.

Respondents: States, the District of Columbia, and Territories including Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Marianna Islands.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–801	56	4	20	4,480

Estimated Total Annual Burden Hours: 4,480.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Attn: Desk Officer for ACF, E-mail address: *Katherine_T._Astrich.eop.gov.*

Dated: February 2, 2006.

Robert Sargis,

Reports Clearance, Officer.

[FR Doc. 06–2167 Filed 3–7–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–24052]

Propeller Strike Injury Avoidance Workshop

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting.

SUMMARY: The U.S. Coast Guard Office of Boating Safety, at the recommendation of the National Boating Safety Advisory Council (NBSAC) is convening a Propeller Strike Injury Avoidance Workshop to address propeller strike avoidance issues. The workshop will be open to the public.

DATES: The workshop will be held on Tuesday, March 21, 2006, from 8:30 a.m. to 5 p.m. and Wednesday, March 22, 2006, from 8 a.m. to 2:30 p.m. The workshop may close early if all business is finished.

ADDRESSES: The workshop will be held at the Crowne Plaza Hotel, 1480 Crystal Drive, Arlington, VA. This notice is available on the Internet at *http://dms.dot.gov* and at *http://uscgboating.org.*

FOR FURTHER INFORMATION CONTACT: Daniel McCormick, Project Manager, Office of Boating Safety, U.S. Coast Guard telephone 202–267–6894, fax 202–267–4285. If you have questions on viewing material in the docket, call Renee V. Wright, Program Manager, Docket Operations, Department of Transportation, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION: The Commandant of the U.S. Coast Guard is responsible for carrying out the National Recreational Boating Safety Program. Recreational boaters, swimmers, and divers are at risk from recreational boats as a result of incidents causing impact with propellers, lower units and appendages. The Coast Guard is engaged with industry, other government organizations, and the public to raise the level of public awareness regarding this safety risk, encourage technological advancement to lower the level of risk, and consider possible appropriate regulatory action. Although significant progress has been made, the Coast Guard intends to continue its efforts to foster active efforts to eliminate propeller related injury as a significant risk to the public.

The workshop will include a panel discussion of educational, technological, and any other issues relevant to the mitigation/elimination of propeller injury hazards. Panel members have been selected based on the unique perspective and benefit their input would add to the discussions. We plan to prepare minutes of the discussions and distribute them to everyone who registers attendance at the meeting by

signing the attendance list. You may also obtain a copy of the minutes from the persons listed under **FOR FURTHER INFORMATION CONTACT**.

Agenda of the Workshop

The agenda includes the following:

(1) Introduction of the panel members and others in attendance.

(2) Discussion of prepared issues and questions based on early input from the Coast Guard Office of Boating Safety.

(3) Discussion of issues and questions raised by members of the panel and other workshop attendees.

(4) Conclusion.

Procedural

The workshop is open to the public. Please note that the workshop may close early if all business is finished.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the persons listed under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Dated: March 2, 2006.

C.E. Bone,

RDML, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. E6–3217 Filed 3–7–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK964–1410–HY–P; AA–70146, AA84417]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that two appealable decisions approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Calista Corporation. The lands are located in Tps. 14 and 15 S., R. 75 W., Seward Meridian, in the vicinity of Platinum Alaska, and Tps. 11 and 12 N., Rs. 59 and 60 W., Seward Meridian, in the vicinity of Nyac, Alaska, aggregating approximately 14,244 acres. Notice of the decisions will also be published four times in the *Tundra Drums*.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until April 7, 2006 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: Copies of the decisions may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: KJ Mushovic, by phone at (907) 271–3153, or by e-mail at *K_J_Mushovic@ak.blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact Mrs. Mushovic.

KJ Mushovic,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E6–3239 Filed 3–7–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK963–1410–HY–P; F–14925–B]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Dineega Corporation. The lands are located in T. 7 S., R.16 E.; T. 10 S., R. 17 E.; T. 11 S., R. 17 E.; and T. 8 S., R.18 E., Kateel River Meridian, in the vicinity of Ruby, Alaska, and aggregate 6,929.66 acres. Notice of the decision will also be published four times in the *Fairbanks Daily News-Miner*.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until April 7, 2006 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Charmain McMillan by phone at (907) 271–3345, or by e-mail at *Charmain_McMillan@blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. McMillan.

Charmain McMillan,

Land Law Examiner, Branch of Adjudication I.

[FR Doc. E6–3243 Filed 3–7–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK964–1410–HY–P; F–19155–3]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Doyon, Limited. The lands are located in T. 14 N., R 8 W., and T. 13 N., R. 9 W., Fairbanks Meridian, in the vicinity of Stevens Village, Alaska, and aggregating 29,970.39 acres. Notice of the decision will also be published four times in the *Fairbanks Daily News-Miner*.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until April 7, 2006 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222

West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: D. Kay Erben, by phone at (907) 271–4515, or by e-mail at *kay_erben@ak.blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact Mrs. Erben.

D. Kay Erben,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E6–3238 Filed 3–7–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK964–1410–HY–P; F–14895–B2]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to NIMA Corporation. The lands are located in T. 1 N., R. 81 W., Seward Meridian, in the vicinity of Dall Lake, Alaska, and contain approximately 12,155 acres. Notice of the decision will also be published four times in the Tundra Drums.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until April 7, 2006 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Renee Fencl, by phone at (907) 271–5067. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact Renee Fencl.

Renee Fencl,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E6–3245 Filed 3–7–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK964–1410–HY–P; AA–6692–D, AA–6692–L, AA–6692–M, and AA–6692–A2, BBA–1]

Alaska Native Claims Selections

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Pilot Point Native Corporation. The lands are located in T. 32 S., R. 49 W.; T. 29 S., R. 50 W.; T. 29 S., R. 51 W.; and T. 32 S., R. 52 W., Seward Meridian, in the vicinity of Pilot Point, Alaska, and contain 9,502.05 acres. Notice of the decision will also be published four times in the *Bristol Bay Times*.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until April 7, 2006 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Rosaline Holland by phone at (907) 271–3766, or by e-mail at *Roz_Holland@blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Holland.

Rosaline Holland,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E6–3240 Filed 3–7–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK964–1410–HY–P; AA–6697–C]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Tanadgusix Corporation. The lands are located in T. 52 S., R. 74 W., Seward Meridian, in the vicinity of St. Paul, Alaska, and contain 7,673.64 acres. Notice of the decision will also be published four times in the *Dutch Harbor Fisherman*.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until April 7, 2006 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Kay Erben, by phone at (907) 271–4515, or by e-mail at *kay_erben@ak.blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact Mrs. Kay Erben.

D. Kay Erben,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E6–3241 Filed 3–7–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–180–1220–PH]

Notice of Emergency Closure of Public Lands in Tuolumne County, CA

SUMMARY: Notice is hereby given that approximately 80 acres of public lands have been temporarily closed to all public uses that could result in death or injury to nearby residents or private property damage through the use of firearms, ignition of a wildfire, and/or damaging or destroying vegetation and associated wildlife habitat. Prohibited activities include, but are not limited to the use of firearms for target shooting or hunting, the operation of motorized vehicles or other internal combustion engines in any capacity, camping, or ignition of any open fires. This closure is made under the authority of 43 CFR 8364.1 Closure and Restriction Orders.

The closed area is in the vicinity of Lake Don Pedro in Tuolumne County, and is within T2S, R15E, Section 31, NE ¼, NE ¼, and Section 32, NW ¼, NW ¼, Mount Diablo Baseline and Meridian. All entry will be selectively restricted during this emergency closure to protect persons, property, public lands, and natural resources.

Closure signs will be posted at main entry points to this area, and a fence will be constructed to exclude vehicle entry.

DATES: The emergency closure will remain in effect until the Folsom Field Office completes a Resource Management Plan in 2007 which will establish permanent rules for the public use of the property.

ADDRESSES: Maps of the closure area may be obtained from the Folsom Field Office, 63 Natoma Street, Folsom, California, 95630. Phone (916) 985–4474.

FOR FURTHER INFORMATION CONTACT: Deane Swickard, Folsom Field Office Manager, (916) 985–4474.

SUPPLEMENTARY INFORMATION: The approximately 80 acres of public land known locally as the Salambo Mine has been receiving inappropriate use that constitutes chronic abuse of the public lands, including unregulated and indiscriminate firearms use, uncontrolled off-road vehicle use, noisy parties with large bonfires and underage drinking that continue well into the evening hours, trash dumping, and destruction of native vegetation and associated wildlife habitat. Neighbors in a near-by residential area consider these public lands, because of how they are used, a public nuisance, as does the Don Pedro Recreation Agency, a subdivision of the Turlock Irrigation District which manages Lake Don Pedro for public recreation.

These public lands will remain open during daylight hours to access by other than motorized vehicle, and to uses that do not involve firearms.

Exemptions: Persons who are exempt from these rules include: Federal, State, or local officers or employees in the scope of their duties; and members of any organized rescue or fire-fighting force in performance of an official duty.

Penalties: Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: January 5, 2006.

D.K. Swickard,

Folsom Field Manager.

[FR Doc. E6–3246 Filed 3–7–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–014–6333–NY–HPNL; HAG–06–0041]

Emergency Closure of Public Lands and BLM-Administered Roads; Klamath County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency closure of public lands and BLM-administered access roads in Klamath County, Oregon.

SUMMARY: Notice is hereby given that certain public lands and access roads thereon in Klamath County, Oregon, are closed to all entry or use by all members of the public. The closure is made under the authority of 43 CFR 8364.1. The public lands affected by this emergency closure are specifically identified as follows:

Willamette Meridian, Oregon

T. 40 S., R. 6 E.

Section 1 S½, Section 12 All lands west of the east bank of the Klamath River, Section 13 All lands west of the east bank of the Klamath River.

The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: PacifiCorp Employees, its contractors and subcontractors, Bureau of Land Management employees, state, local, and Federal law enforcement and fire protection personnel, and employees of the Federal Energy Regulatory Commission. Access by additional parties may be allowed, but must be approved in advance in writing by the Authorized Officer.

Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months, as well as the penalties provided under Oregon State law.

The public lands and roads closed to public use under this order will be posted with signs at points of public access.

The purpose of this emergency closure is to protect persons from potential harm from rock slides, unstable slopes, heavy equipment operation on single lane roads, and construction activities.

DATES: This closure is effective from the date this closure is signed by the Authorized Officer and will expire when repair of the J.C. Boyle power plant flume is completed.

ADDRESSES: Copies of the closure order and maps showing the location of the closed lands and roads are available from the Klamath Falls Resource Area Office, 2795 Anderson Avenue, Building 25, Klamath Falls, Oregon 97603.

FOR FURTHER INFORMATION CONTACT: Jon Raby, Manager, Klamath Falls Resource Area Office, at (541) 883–6916.

Dated: December 6, 2005.

Jon Raby,

Manager, Klamath Falls Resource Area.

[FR Doc. E6–3237 Filed 3–7–06; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–110–5420–EU–D037, DK–G06–0001; IDI–35135]

Disclaimer of Interest in Lands, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: An application has been filed by Peter W. Ware, Jr., Attorney at Law on behalf of Roy and Donna Johnson and Willowbrook Development Partners II, LLC, for a recordable disclaimer of interest from the United States.

DATES: Comments or protests to this action should be received by June 6, 2006.

ADDRESSES: Comments or protests must be filed with: State Director (ID933),

Bureau of Land Management, 1387 S. Vinnell Way, Boise, ID 83709.

FOR FURTHER INFORMATION CONTACT: Contact Cathie Foster, BLM, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, (208) 373–3863 or Mike Truden, BLM, Four Rivers Field Office, 3948 Development Avenue, Boise, Idaho 83705, (208) 384–3450.

SUPPLEMENTARY INFORMATION: Pursuant to Section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), Peter W. Ware, Jr., has filed an application requesting the United States issue a recordable disclaimer of interest. The disclaimer of interest has been requested to disclaim and release all interest that the United States might have to a stock driveway, as reserved in Patent No. 11–2006–0007 dated January 4, 2006, to wit:

''A right-of-way to the United States over and across a 100 foot strip measured parallel and adjacent to the east boundary of the SE¼NE¼ of said Section 25, T. 5 N., R. 2 W., and extending south 100 feet into the NE¼SE¼ of said Section 25; thence east parallel and adjacent to the north boundary of the NE¼SE¼ of said Section 25 and Lot 3 of said Section 30, T. 5 N., R. 1 W., to a point 100 feet west of the east boundary of said Lot 3; thence south parallel and adjacent to the east boundary of said Lot 3 and extending south 100 feet into Lot 4 of said section 30 and then east 100 feet parallel and adjacent to the north boundary of said Lot 4, for stock driveway purposes.''

Based on a field exam and report prepared by the BLM's Four Rivers Field Office, the reservation is no longer needed to provide access to the public land because re-conveyance of adjacent private land to the United States has provided access to a previously land-locked parcel of public land. Also, development in the area has resulted in public roads providing a more efficient method of moving livestock between properties. Therefore, the application by Peter W. Ware, Jr. for a disclaimer for the stock driveway reservation in Patent No. 11–2006–0007 from the United States will be approved if no valid objection is received. This action will clear a cloud on the title of Roy and Donna Johnson's and Willowbrook Development Partners II, LLC's land.

Comments, including names and street addresses of respondents will be available for public review at the Idaho State Office, Bureau of Land Management, 1387 S. Vinnell Way, Boise, Idaho during regular business hours 9 a.m. to 4 p.m. Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

Jimmie Buxton,

Chief, Branch of Lands, Minerals and Water Rights, Resource Services Division.

[FR Doc. E6–3248 Filed 3–7–06; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–260–09–1060–00–24 1A]

Wild Horse and Burro Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of meeting.

SUMMARY: The Bureau of Land Management (BLM) announces that the Wild Horse and Burro Advisory Board will conduct a meeting on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands.

DATES: The Advisory Board will meet Monday, April 10, 2006, from 8 a.m., to 5 p.m., local time. This will be a one day meeting.

ADDRESSES: The Advisory Board will meet at the Holiday Inn, Capitol Plaza, 300 J Street, Sacramento, CA 95814. The Capitol Plaza's phone number is (916) 446–0100. Written comments pertaining to the Advisory Board meeting should be sent to: Bureau of Land Management, National Wild Horse and Burro Program, WO–260, Attention: Ramona DeLorme, 1340 Financial Boulevard, Reno, Nevada, 89502–7147. Submit written comments pertaining to the Advisory Board meeting no later than close of business, April 5, 2005. See **SUPPLEMENTARY INFORMATION** section for electronic access and filing address.

FOR FURTHER INFORMATION CONTACT: Ramona DeLorme, Wild Horse and Burro Administrative Assistant, (775) 861–6583. Individuals who use a telecommunications device for the deaf (TDD) may reach *Ms. LeLorme* at any time by calling the Federal Information Relay Service at 1 (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Public Meeting

Under the authority of 43 CFR part 1784, the Wild Horse and Burro Advisory Board advises the Secretary of the Interior, the Director of the BLM, the Secretary of Agriculture, and the Chief of the Forest Service, on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands. The tentative agenda for the meeting is:

Monday, April 10, 2006 (8 a.m.–5 p.m.)

8 a.m. Call to Order & Introductions
8:15 a.m. Old Business:
  Approval of November 2005 Minutes
  Update Pending Litigation
8:45 a.m. Program Updates:
  Gathers
  Adoptions
  Facilities
  Forest Service Update
Break (9:30 a.m.–9:45 a.m.)
9:45 a.m. Program Updates (continued):
  Program Accomplishments
Lunch (11:45 a.m.–1 p.m.)
1 p.m. New Business
Break (2:30 p.m.–2:45 p.m.)
2:45 p.m. Board Recommendations
4 p.m. Public Comments
4:45 p.m. Recap/Summary/Next Meeting/Date/Site
5–6 p.m. Adjourn: Roundtable Discussion to Follow

The meeting site is accessible to individuals with disabilities. An individual with a disability needing an auxiliary aid to service to participate in the meeting, such as an interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under **FOR FURTHER INFORMATION CONTACT** two weeks before the scheduled meeting date. Although the BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

The Federal Advisory Committee Management Regulations [41 CFR 101–6.1015(b),] require BLM to publish in the **Federal Register** notice of a meeting 15 days prior to the meeting date.

II. Public Comment Procedures

Members of the public may make oral statements to the Advisory Board on April 10, 2006, at the appropriate point in the agenda. This opportunity is anticipated to occur at 4 p.m., local time. Persons wishing to make statements should register with the BLM by noon on April 10, 2006 at the meeting location. Depending on the number of speakers, the Advisory Board may limit the length of presentations. At

previous meetings, presentations have been limited to three minutes on length. Speakers should address the specific wild horse and burro-related topics listed on the agenda. Speakers must submit a written copy of their statement to the address listed in the **ADDRESSES** section or bring a written copy to the meeting.

Participation in the Advisory Board meeting is not a prerequisite for submission of written comments. The BLM invites written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendations. The BLM appreciates any and all comments, but those most useful and likely to influence decisions on management and protection of wild horses and burros are those that are either supported by quantitative information or studies or those that include citations to an analysis of applicable laws and regulations. Except for comments provided in electronic format, speakers should submit two copies of their written comments where feasible. The BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom of Information Act (FOIA) for a copy of your comments, the BLM will make them available in their entirety, including your name and address. However, if you do not want the BLM to release your name and address in response to a FOIA request, you must state this prominently at the beginning of your comment. The BLM will honor your request to the extent allowed by law. The BLM will release all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, in their entirety, including names and addresses.

Electronic Access and Filing Address

Speakers may transmit comments electronically via the Internet to: *Ramona_DeLorme@blm.gov*. Please include the identifier ''WH&B'' in the subject of your message and your name and address in the body of your message.

Dated: March 2, 2006.

Thomas H. Dyer,

Deputy Assistant Director, Renewable Resources and Planning.

[FR Doc. 06–2163 Filed 3–7–06; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–922–06–1310–FI; COC56695]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease COC56695 from Encana Oil and Gas (USA) Inc., for lands in San Miguel County, Colorado. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Milada Krasilinec, Land Law Examiner at (303) 239–3767.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $155 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease COC56695 effective December 1, 2005, under the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Dated: March 1, 2006.

Milada Krasilinec,

Land Law Examiner, Fluid Minerals Adjudication.

[FR Doc. E6–3236 Filed 3–7–06; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–5101–EU–G508; NMNM 107579]

Direct Sale of Public Land, Mud Springs, Hidalgo County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes to sell directly to Hollis and Dorothy Vaughn a parcel of public land in Hidalgo County, New Mexico, pursuant to sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA), at not less than the appraised market value.

DATES: Comments must be received by not later than April 24, 2006.

ADDRESSES: Comments should be sent to the District Manager, BLM, Las Cruces District Office, 1800 Marquess, Las Cruces, NM 88005.

FOR FURTHER INFORMATION CONTACT: Lori Allen, Realty Specialist, at (505) 525–4454 or by e-mail at *Lori_Allen@nm.blm.gov*.

SUPPLEMENTARY INFORMATION: The public land proposed for sale is described as follows:

New Mexico Principal Meridian

T. 18 S., R. 20 W.,
Sec. 12, N½NW¼NE¼SW¼.

The area described contains 5 acres, more or less.

The appraised market value for this parcel is $3,000. The Mimbres Resource Management Plan dated December 1993 makes allowance for a direct sale when the public interest would be served. In this case, the BLM authorized officer finds that the public interest would be best served by a direct sale to Hollis and Dorothy Vaughn to resolve an unintentional, unauthorized occupancy of public land managed by the BLM. In accordance with 43 CFR 2710.0–6(c)(3)(iii) and 43 CFR 2711.3–3(a), direct sale procedures are appropriate to resolve an inadvertent unauthorized occupancy of the land and to protect existing equities in the land. The unauthorized occupancy involves the encroachment of a large metal barn, corrals, and ranch equipment currently used by Hollis and Dorothy Vaughn. The Vaughns own the private property adjacent to the subject BLM parcel. The initial occupancy began when a previous private landowner built the improvements on the public land assuming it was part of their adjacent private ownership. Access to the subject BLM parcel is through private property owned by the Vaughns. The sale would assemble the public land to the Vaughn property, protect the improvements placed on the land by the previous private landowner, and resolve an inadvertent trespass. The parcel is the minimum size possible to ensure that all of the improvements are included. The proponent, Hollis and Dorothy Vaughn, will be allowed 30 days from receipt of a written offer to submit a deposit of at

least 20 percent of the appraised market value of the parcel, and 180 days thereafter to submit the balance.

The following rights, reservations, and conditions will be included in the patent conveying the land:

1. A reservation to the United States for a right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. The mineral interests being offered for conveyance have no known mineral value. Acceptance of a direct sale offer constitutes an application for conveyance of the mineral interest. In addition to the full purchase price, a nonrefundable fee of $50 will be required for the purchase of the mineral interests to be conveyed simultaneously with the sale of the land, in accordance with Section 209 of FLPMA (43 U.S.C. 1719).

3. On March 8, 2006 the land described is segregated from appropriation under the public land laws, including the general mining laws and leasing under the mineral leasing laws. Upon publication of this notice and until completion of the sale, BLM will no longer accept land use applications affecting the parcel identified for sale. The segregation effect of this notice shall terminate upon issuance of a patent, upon publication in the **Federal Register** of a termination notice, or on December 4, 2006, whichever occurs first.

Detailed information concerning this land sale, including the reservations, sale procedures and conditions, appraisal, planning and environmental documents, and mineral report is available for review at the BLM, Las Cruces District Office, 1800 Marquess, Las Cruces, NM 88005.

Objections will be reviewed by the Las Cruces District Manager who may sustain, vacate, or modify this realty action. In the absence of any objections, this proposal will become the final determination of the Department of the Interior.

Comments, including names, street addresses, and other contact information of respondents, will be available for public review. Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, street address, and other contact information (such as: Internet address, FAX or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. BLM will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

(Authority: 43 CFR 2711.1–2(a))

Dated: January 19, 2006.

Edwin L. Roberson,

District Manager, Las Cruces.

[FR Doc. E6–3249 Filed 3–7–06; 8:45 am]

BILLING CODE 4310–VC–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Preservation Technology and Training Board—National Center for Preservation Technology and Training: Meeting

AGENCY: National Park Service, U.S. Department of the Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. Appendix (1988)), that the Preservation Technology and Training Board (Board) of the National Center for Preservation Technology and Training, National Park Service will meet on Thursday, March 30, 2006, and Friday, March 31, 2006, in Natchitoches, Louisiana.

The Board was established by Congress to provide leadership, policy advice, and professional oversight to the National Park Service's National Center for Preservation Technology and Training (National Center) in compliance with Section 404 of the National Historic Preservation Act of 1966, as amended, (16 U.S.C. 470x–2(e)).

The Board will meet at the Headquarters of the National Center in Lee H. Nelson Hall on the campus of Northwestern State University, 645 University Parkway, Natchitoches, Louisiana 71457—telephone (318) 356–7444. The meeting will begin on Thursday, March 30, 2006 at 9 a.m., and end no later than 5 p.m., and on Friday, March 31, 2006 the meeting will begin at 9 a.m., and end no later than 12 noon.

The Board's meeting agenda will include: Review and comment on National Center operations priorities for FY 2006 and 2007; status of FY2006 National Center budget and initiatives; development and launch of the Lee H. Nelson Prize in Historic Preservation Technology; proposed Wingspread Conference on Sustainability in Preservation; and Board workgroup reports.

The Board meeting is open to the public. Facilities and space for accommodating members of the public are limited, however, and persons will be accommodated on a first come, first served basis. Any member of the public may file a written statement concerning any of the matters to be discussed by the Board.

Persons wishing more information concerning this meeting, or who wish to submit written statements, may contact: Mr. John A. Burns, Acting Assistant Associate Director, Heritage Preservation Assistance Programs, National Park Service, U.S. Department of the Interior, 1849 C Street, NW., Mail Stop 2250, Washington, DC 20240, telephone (202) 354–2118. Increased security in the Washington, DC area may cause delays in the delivery of the U.S. Mail or commercial delivery to government office buildings. In addition to U.S. Mail or commercial delivery, written comments may be sent by fax to Mr. Burns at (202) 371–6485.

Minutes of the meeting will be available for public inspection no later than 90 days after the meeting at the office of the Acting Assistant Associate Director, Heritage Preservation Assistance Programs, National Park Service, U.S. Department of the Interior, 1201 I Street, NW., Room 745, Washington, DC 20240, telephone (202) 354–2118.

Dated: February 27, 2006.

John A. Burns,

Acting Assistant Associate Director, Heritage Preservation Assistance Programs, National Park Service.

[FR Doc. E6–3289 Filed 3–7–06; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

March 2, 2005.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration.

Type of Review: Extension of currently approved collection.

Title: Employment Under Special Certificate of Apprentices, Messengers and Learners (including Student Learners).

OMB Number: 1215–0192.

Form Numbers: WH–205 and WH–209.

Frequency: On occasion and Annually.

Type of Response: Recordkeeping and Reporting.

Affected Public: Business or other for-profit; Individuals or households; Not-for-profit institutions; and State, Local, or Tribal Government.

Number of Respondents: 929.

Number of Annual Responses: 929.

Estimated Average Response Time: 30 minutes for Form WH–205 and 20 minutes for Form WH–209.

Total Annual Burden Hours: 465.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $390.

Description: Fair Labor Standards Act (FLSA) 14(a) requires that the Secretary of Labor, to the extent necessary to prevent curtailment of employment opportunities, provide by regulations or orders for the employment of categories of workers who, under special certificates, may be paid less than the statutory minimum wage. This section also authorizes the Secretary to set limitations on such employment as to time, number, proportion and length of service. These workers include apprentices, messengers and learners, including student-learners and student-workers. Regulations found at 29 CFR Part 520 contain the provisions that implement the FLSA 14(a) requirements. Form WH–205 is the application an employer uses to obtain a certificate to employ student-learners at wages lower than the general federal minimum wage. Form WH–209 is the application an employer uses to request a certificate authorizing the employer to employ learners and/or messengers at subminimum wage rates. There is no application form that employers complete to obtain authority from DOL to employ apprentices at subminimum wages.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. E6–3250 Filed 3–7–06; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Comment Request; Prohibited Transaction Class Exemption 2002–12, Cross-Trades of Securities by Index and Model-Driven Funds

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95). This program helps to ensure that respondents can provide the requested data in the desired format, that the reporting burden (time and financial resources) on the public is minimized, that the public can understand the Department's collection instruments, and that the Department can properly assess the impact of its information collection requirements on respondents. Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments on a proposed extension of the information collection provisions of Prohibited Transaction Class Exemption 2002–12, Cross-Trades of Securities by Index and Model-Driven Funds. A copy of the information collection request (ICR) can be obtained by contacting the individual shown in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section on or before May 8, 2006.

ADDRESSES: Direct all written comments to Susan G. Lahne, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5718, Washington, DC 20210, (202) 693–8410, FAX (202) 219–4745 (These are not toll-free numbers.). Comments may also be submitted electronically to the following Internet e-mail address: *ebsa.opr@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

PTE 2002–12 exempts certain transactions that would be prohibited under the Employee Retirement Income Security Act of 1974 (the Act or ERISA) and the Federal Employees' Retirement System Act (FERSA), and provides relief from certain sanctions of the Internal Revenue Code of 1986 (the Code). The exemption permits cross-trades of securities among Index and Model-Driven Funds (Funds) managed by managers (Managers), and among such Funds and certain large accounts (Large Accounts) that engage such Managers to carry out a specific portfolio restructuring program or to otherwise act as a ''trading adviser'' for such a program. By removing existing barriers to these types of transactions, the exemption increases the incidences of cross-trading, thereby lowering the transaction costs to plans in a number of ways from what they would be otherwise.

In order for the Department to grant an exemption for a transaction or class of transactions that would otherwise be prohibited under ERISA, the statute requires the Department to make a finding that the exemption is administratively feasible, in the interest of the plan and its participants and beneficiaries, and protective of the rights of the participants and beneficiaries. To ensure that Managers have complied with the requirements of the exemption, the Department has included in the exemption certain recordkeeping and disclosure

obligations that are designed to safeguard plan assets by periodically providing information to plan fiduciaries, who generally must be independent, about the cross-trading program. Initially, where plans are not invested in Funds, Managers must furnish information to plan fiduciaries about the cross-trading program, provide a statement that the Manager will have a potentially conflicting division of loyalties, and obtain written authorization from a plan fiduciary for a plan to participate in a cross-trading program. For plans that are currently invested in Funds, the Manager must provide annual notices to update the plan fiduciary and provide the plan with an opportunity to withdraw from the program. For Large Accounts, prior to the cross-trade, the Manager must provide information about the cross-trading program and obtain written authorization from the fiduciary of a Large Account to engage in cross-trading in connection with a portfolio restructuring program. Following completion of the Large Account's restructuring, information must be provided by the Manager about all cross-trades executed in connection with a portfolio-restructuring program. Finally, the exemption requires that Managers maintain for a period of 6 years from the date of each cross-trade the records necessary to enable plan fiduciaries and certain other persons specified in the exemption (*e.g.*, Department representatives or contributing employers), to determine whether the conditions of the exemption have been met.

EBSA previously submitted the information collection provisions of PTE 2002–12 to the Office of Management and Budget (OMB) for review in connection with promulgation of the prohibited transaction exemption. OMB approved the information collection request (ICR) under OMB Control No. 1210–0115. The ICR approval is currently scheduled to expire on June 30, 2006.

II. Desired Focus of Comments

The Department of Labor (Department) is particularly interested in comments that:

- Provide information related to the number of entities offering Index and Model-Driven Funds and their client plans, and the number of Large Accounts that may make use of the exemption;
- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluate the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

This notice requests comments on an extension of the information collections in PTE 2002–12. After considering comments received in response to this notice, the Department intends to submit the ICR to OMB for continuing approval. Extension of the information collection provision of the exemption is important because, without the disclosures and recordkeeping provided for in the exemption, participants' and beneficiaries' investments in a pension plan might not be adequately protected. In addition, Managers that cross trade securities among Funds or cross trade securities in connection with the restructuring of a portfolio of a Large Account would be subject to statutorily imposed sanctions under ERISA. Lastly, the exemption provides a benefit to plans and participants through savings that result from index/model cross-trading. No change to the existing ICR is being proposed or made at this time. A summary of the ICR and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Prohibited Transaction Class Exemption 2002–12, Cross-Trades of Securities by Index and Model-Driven Funds.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0115.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 60.

Responses: 840.

Estimated Total Burden Hours: 4,328.

Estimated Total Burden Cost (Operating and Maintenance): $95,659.

Comments submitted in response to this notice will be summarized and/or included in the ICR submitted to OMB for approval; they will also become a matter of public record.

Dated: March 2, 2006.

Susan G. Lahne,

Office of Policy and Research, Employee Benefits Security Employee Benefits Security Administration.Administration.

[FR Doc. E6–3235 Filed 3–7–06; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Proposed Collection; Comment Request

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) is soliciting public comments on the proposed information collection described below. The proposed information collection will be sent to the Office of Management and Budget (OMB) for review, as required by the provisions of the Paperwork Reduction Act of 1995.

DATES: Comments on this information collection must be submitted on or before May 8, 2006.

ADDRESSES: Send comments to Ms. Susan Daisey, Director, Office of Grant Management, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW, Room 311, Washington, DC 20506, or by e-mail to: *sdaisey@neh.gov*. Telephone: 202–606–8494

SUPPLEMENTARY INFORMATION: The National Endowment for the Humanities will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (Pub. L 104–13, 44 U.S.C. Chapter 35). This notice is soliciting comments from members of the public and affected agencies. NEH is particularly interested in comments which help the agency to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate electronic collection

techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

This Notice also lists the following information:

Type of Review: Extension of a currently approved collection.

Agency: National Endowment for the Humanities.

Title of Proposal: Generic Clearance Authority for the National Endowment for the Humanities.

OMB Number: 3136–0134.

Affected Public: Applicants to NEH grant programs, reviewers of NEH grant applications, and NEH award recipients.

Total Respondents: 8,762.

Frequency of Collection: On occasion.

Total Responses: 8,762.

Average Time per Response: Varied according to type of information collection.

Estimated Total Burden Hours: 74,979 hours.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request. They will also become a matter of public record.

Brett Bobley,

Chief Information Officer, National Endowment for the Humanities.

[FR Doc. E6–3234 Filed 3–7–06; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Notice of the Availability of an Environmental Assessment

AGENCY: National Science Foundation.

ACTION: Notice of availability of a draft Environmental Assessment for proposed activities in the Arctic Ocean.

SUMMARY: The National Science Foundation gives notice of the availability of a draft Environmental Assessment for proposed activities in the Arctic Ocean.

The Office of Polar Programs (OPP) has prepared an Environmental Assessment of a marine geophysical survey by the Coast Guard cutter *Healy* in the western Canada Basin, Chukchi Borderland and Mendeleev Ridge, Arctic Ocean, during July—August, 2006. Given the United States Arctic Program's mission to support polar research, the proposed action is expected to result in substantial benefits to science. The draft Environmental Assessment is available for public review for a 30-day period.

DATES: Comments must be submitted on or before April 7, 2006.

ADDRESSES: Copies of the draft Environmental Assessment are available upon request from: Dr. Polly A. Penhale, National Science Foundation, Office of Polar Programs, 4201 Wilson Blvd., Suite 755, Arlington, VA 22230 at 703–292–8031 or *ppenhale@nsf.gov* or at the agency's Web site at *http://www.nsf.gov/od/opp/arctic/arc_envir/healy_ea_06.pdf.*

SUPPLEMENTARY INFORMATION: The University of Texas, Austin, with research funding from the National Science Foundation plans to conduct a marine seismic survey in the western Canada Basin, Chukchi Borderland and Mendeleev Ridge, Arctic Ocean, during the period of 15 July to 25 August 2006 (approximately). This project will include collection of seismic reflection and refraction data as well as sediment coring intended to collect crustal structure samples. The purpose of the seismic survey is to study the origin and kinematics of the Amerasian Basin's opening. The data collected will be used to analyze the internal structure of the ridges and plateaus of the Amerasian basin allowing current theories of its formation to be tested. The proposed study will consists of a geophysical survey in the Arctic Ocean with seven interspersed periods of coring.

Several species of cetaceans and pinnipeds inhabit the Arctic Ocean. The increased underwater noise from the research may result in avoidance behavior by some marine mammals and fish, and other forms of disturbance. An integral part of the planned survey is a monitoring and mitigation program to minimize impacts of the proposed activities on marine species present, and on fishing and subsistence activities, and to document the nature and extent of any effects. Injurious impacts to marine mammals have not been proven to occur near equipment proposed to be used in this research; however, the planned monitoring and mitigation measures would minimize the possibility of such effects should they otherwise occur.

With the planned monitoring and mitigation measures, unavoidable impacts to each of the species of marine mammal that might be encountered are expected to be limited to short-term localized changes in behavior and distribution near the seismic vessel. At most, such effects may be interpreted as falling within the Marine Mammal Protection Act (MMPA) definition of ''Level B Harassment'' for those species managed by the National Marine Fisheries Service. No long-term or significant effects are expected on individual marine mammals, or the populations to which they belong, or their habitats. The agency is currently consulting with both the National Marine Fisheries Service and the Fish & Wildlife Service regarding species within their respective jurisdictions potentially affected by this proposed activity.

Copies of the draft Environmental Assessment entitled ''Environmental Assessment of a Marine Geophysical Survey by the USCG *Healy* of the Western Canada Basin, Chukchi Borderland and Mendeleev Ridge, Arctic Ocean, July–August 2006'' are available upon request from: Dr. Polly A. Penhale, National Science Foundation, Office of Polar Programs, 4201 Wilson Blvd., Suite 755, Arlington, VA 22230 at 703–292–8031 or *ppenhale@nsf.gov.* or at the agency's website at *http://www.nsf.gov/od/opp/arctic/arc_envir/healy_ea_06.pdf.*

The National Science Foundation invites interested members of the public to provide written comments on this draft Environmental Assessment.

Polly A. Penhale,

Environmental Officer, Office of Polar Programs, National Science Foundation.

[FR Doc. 06–2192 Filed 3–7–06; 8:45 am]

BILLING CODE 7555–01–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act; Regular Board of Directors Meeting

TIME AND DATE: 9:30 a.m., Friday, March 10, 2006.

PLACE: Neighborhood Reinvestment Corporation, DBA NeighborWorks® America, 1325 G Street NW., Suite 800, Boardroom, Washington, DC 20005.

STATUS: Open/Closed.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary. 202–220–2372; *jbryson@nw.org.*

AGENDA:

I. Call to Order: Chairman Curry.

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

II. Approval of the Minutes: December 19, 2005 Regular Meeting.

III. Summary Report of the Audit Committee: January 20, 2006 Meeting. (Ms. Williams will be available to answer questions.)

IV. Summary Report of the Finance, Budget and Program Committee: February 2, 2006 Meeting. (Mr. Reich will be available to answer questions.)

• Treasurer's Report for the Quarter ending December 31, 2005. (Mr. Tuminaro will be available to answer questions.)

V. Resolution Recognizing Doug Dylla's Contributions.

Closed Session

After conclusion of the Discussion Agenda, the Board will meet in closed session to discuss personnel issues concerning performance evaluations and compensation for the officers and internal audit director.

VI. Corporate Administration Committee Report: March 9, 2006, Mr. Hood.

Discussion Agenda

VII. Chief Executive Officer's Quarterly Management Report: Mr. Wade.

• NHSA Update: Ms. Widener.

VIII. Katrina Rebuilding Initiative: Mr. Fitzgerald.

IX. Strategic Plan Update: Mr. Wade.

X. Adjournment: Chairman Curry.

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 06–2232 Filed 3–3–06; 5:01 pm]

BILLING CODE 7570–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection: Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 62—''Criteria and Procedures for Emergency Access to Non-Federal and Regional Low-Level Waste Disposal Facilities.''

2. *Current OMB approval number:* 3150–0158.

3. *How often the collection is required:* The collection would only be required upon application for an exemption or when access to a non-Federal low-level waste disposal facility is denied, which results in a public health and safety and/or common defense and security concern.

4. *Who is required or asked to report:* Generators of low-level waste who are denied access to a non-Federal low-level waste facility.

5. *The estimated number of annual respondents:* 2 (No exemptions or requests for emergency access has been recorded to date).

6. *The number of hours needed annually to complete the requirement or request:* 233.

7. *Abstract:* 10 CFR part 62 sets out the information which must be provided to the NRC by any low-level waste generator seeking emergency access to an operating low-level waste disposal facility. The information is required to allow NRC to determine if denial of disposal constitutes a serious and immediate threat to public health and safety or common defense and security. 10 CFR part 62 also provides that the Commission may grant an exemption from the requirements in this Part upon application of an interested person or upon its own initiative.

Submit, by May 8, 2006 comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–5 F53, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail to *INFOCOLLECTS@NRC.GOV.*

Dated at Rockville, Maryland, this 1st day of March 2006.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E6–3292 Filed 3–7–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.; Notice of Issuance of Amendment to Facility Operating License and Final Determination of No Significant Hazards Consideration

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 229 to Facility Operating License No. DPR–28, issued to Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (the licensee), which revised the Technical Specifications (TSs) and License for operation of the Vermont Yankee Nuclear Power Station (VYNPS) located in Windham County, Vermont. The amendment was effective as of the date of its issuance.

The amendment increases the maximum authorized power level for VYNPS from 1593 megawatts thermal (MWt) to 1912 MWt, which is an increase of approximately 20 percent. The increase in power level is considered an extended power uprate.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

The Commission published a ''Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing'' related to this action in the **Federal Register** on July 1, 2004 (69 FR 39976). This Notice provided 60 days for the public to request a hearing. On August 30, 2004, the Vermont Department of Public Service and the New England Coalition filed requests for hearing in connection with the proposed amendment. By Order dated November 22, 2004, the Atomic Safety and Licensing Board (ASLB) granted those hearing requests and by Order dated December 16, 2004, the ASLB issued its decision to conduct a hearing using the procedures in 10 CFR part 2, subpart L,

''Informal Hearing Procedures for NRC Adjudications.''

The Commission published a ''Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination'' related to this action in the **Federal Register** on January 11, 2006 (71 FR 1744). This Notice provided 30 days for public comment. The Commission received comments on the proposed no significant hazards consideration as discussed below.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. Public comments received on the proposed no significant hazards consideration determination were considered in making the final determination. The basis for this determination is contained in the Safety Evaluation related to this action. Accordingly, as described above, the amendment has been issued and made immediately effective and any hearing will be held after issuance.

The Commission published an Environmental Assessment related to the action in the **Federal Register** on January 27, 2006 (71 FR 4614). Based on the Environmental Assessment, the Commission concluded that the action will not have a significant effect on the quality of the human environment. Accordingly, the Commission determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the application for amendment dated September 10, 2003, as supplemented by letters dated October 1, and October 28 (2 letters), 2003; January 31 (2 letters), March 4, May 19, July 2, July 27, July 30, August 12, August 25, September 14, September 15, September 23, September 30 (2 letters), October 5, October 7 (2 letters), December 8, and December 9, 2004; February 24, March 10, March 24, March 31, April 5, April 22, June 2, August 1, August 4, September 10, September 14, September 18, September 28, October 17, October 21 (2 letters), October 26, October 29, November 2, November 22, and December 2, 2005; January 10, and February 22, 2006, which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 2nd day of March, 2006.

For the Nuclear Regulatory Commission.

Richard B. Ennis,

Senior Project Manager, Plant Licensing Branch I–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–3291 Filed 3–7–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated January 25, 2006, as supplemented by the letter dated February 2, 2006, David Lochbaum, acting on behalf of the Union of Concerned Scientists and numerous other organizations and individuals, has requested that the Nuclear Regulatory Commission (NRC) take action with regard to nuclear power reactors and research and test reactors licensed by the NRC that are either operating or undergoing decommissioning. The petitioners request that the NRC issue a Demand for Information (DFI) to each licensee for the subject facilities that would require them to provide information related to systems, programs, and monitoring activities related to the potential release of water contaminated with radioactive materials.

As the basis for this request, the petitioners describe several cases of contamination at nuclear facilities and the uncontrolled release of radioactively contaminated water from NRC-licensed facilities. The petitioners' cite NRC regulations requiring licensees to have controls to limit the release of radioactive materials and to limit the radiation dose individuals receive from the operation of NRC-licensed facilities. The petitioners request the issuance of a DFI to the subject licensees to verify compliance with NRC regulations and to support assessments of the potential public health threat from such releases of radioactively contaminated water.

The request is being treated pursuant to § 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206). The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by 10 CFR 2.206, appropriate action will be taken on this petition within a reasonable time.

A copy of the petition and the supplemental letter are available in the NRC's Agencywide Documents Access and Management System (ADAMS) for inspection under Accession Nos. ML060330228 and ML060400179 at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the NRC Web site (*http://www.nrc.gov/reading-rm/adams.html*). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 1st day of March 2006.

For the Nuclear Regulatory Commission.

Christopher I. Grimes,

Director, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. E6–3293 Filed 3–7–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Interim Staff Guidance Documents for Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: James Smith, Project Manager, Technical Support Group, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20005–0001. Telephone: (301) 415–6459; fax number: (301) 415–5370; e-mail: *jas4@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is preparing and issuing Interim Staff Guidance (ISG) documents for fuel cycle facilities. These ISG documents provide clarifying guidance to the NRC staff when reviewing licensee integrated safety analyses, license applications or amendment requests or other related licensing activities for fuel cycle facilities under Subpart H of 10 CFR Part 70. The NRC is making available in final one ISG document (FCSS-ISG–05), which was previously issued for comment in September 2004. Additions and changes have been made in response to comments from the public and members of the NRC staff.

II. Summary

The purpose of this notice is to provide the public with the final version of an interim staff guidance (ISG) document for fuel cycle facilities. FCSS-ISG–05, Rev. 0 discusses the effective dates for the additional reporting requirements of 10 CFR 70.74 and Appendix A to 10 CFR Part 70, and the applicability of NRC Bulletin 91–01, ''Reporting Loss of Criticality Safety Controls.''

III. Further Information

Documents related to this action are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession number for the document related to this notice is provided in the following table. If you do not have access to ADAMS or if there are problems in accessing the document located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Interim staff guidance	ADAMS accession No.
FCSS Interim Staff Guidance–05, Rev. 0.	ML053630228.

This document may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee. Questions on the ISG can be directed to James Smith, Project Manager, Technical Support Group, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20005–0001.

Comments can also be submitted by telephone, fax, or e-mail which are as follows: Telephone: (301) 415–6459; fax number: (301) 415–5370; e-mail: *jas4@nrc.gov*.

Dated at Rockville, Maryland this 27th day of February, 2006.

For the Nuclear Regulatory Commission.

Melanie A. Galloway,

Chief, Technical Support Group, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

Division of Fuel Cycle Safety and Safeguards; FCSS Interim Staff Guidance–05, Revision 0; Additional Reporting Requirements of 10 CFR 70.74

Issue

Effective dates for the additional reporting requirements of 10 CFR 70.74, Appendix A to 10 CFR Part 70, and NRC Bulletin 91–01, ''Reporting Loss of Criticality Safety Controls.''

Introduction

The purpose of this Interim Staff Guidance (ISG) is to clarify what parts of Appendix A to 10 CFR Part 70 are effective as of October 18, 2000; what parts are effective after the submittal of the Integrated Safety Analysis (ISA) Summary, in accordance with 10 CFR 70.62(c)(3)(ii); and when the reporting requirements in NRC Bulletin 91–01, currently referenced in fuel cycle licenses, are superceded by the requirements of 10 CFR 70.74.

This ISG supplements information in Sections 5.4.1, 5.4.3.4.7, and 11.4.3.6 of NUREG–1520, ''Standard Review Plan for the Review of a License Application for a Fuel Cycle Facility.''

The information in NUREG–1718 is not affected by this ISG, because a mixed-oxide (MOX) fuel fabrication facility would be a new facility, and therefore (as with any other new Part 70 facilities) the complete submittal of an ISA Summary (*i.e.*, an ISA Summary covering the entire facility) would be necessary before an operating license could be granted. Thus, all requirements of Appendix A to 10 CFR Part 70 would apply to a facility of this type and the provisions of NRC Bulletin 91–01 would not apply.

Background on 10 CFR Part 20 and NRC Bulletin 91–01

BL–91–01 noted that an immediate report was required by 10 CFR 20.403(a)(1)[now 20.2202(a)(1)] if an event threatened to cause an exposure exceeding 25 rem total effective dose equivalent. The bulletin explained that the NRC considers the loss of a criticality control to threaten an event that may cause an exposure > 25 rem; therefore, it requires an immediate report under 10 CFR Part 20. Equipment-related controls may also require an immediate report under 10 CFR 70.50(a). In response to the original bulletin issued in 1991, licenses noted that some criticality controls are more significant than others and committed to reporting the loss of less significant criticality controls than those requiring immediate reports under 10 CFR 20.403(a)(1) and 10 CFR 70.50(a). In addition, it was acceptable for licensees to report the loss of less significant criticality controls in accordance with the commitments made in response to the original bulletin.

Discussion

After October 18, 2000, existing licensees must comply with the reporting requirements of (a)(1), (a)(2), and (b)(4) of Appendix A to Part 70. The new reporting requirements require reporting to the NRC Operations Center: (1) Within 1 hour, an inadvertent nuclear criticality, and an acute intake by an individual of 30 mg or greater of uranium in a soluble form; and (2) within 24 hours any natural phenomenon or other external event (including fires internal or external to the facility) to the facility that has affected or may have affected the intended safety function, availability, or reliability of one or more items relied on for safety. The remaining reporting requirements listed in Appendix A were held in abeyance until after the complete submittal of the ISA Summary, required by October 18, 2004, in accordance with 10 CFR 70.62(c)(3)(ii).

''Complete submittal'' means that an ISA summary that includes the entire facility and all licensed processes must have been submitted to NRC. Partial ISA Summary submittals under 10 CFR 70.62(c)(3)(ii) or as part of a license amendment do not meet this criterion.

Many existing fuel facility licenses include reporting requirements in accordance with NRC Bulletin 91–01. Following complete submittal of the ISA Summary, these remain conditions of these licenses until NRC has issued a licensing action to delete these requirements. Therefore, between October 18, 2000, and complete submittal of the ISA Summary, both the requirements of Bulletin 91–01 (as committed to in the license) and paragraphs (a)(1), (a)(2), and (b)(4) of Appendix A of Part 70 apply. Following complete submittal, the NRC Bulletin

91–01 requirements in the license will be superceded by the requirements of 10 CFR 70.74 upon issuance of an NRC licensing action to effect this change. It should also be noted that additional immediate reporting requirements in 10 CFR 20.2202(a) and 10 CFR 70.50(a) still apply.

A new facility would require submittal of an ISA Summary prior to being licensed, and thus, for a new Part 70 facility, all the provisions of Appendix A to Part 70 apply.

Regulatory Basis

Each licensee shall report to the NRC Operations Center the events described in Appendix A to Part 70. [10 CFR 70.74(a)(1)]

Per Appendix A to Part 70, licensees must comply with the reporting requirements in this appendix, except for (a)(1), (a)(2), and (b)(4), after they have submitted an ISA Summary in accordance with 10 CFR 70.62(c)(3)(ii). However, after October 18, 2000, licensees must comply with (a)(1), (a)(2), and (b)(4).

Specific reporting requirements are contained in paragraphs (a), (b), and (c) of Appendix A to Part 70.

Technical Review Guidance

The staff has concluded that a licensee complies with the reporting requirements of its license and 10 CFR Part 70 provided that the following is met:

- An existing licensee has committed to report the events listed under paragraphs (a)(1), (a)(2), and (b)(4), of Appendix A of Part 70.
- An existing licensee has committed to reporting all events listed under Appendix A of Part 70 upon complete submittal of its ISA Summary, as required under 10 CFR 70.62(c)(3)(ii).
- An existing licensee has committed to reporting the loss of double contingency protection, as required by its license commitments to follow NRC Bulletin 91–01, until such time that an NRC licensing action has eliminated the reference to NRC Bulletin 91–01 requirements.
- A new applicant has committed to reporting all events listed under Appendix A of Part 70 upon complete submittal of its ISA Summary as required under 10 CFR 70.62(c)(3)(ii).

Recommendation

Whereas the complete submittal of a licensee's ISA Summary was required no later than October 18, 2004 (per 10 CFR 70.62(c)(3)(ii)), no change to NUREG–1520 is warranted to reference NRC Bulletin 91–01. All the provisions of Appendix A of Part 70 will apply upon complete submittal of the ISA Summary. In addition, current license provisions requiring additional reporting will remain in effect until issuance of an NRC licensing action to effect this change.

References

NRC Bulletin 91–01, ''Reporting Loss of Criticality Safety Controls,'' October 18, 1991.

NRC Bulletin 91–01, Supplement 1, ''Reporting Loss of Criticality Safety Controls,'' July 27, 1993.

Approved: February 28, 2006.

Robert C. Pierson,

Director, NMSS/FCSS.

[FR Doc. E6–3324 Filed 3–7–06; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Paperwork Reduction Act Notice of Collection of Applications for Dispute Settlement Rosters

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments on the collection of applications.

SUMMARY: Free trade agreements entered into by the United States require the establishment of lists or rosters of individuals that would be available to serve as panelists in dispute settlement proceedings. From time to time, the Office of the United States Trade Representative (USTR) will collect applications from people who wish to serve on those panels. USTR solicited comments from the public on this proposed collection of information and received none. Therefore no changes have been made to the proposed collection. USTR is now submitting a request for approval to the Office of Management and Budget pursuant to the Paperwork Reduction Act.

DATES: Comments regarding this collection of information should be received no later than April 8, 2006.

ADDRESSES: Comments should be submitted to David Rostker in the Office of Information and Regulatory Affairs, Office of Management and Budget. Fax number, (202) 395–7285, or by e-mail to *David_Rostker@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: David Apol, Office of the United States Trade Representative, (202) 395–9633.

SUPPLEMENTARY INFORMATION:

Dispute Settlement Mechanisms of U.S. Free Trade Agreements

U.S. free trade agreements set out detailed procedures for the resolution of disputes over compliance with the obligations set out in each agreement. Generally, dispute settlement involves three stages: (1) Lower level consultations between the disputing Parties to try to arrive at a mutually satisfactory resolution of the matter; (2) cabinet-level consultations; and (3) resort to a neutral panel to make a determination as to whether a Party is in compliance with its obligations under the agreement. This panel is composed of individuals chosen by the Parties. The method by which the panel is selected varies between agreements. Some agreements require the establishment of a roster, from which panelists shall normally be selected. See e.g. Chile FTA, Article 22.7. Other agreements allow the Parties to select anyone as a panelist, after consultations, but provide for a contingent list from which panelists can be selected by lot, if the Parties do not otherwise select a panelist. See e.g. Singapore FTA, Article 20.4; Australia FTA, Article 21.7; Morocco FTA, Article 20.7.

Eligible individuals who wish to be considered for the various rosters and lists will be invited to submit applications. Persons submitting applications may either send one copy by fax or transmit a copy electronically. Applications must be typewritten, and should be headed ''Application for Consideration as an FTA Panelist.'' Applicants will be asked to include the following information:

1. Name of the applicant.
2. Business address, telephone number, fax number, and e-mail address.
3. Citizenship(s).
4. Agreement or agreements for which the applicant wishes to be considered.
5. Current employment, including title, description of responsibility, and name and address of employer.
6. Relevant education and professional training.
7. Relevant language fluency, written and spoken.
8. Post-education employment history, including the dates and addresses of each prior position and a summary of responsibilities.
9. Relevant professional affiliations and certifications, including, if any, current bar memberships in good standing.
10. A list and copies of publications, testimony, and speeches, if any, concerning the relevant area of expertise. Judges or former judges

should list relevant judicial decisions. Only one copy of publications, testimony, speeches, and decisions need be submitted.

11. Summary of any current and past employment by, or consulting or other work for, the Government of the United States or for the government of the other Party to the agreement for which you are to be considered (e.g. NAFTA, Singapore, Chile, Australia, or Morocco).

12. The names and nationalities of all foreign principals for whom the applicant is currently or has previously been registered pursuant to the Foreign Agents Registration Act, 22 U.S.C. 611 *et seq.*, and the dates of all registration periods.

13. A short statement of qualifications and availability for service on FTA dispute settlement panels, including information relevant to the applicant's familiarity with international trade law and willingness and ability to make time commitments necessary for service on panels.

14. On a separate page, the names, addresses, telephone and fax numbers of three individuals willing to provide information concerning the applicant's qualifications for service, including the applicant's character, reputation, reliability, judgment, and familiarity with international trade law.

15. Information regarding any specific skill or experience which may be relevant to a specific panel for which the applicant is applying.

Paperwork Burden

It is estimated that approximately 150 individuals a year will submit applications for various panels and that it will take each applicant approximately three hours to compile their applications for a total paperwork burden of 450 hours a year. The recordkeeping cost of maintaining the information received will be minimal.

David Apol,

Associate General Counsel, Office of the United States Trade Representative.

[FR Doc. 06–2201 Filed 3–7–06; 8:45am]

BILLING CODE 3190–W6–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B, and C in the excepted service as required by 5 CFR 6.6 and 213.103.

FOR FURTHER INFORMATION CONTACT: David Guilford, Center for Leadership and Executive Resources Policy, Division for Strategic Human Resources Policy, 202–606–1391.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedules A, B, and C between January 1, 2006, and January 31, 2006. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 is published each year.

Schedule A

No Schedule A appointments were approved for January 2006.

Schedule B

No Schedule B appointments were approved for January 2006.

Schedule C

The following Schedule C appointments were approved during January 2006:

Section 213.3303 Executive Office of the President

Office of National Drug Control Policy

QQGS60086 Staff Assistant to the Counselor to the Deputy Director. Effective January 06, 2006.

QQGS60084 Public Affairs Specialist to the Chief of Staff. Effective January 17, 2006.

Office of the United States Trade Representative

TNGS00020 Confidential Assistant to the Deputy United States Trade Representative. Effective January 18, 2006.

Section 213.3304 Department of State

DSGS61009 Senior Advisor to the Assistant Secretary for International Organizational Affairs. Effective January 03, 2006.

DSGS61023 Senior Advisor to the Assistant Secretary for Near Eastern and South Asian Affairs. Effective January 04, 2006.

DSGS61025 Public Affairs Specialist to the Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome Coordinator. Effective January 04, 2006.

DSGS61026 Special Assistant to the Under Secretary for Public Diplomacy and Public Affairs. Effective January 04, 2006.

DSGS61029 Protocol Officer to the Deputy Chief of Protocol. Effective January 06, 2006.

DSGS61030 Staff Assistant to the Assistant Secretary for International Organizational Affairs. Effective January 17, 2006.

DSGS61031 Senior Advisor to the Under Secretary for Economic Business and Agricricultural Affairs. Effective January 17, 2006.

DSGS61028 Program Officer (Foreign Press Officer) to the Assistant Secretary for Public Affairs. Effective January 25, 2006.

DSGS61033 Public Affairs Specialist to the Principal Deputy Assistant Secretary. Effective January 25, 2006.

DSGS61024 Special Assistant to the Principal Deputy Assistant Secretary. Effective January 27, 2006.

Section 213.3305 Department of the Treasury

DYGS00464 Special Assistant to the Assistant Secretary (Deputy Under Secretary) Legislative Affairs. Effective January 20, 2006.

DYGS00465 Special Assistant to the Assistant Secretary (Management) and Chief Financial Officer. Effective January 20, 2006.

DYGS00375 Director of Legislative and Governmental Affairs to the Director of the Mint. Effective January 26, 2006.

Section 213.3306 Office of the Secretary of Defense

DDGS16916 Research Assistant to the Deputy Assistant Secretary of Defense (Strategic Communications Planning). Effective January 04, 2006.

DDGS16915 Special Assistant to the Principal Deputy Assistant Secretary of Defense (Legal Affairs). Effective January 06, 2006.

DDGS16917 Confidential Assistant to the Director of Defense Research and Engineering. Effective January 24, 2006.

DDGS16913 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison. Effective January 31, 2006.

Section 213.3307 Department of the Army

DWGS00064 Personal and Confidential Assistant to the Assistant Secretary of the Army (Financial Management and Comptroller). Effective January 17, 2006.

DWGS00067 Confidential Assistant to the Deputy Under Secretary of the Army. Effective January 17, 2006.

DWGS60019 Business Transformation Initiatives Analyst to the Special Assistant to the Secretary of the Army for Business Transformation Initiatives. Effective January 24, 2006.

Section 213.3310 Department of Justice

DJGS00154 Speechwriter to the Director, Office of Public Affairs. Effective January 24, 2006.
DJGS00033 Counsel to the Assistant Attorney General, Anti-trust Division. Effective January 25, 2006.
DJGS00125 Special Assistant to the Assistant Attorney General, Anti-trust Division. Effective January 25, 2006.
DJGS00143 Counsel to the Assistant Attorney General, Criminal Division. Effective January 27, 2006.

Section 213.3311 Department of Homeland Security

DMGS00464 Confidential Assistant Briefing Book to the Executive Secretary. Effective January 10, 2006.
DMGS00454 Special Advisor for Refugee and Asylum Affairs to the Assistant Secretary for Policy. Effective January 17, 2006.
DMGS00459 Assistant Director of Legislative Affairs for Information Analysis and Operations to the Assistant Secretary for Legislative Affairs. Effective January 17, 2006.
DMGS00460 Associate Director of Strategic Communications for Policy to the Director of Strategic Communications. Effective January 17, 2006.
DMGS00461 Special Assistant to the Executive Secretary and Deputy Executive Secretary. Effective January 17, 2006
DMGS00463 Correspondence Analyst to the Executive Secretary. Effective January 17, 2006.
DMGS00465 Special Assistant to the Under Secretary for Preparedness. Effective January 17, 2006.
DMGS00466 Senior Legislative Assistant to the Assistant Secretary for Legislative Affairs. Effective January 17, 2006.
DMGS00462 Director of Information Integration and Special Assistant to the Chief of Staff. Effective January 18, 2006.
DMGS00470 Chief of Staff, Office of Grants and Training to the Executive Director, Office of Grants and Training. Effective January 20, 2006.
DMGS00467 Advisor to the Director to the White House Liaison. Effective January 25, 2006.
DMGS00471 Special Assistant to the Under Secretary for Preparedness. Effective January 27, 2006.
DMGS00472 Correspondence Analyst to the Executive Secretary. Effective January 27, 2006.
DMGS00476 Legislative Assistant to the Assistant Secretary for Legislative Affairs. Effective January 31, 2006.

Section 213.3312 Department of the Interior

DIGS01053 Chief of Staff to the Assistant Secretary for Policy Management and Budget. Effective January 06, 2006.
DIGS01054 Press Secretary to the Director, Office of Communications. Effective January 10, 2006.
DIGS01055 Deputy White House Liaison to the White House Liaison. Effective January 17, 2006.
DIGS01057 Special Assistant to the Director, External and Intergovernmental Affairs. Effective January 17, 2006.

Section 213.3313 Department of Agriculture

DAGS00837 Confidential Assistant to the Under Secretary for Rural Development. Effective January 06, 2006.
DAGS00838 Confidential Assistant to the Administrator to the Deputy Under Secretary for Marketing and Regulatory Programs. Effective January 06, 2006.
DAGS00841 Confidential Assistant to the Administrator, Food and Nutrition Service. Effective January 30, 2006.

Section 213.3314 Department of Commerce

DCGS00413 Confidential Assistant to the Director, Office of White House Liaison. Effective January 03, 2006.
DCGS00205 Special Assistant to the Chief of Staff. Effective January 06, 2006.
DCGS00367 Confidential Assistant to the Director, Office of Legislative Affairs. Effective January 06, 2006.
DCGS00418 Confidential Assistant to the Associate Director for Communications. Effective January 06, 2006.
DCGS00450 Senior Policy Advisor to the Director. Effective January 06, 2006.
DCGS00572 Confidential Assistant to the Director, Advocacy Center. Effective January 06, 2006.
DCGS00637 Special Assistant to the Director, Advocacy Center. Effective January 06, 2006.
DCGS00355 Confidential Assistant to the Assistant Secretary for Market Access and Compliance. Effective January 20, 2006.
DCGS00630 Executive Director to the National Director, Minority Business Development Agency. Effective January 20, 2006.
DCGS00645 Senior Advisor to the Assistant Secretary for Export Enforcement. Effective January 20, 2006.

Section 213.3315 Department of Labor

DLGS60066 Special Assistant to the Deputy Assistant Secretary for Federal Contract Compliance. Effective January 06, 2006.
DLGS60247 Intergovernmental Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective January 06, 2006.
DLGS60003 Special Assistant to the Director of Operations. Effective January 10, 2006.
DLGS60197 Legislative Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective January 17, 2006.
DLGS60041 Staff Assistant to the Director of Operations. Effective January 18, 2006.
DLGS60017 Senior Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective January 24, 2006.
DLGS60141 Special Assistant to the Deputy Assistant Secretary for Labor-Management Programs. Effective January 24, 2006.
DLGS60211 Special Assistant to the Director of Scheduling. Effective January 24, 2006.

Section 213.3316 Department of Health and Human Services

DHGS60028 Special Assistant to the Chief of Staff. Effective January 03, 2006.

Section 213.3317 Department of Education

DBGS00494 Special Assistant to the Assistant Secretary for Postsecondary Education. Effective January 06, 2006.
DBGS00496 Special Assistant to the Assistant Secretary for Management. Effective January 06, 2006.
DBGS00499 Director, Intergovernmental Affairs to the Deputy Assistant Secretary for External Affairs and Outreach Services. Effective January 06, 2006.
DBGS00493 Confidential Assistant to the Chief of Staff. Effective January 18, 2006.
DBGS00500 Confidential Assistant to the Chief of Staff. Effective January 18, 2006.
DBGS00502 Deputy Assistant Secretary for Policy to the Assistant Secretary for Planning, Evaluation, and Policy Development. Effective January 18, 2006.
DBGS00495 Confidential Assistant to the Chief of Staff. Effective January 24, 2006.
DBGS00497 Deputy Assistant Secretary for Policy and State Technical Assistance to the Assistant Secretary for Elementary and

Secondary Education. Effective January 24, 2006.

DBGS00501 Special Assistant to the Deputy Secretary of Education. Effective January 24, 2006.

DBGS00503 Deputy Secretary's Regional Representative, Region 1 to the Director, Regional Services. Effective January 25, 2006.

DBGS00504 Confidential Assistant to the Secretary. Effective January 26, 2006.

Section 213.3318 Environmental Protection Agency

EPGS05006 Speech Writer to the Deputy Associate Administrator. Effective January 06, 2006.

EPGS05005 Deputy to the Press Secretary to the Deputy Associate Administrator. Effective January 27, 2006.

EPGS06000 Senior Policy Advisor to the Regional Administrator. Effective January 30, 2006.

Section 213.3325 United States Tax Court

JCGS60054 Secretary (Confidential Assistant) to the Chief Judge. Effective January 09, 2006.

Section 213.3328 Broadcasting Board of Governors

IBGS00022 Communications Coordinator to the Chairman, Broadcasting Board of Governors. Effective January 20, 2006.

Section 213.3330 Securities and Exchange Commission

SEOT60012 Investor Advocate to the Chairman. Effective January 27, 2006.

Section 213.3331 Department of Energy

DEGS00504 Special Assistant to the Director, Public Affairs. Effective January 12, 2006.

DEGS00505 Speechwriter to the Director, Public Affairs. Effective January 19, 2006.

DEGS00508 Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective January 19, 2006.

DEGS00502 Senior Advisor for Intergovernmental and External Affairs to the Deputy Assistant Secretary for Intergovernmental and External Affairs. Effective January 25, 2006.

DEGS00506 Special Program Assistant to the Assistant Secretary of Energy (Environmental Management). Effective January 25, 2006.

DEGS00509 Staff Assistant to the General Counsel. Effective January 25, 2006.

DEGS00510 Advance Representative to the Director, Office of Scheduling and Advance. Effective January 25, 2006.

Section 213.3337 General Services Administration

GSGS60024 Special Assistant to the Commissioner, Public Buildings Service. Effective January 24, 2006.

Section 213.3339 United States International Trade Commission

TCGS00010 Staff Assistant (Legal) to a Commissioner. Effective January 30, 2006.

Section 213.3352 Government Printing Office

GPOT00004 Public Affairs Specialist to the Deputy Chief of Staff. Effective January 20, 2006

Section 213.3353 Merit Systems Protection Board

MPGS00003 Confidential Assistant to a Board Member. Effective January 27, 2006.

Section 213.3357 National Credit Union Administration

CUOT01008 Senior Policy Advisor to a Member. Effective January 10, 2006.

CUOT09158 Director of Public and Congressional Affairs to the Chairman. Effective January 10, 2006.

Section 213.3384 Department of Housing and Urban Development

DUGS60273 Staff Assistant to the Deputy Secretary, Housing and Urban Development. Effective January 20, 2006.

Section 213.3394 Department of Transportation

DTGS60311 Special Assistant to the Director for Scheduling and Advance. Effective January 20, 2006.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218.

Office of Personnel Management.

Linda M. Springer,

Director.

[FR Doc. E6–3224 Filed 3–7–06; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copy Available From: Securities and Exchange Commission Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form N–6F; SEC File No. 270–185; OMB Control No. 3235–0238.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit the existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval:

Form N–6F Under the Investment Company Act of 1940 (17 CFR 274.15), Notice of Intent To Elect To Be Subject to Sections 55 Through 65 of the Investment Company Act of 1940

Certain companies may have to make a filing with the Commission before they are ready to elect to be regulated as a business development company.[1] A company that is excluded from the definition of ''investment company'' by Section 3(c)(1) of the Investment Company Act of 1940 because it has fewer than one hundred shareholders and is not making a public offering of its securities may lose such an exclusion solely because it proposes to make a public offering of securities as a business development company. Such a company, under certain conditions, would not lose its exclusion if it notifies the Commission on Form N–6F [17 CFR 274.15] of its intent to make an election to be regulated as a business development company. The company only has to file a Form N–6F once.

It is estimated that 2 respondents per year file with the Commission a Form N–6F. Form N–6F requires approximately 0.5 burden hours per response resulting from creating and filing the information required by the Form. The total burden hours for Form N–6F would be 1 hour per year in the aggregate. The estimated annual burden of 1.0 hour represents no change from the prior estimate of 1.0 hour.

The estimate of average burden hours for Form N–6F is made solely for the purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms.

Written comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the

[1] A company might not be prepared to elect to be subject to sections 55 through 65 of the Investment Company Act of 1940 because its capital structure or management compensation plan is not yet in compliance with the requirements of those sections.

information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

Dated: February 28, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–3280 Filed 3–7–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 11a–3; SEC File No. 270–321; OMB Control No. 3235–0358.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 [44 U.S.C. 3501–3520], the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget (''OMB'') for extension and approval.

Section 11(a) of the Investment Company Act of 1940 (''Act'') [15 U.S.C. 80a–11(a)] provides that it is unlawful for a registered open-end investment company (''fund'') or its underwriter to make an offer to the fund's shareholders or the shareholders of any other fund to exchange the fund's securities for securities of the same or another fund on any basis other than the relative net asset values (''NAVs'') of the respective securities to be exchanged, ''unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with such rules and regulations as the Commission may have prescribed in respect of such offers.'' Section 11(a) was designed to prevent ''switching,'' the practice of inducing shareholders of one fund to exchange their shares for the shares of another fund for the purpose of exacting additional sales charges.

Rule 11a–3 under the Act [17 CFR 270.11a–3] is an exemptive rule that permits open-end investment companies (''funds''), other than insurance company separate accounts, and funds' principal underwriters, to make certain exchange offers to fund shareholders and shareholders of other funds in the same group of investment companies. The rule requires a fund, among other things, (i) to disclose in its prospectus and advertising literature the amount of any administrative or redemption fee imposed on an exchange transaction, (ii) if the fund imposes an administrative fee on exchange transactions, other than a nominal one, to maintain and preserve records with respect to the actual costs incurred in connection with exchanges for at least six years, and (iii) give the fund's shareholders a sixty day notice of a termination of an exchange offer or any material amendment to the terms of an exchange offer (unless the only material effect of an amendment is to reduce or eliminate an administrative fee, sales load or redemption fee payable at the time of an exchange).

The rule's requirements are designed to protect investors against abuses associated with exchange offers, provide fund shareholders with information necessary to evaluate exchange offers and certain material changes in the terms of exchange offers, and enable the Commission staff to monitor funds' use of administrative fees charged in connection with exchange transactions.

There are approximately 2,300 active open-end funds registered with the Commission as of December 31, 2005. The staff estimates that 25 percent of these funds impose a non-nominal administrative fee on exchange transactions. The staff estimates that the recordkeeping requirement of the rule requires approximately 1 hour annually of clerical time (at an estimated $23 per hour)[1] per fund, for a total of 575 hours for all funds (at a total annual cost of $13,225).[2] The staff estimates that 25 percent of the 2300 funds terminate an exchange offer or make a material change to the terms once each year, and that the notice requirement of the rule requires approximately 1 hour of professional time (at an estimated $81 per hour) and 2 hours of clerical time (at an estimated $23 per hour) per fund, for a total of approximately 1,725 hours for all funds to comply with the notice requirement (at a total annual cost of $73,025).[3] The recordkeeping and notice requirements impose a total burden of 2,300 hours on all funds (at a total annual cost of $86,250).[4] The burdens associated with the disclosure requirement of the rule are accounted for in the burdens associated with the Form N–1A registration statement for funds.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are requested on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden[s] of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

[1] All hourly rates are derived from the average annual salaries reported for employees outside of New York City in Securities Industry Association, Management and Professional Earnings in the Securities Industry (2003) and Securities Industry Association, Office Salaries in the Securities Industry (2003), and have been adjusted upwards through established formulas to reflect overhead and the increase in salaries since the report was published.

[2] This estimate is based on the following calculations: (2,300 funds × 0.25% = 575 funds); (575 × 1 (clerical hour) = 575 clerical hours); (575 × $23 = $13,225 total annual cost for recordkeeping requirement).

[3] This estimate is based on the following calculations: (2,300 (funds) × 0.25% = 575 funds); (575 × 1 (professional hour) = 575 total professional hours); (575 (funds) × 2 (clerical hours) = 1,150 total clerical hours); (575 (professional hours) + 1,150 (clerical hours) = 1,725 total hours); (575 (professional hours) × $81 = $46,575 total professional cost); (1,150 (clerical hours) × $23 = $26,450 clerical cost); ($46,575 + $26,450 = $73,025 total annual cost).

[4] This estimate is based on the following calculations: (1,725 (notice hours) + 575 (recordkeeping hours) = 2,300 total hours); ($73,025 (notice costs) + $13,225 (recordkeeping costs) = $86,250 total annual costs).

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

Dated: February 28, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–3281 Filed 3–7–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–13795]

Issuer Delisting; Notice of Application of American Vanguard Corporation To Withdraw Its Common Stock, $.10 Par Value, From Listing and Registration on the American Stock Exchange LLC

March 2, 2006.

On February 27, 2006, American Vanguard Corporation, a Delaware corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, $.10 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

On January 20, 2006, the Board of Directors (''Board'') of the Issuer unanimously approved resolutions to withdraw the Security from listing on Amex and to list the Security on the New York Stock Exchange, Inc. (''NYSE''). The Issuer stated that the Board determined it is in the best interest of the Issuer to list the Security on NYSE because: (1) NYSE's specialist system, which serves to control intraday price volatility, (2) NYSE's proposed hybrid trading platform, which permits speed, but also serves to arrive at the best available trading price; and (3) to avoid direct and indirect costs and the division of the market resulting from dual listing on Amex and NYSE.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the State of Delaware, in which it is incorporated, and providing written notice of withdrawal to Amex.

The Issuer's application relates solely to the withdrawal of the Security from listing on Amex, and shall not affect its continued listing on NYSE or its obligation to be registered under Section 12(b) of the Act.[3]

Any interested person may, on or before March 27, 2006, comment on the facts bearing upon whether the application has been made in accordance with the rules of Amex, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include the File Number 1–13795 or;

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number 1–13795. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3265 Filed 3–7–06; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–13810]

Issuer Delisting; Notice of Application of Socket Communications Inc. To Withdraw Its Common Stock, $.001 Par Value, From Listing and Registration on the Pacific Exchange, Inc.

March 2, 2006.

On February 23, 2006, Socket Communications Inc., a Delaware corporation, (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, $.001 par value (''Security''), from listing and registration on the Pacific Exchange, Inc. (''PCX'').

On January 26, 2006, the Board of Directors (''Board'') of the Issuer approved the delisting of the Security from listing and registration on PCX. The Issuer stated that the reason to withdraw the Security from PCX is that the Security is presently dual-listed on the Nasdaq National Market System (''Nasdaq'') and PCX. The Issuer believes that it no longer needs or benefits from the dual listing.

The Issuer stated in its application that it has complied with PCX rules by providing PCX with the required documents governing the withdrawal of securities from listing and registration on PCX.

The Issuer's application relates solely to withdrawal of the Security from listing on PCX and from registration under Section 12(b) of the Act,[3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before March 27, 2006 comment on the facts bearing upon whether the application has been made in accordance with the rules of PCX, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

• Send an e-mail to *rule-comments@sec.gov*. Please include the File Number 1–13810 or;

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number 1–13810. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3266 Filed 3–7–06; 8:45 am]

BILLING CODE 8010–01–P

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53393; File No. SR–CBOE–2006–18]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 2 Thereto Relating to Implementation of the PAR Official Program

March 1, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 17, 2006, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On February 24, 2006, CBOE filed Amendment No. 1 to the proposed rule change. On February 28, 2006, CBOE withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change.[3] CBOE has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 2, CBOE resubmitted Exhibit 1, the Exchange's draft Notice of Proposed Rule Change, in order to replace a corrupted version of that document submitted with the original filing.

[4] 15 U.S.C. 78s(b)(3)(A)(iii).

[5] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules relating to the implementation of the PAR Official program to extend the deadline for implementation to March 24, 2006. In addition, the Exchange proposes to amend and re-issue regulatory circular RG05–116, DPM Obligations Until the Implementation of the PAR Official Program, to incorporate the revised deadline. The text of the proposed rule change follows, with additions in *italics* and deletions in [brackets]. The text of the proposed regulatory circular is available at CBOE's Web site (*http://www.cboe.org/legal/default.aspx*), at CBOE's principal office, and at the Commission's Public Reference Room.

Chicago Board Options Exchange, Incorporated

Rules

* * * * *

Rule 7.12. PAR Official

(a)–(e). No Change.

* * * Interpretations and Policies:

.01 The Exchange shall assign a PAR Official to all applicable trading stations on or before [February 16] *March 24*, 2006.

* * * * *

Rule 8.85. DPM Obligations

(a)–(d). No Change.

(e) Requirement to Own Membership. Each DPM organization shall own at least one Exchange membership for each trading location in which the organization serves as a DPM. For purposes of this Rule, a trading location is defined as any separate identifiable unit of a DPM organization that applies for and is allocated option classes by the appropriate Allocation Committee. An Exchange membership shall include a transferable regular membership or a Chicago Board of Trade full membership that has effectively been exercised pursuant to Article Fifth(b) of the Certificate of Incorporation. The same Exchange membership(s) may not be used to satisfy this ownership requirement for different DPM organizations or different trading locations operated by the same DPM organization.

A DPM organization shall be exempt from the membership requirement under Rule 8.85(e) for the period of November 18, 2005 to [February 16] *March 24*, 2006 if the DPM organization falls out of compliance with Rule 8.85(e) because the Exchange membership used to satisfy Rule 8.85(e) was, at the time the DPM organization fell out of compliance with Rule 8.85(e), held by an individual whose affiliation with the DPM organization has been terminated as a result of the implementation of Rule 7.12.

* * * Interpretations and Policies

.01–.03 No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to extend the Exchange's deadline for assigning a PAR Official to all applicable trading stations from February 16, 2006 to March 24, 2006.[6] On November 18, 2005 (''approval date''), the Commission approved

[6] *See* CBOE Rule 7.12, Interpretation and Policy .01.

CBOE's proposal to remove a DPM's obligation to execute orders as an agent, including as a floor broker, in its allocated securities on the Exchange in any trading station and to allow the Exchange to appoint an Exchange employee or independent contractor (''PAR Official'') to assume many of the functions and obligations that DPMs previously held (''PAR Official Rule Change'').[7]

Among other things, the PAR Official Rule Change gave the Exchange ninety days after the approval date to implement the PAR Official Rule Change or, more specifically, to ensure that a PAR Official was assigned to each DPM trading station. The 90-day implementation period ended on February 16, 2006.[8] In addition, the PAR Official Rule Change exempted DPM organizations for the same period of time from complying with the seat ownership requirement of CBOE Rule 8.85(e) under certain circumstances.[9] Specifically, CBOE Rule 8.85(e) provides, in part, that a DPM organization will be exempt until February 16, 2006 from the requirement to own at least one Exchange membership for each trading location that the DPM organization is the appointed DPM.

The Exchange has determined that, primarily due to the lengthy process involved in hiring and properly training a sufficient number of personnel to adequately assume all PAR Official functions, the Exchange will require additional time to assign PAR Officials to each DPM trading station. As such, the Exchange proposes to extend both the PAR Official implementation deadline and the seat ownership exemption deadline to March 24, 2006.

Because the Exchange anticipated that PAR Officials would not be assigned to all DPM trading stations immediately upon the approval of the PAR Official Rule Change, the Exchange issued a regulatory circular that had the effect of subjecting any such DPMs to the same rules and obligations that governed DPM operations and that were eliminated with the approval of the rule change.[10] Concurrent with the filing of this proposed rule change, the Exchange also proposes to reissue the aforementioned regulatory circular, amended to reflect the new March 24, 2006 deadline.

2. Statutory Basis

The Exchange believes that, because the proposed rule change will refine and enhance its members' abilities to meet certain regulatory requirements, the proposed rule change is consistent with Section 6(b)[11] of the Act in general, and furthers the objectives of Section 6(b)(5)[12] in particular, in that it is designed to promote just and equitable principles of trade and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change, as amended, has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6)[14] thereunder because it (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change, or such shorter time as the Commission may designate.

The Exchange has requested that the Commission waive the five-day pre-filing requirement and the 30-day operative delay of Rule 19b–4(f)(6)(iii) so that the proposed rule change may become effective immediately. The Commission believes that waiving the pre-filing requirement and the operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange's transition to the use of PAR Officials to continue. In addition, this proposed rule change is necessary for those DPMs that continue to operate under the pre-PAR Official program rules. Therefore, the Commission has determined to waive the pre-filing requirement and the operative delay and allow the proposed rule change to become operative immediately.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–CBOE–2006–18 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

[7] *See* Securities Exchange Act Release No. 52798 (November 18, 2005), 70 FR 71344 (November 28, 2005).

[8] *See supra* note 6.

[9] CBOE Rule 8.85(e) provides in part that a DPM organization will be exempt from the seat ownership requirement under Rule 8.85(e) if the DPM organization fell out of compliance because the Exchange membership used to satisfy the requirement was, at the time the DPM organization fell out of compliance, held by an individual whose affiliation with the DPM organization was terminated as a result of the implementation of the PAR Official Rule; Rule 7.12.

[10] *See* CBOE Regulatory Circular RG05–116, DPM Obligations Until the Implementation of the PAR Official Program, dated November 18, 2005. Immediately upon approval of the PAR Official Rule Change, the Exchange filed the regulatory circular with the Commission pursuant to Section 19(b)(3)(A)(iii) of the Act, 15 U.S.C. 78s(b)(3)(A)(iii), and Rule 19b–4(f)(6) thereunder, 17 CFR 240.19b–4(f)(6). *See* Securities Exchange Act Release No. 52860 (November 30, 2005), 70 FR 72867 (December 7, 2005) (Notice of filing for immediate effectiveness of SR–CBOE–2005–100). The regulatory circular governed the operations of those DPMs that were not immediately included in the PAR Official conversion as of November 18, 2005, and the rules and obligations set forth therein were adopted directly from the former (that is, the pre-PAR Official Rule Change) DPM rules.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 19b–4(f)(6).

[15] For purposes only of waiving the operative delay of this proposal, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

All submissions should refer to File Number SR–CBOE–2006–18. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2006–18 and should be submitted on or before March 29, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3270 Filed 3–7–06; 8:45 am]

BILLING CODE 8010–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53395; File Nos. SR–DTC–2006–04, SR–FICC–2006–01, and SR–NSCC–2006–01]

Self-Regulatory Organizations; The Depository Trust Company, Fixed Income Clearing Corporation, and National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Exclude Non-U.S.-Based Central Securities Depositories From a Requirement To Purchase Shares of the Common Stock of The Depository Trust & Clearing Corporation

March 2, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 9, 2006, The Depository Trust Company (''DTC''), the Fixed Income Clearing Corporation (''FICC''), and the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule changes SR–DTC–2006–04, SR–FICC–2006–01, and SR–NSCC–2006–01 as described in Items I, II, and III below, which items have been prepared primarily by DTC, FICC, and NSCC. The Commission is publishing this notice and order to solicit comments on the proposed rule changes from interested parties and to grant accelerated approval of the proposed rule changes.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC, FICC, and NSCC are seeking to exclude non-U.S.-based central securities depositories from the requirement to purchase shares of the common stock of The Depository Trust & Clearing Corporation (''DTCC'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC, FICC, and NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC, FICC, and NSCC have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTCC is a holding company parent of DTC, FICC, and NSCC, each a clearing agency registered with the Commission. In 2005, amendments were made to DTCC's Shareholders Agreement and new provisions were added to the rules of each of the three clearing agencies pursuant to which participants of DTC, FICC, and NSCC that make full use of the services of one or more of the clearing agencies will be required to purchase DTCC common shares (''Mandatory Purchaser Participants''). Other participants that make only limited use of the services of one or more of the clearing agencies will have the right but not the obligation to purchase DTCC common shares (''Voluntary Purchaser Participants'').[3]

The purpose of those amendments to DTCC's Shareholders Agreement and revisions to the agency rules was to help ensure that participants continue to govern and to control the activities of DTC, FICC, and NSCC, including the services provided, service fees charged, and the practice of returning to participants revenues in excess of expenses and necessary reserves, by providing that all DTCC common shares are owned by participants of the three clearing agencies.

DTCC's clearing agency subsidiaries have links with non-U.S.-based central securities depositories (''non-U.S. CSDs'') in order to support the activities of the clearing agencies' participants. The definition of ''Mandatory Purchaser Participant'' in each of DTC, FICC, and NSCC's Rules has the unintended consequence of requiring non-U.S. CSDs to purchase DTCC common shares.[4] Most of these non-U.S. CSDs have ''free of payment'' links and therefore do not expose the clearing agencies to settlement risk. In other cases, where the non-U.S. CSD is permitted to process transactions ''against payment'' and therefore benefits from settlement guarantees provided by the clearing agencies, there are reciprocal arrangements under which the clearing agency subsidiaries obtains the benefits of settlement guarantees provided by the non-U.S. CSD.

The purpose of the current proposed rule changes is to provide that non-U.S. CSDs would be excluded from the category of DTC, FICC, and NSCC participants that are required to purchase DTCC common shares. These entities would, however, have the right to purchase DTCC common shares.

DTC, FICC, and NSCC each believe that their proposed rule change is consistent with the requirements of Section 17A of the Act[5] and the rules and regulations thereunder applicable to DTC, FICC, and NSCC because each believe the proposed changes to DTCC's Shareholders Agreement and to their rules will assure fair representation of DTC, FICC, and NSCC's participants in the selection of their directors and the

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DTC, FICC, and NSCC.

[3] Securities Exchange Act Release No. 52922 (December 7, 2005), 70 FR 74070 (December 14, 2005) [File Nos. SR–DTC–2005–16, SR–FICC–2005–19, and SR–NSCC–2005–14].

[4] The definition of ''Mandatory Purchaser Participant'' is contained in DTC Rule 31, FICC Rule 49, and NSCC Rule 64.

[5] 15 U.S.C. 78q–1.

administration of their affairs, respectively.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC, FICC, and NSCC do not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. DTC, FICC, and NSCC will notify the Commission of any written comments they receive.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(C).[6] Section 17A(b)(3)(C) requires that the rules of a clearing agency be designed to assure fair representation in the selection of its directors and in the administration of its affairs. The Commission finds that DTC, FICC, and NSCC's proposed rule changes are consistent with this requirement because the allocation of common share purchase requirements will more accurately represent the actual use of the clearing agencies' services and the risks posed by such uses. Moreover, the removal of non-U.S. CSDs from the definition of Mandatory Purchaser Participant should not result in a significant increase in the burden imposed on the remaining shareholders, because the common shares that would otherwise be purchased by the non-U.S. CSDs represent slightly more than one percent of the total number of DTCC common shares to be purchased by the Mandatory Purchaser Participants.

DTC, FICC, and NSCC have requested that the Commission approve the proposed rules prior to the thirtieth day after publication of the notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice because such approval will permit DTCC to complete the necessary calculations to determine the number of shares to be purchased by Mandatory Purchaser Participants without including the non-U.S. CSDs, and will permit the clearing agencies' participants to complete their purchases of such shares prior to DTCC, DTC, FICC, and NSCC's annual shareholders meetings to be held in April 2006.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Numbers SR–DTC–2006–04, SR–FICC–2006–01, and SR–NSCC–2006–01 in the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Numbers SR–DTC–2006–04, SR–FICC–2006–01, and SR–NSCC–2006–01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal offices of DTC, FICC, and NSCC and on DTC's Web site at *http://www.dtc.org*, and on FICC's Web site at *http://www.ficc.com*, and on NSCC's Web site, *http://www.nscc.com*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Numbers SR–DTC–2006–04, SR–FICC–2006–01, and SR–NSCC–2006–01 and should be submitted on or before March 29, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3269 Filed 3–7–06; 8:45 am]

BILLING CODE 8010–01–P

[6] 15 U.S.C. 78q–1(b)(3)(C).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53396; File No. SR–FICC–2005–17]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Assumption of Blind Brokered Fails by Its Government Securities Division

March 2, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 30, 2005, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change and on November 28, 2005 amended the proposed rule change that is described in Items I, II, and III below, which items have been prepared primarily by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would clarify the practice of the Government Securities Division (''GSD'') of FICC of assuming certain blind brokered repurchase transaction (''repo'') fails and of obtaining financing in connection with such assumption.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FICC has prepared summaries, set forth in sections (A), (B),

[1] 15 U.S.C. 78s(b)(1).

and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to clarify the practice of the GSD of FICC of assuming certain blind brokered repo fails and of obtaining financing as necessary in connection with such assumption. The settlement of the start leg of a same-day starting repo has always been and continues to be processed outside of the GSD. In the evening of the day of a same-day starting brokered repo, FICC will assume responsibility from the broker for settlement of such start leg if the repo dealer has not delivered securities to the broker to start the repo (*i.e.*, the start leg has failed). This may involve the receipt of securities from the repo dealer for redelivery to the reverse repo dealer or the settlement of the start leg may be effected by netting or pairoff of the settlement obligations arising from the start leg against the settlement obligations arising from the close leg of the same or another repo.

FICC will also assume a blind brokered repo fail that arises in the close leg of a blind brokered repo transaction. For example, if the start leg of the transaction settles outside of FICC in the normal course but one side of the close leg does not compare (for any reason that would cause a trade to not compare such as erroneous trade data submitted by one or both of the parties), the broker will wind up with a net settlement position rather than netting flat. If that transaction fails to settle, FICC will assume the broker's fail.

FICC assumes the fails in these instances in order to decrease risk.[3] By assuming the fail, FICC removes the broker, which acts as an intermediary and which expects to net out of every transaction and not have a settlement position, from the settlement process. FICC is proposing to add a provision to its rules to expressly provide for this practice and therefore to make its rules consistent with its current and longstanding practice.[4]

In the assumption of such broker fails, the need for financing might arise. For example, such as if the repo dealer delivered securities at the close of the securities Fedwire and if the broker was unable to deliver them to the reverse repo dealer. The GSD's rules already contain a provision, Section 8 of Rule 12, that addresses the GSD's need to obtain financing in general. This provision contemplates the need for financing in order to allow the GSD to facilitate securities settlement generally. It is important to note that such financing is part of the GSD's normal course of business, and the GSD's ability to obtain such financing is necessary for it to be able to complete securities settlement. Section 8 of Rule 12 provides that if FICC deems it appropriate to obtain financing to provide its securities settlement services, FICC may create security interests in eligible netting securities delivered by a netting member in order to obtain such financing. The provision requires that members not take any action to adversely affect this process. The provision also states that such security interests may be created to obtain financing in an amount greater than the obligation of a member to FICC relating to such eligible netting securities. Thus, clearing fund securities may be used to collateralize such financing. Also, Section III.C of the GSD's fee structure provides the formula that the GSD will use to charge members for the cost of any financing obtained by the GSD.

FICC wishes to interpret Section 8 of Rule 12 and Section III.C. to apply to financing that might arise because of FICC's assumption of blind brokered fails. FICC does not believe that actual changes to the rules are necessary for this clarification.

FICC believes that the proposed change is consistent with Section 17A of the Act[5] and the rules and regulations thereunder applicable to FICC because it clarifies FICC's rules for consistency with current practice and provides an interpretation of an existing rule.

(B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–FICC–2005–17 in the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FICC–2005–17. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and

[2] The Commission has modified the text of the summaries prepared by FICC.

[3] FICC has engaged in the practice of assuming broker fails since the inception of its blind brokered repo service.

[4] The specific rule being added is Rule 19, Section 5, ''Assumption of Blind Brokered Fails.''

[5] 15 U.S.C. 78q–1.

copying at the principal office of FICC and on FICC's Web site, *http://www.ficc.com*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2005–17 and should be submitted on or before March 29, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3272 Filed 3–7–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53394; File No. SR–PCX–2006–07]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add Open Order Modifiers

March 1, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 1, 2006, the Pacific Exchange, Inc. (''PCX'' or ''Exchange''), submitted to the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by PCX. PCX filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] which renders it effective upon filing with the Commission. On February 28, 2006, PCX filed Amendment No. 1 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX, through its wholly-owned subsidiary PCX Equities, Inc. (''PCXE''), proposes to amend its rules governing the Archipelago Exchange (''ArcaEx''), the equity trading facility of PCXE, to add GTC and GTD modifiers for use on the Exchange and to specify the method in which GTC and GTD Orders will be adjusted in the event of a corporate action. The text of the proposed rule change is below. Additions are *italicized*; deletions are in [brackets].

Rules of PCX Equities, Inc.

Rule 7

Equities Trading

* * * * *

Rule 7.31 Orders and Modifiers

(a)–(b) No change.

(c) *Time in Force*

(1) Day Order. An order to buy or sell which, if not executed, expires at the end of the day on which it was entered.

(2) Good Till Cancelled (''GTC'') Order. An order to buy or sell (or unexecuted portion thereof) which, if not executed, remains in effect until executed, cancelled by the entering party, or expiration, whichever comes first. All unexecuted portions of GTC Orders will be cancelled by the Corporation one year after initial entry.

(3) Good Till Date (''GTD'') Order. An order to buy or sell (or unexecuted portion thereof) set to expire following the close of the core session of the pre-determined date specified by the entering party which, if not executed, remains in effect until executed, cancelled by the entering party, or expiration, whichever comes first. All unexecuted portions of GTD Orders will be cancelled by the Corporation one year after initial entry.

* * * * *

Rule 7.39 [Reserved] *Adjustment of Open Orders*

The Archipelago Exchange will automatically adjust the price and/or size of round and odd lot Open Orders, as defined in PCXE Rule 7.31, in all ArcaEx eligible securities (unless instructed otherwise by the entering party) resident in the system in response to issuer corporate actions (i.e., dividend payment or distribution, stock split, mergers and acquisitions), as follows:

(a) Sell Orders—Sell Orders in the system shall not be adjusted by the Corporate Action Processing (''CAP'') System and must be modified, if desired, by the entering party, except for reverse splits where such sell side orders shall be purged from the system.

(b) Buy Orders—Buy side orders shall be adjusted by the CAP System based on the particular corporate action impacting the security as set forth below:

(1) Cash Dividends: Buy side order prices shall be first reduced by the dividend amount and the resulting price will be rounded to the nearest penny.

(2) Stock Dividends and Stock Splits: Buy side order prices shall be determined by first rounding up the dollar value of the stock dividend or split to the nearest penny. The resulting amount shall then be subtracted from the price of the buy order. The size of the order shall be adjusted by first (A) multiplying the size of the original order by the numerator of the ratio of the dividend split, then (B) dividing that result by the denominator of the ratio of the dividend split, then (C) rounding that result to the next lowest share.

(3) Dividends Payable in Either Cash or Securities at the Option of the Stockholder: Buy side order prices shall be reduced by the dollar value of either the cash or securities, whichever is greater. The dollar value of the cash shall be determined using the formula in paragraph (1) above, while the dollar value of the securities shall be determined using the formula in paragraph (2) above. If the stockholder opts to receive securities, the size of the order shall be increased pursuant to the formula in subparagraph (2) above.

(4) Combined Cash and Stock Dividends/Split: In the case of a combined cash dividend and stock split/dividend, the cash dividend portion shall be calculated first as per section (1) above, and stock portion thereafter pursuant to sections (2) and/or (3) above.

(5) Reverse Splits: All orders (buy and sell) shall be cancelled and returned to the entering party.

(c) Stop Orders To Sell—Sell Stop Orders will be handled in the same manner as Buy Orders as mentioned in section (b) in the event of a corporate action.

(d) Open Orders that are adjusted by the CAP System pursuant to the above rules, and that thereafter continuously remain in the system, shall retain the time priority of their original entry.

(e) In the event a corporate action is identified by the Corporation at a time in which an adjustment to all affected open buy orders and sell stop orders could not be made, the Corporation will cancel all such orders and notify the entering party(ies).

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] Amendment No. 1 replaced and superseded the original filing in its entirety.

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend PCXE Rule 7.31 to introduce new time-in-force modifiers to be available for certain order types as part of its continuing efforts to enhance participation on the ArcaEx trading facility.

The modifiers, known as Good Till Cancelled (GTC) and Good Till Date (GTD), would permit certain orders to buy or sell to remain in effect until executed, cancelled by the entering party, or until they expire. Currently, all non-marketable orders submitted by ETP Holders are eligible for execution only on the date on which they were entered. All unexecuted orders expire at the end of the day on which they were entered. This proposal seeks to add time-in-force modifiers that would be available to extend beyond the current trading session and provide ETP Holders with more flexibility in managing their orders. The proposed modifiers are similar to those found on other market centers.[5]

GTC and GTD Order Type Modifiers. A GTC or GTD Order Modifier (also known as ''Open Orders'') would be a time-in-force order parameter to permit orders to buy or sell to remain in effect until executed, cancelled by the entering party, or expiration. All valid Open Orders remaining on the ArcaEx book at the end of the core trading session (1 p.m. Pacific Time) would be held open and be available for execution in the Arca Book beginning at 6:30 a.m. Pacific Time the following day.

The difference between the various Open Orders is described as follows. A GTC modifier would be an order (or unexecuted portion thereof) to buy or sell which would remain in effect until executed or until cancelled by the entering party. Orders with a GTD modifier would be an order (or unexecuted portion thereof) to buy or sell set to expire following the close of the core session of the pre-determined date specified by the entering party and would remain in effect until executed, expired, or cancelled by the entering party. All Open Orders not executed, expired, or cancelled by the entering party within one year from date of entry would be automatically cancelled by the Exchange following notification of such action being sent to the entering party.

Open Order Execution Priority in ArcaEx. All orders subject to a GTC and GTD modifier may be entered during any trading session but would be eligible for execution only during the core session. The orders would be ranked in accordance with PCXE Rule 7.36 and would be executed in such a price/date/time priority in accordance with PCXE Rule 7.37 based on the time and date stamp and conditions from initial entry.

Orders Types Eligible for GTC or GTD Modifiers. ETP Holders, upon prior notice from PCXE, would be permitted to enter GTC or GTD modifiers for certain order types available on ArcaEx. Initially, these would include: Limit Orders, Stop Orders, and Stop Limit Orders.[6] All other order types would be accepted if entered with any of the proposed order modifiers but would treated as they are currently and be cancelled at the end of the core trading session, rather than be available for execution the following day.

Corporate Actions. PCX also proposes to add Rule 7.39 to identify the procedures the Exchange will follow to adjust Open Orders on the ArcaEx book in the event of a corporate action. These procedures are similar to those found on other market centers.[7]

All valid Open Orders remaining on the ArcaEx book at the end of the core trading session would be removed and stored within a separate database. During this time, any information received from the Depository Trust & Clearing Corporation (''DTCC'') in relation to a corporate action (i.e. dividend payment, stock split, mergers and acquisitions, etc.) for a specific security would be entered into the Corporate Action Processing System (''CAP''). Additionally, a ''Corporate Action Notice System'' would produce web-based corporate action information relating to these events to notify ArcaEx Users.[8] When this occurs, the price and/or number of shares for Open Orders would be modified to reflect the change to the original order as described in PCXE Rule 7.39. For example, open buy orders and open sell stop orders for a security would be similarly adjusted by the CAP System in accordance with the proposed rule, depending on the type of corporate action affecting the security. The system would not alter open sell orders in the event of any corporate action, and all open orders for a security would be cancelled and returned to the entering party in the event of a reverse split for that security. ArcaEx would offer the option to allow ETP Holders to designate whether their Open Order should be modified by ArcaEx in the event of a corporate action and would permit ETP Holders to instruct that the order be cancelled in such an event.

Open Orders for ETP Holders that do not wish the affected order to be cancelled automatically by the Exchange in the event of a Corporate Action would be adjusted accordingly as described above by CAP and the adjusted Open Order would be re-posted into the ArcaEx book. Such orders shall be ranked in accordance with PCXE Rule 7.36, and would be executed in such a price/time priority in accordance with PCXE Rule 7.37 based upon the original order entry time.

Open Orders that are affected by corporate actions of which the Exchange was not aware of prior to ranking all adjusted Open Orders in the ArcaEx book for execution would be automatically cancelled by ArcaEx.[9]

ArcaEx, in its efforts to continually offer a competitive market structure and provide more execution opportunities and ease of order flow management for ETP Holders, proposes to add these order modifiers.

2. Statutory Basis

PCX believes that the proposed rule change is consistent with Section 6(b)[10] of the Act, in general, and furthers the objectives of Section 6(b)(5),[11] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[5] *See* New York Stock Exchange, Inc., Rule 13, and National Association of Securities Dealers, Inc., Rule 4706.

[6] As defined by PCXE Rule 7.31.

[7] *See* National Association of Securities Dealers, Inc. Rule 4715; *see also* New York Stock Exchange, Inc. Rule 118.

[8] *See* PCXE Rule 1.1(x).

[9] Open Orders would be cancelled by the Exchange only for buy-side and sell stop orders affected by Corporate Actions. In the event of a reverse split, all Open Orders affected would be cancelled by the Exchange.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

PCX has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13] Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder. As required under Rule 19b–4(f)(6)(iii), PCX provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to filing the proposal with the Commission or such shorter period as designated by the Commission. PCX has requested that the Commission waive 30-day delayed operational date provisions contained in the above rule, based upon a representation that accelerating the operative date would allow investors to immediately benefit from execution opportunities on ArcaEx. For this reason, the Commission designates the proposal to be effective and operative upon filing with the Commission.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[14]

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] The effective date of the original proposed rule change is February 1, 2006 and the effective date of Amendment No. 1 is February 28, 2006. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, under section 19(b)(3)(C) of the Act, the Commission considers the period to commence on February 28, 2006, the date on which PCX submitted Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2006–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–PCX–2006–07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2006–07 and should be submitted on or before March 29, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Nancy M. Morris,

Secretary.

[FR Doc. E6–3276 Filed 3–7–06; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Safety Advisory 2006–01

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of safety advisory.

SUMMARY: FRA is issuing Safety Advisory 2006–01, in order to provide the industry additional information on the potential catastrophic failure of certain railroad freight car side frame castings manufactured by National Castings of Mexico's (NCM) Sahagun, Mexico facility and Buckeye Steel Castings' (Buckeye) Columbus, Ohio facility. The purpose of this safety advisory is to recommend that the rail industry carefully inspect these specific side frames when equipped freight cars are in shops or on repair tracks.

FOR FURTHER INFORMATION CONTACT: Ronald Newman, Staff Director, Motive Power and Equipment Division (RRS–14), FRA Office of Safety Assurance and Compliance, 1120 Vermont Avenue, NW., Washington, DC 20590, telephone: (202) 493–6241 or Thomas Herrmann, Staff Attorney, FRA Office of Chief Counsel, 1120 Vermont Avenue, NW., Washington, DC 20590, telephone: (202) 493–6036.

SUPPLEMENTARY INFORMATION: The standard three (3) piece railroad freight car truck (comprised of a bolster and two side frames) is a critical safety component which transmits the load of the freight car and its lading to the rail and track structure. Any crack or failure detected in critical load bearing areas of these components can result in a serious derailment. There have been six (6) reported in-service failures of side frames manufactured by either NCM or Buckeye. Three of these in-service failures have resulted in a derailment. These include: Car DTTX 723603 on December 8, 2004, on BNSF Train QOIGCHI104 near Ottawa, Kansas; Car DTTX 724557 on December 14, 2004, on CSXT Train Q112–13 near Fostoria, Ohio; and Car UP 28414 on September 10, 2005, on UP Train CCOTSH05 near Hanna, Wyoming.

[15] 17 CFR 200.30–3(a)(12).

Preliminary information indicates that there are three pattern types produced by these manufacturers most susceptible to failure. Most of the side frames that have failed to date had received some type of welded repair during the manufacturing process. In addition, preliminary analysis has in some cases indicated porosity and possible hardness problems with the involved castings. The following table identifies the three pattern numbers of side frames manufactured by NCM and Buckeye that may have the potential to fail while in-service.

Manufacturer	Type	Service	AAR designation	Pattern number
Buckeye	Barber S–2–D	263/286K GRL	F–9S–11FN–UA	F–10103–B85
NCM	Barber S–2–HD	263/286K GRL	F9S–06BN–UA	52120
NCM	Barber S–2–E	263/286K GRL	F9S–14FN–UA	53180

FRA has previously issued Safety Advisory 2003–03 and Emergency Order No. 23. *See* 68 FR 65982 (November 24, 2003) and 69 FR 23850 (April 30, 2004). Both of these documents address the potential safety problems related to certain truck bolsters manufactured at the NCM, Sahagun, Mexico facility.

Recommended Action: In recognition of the need to assure safety, FRA recommends that railroads carefully inspect the side frames identified in this advisory when any freight car equipped with the involved side frames is on a shop or repair track. Railroad freight cars equipped with side frames in these pattern numbers should receive a careful inspection of the side frames at the inner corner radius (spring nest and outboard sides) of the pedestal jaw opening (field or gage side) at the transition from the pedestal roof. There are eight (8) locations per side frame that should receive close visual inspection. (See Figure 1). Any evidence of cracking and/or missing material in the corner radius areas is cause for replacement.

FRA will continue to monitor the rail industry's voluntary action and may consider pursuing other measures to ensure public safety. FRA may modify Safety Advisory 2006–01, issue additional safety advisories, or take other appropriate action necessary to ensure the highest level of safety on the nation's railroads.

Issued in Washington, DC, on March 2, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

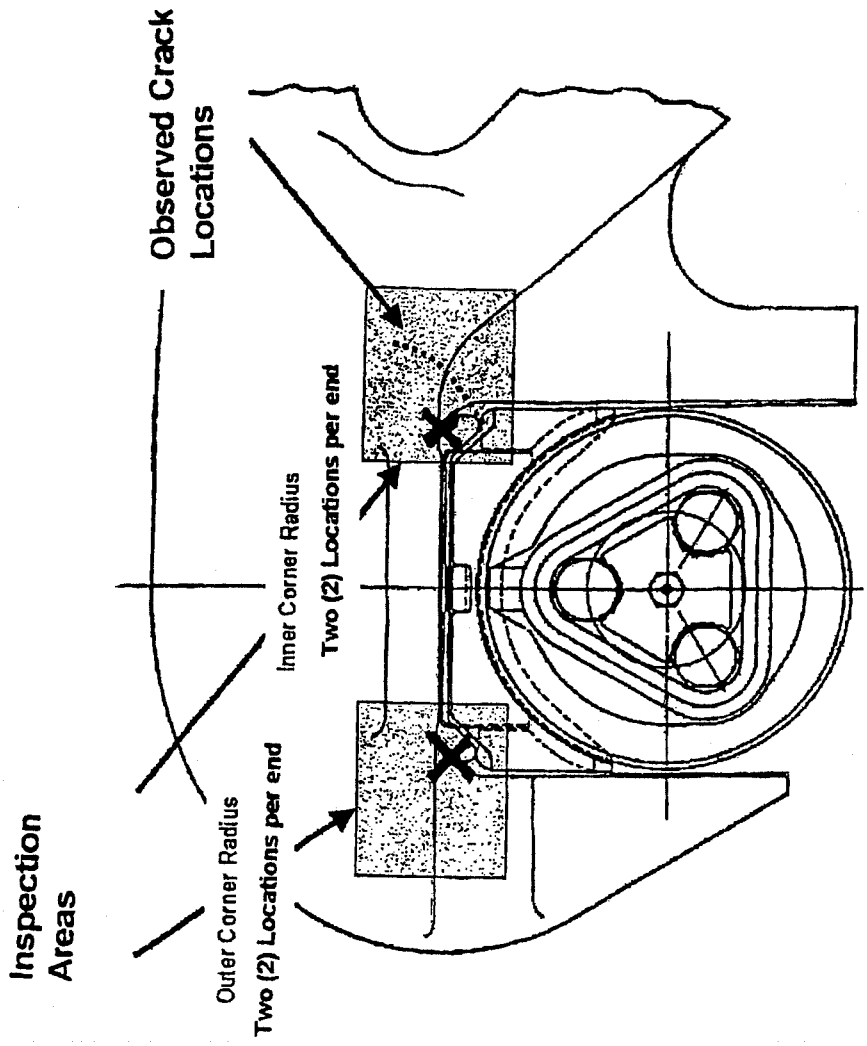

Fig. 1 Showing Eight Inspection Locations Per Side Frame

[FR Doc. 06–2164 Filed 3–7–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Safety Advisory 2006–02

AGENCY: Federal Railroad Administration (FRA), Department of Transportation DOT).

ACTION: Notice of safety advisory.

SUMMARY: This safety advisory provides recommended practices for the testing, classification, and reuse of second-hand rail.[1] The purpose of this safety advisory is to reduce the number of rail defects that occur when second-hand rail is used.

FOR FURTHER INFORMATION CONTACT: Christopher F. Schulte, Specialist, Track Division, FRA Office of Safety Assurance and Compliance, 1120 Vermont Avenue, NW, Mail Stop 25, Washington, DC 20590 (*Christopher.Schulte@fra.dot.gov* or (202) 493–6251); or Christina McDonald, Trial Attorney, FRA Office of Chief Counsel, 1120 Vermont Avenue, NW, Mail Stop 10, Washington, DC 20590, (*Christina.McDonald@fra.dot.gov* or (202) 493–6032).

SUPPLEMENTARY INFORMATION:

Background

Derailment in Nodaway, Iowa

On March 17, 2001, Amtrak train No. 5–17, the *California Zephyr*, derailed near Nodaway, Iowa. Amtrak train No. 5–17 consisted of two locomotive units and 16 cars. All but the last five cars derailed. As a result of the derailment, 78 people were injured, including one fatal injury. At the time of the accident, Amtrak train No. 5–17 was operating over FRA Class 4[2] track belonging to the BNSF Railway (BNSF) Creston Subdivision.

Near MP 419.90, the locomotive engineer experienced a ''tugging'' sensation in connection with the train's progress and heard a ''grinding, screeching, noise.'' He made an emergency brake application. When the locomotives came to a stop, the engineer realized that the train's cars had uncoupled from the locomotives, and most cars had derailed. The cars were about 1/8 mile behind the stopped locomotives.

A broken rail was discovered at the point of derailment. The broken pieces of rail were reassembled at the scene, and it was determined that they came from a 15-foot, 6-inch section of rail (referred to as a ''plug'') that had been installed as replacement rail at this location in February 2001. The

[1] Second-hand rail is sometimes also referred to as relay rail.

[2] Over Class 4 track, the maximum allowable operating speed for freight trains is 60 mph, and the maximum allowable operating speed for passenger trains is 80 mph. *See* 49 CFR 213.9.

replacement plug had been installed because BNSF discovered internal defects near MP 419.92 during a routine scan of the existing rail on February 13, 2001. A short section of the continuous welded rail that contained the defects was removed, and a replacement rail was inserted. The plug did not receive an ultrasonic inspection immediately before or after installation. It would have been visually inspected for obvious surface damage, defects, and excessive wear before installation.

Following the derailment, the National Transportation Board (NTSB) and FRA conducted an investigation. The NTSB issued a report, NTSB RAB–02–1 (adopted

March 5, 2002), which provides the underlying basis for FRA's recommendations in this safety advisory. The NTSB could not reliably determine the source of the plug and considered two different accounts. Based on either account, however, the replacement rail would have been removed from another track location for reuse. Analysis conducted by the NTSB indicated that the plug rail had multiple internal defects. Specifically, the NTSB laboratory found that the rail failed due to fatigue initiating from cracks associated with the precipitation of internal hydrogen. Cracks associated with the precipitation of internal hydrogen occur in steels due to excessive hydrogen content during processing. As a result of its investigation of this accident, the NTSB made the following recommendation to FRA: Require railroads to conduct ultrasonic or other appropriate inspections to ensure that rail used to replace defective segments of existing rail is free from internal defects. (R–02–5).

Existing Regulatory Requirements

FRA's regulations set forth the requirements for the inspection of rail. They are found in 49 CFR § 213.237 and include procedures for the inspection of internal rail defects.

Rail Inspection Procedures on the BNSF Creston Subdivision

On the Creston Subdivision, BNSF's procedure for the inspection of internal rail flaws not only met, but also exceeded, the standard specified in § 213.237. Paragraph (a) of § 213.237 requires a continuous search for internal defects to be made of all rail in Class 4 track at least once every 40 million gross tons (mgt) or once a year, whichever interval is shorter. However, BNSF scanned the rail for internal defects once every 30 days. Most railroads rely on the fact that all existing rail is ultrasonically scanned while in place in the track, in accordance with the requirements of § 213.237. Therefore, if a piece of rail has been removed from a track location and stored for future use as a replacement rail, a railroad may assume that the replacement rail was scanned while in its previous location and that it passed its inspection. This was the process used for the plug rail that failed in the Nodaway accident. Despite the assumption that the rail had been scanned and passed its inspection, this rail was, in fact, defective. FRA notes that rail in main track that is subject to testing under § 213.237, and is removed from track for future use can be relatively free of internal defects if the last test occurred shortly before the rail's removal. However, FRA notes that rail that is removed from track at the end of a testing cycle, or rail that is taken from track that is not subject to the requirements of § 213.237, is more likely to have defects.

Recommendations

The Federal Track Safety Standards prescribe minimum standards. Railroads are not precluded from prescribing additional or more stringent standards that are consistent with sound maintenance practices. In response to the accident in Nodaway, Iowa and the resulting NTSB recommendations, FRA makes the recommendations identified below.

(1) FRA recommends that railroads retest for internal rail flaws the entire length of any rail that is removed from track and stored for reuse. The railroad should conduct this retest before that rail carries revenue traffic. This recommendation applies to rail being installed into track that is subject to the rail testing requirements specified in § 213.237. After completing the retest and finding no internal rail flaws, the railroad should physically mark the rail with the words ''fully re-tested'' or with other appropriate language. Such rail would then be suitable for reuse in track subject to testing under § 213.237.

(2) FRA recognizes that some railroads do not have the equipment to test second-hand rail in accordance with the above recommendation. In such cases, FRA encourages railroads to develop a classification program. The classification program is intended to decrease the likelihood that a railroad will install second-hand rail with defects back into active track. FRA recommends that, at a minimum, the classification program for railroads that do not have out-of-track testing capabilities include the following rail identification procedures:

(a) Classify rail as either reuseable or not reusable. Distinctly mark as reusable rail that is: taken from track subject to the testing requirements of § 213.237, intended for use in track subject to the testing requirements of § 213.237, and has accumulated less than 15 million gross tons (mgt) since the last valid rail test;

(b) Prohibit the reuse of the following second-hand rails in track that is subject to the testing requirements of § 213.237: (i) rail removed from track that is not subject to the testing requirements of § 213.237 and (ii) rail that does not have a classification marking pursuant to either recommendations (1) or (2)(a) of this safety advisory; and

(c) Develop and use a highly visible permanent marking system to mark defective rails that railroads remove from track after identifying internal defects in those rails. The highly visible permanent marking system should include visible, etched markings (e.g., score lines from an abrasive rail saw or a cutting torch) on the rail head at the specific area(s) on the rail where the defects are detected. This marking is in addition to the highly visible marking of defective rails required by § 213.237(c).

Issued in Washington, DC, on March 2, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–3232 Filed 3–7–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on December 5, 2005 [70 FR 272501]. This is a request for an extension of an existing collection.

DATES: Comments must be submitted on or before April 7, 2006.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Mary Versailles, NHTSA, 400 Seventh Street, S.W., Room 5320, NVS–131, Washington, DC 20590. Ms. Versailles' telephone number is (202) 366–2057.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: 49 CFR 575—Consumer Information Regulations (sections 103 and 105).

OMB Control Number: 2127–0049.

Form Number: None.

Affected Public: Vehicle manufacturers.

Requested Expiration Date of Approval: Three years from approval date.

Abstract: NHTSA must ensure that motor vehicle manufacturers comply with 49 CFR Part 575, Consumer Information Regulation § 575.103 Truck-camper loading and § 575.105 Utility Vehicles. Section 575.103, requires that manufacturers of light trucks that are capable of accommodating slide-in campers provide information on the cargo weight rating and the longitudinal limits within which the center of gravity for the cargo weight rating should be located. Section 575.105 requires that manufacturers of utility vehicles affix a sticker in a prominent location alerting drivers that the particular handling and maneuvering characteristics of utility vehicles require special driving practices when these vehicles are operated.

Estimated Annual Burden: 300 hours.

Number of Respondents: 15.

Based on prior years' manufacturer submissions, the agency estimates that 15 responses will be submitted annually. Currently 12 light truck manufacturers comply with 49 CFR part 575. These manufacturers file one response annually and submit an additional response when they introduce a new model. Changes are rarely filed with the agency, but we estimate that three manufacturers will alter their information because of model changes. The light truck manufacturers gather only pre-existing data for the purposes of this regulation. Based on previous years' manufacturer information, the agency estimates that light truck manufacturers use a total of 20 hours to gather and arrange the data in its proper format (9 hours), to distribute the information to its dealerships and attach labels to light trucks that are capable of accommodating slide-in campers (4 hours), and to print the labels and utility vehicle information in the owner's manual or a separate document included with the owner's manual (7 hours). The estimated annual burden hour is 300 hours. This number reflects the total responses (15) times the total hours (20). Prior years' manufacturer information indicates that it takes an average of $35.00 per hour for professional and clerical staff to gather data, distribute and print material. Therefore, the agency estimates that the cost associated with the burden hours is $10,500 ($35.00 per hour × 300 burden hours).

Estimated Annual Cost: $2,883,685.

The annual cost is based on light truck production. In model year 2005, light truck manufacturers produced about 8,239,100 units. By assuming that all light truck manufacturers (both large and small volume manufacturers) incur the same cost, the total annual cost to comply with statutory requirements, § 575.103 and § 575.105 = $2,883,685 (or $0.35 each unit).

Comments are invited on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility.
- Whether the Department's estimate for the burden of the proposed information collection is accurate.
- Ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued on: March 1, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E6–3220 Filed 3–7–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2006–24071]

Notice of Receipt of Petition for Decision That Nonconforming 1995 Pontiac Firebird Trans Am Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1995 Pontiac Firebird Trans Am passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1995 Pontiac Firebird Trans Am passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is April 7, 2006.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As

specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. (WETL) of Houston, TX (Registered Importer 90–005) has petitioned NHTSA to decide whether nonconforming 1995 Pontiac Firebird Trans Am passenger cars are eligible for importation into the United States. The vehicles which WETL believes are substantially similar are 1995 Pontiac Firebird Trans Am passenger cars that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1995 Pontiac Firebird Trans Am passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with all applicable Federal motor vehicle safety standards.

WETL submitted information with its petition intended to demonstrate that non-U.S. certified 1995 Pontiac Firebird Trans Am passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1995 Pontiac Firebird Trans Am passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 101 *Controls and Displays*, 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect*, 103 *Windshield Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic and Electric Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 110 *Tire Selection and Rims*, 113 *Hood Latch System*, 114 *Theft Protection*, 116 *Motor Vehicle Brake Fluids*, 118 *Power-Operated Window, Partition, and Roof Panel Systems*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Mounting*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

In addition, the petitioner claims that the vehicles comply with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (A) installation of U.S.-model front and rear side marker lamps; and (B) connection of wiring to the existing center high mounted stop lamp assembly and installation of a U.S.-model bulb.

Standard No. 111 *Rearview Mirrors*: installation of a U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of that mirror.

Standard No. 208 *Occupant Crash Protection*: installation of U.S. version software to ensure that the seat belt warning system meets the requirements of this standard.

The petitioner also states that all vehicles will be inspected prior to importation to assure compliance with the Theft Prevention Standard at 49 CFR Part 541, and that antitheft devices will be installed, if necessary, to comply with that standard.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. E6–3231 Filed 3–7–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2002–11847; Notice 3]

Decision That Nonconforming 2000–2001 Audi (8D) A4, S4, and RS4 Passenger Cars, Manufactured From September 1, 1999, Through August 31, 2001, for the European Market, Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of decision by National Highway Traffic Safety Administration that nonconforming 2000–2001 Audi (8D) A4, S4, and RS4 passenger cars, manufactured from September 1, 1999, through August 31, 2001, for the European market, are eligible for importation.

SUMMARY: This document announces a decision by the National Highway Traffic Safety Administration (NHTSA) that certain 2000–2001 Audi (8D) A4, S4, and RS4 passenger cars, manufactured from September 1, 1999, through August 31, 2001, for the European market, that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S. certified version of the 2000–2001 Audi (8D) A4, and S4 passenger cars), and they are capable of being readily altered to conform to the standards.

DATES: This decision was effective March 28, 2003. The agency notified the petitioner at that time that the subject vehicles are eligible for importation. This document provides public notice of the eligibility decision.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified as required

under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, LLC (JK) of Baltimore, Maryland (Registered Importer 90–006), petitioned NHTSA to decide whether 2000–2001 Audi (8D) A4, S4, and RS4 passenger cars, manufactured from September 1, 1999, through August 31, 2001 for the European market, are eligible for importation into the United States. NHTSA published a notice of the petition on April 4, 2002 (67 FR 16146) and a second notice on September 30, 2002 (67 FR 61378) to afford an opportunity for public comment. The reader is referred to those notices for a thorough description of the petition.

One comment was received in response to the first notice of petition, from Volkswagen of America, Inc. (VW), the U.S. representative of the vehicle's original manufacturer. VW's comment addressed issues it believed J.K. had overlooked in describing alterations necessary to conform 2001 Audi A4 and S4 models to numerous FMVSS as well as to the Bumper Standard. The agency accorded J.K. an opportunity to respond to the issues raised by VW. J.K. responded by revising its petition. In the revised petition, J.K. added 2000 A4 and S4, and 2000–2001 RS4 models to those for which it sought import eligibility. Because this revision expanded the scope of the petition, NHTSA published the second notice. Only one comment was received in response to the second notice of petition, again from VW. VW's comment reiterated comments made in its response to the first notice and addressed issues it believed J.K. had overlooked in regard to the RS4 model. VW also stated that the petition needed to clarify the specific carline platform intended to be covered under the petition. VW's comments, J.K.'s responses, and NHTSA's analysis are set forth below for each of the issues that VW raised.

(1) *Vehicle Platform:* VW stated that two unique versions of the A4 platform were offered for sale in Europe. The European model year 2000 vehicles were built on the ''8D'' platform, while the European model year 2001 vehicles were built on the ''8E'' platform. All 2000 and 2001 model year U.S.-model vehicles were built on the ''8D'' platform. VW asserted that the 2001 U.S-model and the 2001 European market vehicles are not directly comparable for the purposes of determining modifications needed to achieve conformity with all applicable FMVSS. In its response, J.K. stated that it only intended the petition to cover the ''8D'' platform.

NHTSA's Analysis: In view of VW's comments and J.K.'s response, the agency concluded that any eligibility decision resulting from the petition should apply to nonconforming European market Audi A4, S4, and RS4 passenger cars manufactured between September 1, 1999 and August 31, 2001 that were built on the ''8D'' platform. The petition dates chosen are derived from the definition of ''model year'' in 49 CFR 593.4.

(2) *FMVSS No. 102 Transmission Shift Lever Sequence:* VW confirmed that the U.S. and the non-U.S.-certified model are identical with regard to conformity with this standard. In addition, VW pointed out that the non-U.S.-certified model is not equipped with a clutch/starter interlock that prevents the engine from being started unless the clutch pedal is depressed. J.K. stated that although it did not believe that the clutch/starter interlock was required by the standard, the company acknowledged that this is an important component that would give an extra margin of safety. J.K. therefore stated that it will add the components to the vehicles that it converts.

NHTSA's Analysis: The standard does not require a clutch/starter interlock on a vehicle equipped with a manual transmission. So long as the vehicle remains in compliance with all applicable FMVSS, NHTSA has no objection to the installation of these components.

(3) *FMVSS No. 114 Theft Prevention:* The petition stated that the key warning system must be activated by the installation of U.S.-version software to meet the requirements of this standard and that the proper operation of the system must be verified for each vehicle so converted. VW stated that vehicle modification is necessary and that paragraph S4.5 of the standard requires a warning device that is not installed on vehicles manufactured for markets other than the United States.

NHTSA's Analysis: The modifications VW identified as necessary would not prelude the vehicle from being deemed eligible for importation. Conformity packages submitted for vehicles imported under the decision must demonstrate that the vehicle is equipped with a key warning system that conforms to the standard.

(4) *FMVSS No. 118 Power-Operated Window Partition, and Roof Panel Systems:* The petition stated that the systems in the non-U.S. model are the same as those in the U.S. model. VW stated that the non-U.S. models do not comply with paragraph S4(e) of the standard and are not certified to the requirements of paragraph S5, which provides an exemption from the need to comply under paragraph S4(e). J.K. responded that it had tested the system after the installation of U.S.-model dash/body and OBDII software, which may explain why the systems in the non-U.S. model vehicles conformed to the standards.

NHTSA's Analysis: The modifications VW identified as necessary would not prelude the vehicle from being deemed eligible for importation. Conformity packages submitted for vehicles imported under the decision must demonstrate that the vehicle is equipped with a power-operated window partition and roof panel system that conforms to the standard.

(5) *FMVSS No. 135 Passenger Car Brake Systems:* The petition stated that the hydraulic brake system and the parking brake system are identical to those in the U.S.-model. VW stated that the brake lining material on non-U.S. model vehicles is different from the lining material installed on vehicles certified as conforming to FMVSS No. 135. J.K. responded that the vehicle it examined had brake pads that bore U.S.-model part numbers, but admitted that some vehicles may not be so equipped. J.K. concluded that all vehicles must be inspected for the presence of U.S.-model brake pads and that U.S.-model pads must be installed on vehicles that are not so equipped.

NHTSA's Analysis: The modifications VW identified as necessary would not prelude the vehicle from being deemed eligible for importation. Conformity packages submitted for vehicles imported under the decision must demonstrate that the vehicle is equipped with a brake system that conforms to the standard.

(6) *FMVSS No. 202 Head Restraints:* VW confirmed that the U.S. model and the non-U.S. model are identical with regard to conformity with this standard. However, VW pointed out that the non-U.S. model is not equipped with head

restraint locking devices that are present in the U.S.-model. J.K. responded that the non-U.S. model vehicles that it examined had head restraint locking devices.

NHTSA's Analysis: The standard does not require head restraint locking devices. The presence or absence of these devices therefore has no bearing on the vehicle's compliance with this standard.

(7) *FMVSS No. 206 Door Locks and Door Retention Components:* The petition stated that the door locks and retention system components installed on the non-U.S. model are identical to those installed on the U.S.-model. VW stated that non-U.S. model vehicles have a door locking system in which the interior door handle has a single pull release to open the door when the locking system is activated, and that the U.S.-model vehicles have a door locking system that requires a double pull motion. According to VW, the first pull unlocks the door and the second pull opens the door latch. VW further stated that the double pull feature is required to comply with paragraph S4.1.3.2 of the standard. J.K. responded that the vehicle it examined had a door locking system that required two pulls, but acknowledged that some vehicles may not be so equipped. J.K. stated that all vehicles must be inspected for the presence of U.S.-model components and that U.S.-model components must be installed on vehicles no so equipped.

NHTSA's Analysis: The modifications VW identified as necessary would not prelude the vehicle from being deemed eligible for importation. Conformity packages submitted for vehicles imported under decisions must demonstrate that the vehicle is equipped with a door lock system that conforms to the standard.

(8) *49 CFR Part 581 Bumper Standard:* The petition stated that the bumpers and bumper mounting structures were identical to those installed on U.S.-model vehicles. VW stated that non-U.S.-model A4 and S4 vehicles have bumper systems that are different from those installed on U.S.-model vehicles. The revised petition stated that the support structure for the bumpers on the non-U.S. vehicles are identical to that of the U.S.-model and that U.S.-model bumper components must be installed in order to meet the requirements of the standard. In response to the revised petition, VW stated that the bumper system on the RS4 model differs from that on the A4 and S4 models. VW also stated that no conforming parts are available for the SR4 model. J.K. responded that it has installed U.S.-model A4 bumper systems on the non-U.S. model RS4 ''8D'' chassis vehicle, that these systems bolt on directly, and that it will confirm these modifications.

NHTSA's Analysis: The agency notes that Bumper Standard compliance issues are not directly relevant to an import eligibility decision, as such a decision is to be based on the capability of a non-U.S. certified vehicle to be altered to conform to the FMVSS, and the Bumper Standard is not an FMVSS. However, because a vehicle that is not originally manufactured to comply with the Bumper Standard must be modified to comply with the standard before it can be allowed permanently into the United States, conformance with the Bumper Standard must be shown in the conformity package submitted to NHTSA to allow release of the DOT Conformance bond furnished at the time of importation.

Conclusion

Based on the contents of the petition and the resolution of the issues set forth above, NHTSA decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–400 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA decided that 2000–2001 Audi (8D) A4, S4, and RS4 passenger cars, manufactured from September 1, 1999, through August 31, 2001, for the European Market, that were not originally manufactured to comply with all applicable FMVSS, are substantially similar to 2000–2001 Audi (8D) A4, and S4 passenger cars originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable FMVSS.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. E6–3233 Filed 3–7–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Special Permit Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: List of application delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Ann Mazullo, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4535.

Key to ''Reason for Delay''

1. Awaiting additional information from applicant.

2. Extensive public comment under review.

3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis.

4. Staff review delayed by other priority issues or volume of special permit applications.

Meaning of Application Number Suffixes

N—New application.

M—Modification request.

X—Renewal.

PM—Party to application with modification request.

Issued in Washington, DC, on March 01, 2006.

R. Ryan Posten,

Chief, Special Permits Program, Office of Hazardous Materials Safety, Special Permits & Approvals.

Application No.	Applicant	Reason for delay	Estimated date of completion
	New Special Permit Applications		
13281–N	The Dow Chemical Company, Midland, MI	4	03–31–2006
13266–N	Luxfer Gas Cylinders, Riverside, CA	4	03–31–2006
13309–N	OPW Engineered Systems, Lebanon, OH	4	03–31–2006
13341–N	National Propane Gas Association, Washington, DC	3	03–31–2006
13346–N	Stand-By-Systems, Inc., Dallas, TX	1	03–31–2006
13563–N	Applied Companies, Valencia, CA	4	03–31–2006
13347–N	Amvac Chemical Corporation, Los Angeles, CA	4	03–31–2006
13582–N	Linde Gas LLC (Linde), Independence, OH	4	03–31–2006
13999–N	Kompozit-Praha s.r.o., Dysina u Plzne, Czech Republic, CZ	4	03–31–2006
14209–N	ABB Power Technologies AB, Alamo, TN	4	04–30–2006
14221–N	U.S. Department of Energy, Washington, DC	4	04–30–2006
14218–N	Air Logistics of Alaska, Inc., Fairbanks, AK	4	03–31–2006
14197–N	GATX Rail Corporation, Chicago, IL	4	04–30–2006
14199–N	RACCA, Plymouth, MA	4	04–30–2006
14185–N	U.S. Department of Energy, Washington, DC	4	03–31–2006
14184–N	Global Refrigerants, Inc., Denver, CO	4	03–31–2006
14178–N	Brider Fire Inc., Bozeman, MT	4	03–31–2006
14167–N	Trinityrail, Dallas, TX	4	03–31–2006
14239–N	Marlin Gas Transport, Inc., Odessa, FL	4	04–30–2006
14233–N	U.S. Department of Energy (DOE), Richland, WA	4	04–30–2006
14232–N	Luxfer Gas Cylinders—Composite Cylinder Division, Riverside, CA	4	04–30–2006
14225–N	The Colibri Group, Providence, RI	4	04–30–2006
14227–N	Aluminum Tank Industries, Inc., Winter Haven, FL	4	04–30–2006
14229–N	Senex Explosives, Inc., Cuddy, PA	4	04–30–2006
14228–N	Goodrich Corporation, Colorado Springs, CO	4	04–30–2006
14223–N	Technical Concepts, Mundelein, IL	4	04–30–2006
14212–N	Clean Harbors Environmental Services, Inc., North Andover, MA	4	04–30–2006
14262–N	GATX Rail, Chicago, IL	4	04–30–2006
14237–N	Advanced Technology Materials, Inc. (ATMI), Danbury, CT	4	04–30–2006
14231–N	FAA, Washington, DC	4	04–30–2006
14163–N	Air Liquide America L.P., Houston, TX	4	03–31–2006
14151–N	ChevronTexaco, Houston, TX	4	03–31–2006
14141–N	Nalco Company, Naperville, IL	4	03–31–2006
14138–N	INO Therapeutics, Inc., Port Allen, LA	4	03–31–2006
14038–N	Dow Chemical Company, Midland, MI	1	03–31–2006
13302–N	FIBA Technologies, Inc., Westboro, MA	4	03–31–2006
	Modification to Special Permits		
10915–M	Luxfer Gas Cylinders (Composite Cylinder Division), Riverside, CA	1	03–31–2006
11579–M	Dyno Nobel, Inc., Salt Lake City, UT	4	03–31–2006
12874–M	Zomeworks Corporation, Albuquerque, NM	4	04–30–2006
14096–M	United States Enrichment Corporation (USEC), Paducah, KY	4	04–30–2006
8495–M	Kidde Aerospace, Wilson, NC	4	04–30–2006
11924–M	Wrangler Corporation, Auburn, ME	4	04–30–2006
12929–M	Matheson Tri-Gas, East Rutherford, NJ	4	04–30–2006
13484–M	Air Liquide Aermica LP, Houston, TX	4	04–30–2006
11917–M	ITW Sexton, Decatur, AL	4	04–30–2006
11903–M	Comptank Corporation, Bothwell, ON	4	03–31–2006
13229–M	Matheson Tri-Gas, East Rutherford, NJ	4	03–31–2006
6263–M	Amtrol, Inc., West Warwick, RI	4	03–31–2006
13327–M	Hawk FRP LLC, Ardmore, OK	1	03–31–2006
13488–M	FABER INDUSTRIES SPA (U.S. Agent: Kaplan Industries, Maple Shade, NJ)	4	03–31–2006
10319–M	Amtrol, Inc., West Warwick, RI	4	03–31–2006
11241–M	Rohm and Haas Co., Philadelphia, PA	1	03–31–2006
7280–M	Department of Defense, Ft. Eustis, VA	4	03–31–2006

[FR Doc. 06–2155 Filed 3–07–06; 8:45 am]

BILLING CODE 4910–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–6 (Sub-No. 433X)]

BNSF Railway Company—Abandonment Exemption—in Clay and Norman Counties, MN

BNSF Railway Company (BNSF) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a 5.40-mile line of railroad between BNSF's milepost 15.60, near Georgetown in Clay County, MN, and milepost 21.00, near Perley in Norman County, MN. The line traverses United States Postal Service Zip Codes 56546 and 56574.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements of 49 CFR 1105.7 (environment report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 7, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by March 20, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 28, 2006, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to BNSF's representative: Sidney L. Strickland, Jr., 3050 K Street, NW., Suite 101, Washington, DC 20007.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

BNSF has filed environmental and historic reports which address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by March 13, 2006. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by BNSF's filing of a notice of consummation by March 8, 2007, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: March 1, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–3187 Filed 3–7–06; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989).* Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,200. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 2, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 7, 2006 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0387.
Type of Review: Extension.
Title: Application for Filling Information Returns Magnetically/Electronically.
Form: IRS Form 4419.
Description: Under section 6011(e)(2) (a) of the Internal Revenue Code, any person, including corporations, partnerships, individuals, estates and trusts, who is required to file 250 or more information returns must file such returns magnetically/electronically. Payers required to file on magnetic media or electronically must complete Form 4419 to receive authorization to file.
Respondents: Business or other for-profit; Not-for-profit institutions; Federal Government; State, local or tribal government.
Estimated Total Burden Hours: 6,500 hours.

OMB Number: 1545–0973.
Type of Review: Extension.
Title: Geographic Availability Statement.
Form: IRS Form 8569.
Description: The data collected from this form is used by the executive panels responsible for screening internal and external applicants for the SES Candidate Development Program, and other executive positions.
Respondents: Individuals or households; Federal Government.
Estimated Total Burden Hours: 84 hours.

OMB Number: 1545–1049.
Type of Review: Extension.
Title: IA–7–88 (Final) Excise Tax Relating to Gain or Other Income

Realized by Any Person on Receipt of Greenmail.

Description: The final regulations provide rules relating to the manner and method of reporting and paying the nondeductible 50 percent excise tax imposed by section 5881 of the Internal Revenue Code with respect to the receipt of greenmail.

Respondents: Individuals or households; Business or other for-profit.

Estimated Total Burden Hours: 2 hours.

OMB Number: 1545–1557.

Type of Review: Extension.

Title: Revenue Procedure 99–39, Form 941 e-file Program.

Description: Revenue Procedure 99–39 provides guidance and the requirements for participating in the Form 941 e-file Program.

Respondents: Business or other for-profit; Not-for-profit institutions; Federal Government; State, local or tribal government.

Estimated Total Burden Hours: 238,863 hours.

OMB Number: 1545–1671.

Type of Review: Extension.

Title: REG–209709–94 (Final) Amortization of Intangible Property.

Description: The information is required by the IRS to aid it in administering the law and to implement the election provided by section 197(f)(9)(B) of the Internal Revenue Code. The information will be used to verify that a taxpayer is properly reporting its amortization and income taxes.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 1,500 hours.

OMB Number: 1545–1804.

Type of Review: Extension.

Title: New Markets Credit.

Form: IRS Form 8874.

Description: Investors use Form 8874 to request a credit for equity investments in Community Development entities.

Respondents: Individuals or households; Business or other for-profit.

Estimated Total Burden Hours: 87,600 hours.

OMB Number: 1545–1528.

Type of Review: Extension.

Title: Revenue Procedure 97–15, Section 103—Remedial Payment Closing Agreement Program.

Description: This information is required by the Internal Revenue Service to verify compliance with sections 57, 103, 141, 142, 144, 145 and 147 of the Internal Revenue Code of 1986, as applicable (including any corresponding provision, if any of the Internal Revenue Code of 1954). This information will be used by the Service to enter into a closing agreement with the issuer of certain state or local bonds and to establish the closing agreement amount.

Respondents: Not-for-profit institutions and State, local or tribal government.

Estimated Total Burden Hours: 75 hours.

Clearance Officer: Glenn P. Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 622–3428.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395–7316.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E6–3271 Filed 3–7–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Disciplinary Appeals Board Panel

AGENCY: Department of Veterans Affairs.

ACTION: Notice with request for comments.

SUMMARY: Section 203 of the Department of Veterans Affairs Health Care Personnel Act of 1991 (Pub. L. 102–40), dated May 7, 1991, revised the disciplinary grievance and appeal procedures for employees appointed under 38 U.S.C. 7401(1). It also required the periodic designation of employees of the Department who are qualified to serve on Disciplinary Appeals Boards. These employees constitute the Disciplinary Appeals Board panel from which Board members in a case are appointed. This notice announces that the roster of employees on the panel is available for review and comment. Employees, employee organizations, and other interested parties shall be provided, without charge, a list of the names of employees on the panel upon request and may submit comments concerning the suitability for service on the panel of any employee whose name is on the list.

DATES: Names that appear on the panel may be selected to serve on a Board or as a grievance examiner after April 7, 2006.

ADDRESSES: Requests for the list of names of employees on the panel and written comments may be directed to: Secretary of Veterans Affairs (051E), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Requests and comments may also be faxed to (202) 273–9776.

FOR FURTHER INFORMATION, CONTACT: Latoya Smith, Employee Relations and Performance Management Service, Office of Human Resources Management and Labor Relations, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Ms. Smith may be reached at (202) 273–9827.

SUPPLEMENTARY INFORMATION: Pub. L. 102–40 requires that the availability of the roster be posted in the **Federal Register** periodically, and not less than annually.

Dated: March 1, 2006.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E6–3230 Filed 3–7–06; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 71, No. 45

Wednesday, March 8, 2006

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Adminstration

14 CFR Part 71

[Docket No. FAA–2005–22538; Airspace Docket No. 05–AAL–30]

Revision of Class E Airspace; Koliganek, AK

Correction

In rule document 06–24230 beginning on page 75392 in the issue of Tuesday, December 20, 2005, make the following correction:

§ 71.1 [Corrected]

On page 75393, in § 71.1, in the first column, in the eighth line from the bottom,

''long. 157°5′34″ W.''

should read

''long. 157°15′34″ W.''.

[FR Doc. C5–24230 Filed 3–7–06; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 2003–16329; Airspace Docket 02–ANM–01]

Revision of Class E Airspace; Cheyenne, WY

Correction

In rule document 05–20465 appearing on page 59653 in the issue of Thursday, October 13, 2005, make the following corrections:

§ 71.1 [Corrected]

1. On page 59653, in the third column, in §71.1, under the heading **ANM WY E5 Cheyenne WY [Revised]**, in the 19th line, ''104°99′00″W.'' should read ''104°00′00″W.''.

2. On the same page, in the same column, in the same section, under the same heading, in the 20th line, ''southeast'' should read ''southwest''.

[FR Doc. C5–20465 Filed 3–7–06; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
March 8, 2006

Part II

Department of Housing and Urban Development

Fiscal Year 2006 SuperNOFA for HUD's Discretionary Programs; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5030–N–01A]

Fiscal Year 2006 SuperNOFA for HUD's Discretionary Programs

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of HUD's Fiscal Year (FY) 2006 Notice of Funding Availability (NOFA) for HUD's Discretionary Programs (SuperNOFA).

SUMMARY: On January 20, 2006, HUD published its Notice of Fiscal Year 2006 Notice of Funding Availability Policy Requirements and General Section to the SuperNOFA (General Section). In that publication, HUD announced it was publishing the General Section of the FY2006 SuperNOFA in advance of the individual NOFAs in order to give prospective applicants sufficient time to begin preparing their applications, and to register early with Grants.gov to facilitate their application submission process. This publication contains the 39 funding opportunities that constitute HUD's FY2006 SuperNOFA.

DATES: The key dates that apply to all HUD federal financial assistance made available through HUD's FY2006 SuperNOFA are found in each individual program NOFA and in Appendix A to this notice.

FOR FURTHER INFORMATION CONTACT: The individual program NOFAs will identify the applicable agency contacts for each program. Questions regarding this Introduction should be directed to the NOFA Information Center between the hours 10 a.m. and 6:30 p.m. Eastern Time at 800–HUD–8929. Hearing-impaired persons may call 800–HUD–2209. Questions regarding specific program requirements should be directed to the agency contacts identified in each program NOFA.

SUPPLEMENTARY INFORMATION:

Introduction (Supplemental General Section)

This publication follows HUD's publication of the General Section of the FY2006 SuperNOFA on January 20, 2006 (71 FR 3382), and presents the 39 individual funding opportunities that constitute HUD's FY2006 SuperNOFA. HUD makes available through today's FY2006 SuperNOFA publication approximately $2.2 billion in assistance.

While each program NOFA provides the statutory and regulatory requirements, threshold requirements, and rating factors applicable to funding made available through the individual NOFA, applicants must also refer to the January 20, 2006, General Section of the FY2006 SuperNOFA for important application information and requirements, including submission requirements, which have changed this year.

Appendix A to the January 20, 2006, General Section identified the funding opportunities anticipated to be included in the FY2006 SuperNOFA. HUD is revising and republishing Appendix A (Revised Appendix A) as part of today's FY2006 SuperNOFA publication. Revised Appendix A provides an up-to-date funding chart that lists the funding opportunities included in today's FY2006 SuperNOFA publication, along with the application deadline for receipt of applications. In reviewing Revised Appendix A, applicants should note that the HOPE VI Main Street Program NOFA is not part of today's FY2006 SuperNOFA publication. This NOFA will be published separately, together with the HOPE VI Revitalization NOFA. In addition, the Self Help Homeownership Opportunity Program (SHOP) is part of today's FY2006 SuperNOFA publication and is included in Revised Appendix A.

In addition to Revised Appendix A, this notice makes one clarification regarding the discussion of the Logic Model in Section VI.C. entitled ''Reporting'' of the January 20, 2006, General Section (see 71 FR 3398). Although the Logic Model is to be completed by applicants, the Return on Investment (ROI) Statement referenced in the discussion of the Logic Model only applies to grantees, i.e., applicants selected for funding under the NOFAs. Applicants are *not* to complete the ROI statement. Additionally, for FY2006, the ROI concept is a new concept for the Logic Model. HUD is considering this new concept and will issue a separate notice within the next few weeks that further addresses the ROI concept.

HUD published the General Section of the FY2006 SuperNOFA early to provide its applicant community with the opportunity to become familiar with cross cutting requirements, and to remind prospective applicants to register or renew their registration in order to successfully submit an application via Grants.gov.

Applicants are required to complete a five-step registration process in order to submit their applications electronically. The registration process is outlined in HUD's Notice of Opportunity to Register Early for Electronic Submission of Grant Applications for Funding Opportunities, published in the **Federal Register** on December 9, 2006 (70 FR 73332), and the brochure entitled ''STEP BY STEP: Your Guide to Registering for Grant Opportunities,'' located at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm*. HUD also has a new brochure titled, ''Finding and Applying for Grant Opportunities,'' dated February 2006, which walks you through the process of finding and applying for grant opportunities. This brochure also contains Registration Tips that will help applicants who successfully submitted a grant application last year to determine if their registration is active and if they are ready to submit a grant application to Grants.gov.

HUD has received a number of questions regarding what to do if an Authorized Organization Representative (AOR) has left the organization. An excerpt from the ''Finding and Applying for Grant Opportunities Brochure,'' dated February 2006 and describes the steps that are needed in such situations and also provides other pertinent registration information. This excerpt can be found on HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm* under the title ''Registration Tips.''

In FY2006, HUD intends to continue to require its applicants to submit their applications electronically through Grants.gov. For FY2006, only the Continuum of Care program will remain a paper application process. It is HUD's intent, however, to move the Continuum of Care program to electronic application submission in FY2007. As a result, HUD continues to encourage Continuum of Care agencies to become familiar with Grants.gov requirements to facilitate this transition.

If you have questions concerning the registration process, registration renewal, assigning a new AOR, or have a question about a NOFA requirement, please feel free to contact HUD staff listed in the NOFA. HUD staff cannot help you write your application, but can clarify requirements that are contained in this Notice and HUD's registration materials.

Applicants are also encouraged to participate in HUD's satellite training and web cast sessions designed to provide a detailed explanation of the general section and program section requirements for each of the SuperNOFA programs. The interactive broadcasts provide you an opportunity to ask questions of HUD staff. These broadcasts are also achieved and accessible from HUD's Grants page at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm*. Applicants should bookmark the Grants page as it provides a wealth of information including responses to frequently asked questions that arise during the funding application period.

Modifications to any of the NOFAs or the application are posted to *www.Grants.gov* as soon as they are available. Applicants should subscribe to the *Grants.gov* free notification service. By doing so, you will receive an e-mail notification as soon as items are posted to Grants.gov. The address to subscribe to this service is *http://www.grants.gov/search/email.do*.

HUD reiterates the statement made in the publication of the General Section on January 20, 2006, and that is, HUD hopes the steps that it has taken to provide information early on the FY2006 funding process and SuperNOFA requirements are of benefit to applicants.

Dated: February 22, 2006.

Roy A. Bernardi,

Deputy Secretary.

BILLING CODE 4210–01–P

Appendix A Programs Included In The SuperNOFA	Funding Available (Approximate)	Application Deadline Date. (All applications must be received and validated by Grants.gov no later than 11:59:59 P.M. Eastern Time on the application deadline date. See submission details in General Section)
Community Development Technical Assistance (CD-TA) Programs	**$19,776,085**	
HOME TA CFDA No.: 14.239 OMB Approval No.: 2506-0166	$1,980,000	5/18/2006
CHDO (HOME) TA CFDA No.: 14.239 OMB Approval No.: 2506-0166	$7,920,000	5/18/2006
McKinney-Vento Homeless Assistance Programs TA CFDA No.: 14.235 OMB Approval No.: 2506-0166	$6,501,085	5/18/2006
HOPWA TA CFDA No.: 14.241 OMB Approval No.: 2506-0133	$900,000	5/18/2006
Youthbuild TA CFDA No.: 14.243 OMB Approval No.: 2506-0142	$2,475,000	5/18/2006
Indian Community Development Block Grant Program	**$59,400,000**	5/31/2006
Indian Community Development Block Grant Program (ICDBG) CFDA No.: 14.862 OMB Approval No.: 2577-0191		
University and College Programs	**$22,776,000**	
Historically Black Colleges and Universities Program (HBCU) CFDA No.: 14.520 OMB Approval No.: 2528-0235	$10,410,000	5/19/2006
Hispanic-Serving Institutions Assisting Communities Program (HSIAC) CFDA No.: 14.514 OMB Approval No.: 2528-0198	$6,018,000	5/22/2006
Alaska Native/Native Hawaiian Institutions Assisting Communities Program (AN/NHIAC) CFDA No.: 14.515 OMB Approval No.: 2528-0206	$3,208,000	5/19/2006
Tribal Colleges and Universities Program (TCUP) CFDA No.: 14.519 OMB Approval No.: 2528-0215	$3,140,000	5/22/2006

Appendix A Programs Included In The SuperNOFA	Funding Available (Approximate)	Application Deadline Date. (All applications must be received and validated by Grants.gov no later than 11:59:59 P.M. Eastern Time on the application deadline date. See submission details in General Section)
Fair Housing Initiatives Program	**$18,100,000**	
Fair Housing - Private Enforcement Initiative (PEI) CFDA No.: 14.408 OMB Approval No.: 2529-0033	$13,900,000	5/17/2006
Fair Housing Education and Outreach Initiative (EOI) CFDA No.: 14.408 OMB Approval No.: 2529-0033	$4,200,000	5/17/2006
Housing Counseling Programs	**$39,080,000**	
Housing Counseling		
Local Housing Counseling Agencies (LHCA)	$14,071,200	5/23/2006
National and Regional Intermediaries	$22,844,000	5/23/2006
Housing Counseling - State Housing Finance Agencies (SHFA) CFDA No: 14.169 OMB Approval No.: 2502-0261	$2,164,800	5/23/2006
Healthy Homes and Lead Hazard Control Programs	**$171,256,036**	
Lead Hazard NOFA (Combined)		
Lead-Based Paint Hazard Control Grant Program CFDA No.: 14.900 OMB Approval No.: 2539-0015	$84,911,331	6/7/2006
Lead Hazard Reduction Demonstration Grant Program CFDA No.: 14.905 OMB Approval No.: 2539-0015	$59,615,180	6/7/2006
Operation Lead Elimination Action Program (LEAP) CFDA No.: 14.903 OMB Approval No.: 2539-0015	$14,609,525	6/7/2006
Technical Studies NOFA (Combined)		
Lead-Technical Studies CFDA No.: 14.902 OMB Approval No.: 2539-0015	$3,750,000	6/6/2006
Healthy Homes Technical Studies CFDA No.: 14.906 OMB Approval No.: 2539-0015	$2,000,000	6/6/2006
Lead Outreach Grant Program CFDA No.: 14.904 OMB Approval No.: 2539-0015	$2,000,000	6/6/2006
Healthy Homes Demonstration Program CFDA No.: 14.901 OMB Approval No.: 2539-0015	$4,370,000	6/7/2006

Appendix A Programs Included In The SuperNOFA	Funding Available (Approximate)	Application Deadline Date. (All applications must be received and validated by Grants.gov no later than 11:59:59 P.M. Eastern Time on the application deadline date. See submission details in General Section)
Economic Development Programs	**$120,035,000**	
Brownfields Economic Development Initiative (BEDI) CFDA No: 14.246 OMB Approval No: 2506-0153	$10,000,000	6/14/2006
Youthbuild CFDA No: 14.243 OMB Approval No: 2506-0142	$46,035,000	6/9/2006
Housing Choice Voucher Family Self-Sufficiency (FSS) Program Coordinators CFDA No.: 14.871 OMB Approval No.: 2577-0178	$47,000,000	5/16/2006
Rural Housing & Economic Development (RHED) CFDA No: 14.250 OMB Approval No: 2506-0169	$17,000,000	5/12/2006
Public Housing Resident Opportunity and Self-Sufficiency (ROSS)	**$45,500,000**	
ROSS Elderly/Persons with Disabilities CFDA No.: 14.876 OMB Approval No.: 2577-0229	$10,000,000	7/13/2006
ROSS Family-Homeownership CFDA No.: 14.870 OMB Approval No.: 2577-0229	$18,000,000	8/8/2006
Technlogy for Increased Resident Self-Sufficiency Public Housing Neighborhood Networks CFDA No.: 14.875 OMB Approval No.: 2577-0229	$7,500,000	6/23/2006
Public and Indian Housing Family Self-Sufficiency CFDA No.: 14.877 OMB Approval No.: 2577-0229	$10,000,000	6/8/2006
Targeted and Assisted Housing	**$593,470,491**	
Self-Help Homeownership Opportunity Program (SHOP) CFDA No: 14.247 OMB Approval No.: 2506-0157	$20,000,000	5/24/2006
Housing Opportunities for Person with AIDS (HOPWA) CFDA No.: 14.241 OMB Approval No.: 2506-0133	$10,000,000	6/13/2006
Assisted-Living Conversion Program for Eligible Multifamily Projects CFDA No.: 14.314 OMB Approval No.: 2502-0542	$20,000,000	6/15/2006

Appendix A Programs Included In The SuperNOFA	Funding Available (Approximate)	Application Deadline Date. (All applications must be received and validated by Grants.gov no later than 11:59:59 P.M. Eastern Time on the application deadline date. See submission details in General Section)
Service Coordinators in Multifamily Housing CFDA No.: 14.191 OMB Approval No.: 2502-0447	$10,000,000	6/16/2006
Section 202 Supportive Housing for the Elderly CFDA No.: 14.157 OMB Approval No.: 2502-0267	$443,167,647	6/2/2006
Section 811 Supportive Housing for Persons with Disabilities CFDA No.: 14.181 OMB Approval No.: 2502-0462	$90,302,844	5/26/2006
Continuum of Care Homeless Assistance Programs	$1,200,000,000	5/25/2006
Supportive Housing Program (SHP) CFDA No.: 14.235 OMB Approval No.: Pending Shelter Plus Care (S+C) CFDA No.: 14.238 OMB Approval No.: Pending Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals CFDA No.: 14.249 OMB Approval No.: Pending		

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY DEVELOPMENT TECHNICAL ASSISTANCE (CD-TA)

HOME TA
CHDO TA
McKinney-Vento Homeless Assistance Programs
HOPWA TA
YOUTHBUILD TA

Billing Code 4210-01-C

Community Development Technical Assistance

Overview Information

A. Federal Agency Name. Department of Housing and Urban Development, Office of Community Planning and Development.

B. Funding Opportunity Title. Community Development Technical Assistance (CD–TA).

C. Announcement Type. Initial Announcement.

D. Funding Opportunity Number. The **Federal Register** number for this NOFA is FR–5030–N–08. The OMB approval numbers are: 2506–0166 for HOME Investment Partnerships Program (HOME), HOME Investment Partnerships Program for Community Housing Development Organizations [CHDO (HOME)], and McKinney-Vento Homeless Assistance (Homeless), 2506–0133 for Housing Opportunities for Persons With AIDS (HOPWA), and 2506–0142 for Youthbuild.

E. Catalog of Federal Domestic Assistance (CFDA) Numbers. The HOME and CHDO (HOME) CFDA number is 14.239; Homeless is 14.235; HOPWA is 14.241; Youthbuild is 14.243.

F. Dates. The application submission date is May 18, 2006.

G. Additional Overview and Content Information. Applicants interested in providing technical assistance to entities participating in HUD's community development programs should carefully review the General Section and the information listed in this CD–TA NOFA. Funds are available to provide technical assistance for five separate program areas: HOME, CHDO (HOME), Homeless, HOPWA, and Youthbuild. Applicants may apply for one, two, three, four, or all five CD–TA program areas. The application submission information is contained in this CD–TA NOFA at Section IV.B. Approximately $19.7 million is available. No cost sharing is required. Grants will be administered under cooperative agreements with significant HUD involvement (see Section II.C of this NOFA).

Full Text of Announcement

I. Funding Opportunity Description

A. CD–TA Purpose. The purpose of the CD–TA program is to provide assistance to achieve the highest level of performance and results for five separate community development program areas: (1) HOME; (2) CHDO (HOME); (3) Homeless; (4) HOPWA; and (5) Youthbuild. Information about the five community development programs and their missions, goals, and activities can be found on the HUD Web site at *http://www.hud.gov*.

B. Description of National TA and Local TA. There are two types of technical assistance (TA) funding available in this NOFA: National TA and Local TA.

National TA activities are those that address, at a nationwide level, one or more of the CD–TA program activities and/or priorities identified in Section III.C of this NOFA. National TA activities may include the development of written products, development of on-line materials, development of training courses, delivery of training courses previously approved by HUD, organization and delivery of workshops and conferences, and delivery of direct TA as part of a national program. Applicants for National TA must also be willing to work in any HUD field office area, although work in the field office areas is likely to be a negligible portion of National TA activities. National TA activities are administered by a Government Technical Representative (GTR) and Government Technical Monitor (GTM) at HUD Headquarters.

Local TA activities also must address the CD–TA program activities and/or priorities identified in this NOFA, however the Local TA is targeted to the specific needs of the HUD community development program recipients in the field office area in which the TA is proposed. Local TA activities are limited to the development of need assessments, direct TA to HUD community development program recipients, organization and delivery of workshops and conferences, and customization and delivery of previously HUD-approved trainings. Local TA will be administered by a GTR and GTM in the respective HUD field office.

C. Authority. HOME TA is authorized by the HOME Investment Partnerships Act (42 U.S.C. 12781–12783); 24 CFR part 92. CHDO (HOME) TA is authorized by the HOME Investment Partnerships Act (42 U.S.C. 12773); 24 CFR part 92. For the McKinney-Vento Act Homeless Assistance Programs TA, the Supportive Housing Program is authorized under 42 U.S.C. 11381 *et seq.*; 24 CFR 583.140; Emergency Shelter Grants, Section 8 Moderate Rehabilitation Single Room Occupancy Program, and Shelter Plus Care TA are authorized by the FY2006 HUD Appropriations Act. HOPWA TA is authorized under the FY2006 HUD Appropriations Act. Youthbuild TA is authorized under Title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899g); 24 CFR part 585.

II. Award Information

A. Available Funds. Approximately $19.7 million is available for the CD–TA program. Additional funds may become available as a result of recapturing unused funds. This chart shows how the funds are divided among National TA and Local TA activities:

Program	National TA	Local TA
HOME	$1,980,000	$0
CHDO (HOME)	2,920,000	5,000,000
Homeless	3,501,085	3,000,000
HOPWA	900,000	0
Youthbuild	2,475,000	0

The Local TA funds are divided among HUD's field office jurisdictions for the CHDO (HOME) and Homeless programs. No Local TA funds are available for HOPWA, Youthbuild, or HOME. In the case of the national CHDO (HOME) program, if less than the total amount of available funds is awarded, the balance may be used to make awards under the national HOME TA program.

The chart below shows the amounts available in dollars for Local TA by CD–TA program:

Local TA area	CHDO (HOME)	Homeless
Alabama	$75,000	$40,000
Alaska	30,000	30,000
Arkansas	30,000	40,000
California—Northern and Arizona, Nevada	300,000	300,000
California—Southern	400,000	275,000
Caribbean	75,000	40,000
Colorado and Montana, North Dakota, South Dakota, Utah, Wyoming	170,000	60,000
Connecticut	55,000	40,000

Local TA area	CHDO (HOME)	Homeless
District of Columbia area	50,000	50,000
Florida—Southern	60,000	50,000
Florida—Northern	100,000	70,000
Georgia	75,000	50,000
Hawaii		40,000
Illinois	125,000	145,000
Indiana	50,000	25,000
Kansas and Missouri—Western	75,000	50,000
Missouri—Eastern	55,000	40,000
Kentucky	150,000	40,000
Louisiana	50,000	40,000
Maryland, except District of Columbia area	50,000	40,000
Massachusetts, Maine, New Hampshire, Rhode Island, Vermont	250,000	200,000
Michigan	225,000	138,000
Minnesota	140,000	52,000
Mississippi	125,000	50,000
Nebraska and Iowa	40,000	40,000
New Jersey	25,000	25,000
New Mexico	225,000	50,000
New York—Downstate	482,000	250,000
New York—Upstate	60,000	35,000
North Carolina	150,000	40,000
Ohio	116,000	125,000
Oklahoma	40,000	40,000
Oregon and Idaho	130,000	30,000
Pennsylvania—Eastern and Delaware	75,000	50,000
Pennsylvania—Western and West Virginia	158,000	57,000
South Carolina	34,000	40,000
Tennessee	150,000	40,000
Texas—Northern	250,000	88,000
Texas—Southern	20,000	40,000
Virginia, except District of Columbia area	80,000	40,000
Washington	50,000	50,000
Wisconsin	200,000	55,000

B. Performance Period. Awards will be for a period of up to 36 months. HUD, however, reserves the right to withdraw funds from a specific TA provider if HUD determines that the urgency of need for the assistance is greater in other field office jurisdictions or the need for assistance is not commensurate with the award.

C. Terms of Award. HUD will enter into a cooperative agreement with selected applicants for the performance period. Because CD–TA awards are made as cooperative agreements, implementation entails significant HUD involvement. Significant HUD involvement is required in all aspects of TA planning, delivery, and follow-up.

In addition to the requirements listed in the General Section, selected applicants are subject to the following requirements:

1. Demand-Response System

All CD–TA awardees must operate within the structure of the demand-response system. Under the demand-response system, TA providers are required to:

a. When requested by a GTR, market the availability of their services to existing and potential recipients within the jurisdictions in which the assistance will be delivered;

b. Respond to requests for assistance from the GTR;

c. When requested by a GTR, conduct a needs assessment to identify the type and nature of the assistance needed by the recipient of the assistance;

d. Obtain the local HUD field office's approval before responding to direct requests for technical assistance from HOME Participating Jurisdictions (PJs), Community Housing Development Organizations (CHDOs), and McKinney-Vento Act Homeless Assistance and HOPWA grantees; and

e. For CHDO (HOME) TA providers, secure a letter from a PJ stating that a CHDO, or prospective CHDO to be assisted by the provider, is a recipient or intended recipient of HOME funds and indicating, at its option, subject areas of assistance that are most important to the PJ.

2. Training

When conducting training sessions as part of its CD–TA activities, CD–TA providers are required to:

a. Design the course materials as ''step-in'' packages so that HUD or other CD–TA providers may independently conduct the course on their own;

b. Make the course materials available to the GTR in sufficient time for review (minimum of three weeks) and receive concurrence from the GTR on the content and quality prior to delivery;

c. Provide all course materials in an electronic format that will permit wide distribution among TA providers, field offices, and HUD grantees;

d. Arrange for joint delivery of the training with HUD participation when requested by the GTR;

e. Deliver HUD-approved training courses that have been designed and developed by others on a ''step-in'' basis when requested; and

f. Send trainers to approved ''train-the-trainers'' sessions.

3. Field Office Involvement Under National TA Awards

When National TA providers are undertaking activities in field office jurisdictions, the National TA providers must work cooperatively with HUD field offices. Providers must notify the applicable HUD field office of the planned activities; consider the views or recommendations of that office, if any; follow those recommendations, to the degree practicable; and report to the applicable field office on the accomplishments of the assistance.

III. Eligibility Information

A. Eligible Applicants

The eligible applicants for each of the five CD–TA programs are listed in the chart below. In accordance with the President's faith-based initiative, HUD welcomes the participation of eligible faith-based and other community organizations in the CD–TA programs.

Program	Eligible applicants
HOME	A for-profit or nonprofit professional and technical services company or firm that has demonstrated knowledge of the HOME program and the capacity to provide technical assistance services; A HOME Participating Jurisdiction (PJ); A public purpose organization, established pursuant to state or local legislation, responsible to the chief elected officer of a PJ; An agency or authority established by two or more PJs to carry out activities consistent with the purposes of the HOME program; or A national or regional nonprofit organization that has membership comprised predominantly of entities or officials of entities of PJs or PJs' agencies or established organizations.
CHDO (HOME)	A public or private nonprofit intermediary organization that customarily provides services, in more than one community, related to the provision of decent housing that is affordable to low-income and moderate-income persons or related to the revitalization of deteriorating neighborhoods; has demonstrated experience in providing a range of assistance (such as financing, technical assistance, construction and property management assistance) to CHDOs or similar organizations that engage in community revitalization; and has demonstrated the ability to provide technical assistance and training for community-based developers of affordable housing. **Note:** Any organization funded to assist CHDOs under CD–TA may not undertake CHDO set-aside activities itself within its service area while under cooperative agreement with HUD.
Homeless	A state; A unit of general local government; A public housing authority; or A public or private nonprofit or for-profit organization, including educational institutions and area-wide planning organizations.
HOPWA	A for-profit or nonprofit organization; A state; or A unit of general local government.
Youthbuild	A public or private nonprofit agency that has significant prior experience in the operation of projects similar to the Youthbuild program and that has the capacity to provide effective technical assistance.

Applicants must also meet the threshold requirements of the General Section, including the Civil Rights threshold in Section III (C).

A consortium of organizations may apply for one or more CD–TA programs, but one organization must be designated as the applicant.

Applicants may propose assistance using in-house staff, sub-contractors, sub-recipients, and local organizations with the requisite experience and capabilities. Where appropriate, applicants should make use of TA providers located in the field office jurisdiction receiving services.

B. Cost Sharing or Matching

None.

C. Other

1. Eligible Activities and Priorities

Funds may be used to provide TA to grantees, prospective applicants, and project sponsors of the HOME, CHDO (HOME), Homeless, HOPWA, and Youthbuild programs. The TA activities may include but are not limited to written information such as papers, manuals, guides, and brochures; assistance to individual communities; needs assessments; and training. The priority TA areas for each of the five program areas are:

a. HOME TA. HUD has identified four HOME program technical assistance priorities. These priorities that result in measurable performance outputs and outcomes are:

(1) Improve the ability of PJs to design and implement housing programs that reflect sound underwriting, management, and fiscal controls; demonstrate measurable outcomes in the use of public funds; and provide accurate and timely reporting of HOME program accomplishments.

(2) Encourage public-private partnerships that yield an increase in the amount of private dollars leveraged for HOME-assisted projects and result in an increase in the commitment and production of HOME-assisted units.

(3) Assist PJs in developing strategies that ameliorate the affordability gap between rapidly increasing housing costs and the less rapid growth in incomes among low-income households, especially among underserved populations (*e.g.*, residents of the Colonias, homeless persons, persons with disabilities, and residents of an empowerment zone (EZ) designated by HUD or the United States Department of Agriculture (USDA), an urban or rural renewal community designated by HUD (RC), or an enterprise community designated in round II by USDA (EC–II).

(4) Assist PJs in developing strategies that increase and help sustain homeownership opportunities for low-income households—particularly low-income, minority households—and directly result in the commitment and completion of HOME-assisted units.

Some examples of measurable performance outputs and outcomes are given in Rating Factor 4.

b. CHDO (HOME) TA (1) HUD has identified three CHDO-specific technical assistance priorities. These priorities that result in measurable performance outputs and outcomes are:

(a) Assist new CHDOs and potential CHDOs in developing the organizational capacity to own, develop, and sponsor HOME-assisted projects. A new CHDO is defined as a nonprofit organization that within three years of the publication of this NOFA was determined by a PJ to qualify as a CHDO. A potential CHDO is defined as a nonprofit organization that is expected by the PJ to qualify as a CHDO and is expected to enter into a written agreement with that PJ to own, develop, or sponsor HOME-assisted housing within 24 months of the PJ determining the organization qualifies as a CHDO.

(b) Improve the HOME program production and performance of existing CHDOs in the areas of:

(i) Program design and management, including underwriting, project financing, property management, and compliance; and

(ii) Organizational management and capacity, including fiscal controls, board development, contract administration, and compliance systems.

(c) Provide organizational support, technical assistance, and training to community groups for the establishment of community land trusts, as defined in section 233(f) of the Cranston-Gonzales National Affordable Housing Act.

(2) Additional CHDO (HOME) eligible activities are:

(a) Under the ''Pass-Through'' provision, CD–TA providers may propose to fund various operating expenses for eligible CHDOs that own, develop, or sponsor HOME-assisted housing. Such operating expenses may include reasonable and necessary costs for the operation of the CHDO including salaries, wages, and other employee compensation and benefits; employee education, training and travel; rent; utilities; communication costs; taxes; insurance; equipment, materials, and supplies.

(b) CD–TA providers must establish written criteria for selection of CHDOs receiving pass-through funds. PJs must designate the organizations as CHDOs; and, generally, the organizations should not have been in existence more than three years.

CD–TA providers must enter into an agreement with the CHDO that the agreement and pass-through funding may be terminated at the discretion of HUD if no written legally binding agreement to provide assistance for a specific housing project (for acquisition, rehabilitation, new construction, or tenant-based rental assistance) has been made by the PJ with the CHDO within 24 months of initially receiving pass-through funding. The pass-through amount, when combined with other capacity building and operating support available through the HOME program, cannot exceed the greater of 50 percent of the CHDO's operating budget for the year in which it receives funds, or $50,000 annually.

c. Homeless TA. Homeless TA funds are available to provide McKinney-Vento Homeless Assistance Act, HUD-funded grantees, project sponsors, and potential recipients with skills and knowledge needed to develop and operate projects and activities. The assistance may include, but is not limited to, developing and disseminating written information such as papers, monographs, manuals, curriculums, guides, and brochures; and person-to-person exchanges, conferences, training and use of technology. TA activities are focused on these priorities that result in measurable performance outputs and outcomes:

(1) Continue the integration of the Technical Assistance Catalog and the Homelessness Resource Exchange through the development of new materials and dissemination of curriculums for defined audiences including existing technical assistance materials and newly created technical assistance materials. All curriculum dissemination may include training, conferences, and use of technology, as well as written materials.

(2) Develop curriculums to improve Continuum of Care (CoC) governance, development, organizational capacity, planning, and five-year renewal burden assessment, and to assist in developing strategies to eliminate chronic homelessness and increase access to mainstream services for homeless persons.

(3) Assist CoCs with Homeless Management Information System (HMIS) implementation. National technical assistance will relate to data collection, data quality, data analysis, provider participation, reporting, performance measurement, data warehousing, and HMIS Data and Technical Standards.

(4) Maintain and enhance the HMIS website portal as the vehicle for collection and dissemination of HMIS information. (5) Support collaboration between metropolitan, regional and statewide HMISs. Assistance may include providing state and/or regional HMIS technical assistance coordinators and/or technology to promote effectuating long-distance meeting, conferencing and networking. (6) Support collaboration between metropolitan, regional, and statewide HMISs for use in disaster preparedness and recovery efforts, utilizing the experience of communities that experienced Hurricanes Katrina and Rita.

(7) Improve participation in the Annual Homeless Assessment Report (AHAR) by CoCs and providers in their geographic areas through outreach and capacity building. Develop materials and training for: Reporting bed coverage; extrapolation and data analysis methodologies and documents; data integration; data quality assessments; utilization of AHAR data at the program and/or CoC level; and the collection and analysis of CoC data for Congressionally-directed HMIS-related reports to Congress.

(8) Develop curriculums for grantees and project sponsors on implementing and achieving long-term performance outcome measures that promote housing stability, reduce the risk of homelessness, and improve access to mainstream systems of care.

(9) Develop curriculums on program requirements and monitoring standards for McKinney-Vento Act funded grant recipients, including sound fiscal and financial management practices, assessment of sub-recipients and activities, and reporting in IDIS and via Annual Progress Reports.

(10) Develop curriculums to improve the ability of grantees to establish comprehensive housing development strategies for homeless persons through collaborative public and private partnerships. Such curriculums may include educational components on the availability and use of tax incentive programs that increase access to private capital (e.g., Low Income Housing Tax Credit, the Historic Preservation Investment Tax Credit, Renewal Communities and Empowerment Zones tax incentives, and New Markets Tax Credit).

(11) Develop curriculums for homelessness prevention strategies, including discharge planning.

(12) Assist CoC applicants with understanding the Grants.gov registration and application submission process so they are prepared to submit electronic applications in 2007 and assist HUD in increasing the number of McKinney Vento applicants fully registered at Grants.gov.

(A person experiencing chronic homelessness is defined as an unaccompanied individual with a disabling condition who has been continuously homeless for a year or more or has experienced four or more sustained episodes of homelessness over the last three years.)

d. HOPWA TA. HOPWA funds are available for technical assistance, training, and oversight activities which can be used to provide grantees, project sponsors, and potential recipients with the skills and knowledge to effectively develop, operate, and support HOPWA-eligible project activities that result in measurable performance outputs and outcomes. TA activities are focused on these priorities:

(1) Improve the ability of state and local governments to develop comprehensive and coordinated housing strategies in identifying and addressing the housing needs of low income persons living with HIV/AIDS that promote housing stability which

reduces the risk of homelessness and improves access to healthcare and other needed support.

(2) Develop national models that effectively integrate AIDS housing strategies into consolidated planning and Continuum of Care planning processes.

(3) Facilitate the development of collaborative endeavors that coordinate mainstream resources including federal HOPWA and Ryan White CARE Act resources, state, local, private, and philanthropic grant resources that promote the sustainability of permanent supportive housing, and develop regional training sessions that educate and instruct AIDS housing providers in implementing these collaborative efforts.

(4) Develop creative housing models that address the housing and supportive service needs of chronically homeless individuals and those who are multiple diagnosed living with HIV/AIDS, and that provide emergency and transitional housing that results in the provision of permanent supportive housing.

(5) Develop written materials that promote the utilization and coordination of Homeless Management Information Systems in the provision of HOPWA-assisted housing and supportive services for homeless persons.

(6) Develop technical assistance plans in collaboration with HUD field office oversight for local HOPWA-assisted housing programs. It is estimated that up to 40 percent of HOPWA TA funds will be made available for this purpose.

(7) Develop a strategy to facilitate implementation of the HUD-IRS agreement that promotes the Earned Income Tax Credit. Disseminate information that will enable HOPWA grantees and AIDS housing and service organizations to assist low-income persons in receiving the financial savings on their annual taxes.

e. Youthbuild TA. Youthbuild TA funds are available to provide appropriate training, information, and technical assistance to federally funded Youthbuild programs and to assist HUD in the management, supervision, and coordination of such Youthbuild programs. If the youth population includes persons who are limited English proficient, instructional materials for distribution may need to be translated in other languages than English. If translated documents are unavailable, oral interpreters should be provided during on-site and telephone assistance and while conducting training. TA activities that result in measurable performance outputs and outcomes are focused on the following priorities:

(1) Improve the management and implementation of Youthbuild programs by providing on-site and telephone assistance, preparing appropriate instruction materials, and conducting training workshops on key aspects of the Youthbuild program.

(2) Improve Youthbuild program applications by providing assistance to eligible applicants in the preparation of their grant applications, giving priority to community-based organizations in the provision of this assistance.

(3) Strengthen Youthbuild program design by facilitating peer-to-peer assistance for Youthbuild grantee staff and disseminating best program practices that are identified through training workshops, peer-to-peer assistance, and on-site TA.

(4) Assist HUD in the management, supervision, and coordination of Youthbuild programs by preparing handbooks or printed materials to provide guidance to Youthbuild grantees and by collecting and analyzing performance evaluation data from Youthbuild grantees.

(5) Assist Youthbuild applicants with understanding the Grants.gov registration and application submission process so they are prepared to submit electronic applications and assist HUD in increasing the number of applicants fully registered at Grants.gov.

2. DUNS Requirement

Refer to the General Section for information regarding the DUNS requirement. Applicants need to obtain a DUNS number to receive an award from HUD.

3. Other Eligibility Requirements

All applicants requesting funding from programs under this NOFA must be in compliance with the applicable threshold requirements found in the General Section. Applicants that do not meet these requirements will be ineligible for funding.

4. False Statements

An applicant's false statement in an application is grounds for denial or termination of an award and grounds for possible punishment as provided in 18 U.S.C. 1001.

5. Environmental Review

Most activities under the CD–TA program are categorically excluded and not subject to environmental review under 24 CFR 50.19(b)(9) or (13), but in the case of CHDO (HOME) TA eligible activities, a proposal for payment of rent as part of CHDO operational costs will be subject to environmental review by HUD under 24 CFR part 50. If an applicant proposes to assist CHDO operating expenses that include rent, the application constitutes an assurance that the applicant and CHDO will assist HUD to comply with 24 CFR part 50; will supply HUD with all available and relevant information to perform an environmental review for the proposed property to be rented; will carry out mitigating measures required by HUD or select an alternate property; and will not lease or rent, construct, rehabilitate, convert or repair the property, or commit or expend HUD or non-HUD funds for these activities on the property to be rented, until HUD has completed an environmental review to the extent required by 24 CFR part 50. The results of the environmental review may require that the proposed property be rejected.

IV. Application and Submission Information

A. Addresses to Request Application Package. Applications must be received and validated by Grants.gov no later than 11:59:59 PM Eastern time on the application due date of May 18, 2006. HUD must receive paper copy applications from applicants that received a waiver no later than 11:59:59 PM on the application deadline date. See the General Section for application submission and timely receipt procedures and for instructions on how to request a waiver. Paper applications will not be accepted unless the applicant has received a waiver of the electronic submission requirement.

B. Content and Form of Application Submission. Applicants must submit a separate application for each National TA and Local TA area program for which they are applying. For example, an applicant for National TA for HOME and for Local TA in three field office jurisdictions would submit four separate and distinct applications.

A completed application consists of an application submitted by an authorized official of the organization and contains all relevant sections of the application, as shown in the checklist below in Section IV.B.4.

1. Number of Copies

See General Section. This information will be included in approval letters to applicants submitting a waiver request.

2. Page Limitation

Narratives addressing Factors 1–5 are limited to no more than 25 typed pages. That is, reviewers will not review more than 25 pages for all five factors combined, except that the page limit

does not include the Form HUD–96010, Logic Model.

3. Prohibition on Materials Not Required

Materials other than what is requested in this NOFA are prohibited. Reviewers will not consider resumes, charts, letters, or any other documents attached to the application.

4. Checklist for Application Submission

Applicants submitting electronic copies should follow the procedures in Section IV.F. of the General Section. The following checklist is provided as a guide to help ensure that you submit all the required elements. For applicants receiving a waiver of the electronic submission, the paper submission must be in the order provided below. All applicants should enter the applicant name, DUNS number, and page numbers on the narrative pages of the application.

—SF–424, Application for Federal Assistance (from General Section)
—An Application Cover Page indicating in bold (a) the type of TA proposed in the application whether HOME National, CHDO National, CHDO Local, Homeless National, Homeless Local, HOPWA National, or Youthbuild National; (b) the amount of funds requested; and (c) for Local TA, the jurisdiction proposed in the application.
—A one-page Summary describing (a) each major component of the proposed TA approach; (b) the proposed cost of each major component; and (c) whether the component is integrally related to another component in order to be successful.
—Narrative addressing Factors 1–5
—HUD–96010, Logic Model
—HUD–424–CB, Grant Application Detailed Budget Form (from General Section)
—HUD–424–CBW, Detailed Budget Worksheet for Non-Construction Projects (from General Section)
—If applying for CHDO (HOME) TA, statement as to whether the organization proposes to pass through funds to new CHDOs.
—If applying for the CHDO (HOME) TA, a certification as to whether the organization qualifies as a primarily single-state provider under section 233(e) of the Cranston-Gonzales Affordable Housing Act.
—SF–LLL, Disclosure of Lobbying Activities (from General Section)
—HUD–2880, Applicant/Recipient Disclosure/Update Report (from General Section)
—SF–424, Supplement, Survey on Equal Opportunity for Applicants
—HUD–96011, FacsimileTransmittal (required for electronic submissions of third party documents)

C. Submission Dates and Times. The application submission date is May 18, 2006.

D. Intergovernmental Review. Intergovernmental review is not applicable to CD–TA applications.

E. Funding Restrictions. An organization may not provide assistance to itself. An organization may not provide assistance to another organization with which it contracts or sub-awards funds to carry out activities under the TA award.

Funding from HOME and from CHDO (HOME) TA to any single eligible organization (excluding funds for organizational support and housing education ''passed through'' to CHDOs), whether as an applicant or sub-recipient is limited to not more than 20 percent of the operating budget of the recipient organization for any one-year period of each cooperative agreement. In addition, funding under either HOME or CHDO (HOME) TA to any single organization is limited to 20 percent of the $9,900,000 made available for HOME and CHDO (HOME) TA in FY2006.

Not less than 40 percent of the approximately $7,920,000 for CHDO (HOME) shall be made available for eligible TA providers that have worked primarily in one state. HUD will consider an applicant as a primarily single state TA provider if it can document that more than 50 percent of its past activities in working with CHDOs or similar nonprofit and other organizations (on the production of affordable housing, revitalization of deteriorating neighborhoods, and /or the delivery of technical assistance to these groups) was confined to the geographic limits of a single state.

No fee or profit may be paid to any recipient or sub-recipient of an award under this CD–TA NOFA.

F. Other Submission Requirements. The General Section describes application submission procedures and how applicants may obtain proof of timely submission.

V. Application Review Information

A. Criteria. The maximum number of points to be awarded for a CD–TA application is 100. The minimum score for an application to be considered for funding is 75 with a minimum of 20 points on Factor 5. The CD–TA program is not subject to bonus points, as described in the General Section.

Points are assigned on five factors. When addressing Factors 1–4, applicants should discuss the specific TA activities that will be carried out during the term of the cooperative agreement. Applicants should provide relevant examples to support the proposal, where appropriate. Applicants should also be specific when describing the communities, populations, and organizations that they propose to serve and the specific outcomes expected as a result of the TA.

Factor 5 relates to the capacity of the applicant and its relevant organizational experience. Rating of the ''applicant'' or the ''applicant's organization and staff'' includes in-house staff and any sub-contractors and sub-recipients which are firmly committed to the project. In responding to Factor 5, applicants should specify the experience, knowledge, skills, and abilities of the applicant's organization and staff, and any persons and organizations firmly committed to the project.

1. Rating Factor 1: Need/Extent of the Problem (10 Points)

a. For National TA applications: Sound and extensive understanding of need for TA in relation to the priorities listed in Section III C of this NOFA as demonstrated by objective information and/or data, such as information from HOME Snapshots, current census data, the American Housing Survey, or other relevant data sources.

b. For Local TA applications: Sound and extensive understanding of high priority needs for TA in the jurisdiction as demonstrated by objective information and/or data, such as information from HOME Snapshots, current census data, the American Housing Survey, or other relevant data sources.

In rating this factor, HUD will evaluate the extent to which the application demonstrates an understanding of the specific needs for TA and supports the description of need with reliable, program-specific, quantitative information. Applicants for HOME should, at a minimum, draw on HOME Snapshot information to demonstrate PJs' needs, in an area or nationwide, for additional training and capacity building. See *http://www.hud.gov/offices/cpd/affordablehousing/programs/home/snapshot/index.cfm.*

2. Rating Factor 2: Soundness of Approach (40 Points)

a. (25 points) (1) For National TA applications: A sound approach for addressing the need for eligible TA activities in relation to the priorities listed in Section III C of this NOFA that will result in positive outcomes.

(2) For Local TA applications: A sound approach for addressing high priority needs for TA in the jurisdiction that will result in positive outcomes.

In rating this factor, HUD will evaluate the extent to which the application presents and supports a detailed, feasible, practical approach for addressing TA needs (Local TA applications) or CD–TA program priorities (National TA applications), including techniques, timeframes, goals, and intended beneficiaries, and the likelihood that these activities will result in positive outcomes.

b. (10 points) A feasible work plan for designing, organizing, managing, and carrying out the proposed TA activities under the demand-response system.

In rating this factor, HUD will evaluate the applicant's understanding of the demand-response system and the extent to which the application demonstrates the efficiency of proposed activities.

c. (5 points) An effective assistance program to specific disadvantaged communities, populations, and/or organizations which previously have been underserved and have the potential to participate in the CD–TA program (such as the Colonias, an empowerment zone (EZ) designated by HUD or the United States Department of Agriculture (USDA), an urban or rural renewal community designated by HUD (RC), an enterprise community designated in round II by USDA (EC–II), or homeless persons and persons with disabilities).

In rating this factor, HUD will evaluate the extent to which the applicant has identified specific disadvantaged or previously underserved communities, populations, and organizations and has developed an effective strategy for engaging their participation in the HOME, CHDO (HOME), Homeless, HOPWA, or Youthbuild program, as applicable.

3. Rating Factor 3: Leveraging Resources (10 Points)

An efficient practical method to transfer manuals, guides, assessment forms, other work products, models, and lessons learned in its CD–TA activities to other CD–TA grantees and/or HOME, CHDO (HOME), Homeless, HOPWA, or Youthbuild program beneficiaries.

In rating this factor, HUD will evaluate the extent to which the application demonstrates a cost-effective means of sharing resources developed under the CD–TA activities with a wide audience, including sharing information with other TA providers in the CD–TA program.

4. Rating Factor 4: Achieving Results and Program Evaluation (10 Points)

a. (5 points) An effective, quantifiable evaluation plan for measuring performance using the Logic Model with specific outcome measures and benchmarks, including—for HOME applicants—performance improvements as measured by the HOME Snapshot indicators.

In rating this factor, HUD will evaluate the extent to which the application has an evaluation plan that includes outcomes and is specific, measurable, and appropriate in relation to the activities proposed.

b. (5 points) Successful past performance in administering HUD CD–TA programs or, for applicants new to HUD's CD–TA Programs, successful past performance in providing TA in other community development programs. Applicants should include, as applicable, increases in CPD or community development program accomplishments as a result of TA (e.g., number of homeless people or persons with HIV/AIDS receiving housing and services, efficiency or effectiveness of administration of CPD or community development programs, number of affordable housing units, HOME Snapshot indicators, timeliness of use of CPD or community development program funds).

In rating this factor, HUD will evaluate the extent to which the application demonstrates successful past performance that was timely and resulted in positive outcomes in the delivery of community development TA. HUD will also consider past performance of current CD–TA providers, including financial and other information in HUD's files.

5. Rating Factor 5: Capacity of the Applicant and Relevant Organizational Experience (30 Points) (Minimum for Funding Eligibility—20 Points)

a. (10 points) Recent and successful experience of the applicant's organization in providing TA in eligible activities and to eligible entities for the HOME, CHDO (HOME), Homeless, HOPWA, or Youthbuild CD–TA programs, as applicable.

In rating this factor, HUD will consider the extent to which the application demonstrates successful experience within the last four years of providing TA related to the applicable CD–TA program.

b. (10 points) Depth of experience in managing multiple TA tasks, to multiple entities, and in more than one geographic area.

In rating this factor, HUD will consider the extent to which the application demonstrates ability to manage TA assignments effectively.

c. (10 points) Knowledgeable key personnel skilled in providing TA in one or more of the eligible activities for HOME, CHDO (HOME), Homeless, HOPWA, and/or Youthbuild programs, as applicable; a sufficient number of staff or ability to procure qualified experts or professionals with the knowledge, skills, and abilities to deliver the proposed level of TA in the proposed service area in a timely and effective fashion; and an ability to provide CD–TA in a geographic area larger than a single city or county.

In rating this factor, HUD will consider the extent to which the application demonstrates the organization has an adequate number of key staff or ability to procure individuals with the knowledge of effective TA approaches and knowledge of HOME, CHDO (HOME), Homeless, HOPWA, or Youthbuild program, as applicable.

B. Review and Selection Process

1. Review Types

Two types of reviews will be conducted. First, HUD will review each application to determine whether it meets threshold eligibility requirements.

Second, HUD will review and assign scores to applications using the Factors for Award noted in Section V.A.

2. Rank Order

a. Once rating scores are assigned, rated applications submitted for each National TA program and for each Local TA program will be listed in rank order. Applications within the fundable range (score of 75+ points with 20+ points for Factor 1) may then be funded in rank order under the CD–TA program and service area for which they applied.

b. For purposes of coordinating activities on a national basis, HUD reserves the right to select a single national provider to carry out activities, as follows:

(1) One for HOPWA technical assistance activities, including national products and local support;

(2) One for Continuum of Care technical assistance activities that primarily focus on HMIS support;

(3) One for HOME and one for CHDO technical assistance activities.

3. Threshold Eligibility Requirements

All applicants requesting CD–TA must be in compliance with the applicable threshold requirements found in the General Section and the eligibility requirements listed in Section III of this NOFA in order to be reviewed, scored, and ranked. Applications that

do not meet these requirements and applications that were received after the submission deadline (see Section IV.F of the General Section) will be considered ineligible for funding.

4. Award Adjustment

In addition to the funding adjustment authority provided for in the General Section, HUD reserves the right to adjust funding amounts for each CD–TA selectee. The amounts listed in the charts in Section II.A are provided to assist applicants to develop Local TA or National TA budgets and do not represent the exact amounts to be awarded. Once TA applicants are selected for award, HUD will determine the total amount to be awarded to any selected applicant based upon the size and needs of each of the selected applicant's service areas, the funds available for that area and CD–TA program, the number of other CD–TA applicants selected in that area or CD–TA program, and the scope of the TA to be provided.

Additionally, HUD may reduce the amount of funds allocated for field office jurisdictions to fund National CD–TA providers and other CD–TA providers for activities that cannot be fully budgeted for or estimated by HUD Headquarters or field offices at the time this NOFA was published. HUD may also require selected applicants, as a condition of funding, to provide coverage on a geographically broader basis than proposed in order to supplement or strengthen the CD–TA network in terms of the size of the area covered and types and scope of TA proposed.

If funds remain after all selections have been made, the remaining funds may be distributed among field offices for Local TA and/or used for National TA, or made available for other CD–TA program competitions.

VI. Award Administration Information

A. *Award Notices.* HUD will send written notifications to both successful and unsuccessful applicants. A notification sent to a successful applicant is not an authorization to begin performance.

After selection, HUD requires that all selected applicants participate in negotiations to determine the specific terms of the cooperative agreement, including the budget. Costs may be denied or modified if HUD determines that they are not allowable, allocable, and/or reasonable. In cases where HUD cannot successfully conclude negotiations with a selected applicant or a selected applicant fails to provide HUD with requested information, an award will not be made to that applicant. In this instance, HUD may offer an award, and proceed with negotiations with the next highest-ranking applicant.

After selection for funding but prior to executing the cooperative agreement, the selected applicant must develop in consultation with the GTR, a Technical Assistance Delivery Plan (TADP) for each National TA award. The TADP must be approved by the GTR and delineate the tasks for each CD–TA program the applicant will undertake during the performance period. For Local TA awards and generally for National TA awards, prior to undertaking individual tasks, the selected applicant must develop in consultation with the GTR a Work Plan for specific activities. The TADP and the Work Plans must specify the location of the proposed CD–TA activities, the amount of CD–TA funding and proposed activities by location, the improved program performance or other results expected from the CD–TA activities, and the methodology to be used for measuring the success of the CD–TA. A detailed time schedule for delivery of the activities, budget summary, budget-by-task, and staffing plan must be included in the TADP and Work Plans.

After selection, but prior to award, applicants selected for funding will be required to provide HUD with their written Code of Conduct if they have not previously done so and it is recorded on the HUD Web site at *http://www.hud.gov/offices/adm/grants/codeofconduct/sconduct.cfm.*

B. Administrative and National Policy Requirements. After selection for funding but prior to award, applicants must submit financial and administrative information to comply with applicable requirements. These requirements are found in 24 CFR part 84 for all organizations except states and local governments whose requirements are found in 24 CFR Part 85. Cost principles requirements are found at OMB Circular A–122 for nonprofit organizations, OMB Circular A–21 for institutions of higher education, OMB Circular A–87 for states and local governments, and at 48 CFR 31.2 for commercial organizations. Applicants must submit a certification from an Independent Public Accountant or the cognizant government auditor, stating that the applicant's financial management system meets prescribed standards for fund control and accountability.

See the General Section for requirements for Procurement of Recovered Materials.

The requirements to Affirmatively Further Fair Housing do not apply.

C. Reporting. CD–TA awardees will be required to report to the GTR on, at a minimum, a quarterly basis unless otherwise specified in the cooperative agreement. As part of the required report to HUD, grant recipients must include a completed Logic Model (HUD 96010), which identifies output and outcome achievements.

VII. Agency Contacts

A. For Assistance. Applicants may contact HUD Headquarters at 202–708–3176, or they may contact the HUD field office serving their area shown in Section VII.C. Persons with hearing and speech challenges may access the above numbers via TTY (text telephone) by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number). Information may also be obtained through the HUD website on the Internet at *http://www.hud.gov.*

B. List of Field Office Addresses. Applicants that receive a waiver of the electronic application submission requirements and need to submit copies of their application to HUD field offices should consult the following website for a listing of the HUD field office addresses to send Local TA applications: *http://www.hud.gov/offices/cpd/about/staff/fodirectors/index.cfm.*

At the site, the map allows the user to click on an area to obtain the field office address and other contact information.

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 numbers 2506–0166 and 2506–0133. 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 60 hours for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data. 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. HUD Reform Act. The provisions of the HUD Reform Act of 1989 that apply

to the CD–TA program are explained in the General Section.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR INDIAN TRIBES AND ALASKA NATIVE VILLAGES (ICDBG)

Billing Code 4210-01-C

Community Development Block Grant Program for Indian Tribes and Alaska Native Villages

Overview Information

A. Federal Agency Name: Department of Housing and Urban Development, Office of the Assistant Secretary for Public and Indian Housing, Office of Native American Programs.

B. Funding Opportunity Title: Community Development Block Grant (ICDBG) Program for Indian Tribes and Alaska Native Villages.

C. Announcement Type: Initial Announcement.

D. Funding Opportunity Number: The **Federal Register** number is FR 5030–N–02. The OMB approval number is 2577–0191.

E. Catalog of Federal Domestic Assistance (CFDA) Number(s): The Catalog of Federal Assistance (CFDA) Number for the Indian Community Development Block Grant program is 14.862.

F. Dates: Application Deadline: The application submission date is May 31, 2006.

G. Optional, Additional Overview Content Information:

1. Applicants for funding should carefully review the requirements identified in this NOFA and the General Section. Unless otherwise stated in this NOFA, the requirements of the General Section apply.

2. The total approximate amount of funding available for the ICDBG program for FY2006 is $59,400,000 less $3,960,000 retained to fund Imminent Threat Grants, for a total of $55,440,000. Funds that are carried over from previous fiscal years or are recaptured may also be used for grant awards under this NOFA.

3. Eligible applicants are Indian tribes or tribal organizations on behalf of Indian tribes. Specific information on eligibility is located in Section III.A. of this NOFA.

Full Text of Announcement

I. Funding Opportunity Description

A. *General.* Title I of the Housing and Community Development Act of 1974, which authorizes Community Development Block Grants, requires that grants for Indian tribes be awarded on a competitive basis. All grant funds awarded in accordance with this NOFA are subject to the requirements of 24 CFR part 1003. Applicants within an Area Office of Native American Program's (ONAP) geographic jurisdiction compete only against each other for that Area ONAP's allocation of funds.

B. *Authority.* The authority for this program is Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) and the program regulations in 24 CFR part 1003.

C. *Program Description.* The purpose of the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages (ICDBG) is the development of viable Indian and Alaska Native communities, including the creation of decent housing, suitable living environments, and economic opportunities primarily for persons with low- and moderate-incomes as defined in 24 CFR 1003.4. The ONAP in HUD's Office of Public and Indian Housing administers the program.

Projects funded by the ICDBG program must meet the primary objective, defined at 24 CFR 1003.2, to principally benefit low- and moderate-income persons. Consistent with this objective, not less than 70 percent of the expenditures of each single purpose grant shall be for activities which meet the regulatory criteria at 24 CFR 1003.208 for:

1. Area Benefit Activities.
2. Limited Clientele Activities.
3. Housing Activities.
4. Job Creation or Retention Activities.

ICDBG funds may be used to improve housing stock, provide community facilities, improve infrastructure, and expand job opportunities by supporting the economic development of the communities, especially by nonprofit tribal organizations or local development corporations.

ICDBG single-purpose grants are distributed as annual competitive grants, in response to this NOFA.

ICDBG imminent threat grants are intended to alleviate or remove threats to health or safety that require an immediate solution as described at 24 CFR part 1003, subpart E. The problem to be addressed must be such that an emergency situation exists or would exist if the problem were not addressed.

You do not have to submit a request for imminent threat funds by the deadline established in this NOFA. The deadline applies only to applications submitted for assistance under 24 CFR part 1003, subpart D, single purpose grants. Imminent threat requests may be submitted at any time after NOFA publication, and if the following criteria are met, the request may be funded until the amount set aside for this purpose is expended:

1. Independent verification from a third party (i.e., Indian Health Service, Bureau of Indian Affairs) of the existence, immediacy and urgency of the threat must be provided;

2. The threat must not be recurring in nature, i.e., it must represent a unique and unusual circumstance that has been clearly identified by the tribe or village;

3. The threat must affect or impact an entire service area and not solely an individual family or household; and

4. It must be established that funds are not available from other local, state, or Federal sources to address the problem. The tribe or village must verify that Federal or local agencies that would normally provide assistance for such improvements have no funds available by providing a written statement to that effect. The tribe or village must also verify in the form of a tribal council resolution (or equivalent) that it has no available funds, including Indian Housing Block Grant Funds, for this purpose.

If, in response to a request for assistance, an Area ONAP issues you a letter to proceed under the authority of 24 CFR 1003.401(a), then your application must be submitted to and approved by the Area ONAP before a grant agreement may be executed. Contact your Area ONAP office for more information on imminent threat.

D. Definitions Used in this NOFA.

1. *Adopt.* To approve by formal tribal resolution.

2. *Document.* To supply supporting written information and/or data in the application that satisfies the NOFA requirement. Documentation should clearly and concisely support your response to the rating factor.

3. *Entity Other than Tribe.* A distinction is made between the requirements for point award under Rating Factor 3 if a tribe or an entity other than the tribe will assume maintenance and related responsibilities for projects other than economic development and land acquisition to support new housing. Entities other than the tribe must have the following characteristics: (a) Must be legally distinct from the tribal government; (b) their assets and liabilities cannot be considered to be assets and liabilities of the tribal government; (c) claims against such entities cannot be made against the tribal government; and (d) must have governing boards, boards of directors, or groups or individuals similar in function and responsibility to such boards which are separate from the tribe's general council, tribal council, or business council, as applicable.

4. *Homeownership Assistance Programs.* Tribes may apply for assistance to provide direct homeownership assistance to low- and moderate-income households to: (a) Subsidize interest rates and mortgage principal amounts for low- and

moderate-income homebuyers; (b) finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers; (c) acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that ICDBG funds may not be used to guarantee such mortgage financing directly, and grantees may not provide such guarantees directly); (d) provide up to 50 percent of any down payment required from a low- and moderate-income homebuyer; or (e) pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low-or moderate-income homebuyer.

5. *Leveraged Resources.* Leveraged resources are resources that you will use in conjunction with ICDBG funds to achieve the objectives of the project. Leveraged resources include, but are not limited to: tribal trust funds; loans from individuals or organizations; business investments; private foundations; state or federal loans or guarantees; other grants; and non-cash contributions and donated services. (See Rating Factor 4 for documentation requirements for leveraged resources.)

6. *Microenterprise Programs.* Tribes may apply for assistance to operate programs to fund the development, expansion, and stabilization of microenterprises. Microenterprises are defined as commercial entities with five or fewer employees, including the owner. Microenterprise program activities may entail the following assistance to eligible businesses: (a) Providing credit, including, but not limited to, grants, loans, loan guarantees, and other forms of financial support for the establishment, stabilization, and expansion of microenterprises; (b) providing technical assistance, advice, and business support services to owners of microenterprises and persons developing microenterprises; and (c) providing general support, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services to owners of microenterprises and persons developing microenterprises.

7. *Operations and Maintenance (O&M) for Public Facilities and Improvements.* While various items of cost will vary in importance and significance depending on the type of facility proposed, there are items of expense related to the operation of the physical plant which must be addressed in a O&M plan (tribe assumes responsibility) or in a letter of commitment (entity other than tribe will assume these responsibilities). Although the tribe no longer has to submit the O&M plan with the application, it must provide a written statement that it has adopted an O&M plan and that the plan addresses several items. These items include daily or other periodic maintenance activities; repairs such as replacing broken windows; capital improvements or replacement reserves for repairs such as replacing the roof; fire and liability insurance (may not be applicable to most types of infrastructure projects such as water and sewer lines); and security (may not be applicable to many types of infrastructure projects such as roads). (Please note that while it is possible that the service provider may, in its agreement with a tribe, commit itself to cover certain or all facility O&M costs, these costs do not include the program service provision costs related to the delivery of services (social, health, recreational, educational or other) which may be provided in a facility).

8. *Outcomes.* The ultimate impact you hope to achieve with the proposed project. Outcomes should be quantifiable measures or indicators and identified in terms of the change in the community, people's lives, changes in economic status, etc. Common outcomes could include increases in percent of housing units in standard condition, homeownership rates, or employment rates.

9. *Outputs.* Outputs are the direct products of a program's activities. They are usually measured in terms of the volume of work accomplished, such as the number of low-income households served, number of units constructed or rehabilitated, linear feet of curbs and gutters installed, or number of jobs created or retained. Outputs should be clear enough to allow HUD to monitor and assess your proposed project's progress if funded.

10. *Project Cost.* The total cost to implement the project. Project costs may be covered by both ICDBG and non-ICDBG funds and resources.

11. *Standard Housing/Standard Condition.* Housing that meets the housing quality standards (HQS) adopted by the applicant. The HQS adopted by the applicant must be at least as stringent as the Section 8 HQS contained in 24 CFR 982.401 (Section 8 Tenant-Based Assistance: Housing Choice Voucher program) unless the ONAPs approve less stringent standards based on a determination that local conditions make the use of Section 8 HQS unfeasible. You may submit, before the application submission deadline, a request for the approval of standards less stringent than Section 8 HQS. If you submit the request with your application, you should not assume automatic approval by the ONAPs. The adopted standards must provide for (a) a safe house, in physically sound condition with all systems performing their intended design functions; (b) a livable home environment and an energy efficient building and systems that incorporate energy conservation measures; and (c) an adequate space and privacy for all intended household members.

12. *Statement.* When a ''written statement'' is requested for any threshold, program requirement, or rating factor, the applicant must address in writing the specific item cited.

13. *Tribe.* The word ''tribe'' means an Indian tribe, band, group or nation, including Alaska Indians, Aleuts, Eskimos, Alaska Native Villages, Alaska Native Claims Settlement Act (ANCSA) Village Corporations, and ANCSA Regional Corporations.

II. Award Information

A. Available Funds. The FY2006 appropriation for the ICDBG program is $59,400,000, less $3,960,000 retained to fund Imminent Threat Grants, for a total of $55,440,000. Funds that are carried over from previous fiscal years or are recaptured may also be used for grant awards under this NOFA. In accordance with the provisions of 24 CFR part 1003, subpart E, we have retained $3,960,000 of the FY 2006 appropriation to meet the funding needs of imminent threat requests submitted to any of the Area ONAPs. The grant ceiling for imminent threat requests for FY 2006 is $425,000. This ceiling has been established pursuant to the provisions of 24 CFR 1003.400(c).

B. Allocations to Area ONAPs. The requirements for allocating funds to Area ONAPs responsible for program administration are found at 24 CFR 1003.101. Following these requirements, based on an appropriation of $59,400,000 less $3,960,000 for Imminent Threat grants, the allocations for FY2006 are approximately as follows:

Eastern/Woodlands	$6,325,737
Southern Plains	11,864,746
Northern Plains	7,917,788
Southwest	20,525,637
Northwest	2,891,489
Alaska	5,914,603
Total	55,440,000

C. Compliance with regulations, guidelines, and requirements: Applicants awarded a grant under this NOFA are required to comply with the

regulations, guidelines, and requirements with respect to the acceptance and use of Federal funds for this Federally-assisted program. Also, the grantee, by accepting the grant, provides assurance with respect to the grant that:

1. It possesses the legal authority to apply for the grant and execute the proposed program.

2. The governing body has duly authorized the filing of the application, including all understandings and assurances contained in the application and has directed and authorized the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

3. It will comply with HUD general administration requirements in 24 CFR Part 85.

4. It will comply with the requirements of Title II of Public Law 90–284 (25 U.S.C. 1301), the Indian Civil Rights Act. Federally recognized Indian tribes and their instrumentalities are subject to the requirements of: Title II of the Civil Rights Act of 1964, known as the Indian Civil Rights Act; Section 109 prohibitions against discrimination based on age, sex, religion and disability; the Age Discrimination Act of 1975; and Section 504 of the Rehabilitation Act of 1973.

5. It will comply with the Indian preference provisions required in 24 CFR 1003.510.

6. It will establish written safeguards to prevent employees from using positions funded under the ICDBG programs for a purpose that is, or gives the appearance of being, motivated by private gain for themselves, their immediate family, or business associates. Employees are not otherwise limited from benefiting from program activities for which they are otherwise eligible.

7. Neither the applicant nor its principals are presently excluded from participation in any HUD programs, as required by 24 CFR part 24.

8. The chief executive officer or other official of the applicant approved by HUD:

a. Consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 insofar as the provisions of the Act apply to the applicant's proposed program pursuant to 24 CFR 1003.605.

b. Is authorized and consents on behalf of the applicant and him/herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such an official.

Note: Applicants for whom HUD has approved a claim of incapacity to accept the responsibilities of the Federal government for purposes of complying with the environmental review requirements of 24 CFR part 58 pursuant to 24 CFR 1003.605 are not subject to the provision of paragraph 8.

9. It will comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968 and the regulations in 24 CFR part 135 (Economic Opportunities for Low and Very Low Income Persons) to the maximum extent consistent with, but not in derogation of, compliance with Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). Two points will be awarded under Rating Factor 3 in FY2006 for applicants who demonstrate how they will incorporate Section 3 principles into their proposed projects.

10. It will comply with the requirements of the Fire Authorization Administration Act of 1992 (Pub. L. 102–522).

11. It will comply with 24 CFR, part 4, subpart A, showing full disclosure of all benefits of the project as collected by Form HUD–2880, Applicant/Recipient Disclosure Report.

12. Prior to submission of its application to HUD, the grantee has met the citizen participation requirements which includes following traditional means of member involvement, as required in 24 CFR 1003.604.

13. It will administer and enforce the labor standards requirements prescribed in 24 CFR 1003.603.

14. The project has been developed so that not less than 70 percent of the funds received under this grant will be used for activities that benefit low- and moderate-income persons.

15. Executive Order 13202, ''Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects'' applies to projects funded under this NOFA. See the General Section for more information.

D. Period of Performance. The period of performance for any grant awarded under this NOFA must be included in the Implementation Schedule, HUD–4125, and approved by HUD.

III. Eligibility Information

A. Eligible Applicants. Eligible applicants are Indian tribes or tribal organizations on behalf of Indian tribes. To apply for funding you must be eligible as an Indian tribe (or as a tribal organization), as required by 24 CFR 1003.5, by the application submission date.

Tribal organizations are permitted to submit applications under 24 CFR 1003.5(b) on behalf of eligible tribes when one or more eligible tribe(s) authorize the organization to do so under concurring resolutions. The tribal organization must itself be eligible under Title I of the Indian Self-Determination and Education Assistance Act. The Bureau of Indian Affairs (BIA) or the Indian Health Service, as appropriate, must make a determination of such eligibility. This determination must be provided to the Area ONAP by the application submission date.

If a tribe or tribal organization claims that it is a successor to an eligible entity, the Area ONAP must review the documentation to determine whether it is in fact the successor entity.

Applicants from within Alaska: Due to the unique structure of tribal entities eligible to submit ICDBG applications in Alaska, and as only one ICDBG application may be submitted for each area within the jurisdiction of an entity eligible under 24 CFR 1003.5, a tribal organization that submits an application for activities in the jurisdiction of one or more eligible tribes or villages must include a concurring resolution from each such tribe or village authorizing the submission of the application. Each such resolution must also indicate that the tribe or village does not itself intend to submit an ICDBG application for that funding round. The hierarchy for funding priority continues to be the IRA Council, the Traditional Village Council, the ANCSA Village Corporation, and the ANCSA Regional Corporation.

On November 25, 2005 (70 FR 71194), the BIA published a **Federal Register** notice entitled, ''Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs.'' This notice provides a listing of Indian Tribal Entities in Alaska found to be Indian tribes as the term is defined and used in 25 CFR part 83. Additionally, pursuant to Title I of the Indian Self-Determination and Education Assistance Act, ANCSA Village Corporations and Regional Corporations are also considered tribes and therefore eligible applicants for the ICDBG program.

Any questions regarding eligibility determinations and related documentation requirements for entities in Alaska should be referred to the Alaska Area ONAP prior to the application submission date. (See 24 CFR 1003.5 for a complete description of eligible applicants.)

B. Cost Sharing or Matching. Cost sharing or matching is not required under this grant; however, applicants who leverage this grant with other funds receive points. See Section V, (A) Rating Factor 4.

C. Other.

1. HUD Requirement

Applicants for single purpose grants must comply with the HUD Threshold Requirements listed in the General Section, Section III, C. in order to receive an award of funds.

2. Program and Project Specific Requirements

a. Low- and Moderate-Income Status for Rehabilitation Projects. Your application must contain information that shows that all households that receive ICDBG grant assistance under a housing rehabilitation project are of low- and moderate-income status.

b. Housing Rehabilitation Cost Limits. Grant funds spent on rehabilitation per unit must fall within the following limits for each Area ONAP jurisdiction:

Eastern/Woodland:	$35,000
Southern Plains:	$35,000
Northern Plains:	$50,000
Southwest:	$40,000
Northwest:	$40,000
Alaska:	$55,000

c. Commitment to Housing for Land Acquisition to Support New Housing Projects. For land acquisition to support new housing projects, your application must include evidence of a financial commitment and an ability to construct at least 25 percent of the housing units on the land proposed for acquisition. This evidence must consist of one (or more) of the following: a firm or conditional commitment to construct (or to finance the construction of) the units; documentation that an approvable application for the construction of these units has been submitted to a funding source or entity; or, documentation that these units are specifically identified in the Indian Housing Plan (IHP), (one-Year Financial Resources Narrative; Table 2, Financial Resources, Part I., Line 1E; and Table 2, Financial Resources, Part II) submitted by or on behalf of the applicant as an affordable housing resource with a commensurate commitment of Indian Housing Block Grant (IHBG) (also known as NAHBG) resources. If the IHP for the IHBG (also known as NAHBG) program year that coincides with the implementation of the ICDBG proposed project has not been submitted, you must provide an assurance that the IHP will specifically reference the proposed project. The IHP submission must occur within three years from the date the land is acquired and ready for development.

d. Health Care Facilities. If you propose a facility that would provide health care services funded by the Indian Health Service (IHS), you must assure that the facility meets all applicable IHS facility requirements. We recognize that tribes that are contracting services from the IHS may establish other facility standards. These tribes must assure that these standards at least compare to nationally accepted minimum standards.

3. Program Related Threshold Requirements

a. Outstanding ICDBG Obligation. According to 24 CFR 1003.301(a), an applicant who has an outstanding ICDBG obligation to HUD that is in arrears, or one that has not agreed to a repayment schedule will be disqualified from the competition.

b. Compliance with Fair Housing and Civil Rights Laws. Applicants and subrecipients that are not federally recognized Indian tribes or their instrumentalities are subject to the Civil Rights threshold requirements found in the General Section. Federally recognized Indian tribes and their instrumentalities are subject to the requirements of: Title II of the Civil Rights Act of 1964, known as the Indian Civil Rights Act; Section 109 prohibitions against discrimination based on age, sex, religion and disability; the Age Discrimination Act of 1975; and Section 504 of the Rehabilitation Act of 1973. To be eligible to apply, there must be no outstanding violations of these civil rights provisions at the time of application.

4. Project Specific Threshold Requirements

Applicants must meet all parts of the project specific threshold applicable to the proposed project. The thresholds are:

a. Housing Rehabilitation Project Thresholds. In accordance with 24 CFR 1003.302(a), for housing rehabilitation projects, you must adopt rehabilitation standards and rehabilitation policies before you submit an application. You must state that you have in place rehabilitation policies and standards that have been adopted in accordance with tribal law or practice. Do not submit your policies or standards with the application. You must also provide a written statement that project funds will be used to rehabilitate HUD-assisted houses only when the homebuyer's payments are current or the homebuyer is current in a repayment agreement except in emergency situation. For purposes of meeting this threshold, HUD-assisted houses are houses that are owned and managed by the tribe or tribally designated housing entity. The ONAP Administrator on a case-by-case basis may approve exceptions to this requirement.

b. New Housing Construction Project Thresholds.

1. In accordance with 24 CFR 1003.302(b), new housing construction can only be implemented when necessary through a Community Based Development Organization (CBDO). Eligible CBDOs are described in 24 CFR 1003.204(c). You must provide documentation establishing that the entity implementing your new housing construction project qualifies as a CBDO.

2. In accordance with 24 CFR 1003.302, you must have a current, in effect, tribal resolution adopting and identifying construction standards.

3. In accordance with 24 CFR 1003.302, you must also include in your application documentation supporting the following:

(a) All households to be assisted under a new housing construction project must be of low-or moderate-income status;

(b) No other housing is available in the immediate reservation area that is suitable for the households to be assisted;

(c) No other sources including an IHBG (also known as NAHBG) can meet the needs of the household(s) to be served; and

(d) Rehabilitation of the unit occupied by the household(s) to be assisted is not economically feasible, or the household(s) to be housed currently is in an overcrowded house (more than one household per house), or the household to be assisted has no current residence.

c. Economic Development Project Thresholds. In accordance with 24 CFR 1003.302, for economic development assistance projects, you must provide a financial analysis. The financial analysis must demonstrate that the project is financially feasible and the project has a reasonable chance of success. The analysis must also demonstrate the public benefit resulting from the ICDBG assistance. The more funds you request, the greater public benefit you must demonstrate. The analysis must also establish that to the extent practicable, reasonable financial support will be committed from non-federal sources prior to disbursement of federal funds; any grant amount

provided will not substantially reduce the amount of non-federal financial support for the activity; not more than a reasonable rate of return on investment is provided to the owner; and that grant funds used for the project will be disbursed on a pro-rata basis with amounts from other sources.

d. There are no project specific thresholds for Land Acquisition to Support New Housing, Homeownership Assistance, Public Facilities and Improvements, and Microenterprise Projects.

5. Public Service Projects

Because there is a regulatory 15 percent cap on the amount of grant funds that may be used for public service activities, you may not receive a single purpose grant solely to fund public service activities. Your application, however, may contain a public service component for up to 15 percent of the total grant. This component may be unrelated to the other project(s) included in your application. If your application does not receive full funding, we will reduce the public service allocation proportionately so that it comprises no more than 15 percent of the total grant award. In making such reductions, the feasibility of the proposed project will be taken into consideration. If a proportionate reduction of the public service allocation renders such a project infeasible, the project will not be funded. A complete description of Public Service Projects is located at 24 CFR part 1003.201.

6. Restrictions on Eligible Activities

A complete description of activities that are eligible for ICDBG funding are identified at 24 CFR part 1003, subpart C. Please note that although this subpart has not yet been revised to include the restrictions on activity eligibility that were added to Section 105 of the CDBG statute by Section 588 of the Quality Housing and Work Responsibility Act of 1998, these restrictions apply. Specifically, ICDBG funds may not be used to assist directly in the relocation of any industrial or commercial plant, facility, or operation, from one area to another, if the relocation is likely to result in a significant loss of employment in the labor market area from which the relocation occurs. Rating Factors 2 and 3 included under Section V. specify many of the activities listed as eligible under part 1003, subpart C. Those listed include new housing construction (in certain circumstances as described in Rating Factors 2 and 3 in Section V.), housing rehabilitation, land acquisition to support new housing, homeownership assistance, public facilities and improvements, economic development, and microenterprise programs. However, the following eligible activities not clearly identified by the rating factors may be proposed and rated as described below. During the past few years, many tribes have experienced high incidences of mold growth in tribal homes and buildings. Renovation of affected buildings is eligible under housing rehabilitation or public facility improvement projects.

a. Acquisition of property. This activity can be proposed as Land to Support New Housing or as part of New Housing Construction, Public Facilities and Improvements, or Economic Development depending on the purpose of the land acquisition to support new construction.

b. Assistance to Institutions of Higher Learning. If such entities have the capacity, they can help the ICDBG grantees to implement eligible projects.

c. Assistance to Community Based Development Organizations (CBDOs). Grantees may provide assistance to these organizations to undertake activities related to neighborhood revitalization, community economic development, or energy conservation.

d. Clearance, Demolition. These activities can be proposed as part of Housing Rehabilitation, New Housing Construction, Public Facilities and Improvements, Economic Development, or Land to Support New Housing. § 1003.201(d) states ''Demolition of HUD-assisted housing units may be undertaken only with the prior approval of HUD.''

e. Code Enforcement. This activity can be proposed as Housing Rehabilitation. The activity must comply with the requirements at 24 CFR 1003.202.

f. Comprehensive Planning. This activity is eligible, and can be proposed, as part of any otherwise eligible project to the extent allowed by the 20 percent cap on the grant for planning/administration.

g. Energy Efficiency. Associated activities can be proposed under Housing Rehabilitation or Public Facilities and Improvements depending upon the type of energy efficiency activity.

h. Lead-Based Paint Evaluation and Abatement. These activities can be proposed under Housing Rehabilitation.

i. Non-Federal Share. ICDBG funds can be used as a match for any non-ICDBG funding to the extent allowed by such funding and the activity is eligible under 24 CFR part 1003, subpart C.

j. Privately and Publicly Owned Commercial or Industrial Buildings (real property improvements). These activities can be proposed under Economic Development. Privately owned commercial rehabilitation is subject to the requirements at 24 CFR 1003.202.

k. Privately Owned Utilities. Assistance to privately owned utilities can be proposed under Public Facilities and Improvements.

l. Removal of Architectural Barriers. This includes removing barriers that restrict mobility and access for elderly and persons with disabilities. In addition, accommodation should be made for persons with all varieties of disabilities to enable them to benefit from these activities. This activity can be proposed under Housing Rehabilitation or Public Facilities and Improvements depending upon the type of structure where the barrier will be removed.

7. Application Screening

The Area ONAP will screen applications for single purpose grants. The Area ONAP will reject an application that fails this screening and will return the application unrated. The Area ONAP will accept your application if it meets all the criteria listed below as items a through f.

a. Your application is received or submitted in accordance with the requirements set forth under Application and Submission Procedures in Section IV of this NOFA;

b. You are eligible;

c. The proposed project is eligible;

d. Your application contains substantially all the components specified in Section IV. B. of this NOFA;

e. Your application shows that at least 70 percent of the grant funds are to be used for activities that benefit low- and moderate-income persons, in accordance with the requirements of 24 CFR 1003.208. For screening purposes only, HUD will use the 2000 census data if the data you submitted does not meet this screening requirement; and

f. Only one ICDBG application may be submitted for each area within the jurisdiction of an entity eligible under 24 CFR 1003. An application may include more than one project, but it cannot exceed the grant ceilings listed in Section IV.

IV. Application and Submission Information

A. Addresses To Request Application Package

Applicants are required to submit an electronic application unless they

receive a waiver of the requirement. See the General Section for information on electronic application submission, procedures for requesting a waiver, and timely submission and receipt requirements. All information required to complete a valid application is included in the General Section and this NOFA. Before preparing an application, applicants should carefully review the program description, ineligible activities, program and threshold requirements, and the General Section. Applicants should carefully review each rating factor listed in Section V of this NOFA, before writing a narrative response.

Copies of the General Section and ICDBG NOFA may be downloaded from the grants.gov Web site at *http://www.grants.gov/Apply.* If you experience any problems with downloading the General Section or the ICDBG NOFA, call the Grants.gov help desk at 800–518–GRANTS.

B. Content and Form of Application Submission.

1. Application Information

Indicate on the first page of each project submission, the type of project(s) being proposed: Economic Development, Homeownership Assistance, Housing Rehabilitation, Land Acquisition to Support New Housing, Microenterprise Programs, New Housing Construction or Public Facilities and Improvements. This will help to ensure that the appropriate project specific thresholds and rating subfactors will be applied. Narrative statements submitted to support your application should be individually labeled to reflect the item the narrative is responding to, *e.g.* Factor 1, Factor 2, etc. Applicants should not submit third party documents, such as audits, resolutions, policies, unless specifically asked to submit them. Additional information regarding electronic submissions can be found in the General Section.

If you received a waiver to the electronic application submission requirements and are submitting a paper application, please use separate tabs for each rating factor and rating subfactor. In order to be rated, make sure the response is beneath the appropriate heading. Keep the responses in the same order as the NOFA. It is recommended that you limit your narrative explanations to 200 words or less and provide the necessary data such as a market analysis, a pro forma, housing survey data, etc., that support the response. Include all relevant material to a response under the same tab. *Only include documentation that will clearly and concisely support your response to the rating criteria.*

HUD suggests that you do a preliminary rating for your project, providing a score according to the point system in Section V of this NOFA. This will show you how reviewers might score your project, and identify its strengths and weaknesses. This will help determine where improvements can be made prior to its submission. An application checklist has been posted at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm* under the ICDBG program for your use in verifying that you have completed all required components.

2. Content of Application, Forms, and Required Elements

The applicant must respond in narrative form to all five of the rating factors listed in Section V.A. of this NOFA. In addition, the applicant must submit all of the forms required in this section, along with other data listed below.

a. *Demographic data.* You may submit data that are unpublished and not generally available in order to meet the requirements of this section. Your application must contain a statement that the following criteria have been met:

(1) Generally available published data are substantially inaccurate or incomplete;

(2) Data that you submit have been collected systematically and are statistically reliable;

(3) Data are, to the greatest extent feasible, independently verifiable; and

(4) Data differentiate between reservation and BIA service area populations, when applicable.

b. *Publication of Community Development Statement.* You must prepare and publish or post the community development statement portion of your application according to the citizen participation requirements of 24 CFR 1003.604. You may post or publish a statement that indicates that the entire Community Development Statement is available for public viewing and include the location, dates, and time it will be available for review.

c. *Application Submission.* Your application must contain the items listed below.

(1) Application for Federal Assistance (SF–424);

(2) SF–424 SUPP, Supplement Survey on Ensuring Equal Opportunity for Applicants;

(3) Applicant/Recipient Disclosure/Update Report (HUD–2880); and

(4) Acknowledgement of Application Receipt (HUD–2993). (Only for applicants granted a waiver of the electronic submission requirements and who are submitting a paper application)

If the application has been submitted by a tribal organization as defined in 24 CFR 1003.5(b), on behalf of an Indian tribe, you must submit concurring resolutions from the Indian tribe stating that the tribal organization is applying on the tribe's behalf. Applicants must submit the resolution by attaching it as a file to your electronic application submission, or sending it via facsimile transmittal.

The other required items are as follows:

(5) Community Development Statement that includes:

(a) Components that address the general threshold requirement and the relevant project specific thresholds and rating factors;

(b) A schedule for implementing the project (Form HUD–4125, Implementation Schedule); and

(c) Cost information for each separate project, including specific activity costs, administration, planning, technical assistance, and total HUD share (Form HUD–4123, Cost Summary).

(6) A map showing project location, if appropriate.

(7) If the proposed project will result in displacement or temporary relocation, a statement that identifies:

(a) The number of persons (families, individuals, businesses, and nonprofit organizations) occupying the property on the date of the submission of the application (or date of initial site control, if later);

(b) The number to be displaced or temporarily relocated;

(c) The estimated cost of relocation payments and other services;

(d) The source of funds for relocation; and

(e) The organization that will carry out the relocation activities.

(8) If applicable, evidence of the disclosure required by 24 CFR 1003.606(e) regarding conflict of interest.

(9) If applicable, the demographic data statement described in Section IV.B. and Section V.A., Rating Factor 2 of this NOFA. The data accompanying the statement must identify the total number of persons benefiting from the project and the total number of low- and moderate-income persons benefiting from the project. To be considered, supporting documentation must include all of the following: a sample copy of a completed survey form, an explanation of the methods used to collect the data, and a listing of incomes by household.

(10) Optional submissions are:

(a) You Are Our Client Grant Applicant Survey (HUD 2994–A) (Optional); and

(b) Logic Model, HUD–96010.

3. Planning and Administrative Costs

Applicants must report project planning and administration costs on Form HUD–4123, Cost Summary. Planning and administrative costs cannot exceed 20 percent of the grant. The following criteria applies to planning and administrative costs:

a. Planning and administrative activities may only be funded in conjunction with a physical development activity.

b. If you are submitting an application for more than one project, costs must be broken down by project. Submit one Form HUD–4123 for each proposed project in addition to a consolidated Form HUD–4123 that includes costs for all proposed projects.

c. Do not include project costs (i.e. architectural/engineering, environmental, technical assistance, staff/overhead costs) directly related to project.

C. Submission Dates and Times

1. Application Submission Deadline

The application deadline date is May 31, 2006. Applications submitted through *http://www.Grants.gov/Apply* must be received and validated by Grants.gov no later than 11:59:59 PM Eastern time on the application deadline date. Upon submission, Grants.gov will provide the applicant a confirmation of receipt and then validate the application. Within 24–48 hours of receipt, the application will be validated by Grants.gov. If the application does not pass validation, it will be rejected by Grants.gov and the application will be eliminated from further funding consideration. The General Section provides details of a validation check. HUD advises applicants to submit early so that if an application is rejected during the validation process, applicants can correct the errors and resubmit the application prior to the deadline date and time. If you are granted a waiver of the electronic submission requirements, and are submitting a paper application, your completed application (one original and two copies) must be received by HUD no later than 11:59:59 PM on the application deadline date. HUD will not accept any applications sent by e-mail or on a diskette, CD, or by facsimile unless HUD specifically requests an applicant to do so. Please carefully follow the instructions in Section IV F. of the General Section for detailed information regarding application submission, delivery, and timely receipt requirements.

D. Intergovernmental Review

Indian tribes are not subject to the Intergovernmental Review process.

E. Funding Restrictions

1. Ineligible Activities

In general, any activity that is not authorized under the provisions of 24 CFR 1003.201–1003.206 is ineligible to be assisted with ICDBG grant funds. The regulations at 24 CFR 1003.207 govern ineligible activities and should be referred to for details. The following guidance is provided for determining the eligibility of other activities frequently associated with ICDBG projects.

a. Government Office Space. Buildings, or portions thereof, used *predominantly* for the general conduct of government cannot be assisted with ICDBG funds. Those buildings include, but are not limited to, local government office buildings, courthouses, and other headquarters of government where the governing body meets regularly. Buildings that contain both governmental and non-governmental services can be assisted as long as the ICDBG funds are used only for the non-governmental sections. An example of an ineligible building is a building to house the community development division or a tribal administration building. Your Area ONAP office should be consulted for projects of this nature.

b. General Government Expenses. Except as authorized in the regulations or under OMB Circular A–87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance with ICDBG funds.

c. Maintenance and Operation Expenses. In general, any expenses associated with repairing, operating, or maintaining public facilities and services are not eligible for assistance. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities [24 CFR 1003.201(e)], office space for program staff employed in carrying out the ICDBG program [24 CFR 1003.206(a)(4)], and interim assistance [24 CFR 1003.201(f)]. For example, where a public service is being assisted with CDBG funds, the cost of operating and maintaining that portion of the facility in which the service is located is eligible as part of the public service. Examples of ineligible operating and maintenance expenses are routine and non-routine maintenance and repair of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for persons with disabilities, parking facilities, and similar public facilities and, payment of salaries for staff, utility costs, and similar expenses necessary for the operation of public works and facilities.

d. New Housing Construction. The construction of new permanent residential structures and any program to subsidize or finance such new construction is ineligible unless carried out by a Community-Based Development Organization (CBDO) pursuant to 24 CFR 1003.204(a).

e. Furnishings and Personal Property. In general, the purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is ineligible. Exceptions include when such purchases are necessary for use in grant administration (24 CFR 1003.206); necessary and appropriate for use in a project carried out by a CBDO (24 CFR 1003.204); used in providing a public service (24 CFR 1003.201(e)); or used as fire fighting equipment (24 CFR 1003.201(c)(1)(ii)). However, ICDBG funds may be used to pay depreciation or use allowances (in accordance with OMB Circular A–87 or A–122 as applicable).

f. Construction Tools and Equipment. The purchase of construction tools and equipment is generally ineligible. However, compensation for the use of such tools and equipment through leasing, depreciation, or use allowances pursuant to OMB Circulars A–87 and A–122, as applicable, for an otherwise eligible activity is eligible. Exceptions include construction tools *and* equipment purchased for use as part of a solid waste facility (24 CFR 1003.201(c)(1)(ii)) and construction tools only (not equipment) purchased for use in a housing rehabilitation project being administered by the recipient using the force account construction method (24 CFR 1003.202(b)(8)).

g. Income Payments. In general, assistance shall not be used for income payments for housing or any other purpose. Income payments mean a series of subsistence-type grant payments made to an individual/family for items such as food, clothing, housing (rent/mortgage) or utilities, but excludes emergency payments made over a period of up to three months to the provider of such items or services on behalf of an individual/family. Examples of ineligible income payments include the payments for income maintenance and housing allowances.

2. Grant Ceilings. The authority to establish grant ceilings is found at 24 CFR 1003.100(b)(1). Grant ceilings are established for FY2006 funding at the following levels:

Area ONAP	Population	Ceiling
Eastern Woodlands	ALL	$600,000
Southern Plains	ALL	800,000
Northern Plains	6,001+	1,100,000
	0–6,000	900,000
Southwest	50,001+	5,500,000
	10,501–50,000	2,750,000
	7,501–10,500	2,200,000
	6,001–7,500	1,100,000
	1,501–6,000	825,000
	0–1,500	605,000
Northwest	ALL	500,000
Alaska	ALL	500,000

For the Southwest Area ONAP jurisdiction, the population used to determine ceiling amounts is the Native American population that resides on a reservation or rancheria.

Applicants from the Southwest or the Northern Plains ONAP jurisdictions should contact that office before submitting an application if they are unsure of the population level to use to determine the ceiling amount. The Southwest or Northern Plains Area ONAP, as appropriate, must approve any corrections or revisions to Native American population data *before* you submit your application.

F. Other Submission Requirements

1. Applications shall be submitted via *www.Grants.gov/Apply* by no later than the application deadline date and time stated in the NOFA.

2. Mailing and Receipt Procedures. Applicants granted a waiver of the electronic submission requirement will receive specific mailing instructions with approval of the waiver. See 24 CFR Part 5.

3. Addresses for Submitting Applications. HUD will only accept mailed applications if a waiver of the electronic delivery process has been approved by HUD. Information regarding electronic submission and waivers from the electronic submission requirement is located in the General Section. If a waiver of the electronic submission requirement is granted, submit the original signed application and two copies to the appropriate Area ONAP for your jurisdiction. A list identifying each Area ONAP jurisdiction is provided at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm* under the ICDBG program.

V. Application Review Information

A. Criteria

1. RC/EZ/EC–II: Bonus points described in the General Section for projects located in RC/EZ/EC–II will not be awarded under this NOFA.

2. Rating Factors to Evaluate and Rate Applications: The factors for rating and ranking applications and the points for each factor are provided below. A maximum of 100 points may be awarded under Rating Factors 1 through 5. To be considered for funding, your application must receive a minimum of 20 points under rating factor 1 and an application score of at least 70 points. The following summarizes the points assigned to each rating factor and each rating subfactor and lists which rating subfactors apply to which project types. Please use this table to ensure you are addressing the appropriate rating subfactor for your project.

Rating factor	Rating sub-factor	Points	Project type
1	Total	40	Minimum of 20 Points Required.
	1.a.	10	All Project Types.
	1.b.	5 or 7*	All Project Types.
	1.c.	3 or 8*	All Project Types.
	1.d.	2 or 5*	All Project Types.
	2.a.	4 or 0*	All Project Types.
	2.b.	4 or 0*	All Project Types.
	2.c.	4 or 0*	All Project Types.
	2.d.	4 or 0*	All Project Types.
	2.e.	4 or 0*	All Project Types.
2	Total	16..	
	1	4	All Project Types.
	2.a.	12	Public Facilities and Improvements and Economic Development Projects.
	2.b.	12	New Housing Construction, Housing Rehabilitation, Land Acquisition to Support New Housing, and Homeownership Assistance Projects.
	2.c.	12	Microenterprise Programs.
3	Total	30..	
	1	10	All Project Types.
	2	5	All Project Types.
	3	1	All Project Types.
	4	2	All Project Types.
	4.a.	12	Public Facilities and Improvements.
	4.b.	12	New Housing Construction, Housing Rehabilitation, and Homeownership Assistance Projects.
	4.c.	12	Economic Development Projects.

Rating factor	Rating sub-factor	Points	Project type
	4.d.	12	Microenterprise Programs.
	4.e.	12	Land Acquisition to Support New Housing.
4	Total	8	All Project Types.
5	Total	6	All Project Types.
	1	2	All Project Types.
	2	4	All Project Types.
Total		100	Minimum of 70 Points Required.

*The first number listed indicates the maximum number of points available to current ICDBG grantees under this subfactor. The second number indicates the maximum number of points available to new applicants.

Rating Factor 1: Capacity of the Applicant (40 Points)

This factor addresses the extent to which you have the organizational resources necessary to successfully implement the proposed activities in accordance with your implementation schedule. If applicable, past performance in administering previous ICDBG grants will be taken into consideration. You must address the existence or availability of these resources for the *specific type of activity* for which you are applying. You must receive a minimum of 20 points under this factor for your proposed activity to be eligible for funding. HUD will not rate any projects further that do not receive a minimum of 20 points under this factor. The implementation schedule and/or the Logic Model, Form HUD 96010, you submit for this factor will be measured against actual progress if you are funded.

1. *(20 points for current ICDBG grantees) (30 points for new applicants) Managerial, Technical, and Administrative Capability*

Your application must include a description demonstrating that you possess or can obtain managerial, technical, and/or administrative capability necessary to carry out the proposed project. Your application must address who will administer the project and how you plan to handle the technical aspects of executing the project in accordance with your implementation schedule. Typical documents that may be submitted include, but are not limited to, written summaries of qualifications and past experience of proposed staff, descriptions of staff responsibilities, and references or letters of endorsement from others who have worked with the proposed staff. Do not submit job descriptions or resumes.

a. (10 points) *Managerial and Technical Staff.*

The extent to which your application describes the roles/responsibilities and the knowledge/experience of your overall proposed project director and staff, including the day-to-day program manager, consultants, and contractors in planning, managing, and implementing projects in accordance with the implementation schedule for which funding is being requested. Experience will be judged in terms of recent, relevant, and successful experience of your staff to undertake eligible program activities. In rating this factor, HUD will consider experience within the last 5 years to be recent; experience pertaining to the specific activities being proposed to be relevant; and experience producing specific accomplishments to be successful. The more recent the experience and the more experience your own staff members who work on the project have in successfully conducting and completing similar activities, the greater the number of points you will receive for this rating factor.

(10 Points). The applicant adequately describes the roles/responsibilities and the knowledge/experience of its overall project director and staff, including the day-to-day program manager, consultants, and contractors in planning, managing, and implementing projects for which funding is being requested. Staff experience as described in the application is recent (within 5 years), relevant (pertains to the specific activities being proposed) and successful (has produced specific accomplishments).

(5 Points). The applicant adequately describes the roles/responsibilities and the knowledge/experience of its overall project director and staff, including the day-to-day program manager, consultants, and contractors in planning, managing and implementing projects for which funding is being requested. However, one of the following applies: staff experience as described in the application is not recent (not within 5 years), is not relevant (does not pertain to the specific activities being proposed), or is not successful (did not produce specific accomplishments).

(0 Points). The applicant failed to adequately describe the roles/responsibilities and the knowledge/experience of its overall project director and staff, including the day-to-day program manager, consultants, and contractors in planning, managing, and implementing projects for which funding is being requested or more than one of the following applies: staff experience as described in the application is not recent (not within 5 years), is not relevant (does not pertain to the specific activity being proposed), or is not successful (did not produce specific accomplishments).

b. *(5 points for current ICDBG grantees) (7 points for new applicants) Project Implementation Plan and Program Evaluation.*

The extent to which your project implementation plan identifies the specific tasks and timelines that you and your partner contractors and/or sub grantees will undertake to complete your proposed project on time and within budget. The Project Implementation Schedule, Form HUD–4125, may serve as this required schedule, provided that it is sufficiently detailed to demonstrate that you have clearly thought out your project implementation. The extent to which your project identifies, measures, and evaluates the specific benchmarks, outputs, outcomes, and/or goals of your project that enhance community viability. The Logic Model, Form HUD–96010, may serve as the format to address this information or you may provide a different format that provides the same information.

(5 points for current ICDBG grantees) (7 points for new applicants). The applicant submitted a project implementation plan that clearly specifies project tasks and timelines. The documentation identifies the steps in place to make adjustments to the work plan if tasks are not completed within established time frames. The applicant submitted clear project benchmarks, outputs, outcomes, and/or targets and identified objectively

quantifiable program measures and/or evaluation process.

(3 points for current ICDBG grantees) (4 points for new applicants). The applicant submitted a project implementation plan that specifies project tasks and timelines. The applicant submitted project benchmarks, outputs, outcomes, and/or targets for each; however, did not clearly identify objectively quantifiable program measures and/or the evaluation process.

(0 points for current ICDBG grantees or new applicants). The applicant submitted a project implementation schedule that does not address all project tasks and timelines associated with the project. Project benchmarks, outputs, outcomes, and/or goals were not submitted, or if submitted, did not address either the quantifiable program measures and/or the evaluation process.

c. (3 points for current ICDBG grantees) (8 points for new applicants) Financial Management.

This subfactor evaluates the extent to which your application describes how your financial management systems will facilitate effective fiscal control over your proposed project and meet the requirements of 24 CFR part 85 and 24 CFR part 1003. You must also describe how you will apply your financial management systems to the specific project for which you are applying. The application will also be rated on the seriousness/significance of the findings related to your financial management system identified in your current audit. If you are required to have an audit but do not have a current audit, you must submit a letter from your Independent Public Accountant that is dated within the past 12 months stating that your financial management system complies with all applicable regulatory requirements. If you are not required to have an audit, you will automatically receive points for this portion of the subfactor if you provide the other information required by this subfactor. For purposes of this subfactor, a current audit is one which has been submitted to the Federal Audit Clearinghouse within 9 months of the end of the applicant's last fiscal year, or 30 days after receipt of the audit report from the auditor, whichever comes first. Do not submit financial management and/or internal control policies and procedures or your audit with the application.

(3 points for current ICDBG grantees) (8 points for new applicants). The applicant clearly described how it will apply its financial management systems to the proposed project. The applicant's current audit does not contain any serious or significant findings related to its financial management system, or if there is no current audit, the applicant submitted a letter from its Independent Public Accountant stating that its financial management system complies with all applicable regulatory requirements.

(2 points for current ICDBG grantees) (4 points for new applicants). The applicant's current audit does not contain any serious or significant findings related to its financial management system, or if there is no current audit, the applicant submitted a letter from its Independent Public Accountant stating that its financial management system complies with all applicable regulatory requirements. The applicant did not describe how it would apply its financial management systems to the proposed project.

(1 point for current ICDBG grantees) (2 points for new applicants). The applicant's current audit does not contain any serious or significant findings related to its financial management system, or if there is no current audit, the applicant submitted a letter from its Independent Public Accountant stating that its financial management system complies with all applicable regulatory requirements. The applicant did not describe how it would apply its financial management systems to the proposed project.

(0 points for current ICDBG grantees or new applicants). The applicant's current audit included serious or significant findings related to its financial management systems or if there is no current audit, the applicant did not submit a letter from its IPA stating its financial management systems comply with all regulatory requirements. The applicant did not describe how it would apply its financial management systems to the proposed project.

d. (2 points for current ICDBG grantees) (5 points for new applicants) Procurement and Contract Management.

This subfactor evaluates the extent to which your application describes how your procurement and contract management policies and procedures will facilitate effective procurement and contract control over your proposed project and meet the requirements of 24 CFR part 85 and 24 CFR part 1003. You must also describe how you will apply your procurement and contract management systems to the specific project for which you are applying. The application will also be rated on the seriousness of the findings related to procurement and contract management identified in your current financial audit. If you are required to have an audit but do not have a current audit, you must submit a letter from your Independent Public Accountant stating that your procurement and contract management system complies with all applicable regulatory requirements. If you are not required to have an audit, you will automatically receive points for this portion of the subfactor if you provide the other information required by this subfactor. Do not submit procurement and contract management policies and procedures or your audit with the application.

(2 points for current ICDBG grantees) (5 points for new applicants). The applicant clearly described how its procurement and contract management policies and procedures will facilitate effective procurement and contract control over the proposed project, and meet the requirements of 24 CFR part 85 and 24 CFR part 1003. The applicant's current audit does not contain any serious or significant findings related to its procurement and contract management system, or if there is no current audit, the applicant submitted a letter from its Independent Public Accountant stating that its procurement and contract management system complies with all applicable regulatory requirements.

(1 point for current ICDBG grantees) (4 points for new applicants). The applicant's current audit does not contain any serious or significant findings related to its procurement or contract management system, or if there is no current audit, the applicant submitted a letter from its Independent Public Accountant stating that its procurement and contract management system complies with all applicable regulatory requirements. The applicant did not describe how it would apply its procurement and contract management systems to the proposed project.

(0 points for current ICDBG grantees or new applicants). The applicant's current audit included serious or significant findings related to its procurement and contract management systems or if there is no current audit, the applicant did not submit a letter from its IPA stating its procurement and contract management systems comply with all regulatory requirements. The applicant did not describe how it would apply its procurement and contract management systems to the proposed project.

2. (20 Points for Current ICDBG Grantees) (0 Points for New Applicants) Past Performance

HUD will evaluate your experience in producing products and reports in accordance with regulatory timelines for any previous grant programs undertaken

with HUD funds for the following performance measures. HUD reserves the right to take into account your past performance in meeting performance and reporting goals on any previous HUD awards. Applicants are not required to respond to the subfactors related to past performance. HUD will rely on information on file.

a. (4 points for current ICDBG grantees) (0 points for new applicants). You are not more than 90 days behind schedule in meeting the time frames established in the HUD-approved Implementation Schedule for the ICDBG program.

(1) (4 points). The applicant is not more than 90 days behind schedule in meeting the timeframes established in the HUD-approved implementation schedule.

(2) (2 points). The applicant is not more than 120 days behind schedule in meeting the timeframes established in the HUD-approved implementation schedule.

(3) (0 points). The applicant is more than 120 days behind schedule in meeting timeframes established in the HUD-approved implementation schedule.

b. (4 points for current ICDBG grantees) (0 points for new applicants). Annual Status Reports (ASER) and Federal Cash Transaction Reports are submitted by the report submission deadlines. The ASER is due 45 days after the end of the Federal fiscal year on November 15. Federal Cash Transaction Reports are due quarterly on April 21, July 21, October 20, and January 22.

(1) (4 points). The applicant has submitted both the Annual Status and Evaluation Reports (ASER) and Federal Cash Transaction Reports for ICDBG programs by the report submission deadlines.

(2) (2 points). The applicant has submitted either the Federal Cash Transaction Reports or the Annual Status and Evaluation Reports for ICDBG programs by the report submission deadline.

(3) (0 points). The applicant has submitted neither of the required reports by the report submission deadline.

c. (4 points for current ICDBG grantees) (0 points for new applicants). You have submitted close-out documents to HUD by the submission deadline. Close-out documents are required for the ICDBG program within 90 days of the date it is determined that the criteria for close-out at 24 CFR 1003.508 have been met.

(1) (4 points). The applicant submitted close-out documents to HUD in accordance with the timeframe and criteria at § 1003.508.

(2) (0 points). The applicant has not submitted close-out documents to HUD as required by § 1003.508.

d. (4 points for current ICDBG grantees) (0 points for new applicants). You have submitted annual audits in accordance with OMB Circular A–133 and its compliance supplements. Do not submit your audit with the application.

(1) (4 points). The applicant has submitted annual audits in accordance with OMB Circular A–133 and its compliance supplements, or if the applicant has not been required to submit an audit, it will receive 4 points.

(2) (0 points). The applicant has not submitted annual audits in accordance with OMB Circular A–133 and its compliance supplements.

e. (4 points for current ICDBG grantees) (0 points for new applicants). You have resolved ICDBG monitoring findings and controlled audit findings by the established target date or there are no findings in current reports. Do not submit responses to open monitoring or audit findings with the application.

(1) (4 points). The applicant resolved open ICDBG monitoring findings and controlled audit findings by the established target date. If there were no open audit or ICDBG monitoring findings (current grantees only), the applicant will receive 2 points.

(2) (0 points). The applicant has not resolved open ICDBG monitoring findings and controlled audit findings by the established target date.

Rating Factor 2: Need/Extent of the Problem (16 Points)

This factor addresses the extent to which there is a need for the proposed project to address a documented problem among the intended beneficiaries.

1. (Up to 4 points). Your application includes quantitative information demonstrating that the proposed project meets an essential community development need by providing outcomes that are critical to the viability of the community.

2. (12 points). Your project benefits the neediest segment of the population, in accordance with the Program's primary objective defined at 24 CFR 1003.2. The criteria for this sub-factor vary according to the type of project for which you are applying. Please note that you may submit data that are unpublished and not generally available in order to meet the requirements of this section. However, to do so, you must submit a demographic data statement along with supporting documentation as described in Section IV.B. of this NOFA. For documenting persons employed by the project, you do not need to submit a demographic data statement and corresponding documentation. However, you do need to submit information that describes the nature of the jobs created or retained. Such information includes but is not limited to descriptions of proposed job responsibilities, salaries and the number of full-time equivalent positions. If you believe jobs will be retained as a result of the ICDBG project, include information that shows clearly and objectively, that jobs will be lost without the ICDBG project. Jobs that are retained only for the period of the grant will not count under this rating factor.

a. *Public Facilities and Improvements and Economic Development Projects.* The proposed activities benefit the neediest segment of the population, as identified below. For economic development projects, you may consider beneficiaries of the project as persons served by the project and/or persons employed by the project, and jobs created or retained by the project.

(1) (12 points). 85 percent or more of the beneficiaries are low- or moderate-income.

(2) (8 points). At least 75 percent but less than 85 percent of the beneficiaries are low- or moderate-income.

(3) (4 points). At least 55 percent but less than 75 percent of the beneficiaries are low- or moderate-income.

(4) (0 points). Less than 55 percent of the beneficiaries are low- or moderate-income.

b. *New Housing Construction, Housing Rehabilitation, Land Acquisition to Support New Housing, and Homeownership Assistance Projects.* The need for the proposed project is determined by utilizing data from the tribe's 2005 IHBG formula information. The ratio is based on the dollars allocated to a tribe under the IHBG program for Need divided by the sum of the number of AIAN households in the following categories:

—Annual income less than 30 percent of median income;
—Annual income between 30 percent and 50 percent of median income;
—Annual income between 50 percent and 80 percent of median income;
—Overcrowded or without kitchen or plumbing;
—Housing cost burden greater than 50 percent of annual income;
—Housing shortage (Number of low-income AIAN households less total number of NAHASDA and Formula Current Assisted Stock).

This ratio is computed for each tribe and posted in the ''Factor 2 Needs

Table'' that is available at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm* under the ICDBG program.

(1) (12 points). The dollar amount for the Indian tribe is $354–$675 or the tribe's total FY2005 IHBG amount was $100,000 or less and the Needs Table indicates that the Indian tribe has no AIAN households experiencing income or housing problems.

(2) (8 points). The dollar amount for the Indian tribe is $676–$1,200.

(3) (4 points). The dollar amount for the Indian tribe is $1,201–$1,999.

(4) (0 points). The dollar amount for the Indian tribe is $2,000 or higher, or the Needs Table indicates that the Indian tribe has no AIAN households experiencing income or housing problems.

c. *Microenterprise Programs*. A microenterprise is a business that has five or fewer employees, one or more of whom owns the enterprise. The owner(s) of the microenterprise must be low-or moderate-income and the majority of the jobs created or retained will be for low-or moderate-income persons. To evaluate need, the nature of the jobs created or retained will be evaluated. The owners of the microenterprises are low- and moderate-income *and:*

(1) (12 points). All employees are low- or moderate-income.

(2) (8 points). At least 75 percent but less than 100 percent of the employees are low-or moderate-income.

(3) (4 points). At least 50 percent but less than 75 percent of the employees are low-or moderate-income.

(4) (0 points). Less than 50 percent of the employees are low- and moderate-income.

Rating Factor 3: Soundness of Approach (30 Points)

This factor addresses the quality and anticipated effectiveness of your proposed project's outcomes in enhancing community viability and in meeting the needs you have identified in Rating Factor 2 and the commitment to sustain your proposed project. The populations that were described in demographics that documented need should be the same populations that will receive the primary benefit of the proposed project.

1. (10 points). *Description of and Rationale for Proposed Project*.

a. (10 points). The proposed project is a viable and cost effective approach to address the needs outlined under Rating Factor 2 of your application. The proposed project is described in detail and indicates why you believe the proposed project will be most effective in addressing the identified need. In order for an application to receive full credit under this factor, the application must include clear and sound measures of the proposed outputs and outcomes for how the community's viability will be enhanced, as presented in Rating Factor 5. The application includes a description of the size, type and location of the project and a rationale for project design. If your application is for construction or rehabilitation projects, the application must also include anticipated cost savings due to innovative program design or construction methods. For land acquisition to support new housing projects, you must establish that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low- and moderate-income households to benefit from the project.

b. (5 points). The proposed project is a viable and cost effective approach to address the needs outlined under Rating Factor 2 of the application. The project is described in detail and indicates why you believe the project will be most effective in addressing the identified need. Proposed outcomes that will enhance the community's viability are included. The application includes a description of the size, type and location of the project as well as a rationale for project design. For land acquisition to support new housing projects, the applicant has established that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low- and moderate-income households to benefit from this project. The application (for construction or rehabilitation projects) does not include anticipated cost savings due to innovative program design and/or construction methods.

c. (3 points). The proposed project is a viable and cost effective approach to address the needs outlined under Rating Factor 2 of the application. The project is described and indicates why you believe the project will be most effective in addressing the identified need. Proposed outcomes are included but do not describe how the project will enhance community viability. The application includes a description of the size, type, and location of the project. For land acquisition to support new housing projects, the applicant has established that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low- and moderate-income households to benefit from the project. The application (for construction or rehabilitation activities) does not include anticipated cost savings due to innovative program design and/or construction methods.

d. (0 points). The proposed project is not a viable and cost effective approach to address the needs outlined under Rating Factor 2 of the application. The proposed project is not described in detail with an indication of why the applicant believes the project will be most effective in addressing the identified need. Proposed outcomes describing how the project will enhance community viability are not included. For land acquisition to support new housing projects, the applicant has not established that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low- and moderate-income households to benefit from the project. The application (for construction and rehabilitation activities) does not include anticipated cost savings due to innovative program design and/or construction methods.

2. (5 points). *Budget and Cost Estimates*.

The quality, thoroughness, and reasonableness of the proposed project budget are documented. Cost estimates must be broken down by line item for each proposed activity, including planning and administration costs, and documented. You must provide a description of the qualifications of the person who prepared the cost estimate.

3. (1 point). *HUD Policy Priorities*.

Your application addresses the goals for ''Improving Our Nation's Communities'', or ''Energy Star'', two of HUD's 2006 Policy Priorities, as described in Section V. B. of the General Section. You must describe which one of these two Policy Priorities you select and describe how your activity will meet the applicable goals.

4. (2 points). Intent to Meet Section 3 Requirements.

Your application demonstrates how you will apply the Section 3 requirements of the Housing and Urban Development Act of 1968 and the regulations in 24 CFR part 135 (Economic Opportunities for Low and Very Low Income Persons) to the proposed project. You must demonstrate how you will incorporate Section 3 principles, with goals for expanding opportunities for Section 3 residents and business concerns, to your proposed project. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by federal financial assistance for housing and community development programs, shall, to the extent feasible, be directed toward low and very-low income persons (but not in derogation of compliance with Section

7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 4503(b))).

5. (12 points). *Commitment to Sustain Activities*.

Your application demonstrates your commitment to your community's viability by sustaining your proposed activities. The information provided is sufficient to determine that the project will proceed effectively.

The criteria for this sub-factor vary according to the type of project for which you are applying.

a. *Public Facilities and Improvement Projects*.

(1) (12 points). If a tribe assumes operation and maintenance responsibilities for the public facilities and improvements, provide a written statement that the tribe has adopted the operation and maintenance plan and commits the necessary funds to provide for these responsibilities. In addition, describe how the operation and maintenance plan addresses maintenance, repairs, insurance, security, and replacement reserves and include a cost breakdown for annual expenses. If an entity other than the tribe commits to pay for operation and maintenance for the public facilities, a letter of commitment from the entity is included in the application that identifies the maintenance responsibilities and, if applicable, responsibilities for operations the entity will assume as well as necessary funds to provide for these responsibilities. A description of how the operation and maintenance plan addresses maintenance, repairs, insurance, security, and replacement reserves is not required when an entity other then the tribe assumes operation and maintenance responsibilities. For public facility buildings only, a commitment is included in the application that identifies the source of and commits the necessary operating funds for any recreation, social or other services to be provided. In addition, letters of commitment from service providers are included which address both operating expenses and space needs.

(2) (8 points). If a tribe assumes operation and maintenance responsibilities for the public facilities and improvements, provide a written statement that the tribe has adopted the operation and maintenance plan and commits the necessary funds to provide for these responsibilities. In addition, a description was included that shows that the operation and maintenance plan addresses at least 4 of the following items (maintenance, repairs, insurance, security, and replacement reserves) but a satisfactory cost breakdown for annual expenses was not included. If an entity other than the tribe commits to pay for operation and maintenance for the public facilities and maintenance, a letter of commitment from the entity is included in the application that identifies the maintenance responsibilities and, if applicable, responsibilities for operations the entity will assume but no information committing the necessary funds to provide for these responsibilities is included. A description of how the operation and maintenance plan addresses maintenance, repairs, insurance, security, and replacement reserves is not required when an entity other than the tribe assumes operation and maintenance responsibilities. For community buildings only, a commitment is included in the application that identifies the source of and commits the necessary operating funds for any recreation, social or other services to be provided. In addition, letters of commitment from service providers are included which address both operating expenses and space needs. Information provided is sufficient to determine that the project will proceed effectively.

(3) (4 points). If a tribe assumes operation and maintenance responsibilities for the public facilities and improvements, the application includes a written statement that the tribe has adopted the operation and maintenance plan and commits the necessary funds to provide for these responsibilities, or a description of the operation and maintenance plan is included that shows that the plan addresses at least 3 of the following items (maintenance, repairs, insurance, security, and replacement reserves). If an entity other than the tribe commits to pay for operation and maintenance for the public facilities and maintenance, the maintenance provider is identified and, if applicable, responsibilities for operations the entity will assume, but no letter of commitment is included. For public facility buildings only, no commitment is included in the application that identifies the source of and commits the necessary operating funds for any recreation, social or other services to be provided. However, letters of commitment to provide services are included but they do not address operating expenses and space needs. Information provided is sufficient to determine that the project will proceed effectively

(4) (0 points). None of the above criteria is met.

b. *New Housing Construction, Housing Rehabilitation, and Homeownership Assistance Projects*.

(1) (12 points). The ongoing maintenance responsibilities are clearly identified for the tribe and/or the participants, as applicable. If the tribe or another entity is assuming maintenance responsibilities, then the applicant must describe the maintenance responsibilities and provide a commitment to that effect.

(2) (8 points). Maintenance responsibilities for the tribe and/or participants are identified and described, but lacking in detail, and the commitment regarding maintenance responsibilities is submitted.

(3) (4 points). Tribal maintenance responsibilities are identified but participant responsibilities are either not addressed or do not exist, or there is no commitment regarding maintenance responsibilities.

(4) (0 points). None of the above criteria is met.

c. *Economic Development Projects.*

You must include information or documentation which addresses or provides all of the following in the application: a description of the organizational system and capacity of the entity that will operate the business; documents which show that formal provisions exist for separation of government functions from business operating decisions, an operating plan for the project, and the feasibility and market analysis of the proposed business activity and the financial viability of the project.

(1) Appropriate documents to include in the application to address these items include:

(a) Articles of incorporation, by-laws, resumes of key management positions and board members for the entity who will operate the business.

(b) Business operating plan.

(c) Market study no more than two years old and which has been conducted by an independent entity.

(d) Feasibility study no more than two years old which indicates how the proposed business will capture a fair share of the market, and which has been conducted by an independent entity.

(e) Detailed cost summary for the development of the project.

(f) For the expansion of an existing business, copies of financial statements for the most recent three years (or the life of the business, if less than three years).

(2) The submitted documentation will be evaluated to determine the project's financial chance for success. The following questions must be addressed to meet this requirement:

(a) Does the business plan seem thorough and does the organization structure have quality control and responsibilities built in?

(b) Does the business plan or market analysis indicate that a substantial market share is likely within five years?

(c) Do the costs appear to be reasonable given projected income and information about inputs?

(d) Does the business plan or cash flow analysis indicate that cash flow will be positive within the first year?

(e) Is the financial statement clean with no indications of concern by the auditor?

(12 points). All above documents applicable to the proposed project are included in your application and provide evidence that the project's chance for financial success is excellent.

(6 points). All or most of the above documents applicable to the proposed project are included and provide evidence that the project's chance for financial success is reasonable.

(0 points). Neither of the above criteria is met.

d. *Microenterprise Programs.*

(1) You must include the following information or documentation in the application that addresses or provides a description of how your microenterprise program will operate. Appropriate information to include in the application to address program operations includes:

(a) Program description. A description of your microenterprise program including the types of assistance offered to microenterprise applicants and the types of entities eligible to apply for such assistance.

(b) Processes for selecting applicants. A description of your processes for analyzing microenterprise applicants' business plans, market studies and financial feasibility. For credit programs, you must describe your process for determining the loan terms (i.e., interest rate, maximum loan amount, duration, loan servicing provisions) to be offered to individual microenterprise applicants.

(2) (12 points). All of the above information or documentation applicable to the proposed project are thoroughly addressed in the application and the chances for success are excellent.

(3) (6 points). All or most of the above information or documentation applicable to the proposed project are addressed in the application and the chances for success are reasonable.

(4) (0 points). Neither of the above criteria is met.

e. *Land Acquisition Projects to Support New Housing.*

Submissions must include the results of a preliminary investigation conducted by a qualified independent entity demonstrating that the proposed site has suitable soil conditions for housing and related infrastructure, potable drinking water is accessible for a reasonable cost, access to utilities, vehicular access, drainage, nearby social and community services, and no known environmental problems.

(1) (12 points). The submissions include all of the above-mentioned items and all necessary infrastructure is in place.

(2) (6 points). The submissions demonstrate that the proposed site(s) is/are suitable for housing but that not all necessary infrastructure is in place. A detailed description of resources to be used and a detailed implementation schedule for development of all necessary infrastructure demonstrates that such infrastructure, as needed for proposed housing development, will be developed in time for such development, but no later than two years after site purchase.

(3) (0 points). Neither of the above criteria is met.

Rating Factor 4: Leveraging Resources (8 Points)

HUD believes that ICDBG funds can be used more effectively to benefit a larger number of Native American and Alaska Native persons and communities if projects are developed that use tribal resources and resources from other entities in conjunction with ICDBG funds. To encourage this, we will award points based on the percentage of non-ICDBG resources provided relative to project costs as follows:

Non-ICDBG resources to project costs	Points
Less than 4 percent	0
At least 4 percent but less than 11 percent	2
At least 11 percent but less than 18 percent	4
At least 18 percent but less than 25 percent	6
25 percent or more	8

Contributions which could be considered as leveraged resources for point award include, but are not limited to: Tribal trust funds; loans from individuals or organizations; private foundations; businesses; state or federal loans or guarantees; other grants including IHBG (also known as NAHBG) funds; donated goods and services needed for the project; land needed for the project; and, direct administrative costs. With the exception of land acquisition, funds that have been expended on the project prior to application submission will not be counted as leverage. Applicants are reminded that environmental review requirements under 24 CFR part 58 apply to the commitment or use of both ICDBG and non-ICDBG funds in a leveraged project. See Section VI.B. of this NOFA for information related to this requirement.

Contributions that will not be considered include, but are not limited to: Indirect administrative costs as identified in OMB Circular A–87, attachment A, section F; contributions of resources to pay for anticipated operations and maintenance costs of the proposed project; and, in the cases of expansions to existing facilities, the value of the existing facility.

To be considered for point award, letters of firm or projected commitments, memoranda of understanding, or agreements to participate from any entity, including the tribe, which will be providing a contribution to the project, must accompany the application. The documentation must be received by HUD in the paper application package (if you have received a waiver of the electronic submission requirement) or for electronically submitted applications, the documentation must be scanned and submitted as part of the application documents or sent by facsimile transmittal (see the General Section). All documents submitted must be received by the application deadline dates and meet the timely receipt requirements to receive funding consideration.

To demonstrate the commitment of tribal resources, the application must contain a written statement that identifies and commits the tribal resources to the project, subject to approval of the ICDBG assistance. In the case of IHBG funds, whether the tribe or a TDHE administers them, an approved IHP must identify and commit the IHBG resources to the project. Do not submit the IHP with your application. ONAP will rely on the most recently approved IHP on file. If the tribe/TDHE intends to include the leveraged commitment in a future IHP, the application must contain a written statement that identifies and commits the IHBG resources to the project subject to the same requirements as above.

To demonstrate the commitment of a public agency, foundation, or other private party resources, a letter of commitment, memorandum of understanding, and/or agreement to participate, including any conditions to which the contribution may be subject, must be submitted with the application.

All letters of commitment must include the donor organization's name, the specific resource proposed, the dollar amount of the financial or in-kind resource and method for valuation, and the purpose of that resource within the proposed project. An official of the organization legally authorized to make commitments on behalf of the organization must sign the commitment.

HUD recognizes that in some cases, firm commitments of non-tribal resources may not be obtainable by your tribe by the application submission deadline. For such projected resources, your application must include a statement from the contributing entity that describes why the firm commitment cannot be made at the current time and affirms that your tribe and the proposed project meets eligibility criteria for receiving the resource. In addition, a date by which the funding decisions will be made must be included. This date cannot be more than six months from the anticipated date of grant approval by HUD. Should HUD not receive notification of the firm commitment within 6 months of the date of grant approval, HUD will recapture the grant funds approved and will use them in accordance with the requirements of 24 CFR 1003.102.

In addition to the above requirements, for all contributions of goods, services and land, you must demonstrate that the donated items are necessary to the actual development of the project and include comparable costs that support the donation. Land valuation must be established using one of the following methods and the documentation must be contained in the application: A site specific appraisal no more than two years old; an appraisal of a nearby comparable site also no more than two years old; a reasonable extrapolation of land value based on current area realtor value guides; or, a reasonable extrapolation of land value based on recent sales of similar properties in the same area.

Rating Factor 5: Comprehensiveness and Coordination (6 Points)

This factor addresses the extent to which your project planning and proposed implementation reflect a coordinated, community-based process of identifying and addressing needs including assisting beneficiaries and the program to achieve self-sufficiency/sustainability. The Logic Model, HUD Form 96010, is not required for Rating Factor 5 under the ICDBG program. However, applicants are encouraged to use this form to address program evaluation requirements under Rating Factor 1.(1).(b) of this NOFA, and measurable outputs and outcomes in Section (2) of this factor.

1. (Up to 2 points). The application addresses the extent to which you have coordinated your proposed ICDBG activities with other organizations and/or tribal departments that are not providing direct financial support to your proposed work activities, but with which you share common goals and objectives and are working toward meeting these objectives in a holistic and comprehensive manner. For example, your project is consistent with and, to the extent possible, identified in the IHP (One-Year Financial Resources Narrative; Table 2, Financial Resources, Part I., Line 1E; and, Table 2, Financial Resources, Part II) submitted by you or on your behalf for the IHBG (also known as NAHBG) program. If the IHP for the IHBG (also known as NAHBG) program year that coincides with the implementation of the ICDBG proposed project has not been submitted, you must provide a written statement that when submitted, the IHP will specifically reference the proposed project.

2. (Up to 4 points). Your proposed project will have measurable outputs and outcomes that will enhance community viability.

Outputs must include, where applicable:

- Number of houses rehabilitated;
- Number of jobs created;
- Square feet for any public facility;
- Number of education or job training opportunities provided;
- Number of homeownership units constructed or financed;
- Number of businesses assisted (including number of minority/Native American);
- Number of families proposed to be assisted with a drug-elimination program, or with a program to reduce or eliminate health related hazards.

Outcomes must include, where appropriate:

- Reduction in the number of families living in substandard housing;
- Increased income resulting from employment generated by project;
- Increased quality of life due to services provided by the public facility;
- Increased economic self-sufficiency of recipients of program beneficiaries;
- Increase in homeownership rates;
- Reduction of drug-related crime or health related hazards.

This year HUD is providing a Master Logic Model which is a Microsoft Excel ™ file which features dropdown listings from which applicants may elect the items in each column that reflect their activity outputs and outcomes and copy. The Master Logic Model listing also identifies the unit of measure that HUD is interested in collecting for the output and outcome selected. In making the selections, applicants are to identify the appropriate estimated number of units of measure to be accomplished and identified for each output and outcome. The space next to the output and outcome is intended to capture the anticipated units of measure. Multiple outputs and outcomes may be selected per project. For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment statement. HUD will be publishing a separate notice on the ROI concept. The Master Logic Model pick is incorporated into the form available as part of the ICDBG Instructions download from Grants.gov. Training on use of the dropdown form will be provided via Webcast. The schedule for Webcast training can be found at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

B. Reviews and Selection Process

1. Application Selection Process

You must meet all of the applicable threshold requirements listed in Section III.C. Your application must meet all screening for acceptance requirements and all identified applicant and project specific thresholds. HUD will review each application and assign points in accordance with the selection factors described in this section.

2. Threshold Compliance

The Area ONAP will review each application that passes the screening process to ensure that each applicant and each proposed project meets the applicant threshold requirements set forth in 24 CFR 1003.301(a) and the project specific threshold requirements set forth in 24 CFR 1003.302 and III.C. of this NOFA.

3. Past Performance

An applicant's past performance is evaluated under Rating Factor 1. Applicants are encouraged to address all performance-related criteria prior to submission of an application. An applicant must score a minimum of 20 points under Rating Factor 1 in order to meet the minimum point requirements outlined below in this NOFA.

4. Rating

The Area ONAP will review and rate each project that meets the acceptance criteria and threshold requirements. After the applications are rated, a summary review of all applications will be conducted to ensure consistency in the application rating. The summary review will be performed by either the

Grants Management Director (or designee) or by a panel composed of up to three staff members.

The total points for all rating factors are 100. A maximum of 100 points may be awarded under Rating Factors 1 through 5.

5. Minimum Points

To be considered for funding, your application must receive a minimum of 20 points under Rating Factor 1 and an application score of 70 points.

6. Ranking

All projects will be ranked against each other according to the point totals they receive, regardless of the type of project or component under which the points were awarded. Projects will be selected for funding based on the final ranking to the extent that funds are available. The Area ONAP will determine individual grant amounts in a manner consistent with the considerations set forth in 24 CFR 1003.100(b)(2). Specifically, the Area ONAP may approve a grant amount less than the amount requested. In doing so, the Area ONAP may take into account the size of the applicant, the level of demand, the scale of the activity proposed relative to need and operational capacity, the number of persons to be served, the amount of funds required to achieve project objectives, and the reasonableness of the project costs. If the Area ONAP determines that there are not enough funds available to fund a project as proposed by the applicant, it may decline to fund that project and may fund the next highest-ranking project or projects for which adequate funds are available. The Area ONAP shall select, in rank order, additional projects for funding if one of the higher-ranking projects is not funded or if additional funds become available.

7. Tiebreakers

When rating results in a tie among projects and insufficient resources remain to fund all tied projects, the Area ONAP will approve projects that can be fully funded over those that cannot be fully funded. When that does not resolve the tie, the Area ONAP will use the following factors in the order listed to resolve the tie:

(a) The applicant that has not received an ICDBG over the longest period of time.

(b) The applicant with the fewest active ICDBGs.

(c) The project that would benefit the highest percentage of low- and moderate-income persons.

8. Technical Deficiencies and Pre-Award Requirements

a. Technical Deficiencies: If there are technical deficiencies in successful applications, you must satisfactorily address these deficiencies before HUD can make a grant award. See the General Section at V.B.4. for information on curing deficiencies.

b. Pre-award Requirements. Successful applicants may be required to provide supporting documentation concerning the management, maintenance, operation, or financing of proposed projects before a grant agreement can be executed. Such documentation may include additional specifications on the scope, magnitude, timing or method of implementing the project; or information to verify the commitment of other resources required to complete, operate, or maintain the proposed project. Applicants will be provided thirty (30) calendar days to respond to these requirements. No extensions will be provided. If you do not respond within the prescribed time period or you make an insufficient response, the Area ONAP will determine that you have not met the requirements and will withdraw the grant offer. You may not substitute new projects for those originally proposed in your application and any new information will not affect your project's rating and ranking. The Area ONAP will award, in accordance with the provisions of this NOFA, grant amounts that had been allocated for applicants unable to meet pre-award requirements.

9. Error and Appeals

Judgments made within the provisions of this NOFA and the program regulations (24 CFR part 1003) are not subject to claims of error. You may bring arithmetic errors in the rating and ranking of applications to the attention of the Area ONAPs within 30 days of being informed of your score. Please see Section VI.A. of the General Section for further information regarding errors.

10. Performance and Compliance Actions of Funding Recipients

HUD will measure and address the performance of and order compliance actions by funding recipients in accordance with the applicable standards and sanctions of their respective programs.

VI. Award Administration Information

A. Award Notices

Awards are expected to be announced by October 31, 2006. As soon as rating and ranking are completed, the applicant has complied with any pre-award requirements, and Congressional Release has been obtained, a grant award letter, a grant agreement, and other forms and certifications will be mailed to the recipient for signature and return to the Area ONAP. The grant agreement, which is signed by HUD and the recipient, establishes the conditions by which both the Area ONAP and the recipient must abide during the life of the grant. All grants are conditioned upon the completion of all environmental obligations and approval of release of funds by the Area ONAP in accordance with the requirements of 24 CFR part 58. HUD may impose other grant conditions if additional actions or approvals are required before the use of funds.

B. Administrative and National Policy Requirements

1. Statutory and Regulatory Requirements

a. Environmental Requirements. As required by 24 CFR 1003.605, ICDBG grantees must perform environmental reviews of ICDBG activities in accordance with 24 CFR part 58 (as amended 9/29/03). Grantees and other participants in the development process may not commit or expend any ICDBG or nonfederal funds on project activities (other than those listed in 24 CFR 58.22(f), 58.34 or 58.35(b)) until HUD has approved a Request for Release of Funds and environmental certification submitted by the grantee. The expenditure or commitment of ICDBG or nonfederal funds for such activities prior to HUD approval may result in the denial of assistance for the project or activities under consideration.

b. Indian Preference. HUD has determined that the ICDBG program is subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). The provisions and requirements for implementing this section are in 24 CFR 1003.510.

c. Anti-discrimination Provisions. Under the authority of Section 107(e)(2) of the CDBG statute, HUD waived the requirement that recipients comply with the anti-discrimination provisions in Section 109 of the CDBG statute with respect to race, color, and national origin. You must comply with the other prohibitions against discrimination in Section 109 (HUD's regulations for Section 109 are in 24 CFR part 6) and with the Indian Civil Rights Act.

d. Conflict of Interest. In addition to the conflict of interest requirements with respect to procurement transactions found in 24 CFR 85.36 and

84.42, as applicable, the provisions of 24 CFR 1003.606 apply to such activities as the provision of assistance by the recipient or sub-recipients to businesses, individuals, and other private entities under eligible activities that authorize such assistance.

e. Economic Opportunities for Low- and Very Low-Income Persons (Section 3). Section 3 requirements apply to the ICDBG program, but as stated in 24 CFR 135.3(c), the procedures and requirements of 24 CFR part 135 apply to the maximum extent consistent with, but not in derogation of, compliance with Indian Preference.

2. OMB Circulars and Government-Wide Regulations Applicable to Financial Assistance Programs

The policies, guidance and requirements of OMB Circular A–87, Cost Principles Applicable to Grants, Contracts and other Agreements with State and Local Governments; and OMB Circular A–122, Cost Principles for Nonprofit Organizations; and OMB Circular A–133, Audits of State and Local Governments, and Nonprofit Organizations; and the regulations at 24 CFR part 85, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments apply to the award, acceptance, and use of assistance under the ICDBG program and to the remedies for noncompliance, except when inconsistent with the provisions of the Consolidated Appropriations Act, 2006 (Pub L. 109–115; approved November 30, 2005) or the ICDBG program regulations at 24 CFR part 1003. Copies of the OMB Circulars may be obtained from EOP publications. Room 22000, New Executive Office Building, Washington, DC 20503, telephone (202) 395–3080 (this is not a toll-free number) or (800) 877–8339 (TTY Federal Information Relay Service). Information may also be obtained from the OMB Web site at *http://www.whitehouse.gov/omb/circulars/index.html.*

C. Reporting

1. Post Award Reporting Requirements

a. Quarterly Financial Reports. Grant recipients must submit quarterly to the Area ONAP a SF–272, Federal Cash Transaction Report. The report accounts for funds received and disbursed by the recipient.

b. Annual Status and Evaluation Report. Recipients are required to submit this report in narrative form annually. The report is due 45 days after the end of the Federal fiscal year and at the time of grant close-out. The report must include:

(1) The narrative report must address the progress made in completing approved activities and include a list of work remaining, along with a revised implementation schedule if necessary. This should include progress on any outputs or outcomes specified in Rating Factor 5 and incorporated into the final award document (applicants can use the logic model to address all or some of the narrative requirements). Further information regarding the Return on Investment(s) will be issued in a subsequent notice by HUD (see section V.A.2., Rating Factor 5 of this NOFA for further information);

(2) A breakdown of funds spent on each major project activity or category; and

(3) If the project has been completed, an evaluation of the effectiveness of the project in meeting the community development needs of the grantee, as well as the final outputs and outcomes.

c. Minority Business Enterprise Report. Recipients must submit this report on contract and subcontract activity during the first half of the fiscal year by April 10 and, by October 10 for the second half of the fiscal year.

d. A close-out report must be submitted by the recipient within 90 days of completion of grant activities. The report consists of the final Financial Status Report (forms SF 269 or 269A), the final Status and Evaluation Report including outposts and outcomes agreed upon in the final award document relating to Rating Factor 5 and the Close-Out Agreement. Further information regarding the Return on Investment(s) will be issued in a subsequent notice by HUD (see section V.A.2., Rating Factor 5 of this NOFA for further information).

More information regarding these requirements may be found at 24 CFR 1003.506 and 1003.508.

VII. Agency Contact(s)

A. General Questions

You should direct general program questions to the Area ONAP serving your area or to Barbara Gallegos, at 602–379–7215. Persons with speech or hearing impairments may call HUD's TTY number (202) 708–0770, or 1–800–877–8339 (the Federal Information Relay Service TTY). Other than the ''800'' numbers, these numbers are not toll-free. You should direct questions concerning downloading the electronic application, registering with Grants.gov, or other questions regarding the electronic application to the Grants.gov support desk at 800–518–GRANTS. You may also send an email to *Support@Grants.gov.*

B. Technical Assistance

Before the application submission deadline, HUD staff will be available to provide you with general guidance and technical assistance about the requirements in the General Section and this NOFA. However, HUD staff is not permitted to assist in preparing your application. Following selection of applicants, but before awards are made, HUD staff is available to assist in clarifying or confirming information that is a prerequisite to the offer of an award.

VIII. Other Information

A. NOFA Training

Training for potential applicants on the requirements of the General Section, this NOFA, the Logic Model, and Grants.gov registration, will be provided by HUD via broadcast and webcast. Information on the training can be found in the General Section. The training schedule can be found on HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

B. Paperwork Reduction Act Statement

The information collection requirements in this NOFA 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 2577–0191. 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 valid OMB control number. Public reporting burden for the collection of information is estimated to average 43 hours per annum for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data. 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.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

UNIVERSITY AND COLLEGE PROGRAMS

HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) PROGRAM

Billing Code 4210-01-C

Historically Black Colleges and Universities (HBCU) Program

Overview Information

A. *Federal Agency Name:* Department of Housing and Urban Development, Office of Policy Development and Research, Office of University Partnerships.

B. *Funding Opportunity Title:* Historically Black Colleges and Universities (HBCU) Program.

C. Announcement Type: Initial announcement.

D. *Funding Opportunity Numbers:* The **Federal Register** Number is FR–5030–N–28. The OMB Approval Number is 2528–0235.

E. *Catalog of Federal Domestic Assistance (CFDA) Number:* The CFDA Number for is program is 14.520.

F. *Dates:* The application deadline date is May 19, 2006. Please be sure to read the General Section for electronic application submission and receipt requirements.

G. *Additional Overview Content Information:*

1. *Purpose of the Program:* To assist Historically Black Colleges and Universities (HBCU) to expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing and economic development, principally for persons of low- and moderate-income consistent with the purposes of Title I of the Housing and Community Development Act of 1974, as amended.

2. *Award Information:* In Fiscal Year (FY) 2006, approximately $8.9 million has been made available by the Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109–115; approved Nov. 30, 2005) of which up to $1,000,000 has been allocated to provide technical assistance. In addition, $2.5 million in previously unobligated funds are available for this program. HUD will award two types of grants under this program: Category I and Category II.

a. Category I Grants will be awarded to provide critical resources and assistance to institutions that sustained in excess of $50 million in damage and destruction from hurricanes Katrina or Rita in FY 2005. No assistance may be provided for any expenses compensated through insurance or otherwise provided or paid by any other program, persons, and/or entity. Applicants can request up to $2,000,000 for a three-year (36 months) grant performance period.

b. Category II Grants will be awarded to institutions to expand their role and effectiveness in addressing community development needs in their localities, or a designated disaster area including neighborhood revitalization, housing and economic development. Applicants can request up to $600,000 for a three-year (36 months) grant performance period.

Approximately $6 million will be made available to fund Category I applicants. In addition, approximately $4.4 million will be made available to fund Category II applicants. If funding designated for Category I Applicants remains after all eligible applicants are awarded, the remaining funds will be made available to fund eligible Category II Applicants.

Only *one* application can be submitted per institution. In addition, an applicant can only apply under one category. If multiple applications are submitted under one category, all will be disqualified. If an applicant submits applications under both funding categories, all applications will be disqualified.

3. *Eligible Applicants:* Historically Black Colleges and Universities that meet the definition of Historically Black Colleges and Universities as determined by the Department of Education in 34 CFR 608.2 in accordance with that Department's responsibilities under Executive Order 13256, dated February 12, 2002. Applicants must be institutions of higher education accredited by a national or regional accrediting agency recognized by the U.S. Department of Education.

Full Text of Announcement

I. Funding Opportunity Description

The purpose of the Historically Black Colleges and Universities (HBCU) Program is to expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing, and economic development, principally for persons of low- and moderate-income, consistent with the purpose of the Title I of Housing and Community Development Act of 1974, as amended.

For the purposes of Category II Applicants applying under this program NOFA, the term ''locality'' includes any city, county, township, parish, village, or other general political subdivision of a state, or the U.S. Virgin Islands where the institution is located and the term ''target area'' is the area within the locality in which the institution will implement its proposed HBCU grant. If an institution wants to provide services/activities in a location other than the target area of that institution an applicant must provide justification for why they want to do so.

A. Authority

HUD's authority for making funding available under this NOFA is the Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109–115; approved Nov. 30, 2005). This program is being implemented through this NOFA and the policies governing its operation are contained herein.

B. Modifications

Listed below are major modifications from the Fiscal Year (FY) 2005 program-funding announcement:

1. The 15 percent cap on the total grant amount that can be used on public service activities that benefit low- and moderate-income persons can now be waived. Institutions seeking to devote more than 15 percent of the grant funds to public service activities must include a written request in their application addressed to Darlene F. Williams, Assistant Secretary for Policy Development and Research. The written request must include the following information: (1) The basis for the request; (2) a description of the proposed public service activities; (3) the dollar amount dedicated to the proposed public service activities; and (4) a statement describing how the proposed activities meet the Community Development Block Grant eligibility requirements and at least one national objective. This letter must be included in the applicant's application.

2. Commitment letters, memoranda of understanding and/or agreements are not required at the time of application submission but must be on file. Applicants selected for award will be required to submit the signed commitment letters, memoranda of understanding and/or agreements outlined in the application, within twenty (20) calendar days after initial contact from the Office of University Partnerships (OUP). OUP will provide specific instructions on how these documents must be submitted at that time. HUD will only request and consider the resources/organizations outlined in the application. If OUP does not receive those documents in the required format and allotted timeframe, an applicant will not receive points under this factor and the application will be rated and ranked to address this point change.

3. Current HBCU grantees that have two or more active HBCU grants are no longer required to have drawn down 50 percent or more prior to this application deadline date to be eligible to apply for funding under this NOFA.

4. All applicants submitting electronic applications must attach their narrative

responses to Rating Factors 1–5 as one attachment. PLEASE DO NOT ATTACH YOUR RESPONSE TO EACH FACTOR SEPARATELY.

II. Award Information

In Fiscal Year (FY) 2006, approximately $8.9 million is made available for this program, of which up to $1,000,000 has been allocated to provide technical assistance. In addition $2.4 million in previously unobligated funds. HUD will award two types of grants under this program: Category I and Category II.

A. Category I Grants will be awarded to provide critical resources and assistance to institutions that sustained in excess of $50 million in damage and destruction from hurricanes Katrina or Rita in FY2005. No assistance may by provided for any expenses compensated through insurance or otherwise provided or paid by any other program, persons, and/or entity. Applicants can request up to $2,000,000 for a three-year (36 months) grant performance period.

B. Category II Grants will be awarded to expand institutions to their role and effectiveness in addressing community development needs in their localities, or a designated disaster area including neighborhood revitalization, housing and economic development. Applicants can request up to $600,000 for a three-year (36 months) grant performance period.

Approximately $6 million will be made available to fund Category I applicants. In addition, approximately $4.4 million will be made available to fund Category II applicants. If funding designated for Category I Applicants remains after all eligible applicants are awarded, the remaining funds will be made available to fund eligible Category II Applicants.

Only *one* application can be submitted per institution. In addition, an applicant can only apply under one category. If multiple applications are submitted under one category, all will be disqualified. If an applicant submits applications under both funding categories, all applications will be disqualified.

III. Eligibility Information

A. Eligible Applicants

Historically Black Colleges and Universities as determined by the U.S. Department of Education in 34 CFR 608.2 in accordance with that Department's responsibilities under Executive Order 13256, dated February 12, 2002. All applicants must be institutions of higher education accredited by a national or regional accrediting agency recognized by the U.S. Department of Education.

B. Cost Sharing or Matching

None Required.

C. Other

1. Eligible Activities

Eligible activities are listed in 24 CFR part 570, subpart C, particularly §§ 570.201 through 570.206. Information regarding these activities can be found at: *www.hudclips.org* (click on the Code of Federal Regulations for detailed information). a. Examples of eligible activities include, but are not limited to:

(1) Acquisition of real property;

(2) Clearance and demolition (Applicants applying for Category I funding may undertake eligible activities such as clearance and demolition or rehabilitation on their own campuses/facilities);

(3) Rehabilitation of residential structures including lead-based paint hazard evaluation and reduction and making accessibility and visitability modifications in accordance with the requirements of Section 504 of the Rehabilitation Act of 1973;

(4) Public facilities and improvements, such as water and sewer facilities and streets compliance with accessibility requirements including Section 504 of the Rehabilitation Act of 1973, the Fair Housing Act, and the American with Disabilities Act of 1990;

(5) Special economic development activities described at 24 CFR 570.203 and assistance to facilitate economic development by providing technical or financial assistance for the establishment, stabilization, and expansion of microenterprises, including minority enterprises;

(6) Assistance to community-based development organizations (CBDO) to carry out a CDBG neighborhood revitalization, community economic development, or energy conservation projects, in accordance with 24 CFR 570.204. This could include activities in support of a HUD-approved local entitlement grantee, CDBG Neighborhood Revitalization Strategy (NRS) or HUD-approved State CDBG Community Revitalization Strategy (CRS);

(7) Public service activities such as those general support activities that can help to stabilize a neighborhood and contribute to sustainable redevelopment of the area, including but not limited to such activities as those concerned with employment, crime prevention, child care, health care services, drug abuse, education, fair housing counseling, energy conservation, homebuyer down payment assistance, establishment and maintenance of Neighborhood Network centers in federally assisted or insured housing, job training and placement, and recreational needs;

(8) Payments of reasonable grant administrative costs related to planning and execution of the project (*e.g.*, preparation/submission of HUD reports). Detailed explanations of these costs are provided in the OMB circular (A–21 Cost Principals for Educational Institutions) that can be accessed at the White House Web site, *www.whitehouse.gov/omb/circulars/index.html*; and

(9) Fair housing services designed to further the civil rights objectives of the Fair Housing Act (42 U.S.C. 3601–20) by making all persons, without regard to race, color, religion, sex, national origin, familial status and/or disability aware of the range of housing opportunities available to them.

b. Eligible activities funded under this program meet both the Community Development Block Grant (CDBG) Program eligibility requirements and at least one of the national objectives.

c. The three national objectives of the Community Development Block Grant program are:

(1) Benefit to low-or moderate-income persons;

(2) Aid in the prevention or elimination of slums or blight; and

(3) Meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community, and other financial resources are not available to meet such needs.

Criteria for determining whether an activity addresses one or more national objective are provided at 24 CFR 570.208.

d. The CDBG publication entitled ''Community Development Block Grant Program Guide to National Objectives and Eligible Activities for Entitlement Communities'' describes the CDBG regulations, and a copy can be obtained from HUD's NOFA Information Center at 800–HUD–8929 or 800–HUD–2209 for the hearing-impaired.

2. Audit Requirements

See Section III.C. of the General Section.

3. Threshold Requirements Applicable to All Applicants

All applicants must comply with the threshold requirements as defined in the General Section and the requirements listed below. Applications that do not meet these requirements will be

considered ineligible for funding and will be disqualified:

a. The applicant must meet the eligibility requirements as defined in Section III.A.

b. The maximum amount of funding an applicant can request under Category I Grants is $2,000,000 for a three-year (36 months) grant performance period. The maximum amount of funding an applicant can request for funding under Category II Grants is $600,000 for a three-year (36 months) grant performance period.

c. Only *one* application can be submitted per institution. In addition, an applicant can only apply under one category. If multiple applications are submitted under one category, all will be disqualified. If an applicant submits applications under both funding categories, all applications will be disqualified.

d. Applicants must receive a minimum score of 75 points to be considered for funding.

e. An applicant must have a DUNS number to receive HUD grant funds. (See the General Section).

f. Electronic applications must be received and validated by grants.gov no later than 11:59:59 p.m. eastern time on the application deadline date of May 19, 2006.

4. Program Requirements

In addition to the program requirements listed in Section III.C of the General Section, applicants must meet the following program requirements:

a. All funds awarded are for a three-year (36 months) grant performance period.

b. Applicants must ensure that not less than 51 percent of the aggregated expenditures of the grant benefit low- and moderate-income persons under the criteria specified in 24 CFR 570.208(a) or 570.208(d)(5) or (6).

c. Site Control. Where grant funds will be used for acquisition, rehabilitation, or new construction an applicant must demonstrate site control. Funds may be recaptured or deobligated from applicants that cannot demonstrate control of a suitable site within one year after the initial notification of award.

d. Environmental Requirements. Selection for award does not constitute approval of any proposed sites. Following selection for award, HUD will perform an environmental review of properties proposed for assistance in accordance with 24 CFR part 50. The results of the environmental review may require that proposed activities be modified or proposed sites be rejected. Applicants are particularly cautioned not to undertake or commit funds for acquisition or development of proposed properties prior to HUD approval of specific properties or areas. An application constitutes an assurance that the institution will assist HUD to comply with part 50; Will supply HUD with all available and relevant information to perform an environmental review for each proposed property; will carry out mitigating measures required by HUD or select alternate property; and will not acquire, rehabilitate, convert, demolish, lease, repair, or construct property, and not commit or expend HUD or local funds for these program activities with respect to any eligible property until HUD's written approval of the property is received. In supplying HUD with environmental information, applicants should use the same guidance as provided in the HUD Notice CPD–05–07 entitled, ''Field Environmental Review Processing for Rural Housing and Economic Development (RHED) Grants'' issued August 30, 2005.

Further information and assistance on HUD's environmental requirements is available at: *http://www.hud.gov/utilities/intercept.cfm?/offices/cpd/lawsregs/notices/2005/05-07.pdf.*

e. Labor Standards. Institutions and their sub-grantees, contractors and subcontractors must comply with the labor standards (Davis-Bacon) requirements referenced in 24 CFR 570.603.

f. Economic Opportunities for Low- and Very-Low Income Persons (Section 3). The provisions of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) apply to this NOFA and requires that, to the greatest extent feasible, opportunities for training and employment be given to lower-income residents of the project and contracts for work in connection with the project be awarded in substantial part to persons residing in the area of the project. Regulations are located at 24 CFR part 135.

IV. Application and Submission Information

A. Addresses to Request Application Package

Applicants may download the instructions to the application found on the Grants.gov Web site at *http://www.grants.gov/Apply*. If you have difficulty accessing the information you may call the Grants.gov Support Desk toll free at 800–518–GRANTS or e-mail your questions to *Support@Grants.gov*. See the General Section for information regarding the registration process or ask for registration information from the Grants.gov Support Desk.

B. Content and Form of Application Submission

1. Forms

The following forms are required for submission. Copies of these forms are available on line at *http://www.hud.gov/offices/adm/grants/nofa06/snofaforms.cfm.*

a. Application for Federal Assistance (SF–424);

b. Survey on Ensuring Equal Opportunity for Applicants (SF–424 Supplement);

c. Grant Application Detailed Budget (HUD–424–CB);

d. Disclosure of Lobbying Activities (SF–LLL), if applicable;

e. America's Affordable Communities Initiative (HUD–27300), if applicable;

f. Applicant/Recipient Disclosure/Update Report (HUD–2880);

g. Program Logic Model (HUD–96010);

h. Budget-By-Activity (HUD–40076);

i. Acknowledgement of Applicant Receipt (HUD–2993). Complete this form if you have received a waiver to the electronic application submission requirement. Applicants are not required to include this form;

j. You Are Our Client Grant Applicant Survey (HUD–2994–A). Applicants are not required to complete this form; and

k. Facsimile Transmittal Cover Page (HUD–96011). This form must be used as the cover page to transmit third party documents and other information. Applicants are advised to download the application package, complete the SF–424 first and it will pre-populate the Transmittal Cover page. The Transmittal Cover page will contain a unique identifier embedded in the page that will help HUD associate your faxed materials to your application. Please do not use your own fax sheet. HUD will not read any faxes that are sent without the HUD–96011 fax transmittal cover page.

2. Certifications and Assurances

Please read the General Section for detailed information on all Certifications and Assurances. All applications submitted through Grants.gov constitute an acknowledgement and agreement to all required certifications and assurances. Please include in your application each item listed below. Applicants submitting paper copy applications should submit the application in the following order:

a. *SF–424, Application for Federal Assistance.* Please remember the following:

(1) The full grant amount requested from HUD (entire three-years) should be entered, not the amount for just one year;

(2) Include the name, title, address, telephone number, facsimile number, and e-mail address of the designated contact. This is the person who will receive all correspondence, therefore, please ensure the accuracy of the information;

(3) The Employer Identification/Tax ID number;

(4) The DUNS Number;

(5) The Catalog of Federal Domestic Assistance Number for this program is 14.520;

(6) The project's proposed start date and completion date. For the purpose of this application, the program start date should be December 1, 2006; and

(7) The signature of the Authorized Organization Representative (AOR) who by virtue of submitting an application via Grants.gov has been authenticated by the credential provider to submit applications on behalf of the Institution and approved by the eBusiness Point of Contact to submit an application via Grants.gov. The AOR must be able to make a legally binding agreement with HUD. For details on the Grants.gov registration process see HUD's Notice on Early Registration published in the **Federal Register** on December 9, 2005.

b. *Application Checklist.* Applicants should use the checklist to ensure that they have all the required components of their application. Applicants that receive a waiver of the electronic application submission requirement must include a copy of the checklist in their application submission. Applicants submitting an electronic application should not submit the checklist. The checklist can be located in Appendix A.

c. *Abstract.* Applicants must include no more than a two-page summary of the proposed project. Please include the following:

(1) A clear description of the proposed project activities, where they will take place (be located), the target population that will be assisted, and the impact this project is expected to have on the community and institution;

(2) A statement that the institution is an eligible institution because it is a fully accredited institution, the name of the accrediting agency and an assurance that the accrediting agency is recognized by the U.S. Department of Education;

(3) The designated contact person, including phone number, facsimile number, and e-mail address (This is the person who will receive all correspondence; therefore, please ensure the accuracy of the information);

(4) The principal director, if different from the designated contact person, for the project, including phone number, facsimile number, and e-mail address.

d. *Narrative statement addressing the Factors.* HUD will use the narrative response to the ''Rating Factors'' to evaluate, rate, and rank applications. The narrative statement is the main source of information. Applicants are advised to review each factor carefully for program specific requirements. The response to each factor should be concise and contain only information relevant to the factor, yet detailed enough to address each factor fully. Please do not repeat material in response to the five factors; instead, focus on how well the proposal responds to each of the factors. Where there are subfactors each subfactor must be presented separately, with the short title of the subfactor presented. Make sure to address each subfactor and provide sufficient information about every element of the subfactor. The narrative section of an application must not exceed 50 pages in length (excluding forms, budget narrative, assurances, and abstract) and must be submitted on 8½ by 11-inch paper, double-spaced on one side of the paper, with one inch margins (from the top, bottom, and left to right side of the document) and printed in standard Times New Roman 12-point font. Each page of the narrative must include the applicant's name and be should be numbered. Note that although submitting pages in excess of the page limit will not disqualify an applicant, HUD will not consider the information on any excess pages. This exclusion may result in a lower score or failure to meet a threshold requirement. All applicants submitting electronic applications must attach their narrative responses to Rating Factors 1–5 as one attachment. PLEASE DO NOT ATTACH YOUR RESPONSE TO EACH FACTOR SEPARATELY.

e. *Budget.* The budget submission must include the following:

(1) *HUD–424–CB, ''Grant Application Detailed Budget.''* This form shows the total budget by year and by line item for the program activities to be carried out with the proposed HUD grant. Each year of the program should be presented separately. Applicants must also submit this form to reflect the total cost (summary) for the entire grant performance period (Grand Total).

(2) *HUD–40076–HBCU, ''Response Sheet, Budget-By-Activity''* This form must be used to document the entire three-year grant performance period. The form should include a listing of tasks to be completed for each activity necessary to be performed to implement the program, the overall costs for each activity, and the cost from each funding source. The budget-by-activity should clearly indicate the HUD grant amount and identify the source and dollar amount of the leveraged resources, if any.

Make sure that the amounts shown on the SF–424, HUD–424–CB, HUD–40076–HBCU and all other required program forms are consistent and the budget totals are correct. Remember to check addition in totaling the categories on all forms so that all items are included in the total. If there is an inconsistency between any of the required budget forms, the HUD–424–CB will be used. All budget forms must be completed fully. If an application is selected for award, the applicant may be required to provide greater specificity to the budget during grant agreement negotiations.

(3) *Budget Narrative.* A narrative must be submitted that explains how the applicant arrived at the cost estimates for any line item over $5,000 cumulative. For example, an applicant proposes to construct a building using HUD funding totaling $200,000. The following costs estimate reflects this total. Foundation cost $75,000, electrical work $40,000, plumbing work $40,000, finishing work $35,000, and landscaping $10,000. The proposed cost estimates should be reasonable for the work to be performed and consistent with rates established for the level of expertise required to perform the work proposed in the geographical area. When necessary, quotes from various vendors or historical data should be used (please make sure they are kept on file and are available for review by HUD at any time). When an applicant proposes to use a consultant, the applicant must indicate whether there is a formal written agreement. For each consultant, please provide the name, if known, hourly or daily rate, and the estimated time on the project. Applicants must use a cost estimate based on historical data from the institution, and/or from a qualified firm (e.g., Architectural or Engineering firm), vendor, and/or qualified individual (e.g., independent architect or contractor) other than the institution for projects that involve rehabilitation of residential, commercial and/or industrial structures, and/or acquisition, construction, or installation of public facilities and improvements. Such an entity must be involved in the business of housing rehabilitation, construction and/or management. Equipment and contracts cannot be presented as a total estimated costs. For equipment,

applicants must provide a list by type and cost for each item. Applicants using contracts must provide an individual description and cost estimate for each contract. Construction costs must be broken down to indicate how funds will be utilized (e.g., demolition, foundation, exterior walls, roofing, electrical work, plumbing, finishing work, etc.)

(4) *Indirect costs.* Indirect costs, if applicable, are allowable based on an established approved indirect cost rate. Applicants must have on file and submit to HUD if selected for funding a copy of their indirect cost rate agreement. Applicants who are selected for funding that do not have an approved indirect cost rate agreement, established by the cognizant federal agency), will be required to establish a rate. In such cases, HUD will issue an award with a provisional rate and assist applicants in having a rate established.

f. *Appendix.* Applicants receiving a waiver of the electronic submission requirements and submitting a paper copy of the application must place all required forms in this section. An applicant SHOULD NOT submit resumes, or other back-up materials. If this information is included, it will not be considered during the review process.

C. Submission Dates and Times

A complete application package must be received and validated electronically by the Grants.gov portal no later than 11:59:59 p.m. eastern time on or before the applications deadline date of May 19, 2006. In an effort to address any issues with transmission of your application, applicants are strongly encouraged to submit their applications prior to the application deadline. This will allow an applicant enough time to make the necessary adjustments to meet the submission deadline. Please see the General Section for further instructions. Electronic faxes using the Facsimile Transmittal cover sheet (Form HUD–96011) contained in the electronic application must be received no later than 11:59:59 p.m. eastern time on the application submission deadline date.

D. Intergovernmental Review

This program is excluded from an Intergovernmental Review.

E. Funding Restrictions

Ineligible CDBG Activities are listed at 24 CFR 570.207. Ineligible activities include but are not limited to:

1. Curriculum development and/or expansion of an institution's existing curriculum;
2. General government expenses; and
3. Political activities.

F. Other Submission Requirements

1. Application Submission and Receipt Procedure

Please read the General Section carefully and completely for the submission and receipt procedures for all applications because failure to comply may disqualify your application.

2. Waiver of Electronic Submission Requirements

Please refer to the General Section for further discussion. Paper applications will not be accepted from applicants that have not been granted a waiver. If an applicant is granted a waiver, the Office of University Partnerships will provide instructions for submission. Applicants that submit a paper application must be received by or before the application deadline date.

V. Application Review Information

A. Criteria

1. Rating Factor 1: Capacity of the Applicant and Relevant Experience (25 Points)

This factor addresses the extent to which the institution has the resources necessary to successfully implement the proposed activities in a timely manner.

a. Knowledge and Experience For Category I and First Time Category II Applicants (25 Points) For Previously Funded Category II Applicants (10 Points). In rating this subfactor, HUD will consider the extent to which the applicant clearly addresses the following:

(1) Describe the knowledge and experience of the proposed project director and staff, including the day-to-day program manager, consultants (including technical assistance providers), and contractors in planning and managing the type of project for which funding is being requested; and

(2) Clearly identify the following: key project team members, titles (*e.g.*, project manager/coordinator, etc.), respective roles for the project staff, and a brief description of their relevant experience.

If key personnel have not been hired, applicants must identify the position title, provide a description of duties and responsibilities, and describe the qualifications to be considered in the selection of personnel, including subcontractors and consultants.

Experience will be judged in terms of recent and relevant knowledge and skills of the staff to undertake the proposed eligible program activities. HUD will consider experience within the last five (5) years to be recent and experience pertaining to similar activities to be relevant.

b. Past Performance (15 points) For Previously Funded Category II Applicants. This subfactor will evaluate how well an applicant has performed successfully under HUD/HBCU grants. Applicants must demonstrate this by addressing the following information on the HUD–40076–HBCU ''Response Sheet: (Performance Narrative) for all previously completed and open HBCU grants:

(1) A list of all HUD/HBCU grants received, including the dollar amount awarded and the amount expended as of the date of this application. The HUD–40076–HBCU ''Response Sheet'' (Performance Narrative) form is located at the following Web site: *http://www.hud.gov/offices/adm/grants/fundsavail.cfmin*. The form should be filled out completely;

(2) A description of the achievement of specific tasks, measurable objectives, and specific outcomes consistent with the approved timeline/work plan;

(3) A comparison of the amount of proposed leveraged funds and/or resources to the amount that was actually leveraged;

(4) A detailed description of compliance with all reporting requirements, including timeliness of submission, whether reports were complete and addressed all information (both narrative and financial) as required by the grant agreement; and

(5) A list detailing the date the project(s) was completed, was it completed in the original three-year grant performance period; if not completed why (including when it was or will be completed);

HUD will also review an applicant's past performance in managing funds, including, but not limited to: The ability to account for funding appropriately; timely use of funds received from HUD; meeting performance targets for completion of activities; timely submission of required progress reports and receipt of promised leveraged resources. In evaluating past performance, HUD reserves the right to deduct up to five (5) points from this rating score as a result of the information obtained from HUD's records (i.e., progress and financial reports, monitoring reports, Logic Model submissions, and amendments).

2. Rating Factor 2: Need/Extent of the Problem (15 Points)

This factor addresses the extent to which there is a need for funding the proposed program activities and an indication of the importance of meeting the need(s). In addressing this factor,

applicants should provide, at a minimum, the following and must cite statistics and/or analyses contained in one or more current data sources that are sound and reliable.

(1) Describe the need(s); and

(2) Describe the importance of meeting the proposed needs. In rating this factor, HUD will consider only current data that is specific to the area where the proposed project activities will be carried out. Sources for localized data can be found at: *www.ffiec.gov*.

HUD will also consider data collected within the last five (5) years to be current. To the extent that the targeted community's Five Year Consolidated Plan and Analysis of Impediments to Fair Housing Choice (AI) identify the level of the problem and the urgency in meeting the need, applicants should include references to these documents in response to this factor (this is applicable only to applicants applying for funding under Category II).

Other reliable data sources include, but are not limited to, Census reports, HUD Continuum of Care gap analysis and its E–MAP (To find additional information go to HUD's Web site: *http://www.hud.gov/emaps*), law enforcement agency crime reports, Public Housing Agencies' Comprehensive Plans, community needs analyses such as provided by the United Way, the applicant's institution, and other sound, reliable an appropriate sources. Needs in terms of fulfilling court orders or consent decrees, settlements, conciliation agreements, and voluntary compliance agreements may also be addressed.

3. Rating Factor 3: Soundness of Approach (40 Points)

This factor addresses the quality and effectiveness of the proposed work plan and the commitment of the institution to sustain the proposed activities.

This factor will be evaluated based on the extent to which the proposed work plan demonstrates the following:

a. Quality of the Work Plan. This subfactor will be evaluated on the extent to which an applicant provides a clear detailed description of the proposed project and anticipated accomplishments.

(1) Specific Activities. For Category I Applicants (28 Points). For Category II Applicants (25 Points). The work plan must describe all proposed activities and major tasks required to successfully implement the proposed project and anticipated accomplishments. In addressing this subfactor, applicants must provide a clear description of the proposed activities and address the following:

(a) Describe each activity required to successfully implement and complete the proposed project in measurable terms (e.g., the number of persons to be trained and employed; houses to be rehabilitated; or minority-owned businesses to be started, etc.);

(b) List and describe how each activity meets one of the following Community Development Block Grant (CDBG) Program national objectives:

- Benefit low- and moderate-income persons;
- Aid in the prevention or elimination of slums or blight; or
- Meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community, and other financial resources are not available to meet such needs.

Criteria for determining whether an activity addresses one or more objective are provided at 24 CFR 570.208;

(c) Describe the major tasks required (in sequential order) to successfully implement and complete each activity. Include target completion dates for each task (in 6 month intervals, up to thirty-six (36) months);

(d) Identify the key staff, as described in Factor 1, who will be responsible and accountable for completing each activity; and

(e) Describe how the project director will work with the partners and citizens to accomplish the proposed activities.

(2) (8 Points) Describe clearly how each proposed activity will:

(a) Expands the role of the institution in the community (applicable only to Category II Applicants);

(b) Address the needs identified in Factor 2;

(c) Relate to and not duplicate other activities in the target area. Duplicative effort will be acceptable only if an applicant can demonstrate through documentation that there is a population in need that is not being served; and

(d) Involve and empower citizens of the target area in the proposed project particularly through a committee that is representative of the target community (applicable only to Category II Applicants).

b. (3 Points) Involvement of the Faculty and Students (For Category II Applicants Only). The applicant must describe how it proposes to integrate the institution's students and faculty into proposed project activities

c. (2 Points) HUD Policy Priorities. To earn points under this subfactor, HUD requires applicants to undertake specific activities that will assist the Department in implementing its policy priorities that help the Department achieve its goals and objectives in FY 2007, when the majority of grant recipients will be reporting programmatic results and achievements. In addressing this subfactor, HUD will evaluate the extent to which a program will further and support HUD's priorities. The quality of the responses provided to one or more of HUD's priorities will determine the score an applicant can receive. Applicants must describe how each policy priority selected will be addressed. Applicants that just list a priority will receive no points. Please refer to the General Section for additional information about HUD's policy priorities.

The total number of points an applicant can receive under this subfactor is two (2). Each policy priority addressed has a point value of one (1) point with the exception of the policy priority to remove regulatory barriers to affordable housing, which has a point value of up to two (2) points. To receive these two (2) points an applicant must indicate how this priority will be addressed and an applicant must indicate how this priority will be addressed and submit the completed questionnaire (HUD–27300) ''HUD's Initiative on Removal of Regulatory Barriers'' found in the General Section along with required documentation. It is up to the applicant to determine which of the policy priorities they elect to address to receive the available two (2) points.

d. (2 Points) Economic Opportunities for Low- and Very-Low Income Persons (Provision of Section 3). This subfactor will be evaluated on the extent to which an applicant describes how it proposes to:

(1) Provide opportunities to train and employ lower-income residents of the project area; and

(2) Award substantial contracts to persons residing in the project area.

Regulations regarding the provision of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) can be located at 24 CFR part 135.

4. Rating Factor 4: Leveraging Resources (8 Points)

This factor addresses the ability of the applicant to secure resources that can be combined with HUD's grant funds to achieve the program's purpose.

In evaluating this factor, HUD will consider how well the applicant has established partnerships with other entities to secure additional resources to increase the effectiveness of the proposed project activities. Resources

may include funding or in-kind contributions, such as services or equipment, allocated for the purpose(s) of the proposed project activities. Resources may be provided by governmental entities, public or private nonprofit organizations, for-profit private organizations, or other entities. Applicants may also establish partnerships with other program funding recipients to coordinate the use of resources in the target area. Overhead and other institutional costs (e.g., salaries, indirect costs, etc.) that the institution has waived may be counted. Examples of potential sources for outside assistance include:

- Federal, state, and local governments;
- Local or national nonprofit organizations;
- Financial institutions and/or private businesses;
- Foundations;
- Faith-based and other community-based organizations;

To address this factor, an applicant must provide an outline in the application and have on file written commitment letters, memoranda of understanding and/or agreements that show the extent and firm commitment of all proposed leveraged resources (including any commitment of resources from the applicant's own institution) that address the following information for each leveraged resource/fund:

(1) The name of the organization and the executive officer authorizing the funds/goods and/or services (Only applicable to the narrative section);

(2) The cash amount contributed or dollar value of the in-kind goods and/or services committed (If a dollar amount and its use is not shown, the funding will not be counted);

(3) A specific description of how each contribution is to be used toward the proposed activities;

(4) The date the contribution will be made available and a statement that describes the duration of the contribution;

(5) Any terms or conditions affecting the commitment, other than receipt of a HUD Grant; and

(6) The signature of the appropriate executive officer authorized to commit the funds and/or goods and/or services. (Only applicable to the written documentation) Please remember that only items eligible for funding under this program can be counted.

Commitment letters, memoranda of understanding and/or agreements are not required at the time of application submission but you must have them on file. Applicants selected for award will be required to submit the signed commitment letters, memoranda of understanding and/or agreements outlined in the application, within twenty (20) calendar days after initial contact from the Office of University Partnerships (OUP). Letters, memoranda of understanding, or agreements must be submitted on the provider's letterhead and should be addressed to Sherone Ivey, Acting Associate Deputy Assistant Secretary for University Partnerships. The date of the letter, memorandum of understanding, or agreement from the CEO of the provider organization must be dated no earlier than nine months prior to this published NOFA. OUP will provide specific instructions on how these documents must be submitted when contact is made with the applicant. HUD will only request and consider the resources/organizations that are listed in the outline submitted in the application. If OUP does not receive those documents in the required format and allotted timeframe, an applicant will not receive points under this factor and the application will be rated and ranked to address this point change.

5. Rating Factor 5: Achieving Results and Program Evaluation (12 Points)

This factor reflects HUD's goal to embrace high standards of management and accountability. It measures the applicant's commitment to assess their performance to achieve the program's proposed objectives and goals. Applicants are required to develop an effective, quantifiable, outcome oriented evaluation plan for measuring performance and determining that objectives and goals have been achieved. The Logic Model is a summary of the narrative statements presented in Factors 1–4. Therefore, it should be consistent with the information contained in the narrative statements.

''Outcomes'' are benefits accruing to the community during or after participation in the HBCU program. Applicants must clearly identify the outcomes to be measured and achieved. Examples of outcomes include increased employment opportunities in the target community by a certain percentage, increased incomes/wages or other assets for persons trained, or enhanced family stability through the creation of affordable housing opportunities (e.g., increased assets to families and communities through the development of affordable housing).

In addition, applicants must establish interim benchmarks and outputs that lead to the ultimate achievement of outcomes. ''Outputs'' are the direct products of the program's activities. Examples of outputs are the number of new affordable housing units, the number of homes that have been renovated, and the number of facilities that have been constructed or rehabilitated. Outputs should produce outcomes for the program. At a minimum, an applicant must address the following activities in the evaluation plan:

a. Measurable objectives to be accomplished (e.g., the number of persons to be trained and employed; houses to be built pursuant to 24 CFR 570.207 or rehabilitated; minority-owned businesses to be started);

b. Measurable impacts the grant will have on the community in general and the target area or population; and

c. The impact the grant will have on assisting the university to obtain additional resources to continue this type of work at the end of the grant performance period.

The information must be placed on a HUD–96010, Program Outcome Logic Model form. HUD has developed a new approach to completing this form. Please carefully read the General Section for instructions; training is available. A narrative is not required. However, if a narrative is provided, those pages will be included in the page count. (Form HUD–96010 will be excluded from the page count.)

B. Review and Selection Process

1. Application Selection Process.

Two types of reviews will be conducted:

a. A threshold review to determine an applicant's basic eligibility; and

b. A technical review for all applications that pass the threshold review to rate and rank the application based on the ''Rating Factors'' listed in Section V.A.

Only those applications that pass the threshold review will receive a technical review.

2. Rating Panels

To review and rate applications HUD may establish panels, which may include experts or consultants not currently employed by HUD to obtain certain expertise.

3. Ranking

HUD will fund applications in rank order, until all available program funds are awarded. In order to be funded, an applicant must receive a minimum score of 75 points out of a possible 100 points. The RC/EZ/EC–II, as described in the General Section does not apply to this program. If two or more applications have the same number of

points, the application with the most points for Factor 3 shall be selected. If there is still a tie, the application with the most points for Factor 1 shall be selected. If there is still a tie, the application with the most points for Factor 2, 4 and then 5 shall be selected in that order until the tie is broken. HUD reserves the right to make selections out of rank order to provide for geographic distribution of grantees. HUD also reserves the right to reduce the amount of funding requested in order to fund as many highly ranked applications as possible. Additionally, if funds remain after funding the highest ranked applications, HUD may fund part of the next highest-ranking application. If an applicant turns down an award offer, HUD will make an award to the next highest-ranking application. If funds remain after all selections have been made, the remaining funds will be carried over to the next funding cycle's competition.

4. Correction to Deficient Applications

See the General Section.

C. Anticipated Announcement and Award Dates

Announcements of awards are anticipated on or before September 30, 2006.

VI. Award Administration Information

A. Award Notice

After all selections have been made, HUD will notify all winning applications in writing. HUD may require winning applicants to participate in additional negotiations before receiving an official award. For further discussion on this matter, please refer to the General Section.

B. Administrative and National Policy Requirements

Refer to Section VI.B. in the General Section.

1. *Debriefing.* The General Section provides the procedures for requesting a debriefing. All requests for debriefings must be made in writing and submitted within thirty (30) calendar days of receipt of written notification to: Ophelia Wilson, Office of University Partnerships, Robert C. Weaver Federal Building, 451 Seventh Street, SW., Room 8130, Washington, DC 20410–6000.

2. *Administrative.* Grants awarded under this NOFA will be governed by the provisions of 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations), A–21 (Cost Principles for Educational Institutions) and A–133 (Audits of States, Local Governments, and Non-Profit Organizations). Applicants can access the OMB circulars at the White House Web site at *www.whitehouse.gov/omb/circulars/index.html.*

3. *OMB Circulars and Governmentwide Regulations Applicable to Financial Assistance Programs.* The General Section provides further discussion on this matter.

4. *Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.* See the General Section for further discussion.

5. *Procurement of Recovered Materials.* The General Section provides further discussion on the matter.

6. *Code of Conduct.* See the General Section for further discussion.

C. Reporting

All grant recipients under this NOFA are required to submit quarterly progress reports. The progress reports shall consist of two components, a narrative that must reflect the activities undertaken during the reporting period and a financial report that reflects costs incurred by budget line item, as well as a cumulative summary of costs incurred during the reporting.

For each reporting period, as part of the required report to HUD, grant recipients must include a completed Logic Model form (HUD–96010), which identifies output and outcome achievements.

For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment (ROI) statement. HUD will be publishing a separate notice on the ROI concept.

VII. Agency Contacts

Applicants may contact Ophelia Wilson at (202) 708–3061, extension 4390 or Susan Brunson at (202) 708–3061, extension 3852. Persons with speech or hearing impairments may call the Federal Information Relay Service (TTY) at (800) 877–8339. Except for the ''800'' number, these numbers are not toll-free. Applicants may also reach Ms. Wilson via e-mail at *Ophelia_Wilson@hud.gov,* and/or Ms. Brunson at *Susan_S._Brunson@hud.gov.*

VIII. Other Information

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 2528–0235. 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 356 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application, quarterly, semi-annual and final reports. 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.

Appendix A—Application Checklist—HBCU

This checklist identifies application submission requirements. Applicants are requested to use this checklist when preparing an application to ensure submission of all required elements. Applicants submitting an electronic application do not have to submit the checklist. Applicants that receive a waiver of the electronic application submission requirement must include a copy of the checklist in their application.

Check off to ensure these items have been included in the application:

____SF–424 ''Application For Federal Assistance''

____Application Checklist (Applicants that submit paper applications must include the checklist in their applications)

____Abstract (must include no more than a two-page summary of the proposed project)

Indicate the page number where each of the Factors are located:

Narrative Statement Addressing the Rating Factors.

The narrative section of an application must not exceed 50 pages in length (excluding forms, budget narrative and abstract). This information must be submitted on 8½ by 11-inch paper, double-spaced on one side of the paper, with one-inch margins (from the top, bottom, left, and right sides of the documents) and printed in standard Times New-Roman 12-point font.

____Factor I

____Factor II

____HUD–40076, ''Response Sheet Performance Narrative'' (If applicable)

____Factor III

____Factor IV

____Factor V
_ __HUD–96010 ''Logic Model''

Check off to ensure these items have been included in the application:

Appendix

____Budget
____HUD 424–CB'' Grant Application Detailed Budget.''
____HUD–40076–HBCU ''Budget-By-Activity''
____Budget Narrative (No form provided and must be submitted for the total three-year grant period)

Appendix B (All Required Forms)

The following forms are required for submission. All required forms are contained in the electronic application package.

____Application for Federal Assistance (SF–424);

____Survey on Ensuring Equal Opportunity for Applicants (SF–424 Supplement);

____Grant Application Detailed Budget (HUD–424–CB);

____Disclosure of Lobbying Activities (SF–LLL), if applicable;

____America's Affordable Communities Initiative (HUD–27300), if applicable;

____Applicant/Recipient Disclosure/Update Report (HUD–2880);

____HUD–2993, Acknowledgement of Applicant Receipt (Only applicants that submit paper applications);

____You Are Our Client Grant Applicant Survey (HUD–2994–A);

____Response Sheet Performance Narrative (HUD–40076) if applicable;

____Program Logic Model (HUD–96010); and

____Facsimile Transmittal (HUD–96011) required as the cover page to third party documents transmitted by facsimile to HUD. See the General Section.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

UNIVERSITY AND COLLEGE PROGRAMS

HISPANIC-SERVING INSTITUTIONS ASSISTING COMMUNITIES (HSIAC) PROGRAM

Billing Code 4210-01-C

Hispanic-Serving Institutions Assisting Communities (HSIAC) Program

Overview Information

A. Federal Agency Name: Department of Housing and Urban Development, Office of Policy Development and Research, Office of University Partnerships.

B. Funding Opportunity Title: Hispanic-Serving Institutions Assisting Communities (HSIAC) Program.

C. Announcement Type: Initial announcement.

D. Funding Opportunity Numbers: The **Federal Register** Number is FR–5030–N–19. The OMB Approval Number is 2528–0198.

E. Catalog of Federal Domestic Assistance (CFDA) Number: The CDFA Number for this program is 14.514.

F. Dates: The application deadline date is May 22, 2006. Please be sure to read the General Section for electronic application submission and receipt requirements.

G. Additional Overview Content Information;

1. *Purpose of the Program:* To assist Hispanic-Serving Institutions (HSI) expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing, and economic development, principally for persons of low- and moderate-income, consistent with the purposes of Title I of the Housing and Community Development Act of 1974, as amended.

2. *Award Information:* In Fiscal Year (FY) 2006, approximately $5.94 million has been made available for this program by the Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109–115; approved Nov. 30, 2005) and an additional $78,000 in carryover funds. An applicant can request up to $600,000 for a three-year (36 months) grant performance period.

3. *Eligible Applicants:* Nonprofit Hispanic-Serving Institutions that meet the definition of an HSI established in Title V of the 1998 Amendments to the Higher Education Act of 1965 (Pub. L. 105–244; enacted October 7, 1998). In order to meet this definition, at least 25 percent of the full-time undergraduate students enrolled in an institution must be Hispanic and not less than 50 percent of these Hispanic students must be low-income individuals. Institutions are not required to be on the list of eligible HSIs prepared by the U.S. Department of Education. However, an institution that is not on the list is required to provide a statement in the application that the institution meets the U.S. Department of Education's statutory definition of an HSI. In addition, all applicants must be institutions of higher education granting two-or four-year degrees that are fully accredited by a national or regional accrediting agency recognized by the U.S. Department of Education. If an applicant is one of several campuses of the same institution, the applicant may apply separately from the other campuses as long as the campus has a separate administrative structure and budget and meets the enrollment test outlined above.

Full Text of Announcement

I. Funding Opportunity Description

The purpose of the Hispanic Serving Institutions Assisting Communities (HSIAC) Program is to assist Hispanic Serving Institutions (HSI) of higher education expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing and economic development, principally for persons of low- and moderate-income consistent with the purpose of the Title I of the Housing and Community Development Act of 1974, as amended.

For the purpose of this program, the term ''locality'' includes any city, county, township, parish, village, or other general political subdivision of a state, Puerto Rico, or the U.S. Virgin Islands where the institution is located.

A ''target area'' is the area within the locality in which the institution will implement its proposed HSIAC grant.

A. Authority

HUD's authority for making this funding available under this NOFA is Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109–115; approved Nov. 30, 2005). This program is being implemented through this NOFA and the policies governing its operation are contained herein.

B. Modifications

Listed below are major modifications from the Fiscal Year (FY) 2005 program-funding announcement:

1. Commitment letters, memoranda of understandings and/or agreements are not required at the time of application submission but must be on file. Applicants selected for award will be required to submit the signed commitment letters, memoranda of understandings and/or agreements outlined in the application, within twenty (20) calendar days after initial contact from the Office of University Partnerships (OUP). OUP will provide specific instructions on how these documents must be submitted at that time. HUD will only request and consider the resources/organizations outlined in the application. If OUP does not receive those documents in the required format and allotted timeframe, an applicant will not receive points under this factor and the application will be rated and ranked to address this point change.

In scoring this factor, HUD will rate an applicant that provides leveraging resources that are 15 percent or more of the amount requested under this program and that are properly documented, as listed, below will be awarded nine (9) points; applicants that provide leveraging resources that are 10–14 percent of the amount requested under this program and that are properly documented, as listed below, will be awarded six (6) points; applicants that provide leveraging resources that are 5–9 percent of the amount requested under this program and that are properly documented, as listed below, will be awarded three (3) points; applicants that provide leveraging resources that are less than 5 percent of the amount requested or resources are not properly documented will receive zero points.

2. Current HSIAC grantees no longer have to draw down at least 75% of the funding awarded under past grants prior to this application deadline date to be eligible to apply for funding under this NOFA.

3. All applicants must be institutions of higher education granting two-or four-year degrees that are accredited by a national or regional accrediting agency recognized by the U.S. Department of Education.

4. All applicants submitting electronic applications must attach their narrative responses to Rating Factors 1–5 as one attachment. PLEASE DO NOT ATTACH YOUR RESPONSE TO EACH FACTOR SEPARATELY.

II. Award Information

In Fiscal Year (FY) 2006, approximately $5.94 million is made available for this program and an additional $78,000 in carryover funds. An applicant can request up to $600,000 for a three-year (36 months) grant performance period.

III. Eligibility Information

A. Eligible Applicants

Nonprofit Hispanic-serving institutions that meet the definition of an HSI of higher education established in Title V of the 1998 Amendments to the Higher Education Act of 1965 (Pub. L. 105–244; enacted October 7, 1998). In order to meet this definition, at least 25

percent of the full-time undergraduate students enrolled in an institution must be Hispanic and not less than 50 percent of these Hispanic students must be low-income individuals. Institutions are not required to be on the list of eligible HSIs prepared by the U.S. Department of Education. However, an institution that is not on the list is required to provide a statement in the application that the institution meets the U.S. Department of Education's statutory definition of an HSI as cited above. In addition, all applicants must be institutions of higher education granting two-or four-year degrees that are fully accredited by a national or regional accrediting agency recognized by the U.S. Department of Education. If an applicant is one of several campuses of the same institution, the applicant may apply separately from the other campuses as long as the campus has a separate administrative structure and budget and meets the enrollment test outlined above.

B. Cost Sharing or Matching

None Required.

C. Other

1. *Eligible Activities.* Eligible activities are listed in 24 CFR Part 570, subpart C, particularly § 570.201 through 570.206. Information regarding these activities can be found at: *www.hudclips.org* (click on the Code of Federal Regulations for detailed information).

a. Examples of eligible activities include, but are not limited to:

(1) Acquisition of real property;

(2) Clearance and demolition;

(3) Rehabilitation of residential structures including lead-based paint hazard evaluation and reduction and making accessibility and visitabilty modifications in accordance with the requirements of Section 504 of the Rehabilitation Act of 1973;

(4) Public facilities and improvements, such as water and sewer facilities and streets compliance with accessibility requirements, including Section 504 of the Rehabilitation Act of 1973, the Fair Housing Act, and the American with Disabilities Act of 1990;

(5) Relocation payments and other assistance for permanently and temporarily relocated individuals, families, businesses, nonprofit organizations, and farm operations where the assistance is:

(a) Required under the provisions of 24 CFR 570.606(b) or (c); or

(b) Determined by the grantee to be appropriate under the provisions of 24 CFR 570.606(d);

(6) Direct homeownership assistance to low- and moderate-income persons, as provided in section 105(a) (25) of the Housing and Community Development Act of 1974;

(7) Special economic development activities described at 24 CFR 570.203 and assistance to facilitate economic development by providing technical or financial assistance for the establishment, stabilization, and expansion of microenterprises, including minority enterprises;

(8) Assistance to community-based development organizations (CBDO) to carry out a CDBG neighborhood revitalization, community economic development, or energy conservation project, in accordance with 24 CFR 570.204. This could include activities in support of a HUD-approved local entitlement grantee, CDBG Neighborhood Revitalization Strategy (NRS) or HUD-approved State CDBG Community Revitalization Strategy (CRS);

(9) Public service activities such as general support activities that can help to stabilize a neighborhood and contribute to sustainable redevelopment of the area, including but not limited to such activities as those concerned with employment, crime prevention, child care, health care services, drug abuse, education, housing counseling, energy conservation, homebuyer down payment assistance, establish and maintain Neighborhood Network centers in federally assisted or insured housing, job training and placement and recreational needs;

(10) Up to 20 percent of the grant may be used for payments of reasonable grant administrative costs related to planning and execution of the project (*e.g.*, preparation/submission of HUD reports). Detailed explanations of these costs are provided in OMB circular A–21 Cost Principals for Educational Institutions that can be accessed at the White House Web site at: *www.whitehouse.gov/omb/circulars/index.html;*

(11) Fair housing services designed to further civil rights objectives of the Fair Housing Act (42 U.S.C. 3601–20) by making all persons, without regard to race, color, religion, sex, national origin, familial status and/or disability aware of the range of housing opportunities available to them; and

b. Each activity proposed for funding must meet the Community Development Block Grant (CDBG) Program eligibility requirements and at least one national objective.

c. The three national objectives of the Community Development Block Grant program are:

(1) Benefit to low-or moderate-income persons;

(2) Aid in the prevention or elimination of slums or blight; and

(3) Meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community, and other financial resources are not available to meet such needs.

Criteria for determining whether an activity addresses one or more national objectives are provided at 24 CFR 570.208.

d. The CDBG publication entitled ''Community Development Block Grant Program Guide to National Objectives and Eligible Activities for Entitlement Communities'' describes the CDBG regulations, and a copy can be obtained from HUD's NOFA Information Center at 800–HUD–8929 or 800–HUD–2209 for the hearing-impaired.

2. *Audit Requirements.* See Section III.C. of the General Section.

3. *Threshold Requirements Applicable to all Applicants.* All applicants must comply with the threshold requirements as defined in the General Section and the requirements listed below. Applications that do not meet these requirements will be considered ineligible for funding and will be disqualified.

a. The applicant must meet the eligibility requirements as defined in Section III.A.

b. The applicant may request up to $600,000.

c. Only *one* application can be submitted per campus. If multiple applications are submitted, all will be disqualified. However, different campuses of the same university system are eligible to apply as long as they have an administrative and budgeting structure independent of the other campuses in the system.

d. Institutions that received an HSIAC grant in FY2005 are not eligible to submit an application under this NOFA. If an institution received an HSIAC grant in FY2002, FY2003, or FY2004, the institution may apply under this NOFA as long as it proposes a different activity (activities) in their current project location, or proposes replicating their current project in a new location.

e. Applicants must receive a minimum score of 75 points to be considered for funding.

f. An applicant must have a DUNS number to receive HUD grant funds (See the General Section).

g. Electronic applications must be received and validated by Grants.gov no later than 11:59:59 p.m. eastern time on the application deadline date of May 22, 2006.

4. *Program Requirements.* In addition to the program requirements listed in Section III.C of the General Section, applicants must meet the following program requirements:

a. All funds awarded are for a three-year (36 months) grant performance period.

b. Applicants must ensure that not less than 51 percent of the aggregated expenditures of a grant award are use to benefit low- and moderate-income persons under the criteria specified in 24 CFR 570.208(a) or 570.208(d)(5) or (6).

c. Site Control. Where grant funds will be used for acquisition, rehabilitation, or new construction an applicant must demonstrate site control. Funds may be recaptured or deobligated from applicants that cannot demonstrate control of a suitable site within one year after the initial notification of award.

d. Environmental Requirements. Selection for award does not constitute approval of any proposed sites. Following selection for award, HUD will perform an environmental review of properties proposed for assistance in accordance with 24 CFR Part 50. The results of the environmental review may require that proposed activities be modified or proposed sites be rejected. Applicants are particularly cautioned not to undertake or commit funds for acquisition or development of proposed properties prior to HUD approval of specific properties or areas. An application constitutes an assurance that the institution will assist HUD to comply with part 50; will supply HUD with all available and relevant information to perform an environmental review for each proposed property; will carry out mitigating measures required by HUD or select alternate property; and will not acquire, rehabilitate, convert, demolish, lease, repair, or construct property, and not commit or expend HUD or local funds for these program activities with respect to any eligible property until HUD's written approval of the property is received. In supplying HUD with environmental information, applicants should use the same guidance as provided in the HUD Notice CPD–05–07 entitled, ''Field Environmental Review Processing for Rural Housing and Economic Development (RHED) grants'' issued August 30, 2005. The General Section provides further discussion of the environmental requirements. Further information and assistance on HUD's environmental requirements is available at: *http://hudstage.hud.gov/utilities/intercept.cfm?/offices/cpd/lawsregs/notices/2005/05–07.pdf.*

e. Labor Standards. Institutions and their sub-grantees, contractors, and subcontractors must comply with the labor standards (Davis-Bacon) requirements referenced in 24 CFR 570.603.

f. Economic Opportunities for Low- and Very-Low Income Persons (Section 3). The provisions of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) apply to this NOFA and requires that to the greatest extent feasible opportunities for training and employment be given to lower-income residents of the project and contracts for work in connection with the project be awarded in substantial part to person residing in the area of the project. Regulations are located at 24 CFR Part 135.

IV. Application and Submission Information

A. Addresses to Request Application Package

Applicants may download the instructions to the application found on the Grants.gov Web site at *http://www.Grants.gov./Apply.* If you have difficulty accessing the information you may call the Grants.gov Support Desk toll free 800–518–GRANTS or e-mail your questions to *Support@Grants.gov.* See the General Section for information regarding the registration process or ask for registration information from the Grants.gov Support Desk.

B. Content and Form of Application Submission

1. Forms

The following forms are required for submission. Copies of these forms are available online at *http://www.hud.gov/offices/adm/grants/nofa06/snofaforms.cfm.*

a. Application for Federal Assistance (SF–424);

b. Survey on Ensuring Equal Opportunity for Applicants (SF–424 Supplement);

c. Grant Application Detailed Budget (HUD–424–CB);

d. Disclosure of Lobbying Activities (SF–LLL), if applicable;

e. America's Affordable Communities Initiative (HUD–27300), if applicable;

f. Applicant/Recipient Disclosure/Update Report (HUD–2880);

g. Program Logic Model (HUD–96010);

h. Certification of Consistency with RC/EZ/EC–II Strategic Plan (HUD–2990), if applicable;

i. Certification of Consistency with the Consolidated Plan (HUD–2991), if applicable;

j. Acknowledgement of Applicant Receipt (HUD–2993). Complete this form only if you have received a waiver to the electronic application submission requirement. Applicants submitting electronically are not required to include this form;

k. Facsimile Transmittal Cover Page (HUD–96011). This form must be used as the cover page to transmit third party documents and other information. Applicants are advised to download the application package, complete the SF–424 first and it will pre-populate the Transmittal Cover page. The Transmittal Cover page will contain a unique identifier embedded in the page that will help HUD associate your faxed materials to your application. Please download the cover page and then make multiple copies to provide to any of the entities responsible for submitting faxed materials to HUD on your behalf. Please do not use your own fax sheet. HUD will not read any faxes that are sent without the HUD–96011 fax transmittal cover page; and

l. You Are Our Client Grant Applicant Survey (HUD–2994-A). Applicants are not required to complete this form.

2. *Certifications and Assurances.* Please read the General Section for detailed information on all Certifications and Assurances. All applications submitted through Grants.gov constitute an acknowledgement and agreement to all required certifications and assurances. Please include in your application each item listed below. Applicants submitting paper copy applications should submit the application in the following order:

a. *SF–424, Application for Federal Assistance.* Please remember the following:

(1) The full grant amount requested from HUD (entire three years) should be entered, not the amount for just one year;

(2) Include the name, title, address, telephone number, facsimile number, and e-mail address of the designated contact. This is the person who will receive all correspondence; therefore, please ensure the accuracy of the information;

(3) The Employer Identification/Tax ID;

(4) The DUNS Number;

(5) The Catalog of Federal Domestic Assistance Number for this program is 14.514;

(6) The project's proposed start date and completion date. For the purpose of this application, the program start date should be December 1, 2006; and

(7) The signature of the Authorized Organization Representative (AOR) who, by virtue of submitting an application via Grants.gov, has been

authenticated by the credential provider to submit applications on behalf of the Institution and approved by the eBusiness Point of Contact to submit an application via Grants.gov. The AOR must be able to make a binding legal agreement with HUD. For details on the Grants.gov registration process see HUD's Notice on Early Registration published in the **Federal Register** on December 9, 2005.

b. *Application Checklist.* Applicants should use the checklist to ensure that they have all the required components of their application. Applicants submitting an electronic application should not submit the checklist. Applicants that receive a waiver of the electronic application submission must include a copy of the checklist in their application submission. The checklist can be located in Appendix A.

c. *Abstract.* Applicants must include no more than a two-page summary of the proposed project. Please include the following:

(1) A clear description of the proposed project activities, where they will take place (be located), the target population that will be assisted, and the impact this project is expected to have on the community and institution;

(2) A statement that the institution is an eligible institution because it is a two-or four-year fully accredited institution, the name of the accrediting agency and an assurance that the accrediting agency is recognized by the U.S. Department of Education;

(3) A statement that the institution meets the definition of an Hispanic Serving Institution: At least 25 percent of the full-time undergraduate students enrolled in an institution must be Hispanic and not less than 50 percent of these Hispanic students must be low-income individuals;

(4) The designated contact person, including phone number, facsimile number, and e-mail address (This is the person who will receive *all correspondence*; therefore please ensure the accuracy of the information);

(5) The project director, if different from the designated contact person, for the project, including phone number, facsimile number, and e-mail address.

d. *Narrative statement addressing the Factors.* HUD will use the narrative response to the ''Rating Factors'' to evaluate, rate, and rank applications. The narrative statement is the main source of information. Applicants are advised to review each factor carefully for program specific requirements. The response to each factor should be concise and contain only information relevant to the factor, yet detailed enough to address each factor fully. Please do not repeat material in response to the five factors; instead, focus on how well the proposal responds to each of the factors. Where there are subfactors, each subfactor must be presented separately, with the short title of the subfactor presented. Make sure to address each subfactor and provide sufficient information about every element of the subfactor. The narrative section of an application must not exceed 50 pages in length (excluding forms, budget narrative, assurances, and abstract) and must be submitted on 8½ by 11-inch paper, double-spaced on one side of the paper, with one inch margins (from the top, bottom and left to right side of the document) and printed in standard Times New Roman 12-point font. Each page of the narrative must include the applicant's name and be numbered. Note that although submitting pages in excess of the page limit will not disqualify an applicant, HUD will not consider the information on any excess pages. This exclusion may result in a lower score or failure to meet a threshold requirement. All applicants submitting electronic applications must attach their narrative responses to Rating Factors 1–5 as one attachment. PLEASE DO NOT ATTACH YOUR RESPONSE TO EACH FACTOR SEPARATELY.

e. *Budget.* The budget submission must include the following:

(1) *HUD–424–CB, ''Grant Application Detailed Budget.''* This form shows the total budget by year and by line item for the program activities to be carried out with the proposed HUD grant. Each year of the program should be presented separately. Applicants must also submit this form to reflect the total cost for the entire grant performance period (Grand Total).

Make sure that the amounts shown on the SF–424, the HUD–424–CB, and on all other required program forms are consistent and the budget totals are correct. Remember to check addition in totaling the categories on all forms so that all items are included in the total. If there is an inconsistency between any of the required budget forms, the HUD–424–CB will be used. All budget forms must be fully completed. If an application is selected for award, the applicant may be required to provide greater specificity to the budget during grant agreement negotiations.

(2) *Budget Narrative.* A narrative must be submitted that explains how the applicant arrived at the cost estimates for any line item over $5,000 cumulative. For example, an applicant proposes to construct a building using HUD funding totaling $200,000. The following costs estimate reflects this total. Foundation cost $75,000, electrical work $40,000, plumbing work $40,000, finishing work $35,000, and landscaping $10,000. The proposed cost estimates should be reasonable for the work to be performed and consistent with rates established for the level of expertise required to perform the work proposed in the geographical area. When necessary, quotes from various vendors or historical data should be used (please make sure they are kept on file and are available for review by HUD at any time). All direct labor or salaries must be supported with mandated city/state pay scales, the Davis-Bacon rate, (if applicable) or other documentation. When an applicant proposes to use a consultant, the applicant must indicate whether there is a formal written agreement. For each consultant, please provide the name, if known, hourly or daily rate, and the estimated time on the project. Applicants must use cost estimates based on historical data from the institution and/or from a qualified firm (*e.g.*, Architectural or Engineering firms), vendor, and/or qualified individual (*e.g.*, independent architect or contractor) other than the institution for projects that involve rehabilitation of residential, commercial and/or industrial structures, and/or acquisition, construction, or installation of public facilities and improvements. Such an entity must be involved in the business of housing rehabilitation, construction and/or management. Equipment and contracts cannot be presented as a total estimated cost. For equipment, applicants must provide a list by type and cost for each item. Applicants using contracts must provide an individual description and cost estimate for each contract. Construction costs must be broken down to indicate how funds will be utilized (*e.g.*, demolition, foundation, exterior walls, roofing, electrical work, plumbing, finishing work, etc.).

(3) *Indirect costs.* Indirect costs, if applicable, are allowable based on an established approved indirect cost rate. Applicants must have on file, and submit to HUD if selected for award, a copy of their indirect cost rate agreement. Applicants who are selected for funding that do not have an approved indirect cost rate agreement, established by the cognizant federal agency, will be required to establish a rate. In such cases, HUD will issue an award with a provisional rate and assist applicants with the process of establishing a final rate.

f. *Appendix.* Applicants receiving a waiver of the electronic submission requirements and submitting a paper copy of the application must place all

required forms in this section. An applicant SHOULD NOT submit resumes, or other back-up materials. If this information is included, it will not be considered during the review process.

C. Submission Dates and Times

A complete application package must be received and validated electronically by the Grants.gov portal no later than 11:59:59 p.m. eastern time on or before the application deadline date of May 22, 2006. In an effort to address any issues with transmission of your application, applicants are strongly encouraged to submit their applications prior to the application deadline. This will allow an applicant enough time to make the necessary adjustments to meet the submission deadline. Please see the General Section for further instructions. Electronic faxes using the Facsimile Transmittal cover sheet (Form HUD–96011) contained in the electronic application must be received no later than 11:59:59 p.m. eastern time on the application deadline date.

D. Intergovernmental Review

This program is excluded from an Intergovernmental Review.

E. Funding Restrictions

Ineligible CDBG Activities are listed at 24 CFR 570.207. Ineligible activities include but are not limited to:

a. Curriculum development and/or expansion of an institution's existing curriculum;

b. General government expenses;

c. Political activities;

d. Planning and administrative activities that would result in a grantee exceeding the 20 percent cost limitation on such activities; and

e. Construction, renovation, expansion of an institution's own facilities.

F. Other Submission Requirements

1. Application Submission and Receipt Procedure

Please read the General Section carefully and completely for the submission and receipt procedures for all applications because failure to comply may disqualify your application.

2. Waiver of Electronic Submission Requirement

Please refer to the General Section for further discussion. Paper applications will not be accepted from applicants that have not been granted a waiver. If an applicant is granted a waiver, the Office of University Partnerships will provide instructions for submission. Applicants that submit a paper application must be received by or before the application deadline date.

V. Application Review Information

A. Criteria

1. Rating Factor 1: Capacity of the Applicant and Relevant Experience (25 Points)

This factor addresses the extent to which the applicant has the resources necessary to successfully implement the proposed project in a timely manner.

a. Knowledge and Experience For First Time Applicants (25 Points); For Previously Funded Applicants (10 Points). In rating this subfactor, HUD will consider how well an applicant clearly addresses the following:

(1) Describe the knowledge and experience of the proposed project director and staff, including the day-to-day program manager/coordinator, consultants (including technical assistance providers), and contractors in planning and managing the type of project for which funding is being requested; and

(2) Clearly identify the following: key project team members, titles (*e.g.*, project manager/coordinator, etc.), respective roles for the project staff, and a brief description of their relevant experience.

If key personnel have not been hired, applicants must identify the position title, provide a description of duties and responsibilities, and describe the qualifications to be considered in the selection of personnel, including subcontractors and consultants.

Experience will be judged in terms of recent and relevant knowledge and skills of the staff to undertake eligible program activities. HUD will consider experience within the last five (5) years to be recent and experience pertaining to similar activities to be relevant.

b. Past Performance (15 Points) For Previously Funded Grant Applicants Only. This subfactor will evaluate how well an applicant has performed successfully under HUD/HSIAC grants. Applicants must demonstrate this by addressing the following information for all previously completed and open HUD/HSIAC grants:

(1) A list of all HUD/HSIAC grants received, including the dollar amount awarded and the amount expended and obligated as of the date of this application;

(2) A description of the achievement of specific tasks, measurable objectives, and specific outcomes consistent with the approved project management plan;

(3) A list detailing the date the project(s) was completed, was it completed in the original three-year grant performance period; if not completed, why (including when it was or will be completed);

(4) A comparison of the amount of proposed leveraged funds and/or resources to the amount that was actually leveraged; and

(5) A detailed description of compliance with all reporting requirements, including timeliness of submission, whether reports were complete and addressed all information (both narrative and financial) as required by the grant agreement.

HUD will also review an applicant's past performance in managing funds, including, but not limited to: The ability to account for funding appropriately; timely use of funds received from HUD; meeting performance targets for completion of activities; timely submission of required progress reports and receipt of promised leveraged resources. In evaluating past performance, HUD reserves the right to deduct up to five (5) points from this rating score as a result of the information obtained from HUD's records (*i.e.*, progress and financial reports, monitoring reports, Logic Model submissions, and amendments).

2. Rating Factor 2: Need/Extent of the Problem (10 Points)

This factor addresses the extent to which there is a need for funding the proposed program activities and an indication of the importance of meeting the need(s) in the target area. The need(s) described must be relevant to the activities for which funds are being requested. In addressing this factor, applicants should provide, at a minimum, the following and must cite statistics and/or analyses contained in at least one or more current data sources that are sound and reliable.

(1) Describe the need(s); and

(2) Describe the importance of meeting the proposed needs.

In rating this factor, HUD will consider only current data that is specific to the area where the proposed project activities will be carried out. Sources for localized data can be found at: *www.ffiec.gov.*

HUD will consider data collected within the last five (5) years to be current. To the extent that the targeted community's Five Year Consolidated Plan and Analysis of Impediments to Fair Housing Choice (AI) identify the level of the problem and the urgency in meeting the need, applicants should include references to these documents in the response to this factor.

Other reliable data sources include, but are not limited to, Census reports,

HUD Continuum of Care gap analysis and its E-MAP (*www.hud.gov/emaps*), law enforcement agency crime reports, Public Housing Agencies' Comprehensive Plans, community needs analyses such as those provided by the United Way, the applicant's institution, and other sound, reliable and appropriate sources. Needs in terms of fulfilling court orders or consent decrees, settlements, conciliation agreements, and voluntary compliance agreements may also be addressed.

3. Rating Factor 3: Soundness of Approach (44 Points)

This factor addresses the quality and effectiveness of the proposed work plan and the commitment of the institution to sustain the proposed activities.

a. (37 Points) Quality of the Work Plan. This subfactor will be evaluated on the extent to which an applicant provides a clear detailed description of the proposed project and anticipated accomplishments.

(1) (32 Points) Specific Activities. The work plan must describe all proposed activities and major tasks required to successfully implement the proposed project. In addressing this subfactor applicants must provide a clear description of the proposed activities and address the following:

(a) Describe each activity to successfully implement and complete the proposed project in measurable terms (*e.g.*, the number of persons to be trained and employed; houses to be built or rehabilitated; or minority owned businesses to be started, etc.);

(b) List and describe how each activity meets one of the following Community Development Block Grant (CDBG) Program national objectives:

- Benefit low- and moderate-income persons;
- Aid in the prevention or elimination of slums or blight; or
- Meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community, and other financial resources are not available to meet such needs.

Criteria for determining whether an activity addresses one or more objective are provided at 24 CFR 570.208;

(c) Describe the major tasks required (in sequential order) to successfully implement and complete each project activity. Include target completion dates for these tasks (in 6 month intervals, up to 36 months);

(d) Identify the key staff, as described in Factor 1, who will be responsible for completing each task; and

(e) Describe how the project director will work with the partners and citizens to accomplish the proposed activities.

(2) (5 Points) Describe clearly how each proposed activity will:

(a) Expands the role of the institution in the community;

(b) Address the needs identified in Factor 2;

(c) Relate to and not duplicate other activities in the target area. Duplicative effort will be acceptable only if an applicant can demonstrate through documentation that there is a population in need that is not being served; and

(d) Involve and empower citizens of the target area in the proposed project.

b. (3 Points) Involvement of the Faculty and Students. The applicant must describe how it proposes to integrate the institution's students and faculty into proposed project activities.

c. (2 Points) HUD Policy Priorities. To earn points under this subfactor, HUD requires applicants to undertake specific activities that will assist the Department in implementing its policy priorities and that will help the Department achieve its goals and objectives in FY 2007, when the majority of grant recipients will be reporting programmatic results and achievements. In rating this subfactor, HUD will evaluate the extent to which a program will further and support HUD's priorities. The quality of the responses provided to one or more of HUD's priorities will determine the score an applicant can receive. Applicants must describe how each policy priority selected will be addressed. Applicants that just list a priority will receive no points.

The total number of points an applicant can receive under this subfactor is two (2). Each policy priority addressed has a point value of one (1) point with the exception of the policy priority to remove regulatory barriers to affordable housing, which has a point value of up to two (2) points. To receive these two (2) points an applicant must indicate how this priority will be addressed and submit the completed questionnaire (HUD–27300) ''HUD's Initiative on Removal of Regulatory Barriers'' found in the General Section along with required documentation. It is up to the applicant to determine which of the policy priorities they elect to address to receive the available two (2) points.

d. (2 Points) Economic Opportunities for Low- and Very-Low Income Persons (Provision of Section 3). This subfactor will be evaluated on the extent to which an applicant describes how it proposes to:

(1) Provide opportunities to train and employ lower-income residents of the project area; and

(2) Award substantial contracts to persons residing in the project area.

Regulations regarding the provision of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) can be located at 24 CFR Part 135.

4. Rating Factor 4: Leveraging Resources (9 Points)

This factor addresses the ability of the applicant to secure resources that can be combined with HUD's grant funds to achieve the program's purpose.

HUD will consider how well an applicant has established partnerships with other entities to secure additional resources to increase the effectiveness of the proposed project activities. Resources may include funding or in-kind contributions, such as services or equipment, allocated for the purpose(s) of the proposed project activities. Resources may be provided by governmental entities, public or private nonprofit organizations, for-profit private organizations, or other entities. Applicants may also establish partnerships with other program funding recipients to coordinate the use of resources in the target area. Overhead and other institutional costs (*e.g.*, salaries, indirect costs, etc.) that the institution has waived may be counted.

Examples of potential sources for outside assistance include:

- Federal, state, and local governments;
- Local or national nonprofit organizations;
- Financial institutions and/or private businesses;
- Foundations; and
- Faith-based and other community-based organizations.

To address this factor, an applicant must provide an outline in the application and have on file written commitment letters, memoranda of understandings and/or agreements that show the extent and firm commitment of all proposed leveraged resources (including any commitment of resources from the applicant's own institution) that address the following information for each leveraged resource/fund:

(1) The name of the organization and the executive officer authorizing the funds/goods and/or services (Only applicable to the narrative section);

(2) The cash amount contributed or dollar value of the in-kind goods and/or services committed (If a dollar amount and its use is not shown, the funding will not be counted);

(3) A specific description of how each contribution is to be used toward the proposed activities;

(4) The date the contribution will be made available and a statement that describes the duration of the contribution;

(5) Any terms or conditions affecting the commitment, other than receipt of a HUD Grant; and

(6) The signature of the appropriate executive officer authorized to commit the funds and/or goods and/or services (Only applicable to the written documentation). Please remember that only items eligible for funding under this program can be counted.

Commitment letters, memoranda of understandings and/or agreements are not required at the time of application submission but you must have them on file. Applicants selected for award will be required to submit the signed commitment letters, memoranda of understandings and/or agreements outlined in the application, within twenty (20) calendar days after initial contact from the Office of University Partnerships (OUP). Letters, memoranda of understanding, or agreements must be submitted on the provider's letterhead and should be addressed to Sherone Ivey, Acting Associate Deputy Assistant Secretary for University Partnerships. The date of the letter, memorandum of understanding, or agreement from the CEO of the provider organization must be dated no earlier than nine months prior to this published NOFA. OUP will provide specific instructions on how these documents must be submitted when contact is made with the applicant. HUD will only request and consider the resources/organizations that are listed in the outline submitted in the application. If OUP does not receive those documents in the required format and allotted timeframe, an applicant will not receive points under this factor and the application will be rated and ranked to address this point change.

In scoring this factor, HUD will award nine (9) points to an applicant that provides properly documented leveraging resources as listed in their application that are 15 percent or more of the amount requested under this program; six (6) points to applicants that provide properly documented leveraging resources as listed that are 10 to 14 percent of the amount requested under this program; three (3) points to applicants that provide properly documented leveraging resources as listed that are 5 to 9 percent of the amount requested under this program; and zero (0) points to applicants that provide properly documented leveraging resources as listed that are less than 5 percent of the amount requested or resources are not properly documented.

5. Rating Factor 5: Achieving Results and Program Evaluation (12 Points)

This factor reflects HUD's goal to embrace high standards of management and accountability. It measures the applicant's commitment to assess their performance to achieve the program's proposed objectives and goals. Applicants are required to develop an effective, quantifiable, outcome oriented evaluation plan for measuring performance and determining that objectives and goals have been achieved. The Logic Model is a summary of the narrative statements presented in Factors 1–4. Therefore, the information submitted on the logic model should be consistent with the information contained in the narrative statements.

''Outcomes'' are benefits accruing to institutions and/or communities during or after participation in the HSIAC program. Applicants must clearly identify the outcomes to be measured and achieved. Examples of outcomes include increased employment opportunities in the target community by a certain percentage, or enhanced family stability through the creation of affordable housing opportunities.

In addition, applicants must establish interim benchmarks and outputs that lead to the ultimate achievement of outcomes. ''Outputs'' are the direct products of the program's activities. Examples of outputs are the number of new affordable housing units, the number of homes that have been renovated, and the number of community facilities that have been constructed or rehabilitated. Outputs should produce outcomes for the program. At a minimum an applicant must address the following activities in the evaluation plan:

a. Measurable outputs to be accomplished, e.g., the number of persons to be trained and employed; houses to be built (pursuant to 24 CFR 570.207) or rehabilitated; minority-owned businesses to be started;

b. Measurable outcomes the grant will have on the community in general and the target area or population; and

c. The impact the grant will have on assisting the university to obtain additional resources to continue this type of work at the end of the grant performance period.

The information must be place on a HUD–96010, Program Outcome Logic Model form. HUD has developed a new approach to completing this form. Please carefully read the General Section for instructions, training is available. (Form HUD–96010 will be excluded from the page count.) A narrative is not required. However, if a narrative is provided, those pages will be included in the page count.

B. Review and Selection Process

1. Application Selection Process

Two types of reviews will be conducted:

a. A threshold review to determine an applicant's basic eligibility; and

b. A technical review for all applications that pass the threshold review to rate and rank the application based on the ''Rating Factors'' listed in Section V, A.

Only those applications that pass the threshold review will receive a technical review and be rated and ranked.

2. Rating Panels

To review and rate applications, HUD may establish panels, which may include experts or consultants not currently employed by HUD to obtain certain expertise.

3. Ranking

HUD will fund applications in rank order, until all available program funds are awarded. In order to be funded, an applicant must receive a minimum score of 75 points out of a possible 102 points, which includes up to two bonus points that may be awarded for activities conducted in the RC/EZ/EC–II communities, as described in the General Section. If two or more applications have the same number of points, the application with the most points for Factor 3 shall be selected. If there is still a tie, the application with the most points for Factor 1 shall be selected. If there is still a tie, the application with the most points for Factors 2, 4 and then 5 shall be selected, in that order, until the tie is broken. HUD reserves the right to make selections out of rank order to provide for geographic distribution of grantees. HUD also reserves the right to reduce the amount of funding requested in order to fund as many highly ranked applications as possible. Additionally, if funds remain after funding the highest ranked applications, HUD may fund part of the next highest-ranking application. If an applicant turns down an award offer, HUD will make an award to the next highest-ranking application. If funds remain after all selections have been made, the remaining funds will be carried over to the next funding cycle's competition.

4. Correction to Deficient Applications

See the General Section.

C. Anticipated Announcement and Award Dates

Announcements of awards are anticipated on or before September 30, 2006.

VI. Award Administration Information

A. Award Notice

After all selections have been made, HUD will notify all winning applicants in writing. HUD may require winning applicants to participate in additional negotiations before receiving an official award. For further discussion on this matter, please refer to the General Section.

B. Administrative and National Policy Requirements

Refer to Section VI.B in the General Section.

1. *Debriefing.* The General Section provides the procedures for requesting a debriefing. All requests for debriefings must be made in writing and submitted within thirty (30) calendar days of receipt of written notification to: Madlyn Wohlman-Rodriguez, Office of University Partnerships, Robert C. Weaver Federal Building 451 Seventh Street, SW, Room 8130 Washington, DC 20410–6000. Applicants may also write to Ms. Wohlman-Rodriguez via e-mail at *Madlyn_S._Wohlman-Rodriguez@hud.gov.*

2. *Administrative.* Grants awarded under this NOFA will be governed by the provisions of 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations), A–21 (Cost Principles for Educational Institutions) and A–133 (Audits of States, Local Governments, and Non-Profit Organizations). Applicants can access the OMB circulars at the White House Web site at *www.whitehouse.gov/omb/circulars/index.html.*

3. *OMB Circulars and Governmentwide Regulations Applicable to Financial Assistance Programs.* The General Section provides further discussion.

4. *Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors Labor Relations on Federal and Federally Funded Construction Projects.* See the General Section for further discussion.

5. *Procurement of Recovered Materials.* The General Section provides further information.

6. *Executive Order 13166, Improving Access to Services For Persons With Limited English Proficiency (LEP).* See the General Section for further discussion.

7. *Code of Conduct.* See the General Section for further discussion.

C. Reporting

All grant recipients under this NOFA are required to submit semi-annual progress reports. The progress reports shall consist of two components, a narrative that must reflect the activities undertaken during the reporting period and a financial report that reflects costs incurred by budget line items, as well as a cumulative summary of costs incurred during the reporting period.

For each reporting period, as part of the required report to HUD, grant recipients must include a completed Logic Model (HUD–96010), which identifies output and outcome achievements.

For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment (ROI) statement. HUD will be publishing a separate notice on the ROI concept.

VII. Agency Contacts

Applicants may contact Madlyn Wohlman-Rodriguez at (202) 708–3061, extension 5939 or Susan Brunson, at (202) 708–3061, extension 3852. Persons with speech or hearing impairments may call the Federal Information Relay Service (TTY) at (800) 877–8339. Except for the ''800'' number, these numbers are not toll-free. Applicants may also reach Ms. Rodriguez via email at *Madlyn_S._Wohlman-Rodriguez@hud.gov*, and/or Ms. Brunson at *Susan_S._Brunson@hud.gov*.

VIII. Other Information

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 2528–0198. 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 59 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application semi-annual and final reports. 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.

Appendix A—Application Checklist—HSIAC

This checklist identifies application submission requirements. Applicants are requested to use this checklist when preparing an application to ensure submission of all required elements. Applicants submitting an electronic application do not have to submit the checklist. Applicants that receive a waiver of the electronic application submission requirement must include a copy of the checklist in their application.

Check off to ensure these items have been included in the application:

____SF–424 ''Application For Federal Assistance''
____Application Checklist (Applicants that submit paper applications must include the checklist in their applications)
____Abstract (must include no more than a two-page summary of the proposed project)

Indicate the page number where each of the Factors is located:

Narrative Statement Addressing the Rating Factors.

The narrative section of an application must not exceed 50 pages in length (excluding forms, budget narrative and abstract). This information must be submitted on 8½ by 11-inch paper, double-spaced on one side of the paper, with one-inch margins (from the top, bottom, left, and right sides of the documents) and printed in standard Times New-Roman 12-point font.

____Factor I
____Factor II
____Factor III
____Factor IV
____Factor V
____HUD–96010 ''Logic Model''

Check off to ensure these items have been included in the application:

____Appendix
____Budget
____HUD 424–CB'' Grant Application Detailed Budget''
____Budget Narrative (No form provided, but must be submitted for the total three-year grant period.

Appendix B (All Required Forms)

The following forms are required for submission. All required forms are contained in the electronic application package.

____Application for Federal Assistance (SF–424);
____Survey on Ensuring Equal Opportunity for Applicants (SF–424

Supplement); Disclosure of Lobbying Activities (SF–LLL), if applicable;

____Grant Application Detailed Budget (HUD–424–CB);

____America's Affordable Communities Initiative (HUD–27300), if applicable;

____Applicant/Recipient Disclosure/Update Report (HUD–2880);

____Certification of Consistency with RC/EZ/EC–II Strategic Plan (HUD–2990), if applicable;

____Certification of Consistency with the Consolidated Plan (HUD–2991), if applicable;

____Acknowledgement of Applicant Receipt (Only applicants who submit paper applications (HUD–2993);

____You Are Our Client Grant Applicant Survey (HUD–2994–A);

____Facsimile Transmittal (HUD–96011), to be used as the cover page to transmit third party documents via facsimile, if applicable (See General Section); and

____Logic Model (HUD–96010)

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

UNIVERSITY AND COLLEGE PROGRAMS

ALASKA NATIVE/NATIVE HAWAIIAN INSTITUTIONS ASSISTING COMMUNITIES (AN/NHIAC) PROGRAM

Billing Code 4210-01-C

Alaska Native/Native Hawaiian Institutions Assisting Communities (AN/NHIAC) Program

Overview Information

A. Federal Agency Name: Department of Housing and Urban Development, Office of Policy Development and Research, Office of University Partnerships.

B. Funding Opportunity Title: Alaska Native/Native Hawaiian Institutions Assisting Communities (AN/NHIAC) Program.

C. Announcement Type: Initial announcement.

D. Funding Opportunity Numbers: The **Federal Register** Number is FR–5030-N–20. The OMB Approval Number is 2528–0206.

E. Catalog of Federal Domestic Assistance (CFDA) Number: The CFDA Number for this program is 14.515.

F. Dates: The application deadline date is May 19, 2006. Please be sure to read the General Section for electronic application submission and receipt requirements.

G. Additional Overview Content Information.

1. *Purpose of the Program:* To assist Alaska Native/Native Hawaiian Institutions (AN/NHI) of higher education expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing, and economic development, principally for persons of low- and moderate-income, consistent with the purposes of Title I of the Housing and Community Development Act of 1974, as amended.

2. *Award Information:* In Fiscal Year (FY) 2006, approximately $2.97 million has been made available for this program by the Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109–115; approved Nov. 30, 2005) and an additional $238,000 in carryover funds. An applicant can request up to $800,000 for a three-year (36 months) grant performance period.

3. *Eligible Applicant:* Nonprofit Alaska Native and Native Hawaiian Institutions of Higher Education that meet the definitions of Alaska Native and Native Hawaiian Institutions of Higher Education established in Title III, Part A, Section 317 of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1998 (Pub. L. 105–244; enacted October 7, 1998). Institutions are not required to be on the list of eligible AN/NHIs prepared by the U.S. Department of Education. However, an institution that is not on the list is required to provide a statement in the application that the institution meets the U.S. Department of Education's statutory definition of an AN/NHI institution. In order to meet the definition of an Alaska Native Institution, at least 20 percent of the undergraduate headcount enrollment must be Alaska Native students. If an applicant is a Native Hawaiian institution, at least 10 percent of the undergraduate headcount enrollment must be Native Hawaiian students in order to meet this definition. In addition, all applicants must be fully accredited by a national or regional accrediting agency recognized by the U.S. Department of Education. If an applicant is one of several campuses of the same institution, the applicant may apply separately from the other campuses as long as the campus has a separate administrative structure and budget and meets the enrollment test outlined above.

Full Text of Announcement

I. Funding Opportunity Description

The purpose of the Alaska Native/Native Hawaiian Institutions Assisting Communities (AN/NHIAC) Program is to assist Alaska Native/Native Hawaiian Institutions (AN/NHI) of higher education expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing, and economic development, principally for persons of low- and moderate-income, consistent with the purposes of Title I of the Housing and Community Development Act of 1974, as amended.

A. Authority

HUD's authority for making funding available under this NOFA is the Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109–115; approved Nov. 30, 2005). This program is being implemented through this NOFA and the policies governing its operation are contained herein.

B. Modifications

Listed below are major modifications from the Fiscal Year (FY) 2005 program-funding announcement:

1. Commitment letters, memoranda of understandings and/or agreements are not required at the time of application submission but must be on file. Applicants selected for award will be required to submit the signed commitment letters, memoranda of understandings and/or agreements outlined in the application, within twenty (20) calendar days after initial contact from the Office of University Partnerships (OUP). OUP will provide specific instructions on how these documents must be submitted at that time. HUD will only request and consider the resources/organizations outlined in the application. If OUP does not receive those documents in the required format and allotted timeframe, an applicant will not receive points under this factor and the application will be rated and ranked to address this point change.

In scoring this factor, HUD will rate an applicant that provides leveraging resources that are 15 percent or more of the amount requested under this program and that are properly documented, as listed below, will be awarded nine (9) points; applicants that provide leveraging resources that are 10–14 percent of the amount requested under this program and that are properly documented, as listed below, will be awarded six (6) points; applicants that provide leveraging resources that are 5–9 percent of the amount requested under this program and that are properly documented, as listed below, will be awarded three (3) points; applicants that provide leveraging resources that are less than 5 percent of the amount requested or resources are not properly documented will receive zero points.

2. All applicants submitting electronic applications must attach their narrative responses to Rating Factors 1–5 as one attachment. PLEASE DO NOT ATTACH YOUR RESPONSE TO EACH FACTOR SEPARATELY.

II. Award Information

In Fiscal Year (FY) 2006, approximately $2.97 million is made available for this program and an additional $238,000 in carryover funds. HUD will award grants under this program to Alaska Native Institutions (ANI) and Native Hawaiian Institutions (NHI). An applicant can request up to $800,000 for a three-year (36 months) grant performance period.

III. Eligibility Information

A. Eligible Applicants

Nonprofit Alaska Native and Native Hawaiian Institutions of Higher Education that meet the definitions of Alaska Native and Native Hawaiian Institutions of Higher Education established in Title III, Part A, Section 317 of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1998 (Pub. L. 105–244; enacted October 7, 1998). Institutions are not required to be on the list of eligible AN/NHIs prepared by the U.S. Department of Education. However,

an institution that is not on the list is required to provide a statement in the application that the institution meets the U.S. Department of Education's statutory definition of an AN/NHI institution. In order to meet the definition of an Alaska Native Institution, at least 20 percent of the undergraduate headcount enrollment must be Alaska Native students. If an applicant is a Native Hawaiian institution, at least 10 percent of the undergraduate headcount enrollment must be Native Hawaiian students in order to meet this definition. In addition, all applicants must be fully accredited by a national or regional accrediting agency recognized by the U.S. Department of Education. If an applicant is one of several campuses of the same institution, the applicant may apply separately from the other campuses as long as the campus has a separate administrative structure and budget and meets the enrollment test outlined above.

B. Cost Sharing or Matching

None required.

C. Other

1. Eligible Activities

Eligible activities are listed in 24 CFR Part 570, subpart C, particularly § 570.201 through 570.206. Information regarding these activities can be found at: *www.hudclips.org* (click on the Code of Federal Regulations for detailed information).

Eligible activities include, but are not limited to:

a. Acquisition of real property;

b. Clearance and demolition;

c. Rehabilitation of residential structures and compliance with the accessibility requirements contained in Section 504 of the Rehabilitation Act of 1973;

d. Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements, such as water and sewer facilities and streets; including lead-based paint hazard evaluation and reduction and compliance with the accessibility requirements contained in Section 504 of the Rehabilitation Act of 1973 and Americans with Disabilities Act of 1990;

e. Direct homeownership assistance to low- and moderate-income persons, as provided in section 105(a) (25) of the Housing and Community Development Act of 1974;

f. Special economic development activities described at 24 CFR 570.203 and assistance to facilitate economic development by providing technical or financial assistance for the establishment, stabilization, and expansion of microenterprises, including minority enterprises;

g. Assistance to community-based development organizations (CBDO) to carry out neighborhood revitalization, community economic development, or energy conservation projects, in accordance with 24 CFR 570.204. This could include activities in support of a HUD-approved local entitlement grantee, CDBG Neighborhood Revitalization Strategy (NRS) or HUD-approved State CDBG Community Revitalization Strategy (CRS);

h. Public service activities such as general support activities that can help to stabilize a neighborhood and contribute to sustainable redevelopment of the area, including but not limited to such activities as those concerned with employment, crime prevention, child care, health care services, drug abuse, education, housing counseling, energy conservation, homebuyer down payment assistance, establish and maintain Neighborhood Network centers in federally assisted or insured housing, job training and placement and recreational needs;

i. Fair housing services designed to further the civil rights objectives of the Fair Housing Act (42 U.S.C. 3601–20) by making all persons, without regard to race, color, religion, sex, national origin, familial status, and/or disability aware of the range of housing opportunities available to them;

j. Up to 20 percent of the grant may be used for payments of reasonable grant administrative costs related to planning and execution of the project (*e.g.*, preparation/submission of HUD reports, etc.). Detailed explanations of these costs are provided in the OMB circulars that can be accessed at the White House Web site at: *www.whitehouse.gov/omb/circulars/index.html*; and

Each activity proposed for funding must meet the Community Development Block Grant (CDBG) Program eligibility requirements and at least one national objective.

The three national objectives of the Community Development Block Grant program are:

(1) Benefit to low-or moderate-income persons;

(2) Aid in the prevention or elimination of slums or blight; and

(3) Meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community, and other financial resources are not available to meet such needs.

Criteria for determining whether an activity addresses one or more of these objectives are provided at 24 CFR 570.208.

The CDBG publication entitled ''Community Development Block Grant Program Guide to National Objectives and Eligible Activities for Entitlement Communities'' describes the CDBG regulations, and a copy can be obtained from HUD's NOFA Information Center at 800–HUD–8929 or 800–HUD–2209 for the hearing- or speech-impaired.

2. Audit Requirements

See the General Section.

3. Threshold Requirements Applicable to All Applicants

All applicants must comply with the threshold requirements as defined in the General Section and the requirements listed below. Applications that do not meet these requirements will be considered ineligible for funding and will be disqualified.

a. The applicant must meet the eligibility requirements as defined in Section III.A

b. The applicant may request up to $800,000.

c. Only *one* application can be submitted per campus. If multiple applications are submitted, all will be disqualified. However, different campuses of the same university system are eligible to apply as long as they have an administrative and budgeting structure independent of the other campuses in the system.

d. Institutions that received grants in FY 2005 are not eligible to submit an application under this NOFA.

e. Applicants must receive a minimum score of 75 points to be considered for funding.

f. An applicant must have a DUNS number to receive HUD grant funds (See the General Section).

g. Electronic applications must be received and validated by Grants.gov no later than 11:59:59 p.m. eastern time on the application deadline date of May 19, 2006.

4. Program Requirements

In addition to the program requirements listed in Section III.C of the General Section, applicants must meet the following program requirements:

a. All funds awarded are for a three-year (36 months) grant performance period.

b. Applicants must ensure that not less than 51 percent of the aggregated expenditures of a grant award are used

to benefit low- and moderate-income persons under the criteria specified in 24 CFR 570.208(a) or 570.208(d)(5) or (6).

c. Site Control. Where grant funds will be used for acquisition, rehabilitation, or new construction, an applicant must demonstrate site control. Funds may be recaptured or deobligated from applicants that cannot demonstrate control of a suitable site within one year after the initial notification of award.

d. Environmental Requirements. Selection for award does not constitute approval of any proposed sites. Following selection for award, HUD will perform an environmental review of properties proposed for assistance in accordance with 24 CFR part 50. The results of the environmental review may require that proposed activities be modified or proposed sites be rejected. Applicants are particularly cautioned not to undertake or commit funds for acquisition or development of proposed properties prior to HUD approval of specific properties or areas. An application constitutes an assurance that the institution will assist HUD to comply with part 50; will supply HUD with all available and relevant information to perform an environmental review for each proposed property; will carry out mitigating measures required by HUD or select alternate property; and will not acquire, rehabilitate, convert, demolish, lease, repair, or construct property, and not commit or expend HUD or local funds for these program activities with respect to any eligible property until HUD's written approval of the property is received. In supplying HUD with environmental information, applicants should use the same guidance as provided in the HUD Notice CPD–05–07 entitled, ''Field Environmental Review Processing for Rural Housing and Economic Development (RHED) grants'' issued August 30, 2005. The General Section provides further discussion of the environmental requirements. Further information and assistance on HUD's environmental requirements is available at: *http://hudstage.hud.gov/utilities/intercept.cfm?/offices/cpd/lawsregs/notices/2005/05–07.pdf.*

e. Labor Standards. Institutions and their subgrantees, contractors, and subcontractors must comply with the labor standards (Davis-Bacon) requirements referenced in 24 CFR 570.603.

f. Economic Opportunities for Low- and Very-Low Income Persons (Section 3). The provisions of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) apply to this NOFA and requires that to the greatest extent feasible opportunities for training and employment be given to lower-income residents of the project and contracts for work in connection with the project be awarded in substantial part to persons residing in the area of the project. Regulations are located at 24 CFR Part 135.

IV. Application and Submission Information.

A. Address To Request Application Package

Applicants may download the instructions to the application found on the Grants.gov Web site at *http://www.Grants.gov./Apply.* If you have difficulty accessing the information you may call the Grants.gov Support Desk toll free 800–518–GRANTS or e-mail your questions to *Support@Grants.gov*. See the General Section for information regarding the registration process or ask for registration information from the Grants.gov Support Desk.

B. Content and Form of Application Submission

1. Forms

The following forms are required for submission. Copies of these forms are available on line at *http://www.hud.gov/offices/adm/grants/nofa06/snofaforms.cfm.*

a. Application for Federal Assistance (SF–424);

b. Survey on Ensuring Equal Opportunity for Applicants (SF–424 Supplement);

c. Grant Application Detailed Budget (HUD–424–CB);

d. Disclosure of Lobbying Activities (SF–LLL), if applicable;

e. America's Affordable Communities Initiative (HUD–27300), if applicable;

f. Applicant/Recipient Disclosure/Update Report (HUD–2880);

g. Program Logic Model (HUD–96010);

h. Acknowledgement of Applicant Receipt (HUD–2993). Complete this form only if you have received a waiver to the electronic application submission requirement. Applicants submitting electronically are not required to include this form;

i. Facsimile Transmittal Cover Page (HUD–96011). This form must be used as the cover page to transmit third-party documents and other information. Applicants are advised to download the application package, complete the SF–424 first and it will pre-populate the Transmittal Cover page. The Transmittal Cover page will contain a unique identifier embedded in the page that will help HUD associate your faxed materials to your application. Please download the cover page and then make multiple copies to provide to any of the entities responsible for submitting faxed materials to HUD on your behalf. Please do not use your own fax sheet. HUD will not read any faxes that are sent without the HUD–96011 fax transmittal cover page; and

j. You Are Our Client Grant Applicant Survey (HUD–2994–A). Applicants are not required to complete this form.

2. Certifications and Assurances

Please read the General Section for detailed information on all Certifications and Assurances. All applications submitted through Grants.gov constitute an acknowledgement and agreement to all required certifications and assurances. Please include in your application each item listed below. Applicants submitting paper copy applications should submit the application in the following order:

a. *SF–424, Application for Federal Assistance.* Please remember the following:

(1) The full grant amount requested from HUD (entire three years) should be entered, not the amount for just one year;

(2) Include the name, title, address, telephone number, facsimile number, and e-mail address of the designated contact, this is the person who will *receive all correspondence*; therefore, please ensure the accuracy of the information;

(3) The Employer Identification/Tax ID number;

(4) The DUNS Number;

(5) The Catalog of Federal Domestic Assistance Number for this program is 14.515;

(6) The project's proposed start date and completion date. For the purpose of this application, the program start date should be December 1, 2006; and

(7) The signature of the Authorized Organization Representative (AOR) who, by virtue of submitting an application via Grants.gov, has been authenticated by the credential provider to submit applications on behalf of the Institution and approved by the eBusiness Point of Contact to submit an application via Grants.gov. The AOR must be able to make a legally binding agreement with HUD. For details on the Grants.gov registration process see HUD's Notice on Early Registration published in the **Federal Register** on December 9, 2005 (70 FR 73331).

b. *Application Checklist.* Applicants should use the checklist to ensure that they have all the required components of their application. Applicants submitting an electronic application

should not submit the checklist. Applicants that receive a waiver of the electronic application submission requirement must include a copy of the checklist in their application submission. The checklist can be located in Appendix A.

c. *Abstract.* Applicants must include no more than a two-page summary of the proposed project. Please include the following:

(1) A clear description of the proposed project activities, where they will take place (be located), the target population that will be assisted, and the impact this project is expected to have on the community and institution;

(2) A statement that the institution is an eligible institution because it is a two-or four-year fully accredited institution, the name of the accrediting agency and an assurance that the accrediting agency is recognized by the U.S. Department of Education;

(3) A statement that the institution meets the definition of an Alaska Native Institution, or a Native Hawaiian Institution, as appropriate;

(4) The designated contact person, including phone number, facsimile number, and e-mail address. (This is the person who will *receive all correspondence*; therefore, please ensure the accuracy of the information);

(5) The project director, if different from the designated contact person, for the project, including phone number, facsimile number, and e-mail address.

d. *Narrative statement addressing the Rating Factors.* HUD will use the narrative response to the ''Rating Factors'' to evaluate, rate, and rank applications. The narrative statement is the main source of information. Applicants are advised to review each factor carefully for program specific requirements. The response to each factor should be concise and contain only information relevant to the factor, yet detailed enough to address each factor fully. Please do not repeat material in response to the five factors; instead, focus on how well the proposal responds to each of the factors. Where there are subfactors, each subfactor must be presented separately, with the short title of the subfactor presented. Make sure to address each subfactor and provide sufficient information about every element of the subfactor. The narrative section of an application must not exceed 50 pages in length (excluding forms, budget narrative, assurances, and abstract) and must be submitted on 8½ by 11-inch paper, double-spaced on one side of the paper, with one-inch margins (from the top, bottom and left to right side of the document) and printed in standard Times New Roman 12-point font. Each page of the narrative must include the applicant's name and should be numbered. Note that although submitting pages in excess of the page limit will not disqualify an applicant, HUD will not consider the information on any excess pages. This exclusion may result in a lower score or failure to meet a threshold requirement. All applicants submitting electronic applications must attach their narrative responses to Rating Factors 1–5 as one attachment. PLEASE DO NOT ATTACH YOUR RESPONSE TO EACH FACTOR SEPARATELY.

e. *Budget.* The budget submission must include the following:

(1) *HUD–424–CB, ''Grant Application Detailed Budget.''* This form shows the total budget by year and by line item for the program activities to be carried out with the proposed HUD grant. Each year of the program should be presented separately. Applicants must also submit this form to reflect the total cost for the entire grant performance period (Grand Total).

Make sure that the amounts shown on the SF–424, the HUD–424–CB and on all other required program forms are consistent and the budget totals are correct. Remember to check addition in totaling the categories on all forms so that all items are included in the total. If there is any inconsistency between any of the required budget forms, the HUD–424–CB will be used. All budget forms must be fully completed. If an application is selected for award, the applicant may be required to provide greater specificity to the budget during grant agreement negotiations.

(2) *Budget Narrative.* A narrative must be submitted that explains how the applicant arrived at the cost estimates for any line item over $5,000 cumulative. For example, an applicant proposes to construct a building using HUD funding totaling $200,000. The following cost estimate reflects this total. Foundation cost $75,000, electrical work $40,000, plumbing work $40,000, finishing work $35,000, and landscaping $10,000. The proposed cost estimates should be reasonable for the work to be performed and consistent with rates established for the level of expertise required to perform the work proposed in the geographical area. When necessary, quotes from various vendors or historical data should be used (please make sure they are kept on file and are available for review by HUD at any time). When an applicant proposes to use a consultant, the applicant must indicate whether there is a formal written agreement. For each consultant, please provide the name, if known, hourly or daily rate, and the estimated time on the project. Applicants must use cost estimates based on historical data from the institution and/or from a qualified firm (*e.g.*, Architectural or Engineering firm), vendor, and/or qualified individual (*e.g.*, independent architect or contractor) other than the institution for projects that involve rehabilitation of residential, commercial and/or industrial structures, and/or acquisition, construction, or installation of public facilities, and improvements. Such an entity must be involved in the business of housing rehabilitation, construction, and/or management. Equipment and contracts cannot be presented as a total estimated cost. For equipment, applicants must provide a list by type and cost for each item. Applicants using contracts must provide an individual description and cost estimate for each contract. Construction costs must be broken down to indicate how funds will be utilized (*e.g.*, demolition, foundation, exterior walls, roofing, electrical work, plumbing, finishing work, etc.)

(3) *Indirect costs.* Indirect costs, if applicable, are allowable based on an established approved indirect cost rate. Applicants must have on file, and submit to HUD if selected for award, a copy of their indirect cost rate agreement. Applicants who are selected for funding that do not have an approved indirect cost rate agreement, established by the cognizant federal agency, will be required to establish a rate. In such cases, HUD will issue an award with a provisional rate and assist applicants with the process of establishing a final rate.

f. *Appendix.* Applicants receiving a waiver of the electronic submission requirements and submitting a paper copy of the application must place all required forms in this section. An applicant SHOULD NOT submit resumes, or other back-up materials. If this information is included, it will not be considered during the review process.

C. Submission Dates and Times

A complete application package must be received and validated electronically by the Grants.gov no later than 11:59:59 p.m. eastern time on or before the application deadline date of May 19, 2006. In an effort to address any issues with transmission of your applications, applicants are strongly encouraged to submit their applications prior to the application deadline. This will allow an applicant enough time to make the necessary adjustments to meet the submission. Please see the General Section for further instructions.

Electronic faxes using the Facsimile Transmittal cover sheet (Form HUD–96011) contained in the electronic application must be received no later than 11:59:59 p.m. eastern time on the application deadline date.

D. Intergovernmental Review

This program is excluded from an Intergovernmental Review.

E. Funding Restrictions

Ineligible CDBG Activities are listed at 24 CFR 570.207. Ineligible activities include but are not limited to:

1. New construction of public housing;
2. General government expenses;
3. Political activities;
4. Planning and administrative activities that would result in a grantee exceeding the 20 percent cost limitation on such activities;
5. Development and/or expansion of an institution's existing curriculum when it is primarily to enhance the institution rather than to achieve the specific goals/objectives of the proposed project; and
6. Construction, renovation, expansion of an institution's own facilities.

F. Other Submission Requirements

1. Application Submission and Receipt Procedure

Please read the General Section carefully and completely for the submission and receipt procedures for all applications because failure to comply may disqualify your application.

2. Waiver of Electronic Submission Requirements

Please refer to the General Section for further discussion. Paper applications will not be accepted from applicants that have not been granted a waiver. If an applicant is granted a waiver, the Office of University Partnerships will provide instructions for submission. Applicants that submit a paper application must be received by or before on the application deadline date.

V. Application Review Information

A. Criteria

1. Rating Factor 1: Capacity of the Applicant and Relevant Experience (25 Points)

This factor addresses the extent to which the applicant has the resources necessary to successfully implement the proposed project in a timely manner.

a. Knowledge and Experience. For First Time Applicants (25 Points) For Previously Funded Applicants (13 Points). In rating this subfactor, HUD will consider the extent to which the applicant clearly addresses the following:

(1) Describe the knowledge and experience of the proposed project director and staff, including the day-to-day program manager/coordinator, consultants (including technical assistance providers), and contractors in planning and managing the type of project for which funding is being requested; and

(2) Clearly identify the following: key project team members, titles (*e.g.*, project manager/coordinator, etc.), respective roles for the project staff, and a brief description of their relevant experience.

If key personnel have not been hired, applicants must identify the position title, provide a description of duties and responsibilities, and describe the qualifications to be considered in the selection of personnel, including subcontractors and consultants.

Experience will be judged in terms of recent and relevant knowledge and skills of the staff to undertake eligible program activities. HUD will consider experience within the last five (5) years to be recent and experience pertaining to similar activities to be relevant.

b. Past Performance (12 Points) For Previously Funded Applicants Only. This subfactor will evaluate how well an applicant has performed successfully under HUD/AN/NHIAC grants. Applicants must demonstrate this by addressing the following information for all previously completed and open HUD/AN/NHIAC grants:

(1) A list of all HUD/AN/NHIAC grants received, including the dollar amount awarded and the amount expended and obligated as of the date of this application;

(2) A description of the achievement of specific tasks, measurable objectives, and specific outcomes consistent with the approved project management plan;

(3) A list detailing the date the project(s) was completed, was it completed in the original three-year grant performance period; if not completed, why (including when it was or will be completed);

(4) A comparison of the amount of proposed leveraged funds and/or resources to the amount that was actually leveraged; and

(5) A detailed description of compliance with all reporting requirements, including timeliness of submission, whether reports were complete and addressed all information (both narrative and financial) as required by the grant agreement.

HUD will also review an applicant's past performance in managing funds, including, but not limited to: The ability to account for funding appropriately; timely use of funds received from HUD; meeting performance targets for completion of activities. In evaluating past performance, HUD reserves the right to deduct up to five (5) points from this rating score as a result of the information obtained from HUD's records (*i.e.*, progress and financial reports, monitoring reports, Logic Model submissions, and amendments).

2. Rating Factor 2: Need/Extent of the Problem (10 Points)

This factor addresses the extent to which there is a need for funding the proposed program activities and an indication of the importance of meeting the need(s) in the target area. The need(s) described must be relevant to the activities for which funds are being requested. In addressing this factor, applicants should provide, at a minimum, the following and must cite statistics and/or analyses contained in at least one or more current data sources that are sound and reliable.

(1) Describe the need(s); and

(2) Describe the importance of meeting the proposed needs.

In rating this factor, HUD will consider only current data that is specific to the area where the proposed project activities will be carried out. Sources for localized data can be found at: *www.ffiec.gov.*

HUD will consider data collected within the last five (5) years to be current. To the extent that the targeted community's Five (5) Year Consolidated Plan and Analysis of Impediments to Fair Housing Choice (AI) identify the level of the problem and the urgency in meeting the need, applicants should include references to these documents in the response to this factor.

Other reliable data sources include, but are not limited to, Census reports, HUD Continuum of Care gap analysis and its E–MAP (*http://www.hud.gov/emaps*), law enforcement agency crime reports, Public Housing Agencies' Comprehensive Plans, community needs analyses such as provided by the United Way, the applicant's institution, and other sound, reliable and appropriate sources. Needs in terms of fulfilling court orders or consent decrees, settlements, conciliation agreements, and voluntary compliance agreements may also be addressed.

3. Rating Factor 3: Soundness of Approach (44 Points)

This factor addresses the quality and effectiveness of the proposed work plan

and the commitment of the institution to sustain the proposed activities.

a. (37 Points) Quality of the Work Plan. This subfactor will be evaluated on the extent to which an applicant provides a clear detailed description of the proposed project and anticipated accomplishments.

(1) (32 Points) Specific Activities. The work plan must describe all proposed activities and major tasks required to successfully implement the proposed project. In addressing this subfactor applicants must provide a clear description of the proposed activities and address the following:

(a) Describe each activity to successfully implement and complete the proposed project in measurable terms (*e.g.*, the number of homes that will be renovated, the number of jobs created, etc.);

(b) List and describe how each activity meets one of the following Community Development Block Grant (CDBG) Program national objectives:

- Benefit low- and moderate-income persons;
- Aid in the prevention or elimination of slums or blight; or
- Meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community, and other financial resources are not available to meet such needs.

Criteria for determining whether an activity addresses one or more objectives are provided at 24 CFR 570.208;

(c) Describe the major tasks required (in sequential order) to successfully implement and complete each project activity. Include the target completion dates for these tasks (in 6 month intervals, up to 36 months);

(d) Identify key staff, as described in Factor 1, who will be responsible and accountable for completing each task; and

(e) Describe how the project director will work with partners and citizens to accomplish the proposed activities.

(2) (5 Points) Describe clearly how each proposed activity will:

(a) Expand the role of the institution in the community;

(b) Address the needs identified in Factor 2;

(c) Relate to and not duplicate other activities in the target area. Duplicative effort will be acceptable only if an applicant can demonstrate through documentation that there is a population in need that is not being served; and

(d) Involve and empower citizens of the target area in the proposed project.

b. (3 Points) Involvement of the faculty and students. The applicant must describe how it proposes to integrate the institution's students and faculty into the proposed project activities.

c. (2 Points) HUD Policy Priorities. To earn points under this subfactor, HUD requires applicants to undertake specific activities that will assist the Department in implementing its policy priorities and that help the Department achieve its goals and objectives in FY 2007, when the majority of grant recipients will be reporting programmatic results and achievements. In rating this subfactor, HUD will evaluate the extent to which a program will further and support HUD's priorities. The quality of the responses provided to one or more of HUD's priorities will determine the score an applicant can receive. Applicants must describe how each policy priority selected will be addressed. Applicants that just list a priority will receive no points.

The total number of points an applicant can receive under this subfactor is two (2). Each policy priority addressed has a point value of one (1) point with the exception of the policy priority to remove regulatory barriers to affordable housing, which has a point value of up to two (2) points. To receive these two (2) points an applicant must indicate how this priority will be addressed and submit the completed questionnaire (HUD–27300) ''HUD's Initiative on Removal of Regulatory Barriers'' found in the General Section along with required documentation. It is up to the applicant to determine which of the policy priorities they elect to address to receive the available two (2) points.

d. (2 Points) Economic Opportunities for Low- and Very-Low Income Persons (Provision of Section 3). This subfactor will be evaluated on the extent to which an applicant describes how it proposes to:

(1) Provide opportunities to train and employ lower-income residents of the project area; and

(2) Award substantial contracts to persons residing in the project area.

Regulations regarding the provision of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) can be located at 24 CFR Part 135.

4. Rating Factor 4: Leveraging Resources (9 Points)

This factor addresses the ability of the applicant to secure resources that can be combined with HUD's grant funds to achieve the program's purpose.

HUD will consider the extent to which the applicant established partnerships with other entities to secure additional resources to increase the effectiveness of the proposed project activities. Resources may include funding or in-kind contributions, such as services or equipment, allocated for the purpose(s) of the project activities. Resources may be provided by governmental entities, public or private nonprofit organizations, for-profit private organizations, or other entities. Applicants may also establish partnerships with other program funding recipients to coordinate the use of resources in the target area. Overhead and other institutional costs (*e.g.*, salaries, indirect costs, etc.) that the institution has waived may be counted. Examples of potential sources for outside assistance include:

- Federal, state, and local governments
- Public Housing Agencies
- Local or national nonprofit organizations
- Financial institutions and/or private businesses
- Foundations
- Faith-based and other community-based organizations.

To address this factor, an applicant must provide an outline in the application and have on file written commitment letters, memoranda of understandings and/or agreements that show the extent and firm commitment of all proposed leveraged resources (including any commitment of resources from the applicant's own institution) that address the following information for each leveraged resource/fund:

(1) The name of the organization and the executive officer authorizing the funds/goods and/or services (Only applicable to the narrative section)

(2) The cash amount contributed or dollar value of the in-kind goods and/or services committed (If a dollar amount and its use is not shown, the funding will not be counted);

(3) A specific description of how each contribution is to be used toward the proposed activities;

(4) The date the contribution will be made available and a statement that describes the duration of the contribution;

(5) Any terms or conditions affecting the commitment, other than receipt of a HUD Grant; and

(6) The signature of the appropriate executive officer authorized to commit the funds and/or goods and/or services. (Only applicable to the written documentation) Please remember that only items eligible for funding under this program can be counted.

Commitment letters, memoranda of understandings and/or agreements are not required at the time of application submission but you must have them on file. Applicants selected for award will be required to submit the signed commitment letters, memoranda of understandings and/or agreements outlined in the application, within twenty (20) calendar days after initial contact from the Office of University Partnerships (OUP). Letters, memoranda of understanding, or agreements must be submitted on the provider's letterhead and should be addressed to Sherone Ivey, Acting Associate Deputy Assistant Secretary for University Partnerships. The date of the letter, memorandum of understanding, or agreement from the CEO of the provider organization must be dated no earlier than nine months prior to this published NOFA. OUP will provide specific instructions on how these documents must be submitted when contact is made with the applicant. HUD will only request and consider the resources/organizations that are listed in the outline submitted in the application. If OUP does not receive those documents in the required format and allotted timeframe, an applicant will not receive points under this factor and the application will be rated and ranked to address this point change.

In scoring this factor, HUD will award nine (9) points to an applicant that provides properly documented leveraging resources as listed in their application that are 15 percent or more of the amount requested under this program; six (6) points to applicants that provide properly documented leveraging resources as listed that are 10–14 percent of the amount requested under this program; three (3) points to applicants that provide properly documented leveraging resources as listed that are 5–9 percent of the amount requested under this program; and zero (0) points to applicants that provide properly documented leveraging resources as listed that are less than 5 percent of the amount requested or resources are not properly documented.

5. Rating Factor 5: Achieving Results and Program Evaluation (12 Points)

This factor reflects HUD's goal to embrace high standards of management and accountability. It measures the applicant's commitment to assess their performance to achieve the program's proposed objectives and goals. Applicants are required to develop an effective, quantifiable, outcome oriented evaluation plan for measuring performance and determining that objectives and goals have been achieved. The Logic Model is a summary of the narrative statements presented in Factors 1–4. Therefore, the information submitted on the logic model should be consistent with the information contained in the narrative statements.

''Outcomes'' are benefits accruing to institutions of higher education and/or communities during or after participation in the AN/NHIAC program. Applicants must clearly identify the outcomes to be measured and achieved. Examples of outcomes include increased community development in the target community by a certain percentage, increased employment opportunities in the target community by a certain percentage, increased incomes/wages or other assets for persons trained, and/or enhanced family stability through the creation of affordable housing opportunities.

In addition, applicants must establish interim benchmarks and outputs that lead to the ultimate achievement of outcomes. ''Outputs'' are the direct products of the program's activities. Examples of outputs are the number of new affordable housing units, the number of homes that have been renovated, and the number of facilities that have been constructed or rehabilitated. Outputs should produce outcomes for the program. At a minimum, an applicant must address the following activities in the evaluation plan:

a. Measurable outputs to be accomplished (*e.g.*, the number of persons to be trained and employed; houses to be built pursuant to 24 CFR 570.207 or rehabilitated; minority-owned businesses to be started);

b. Measurable outcomes the grant will have on the community in general and the target area or population; and

c. The impact the grant will have on assisting the university to obtain additional resources to continue this type of work at the end of the grant performance period.

The information must be placed on a HUD–96010, Program Logic Model form. HUD has developed a new approach to completing this form. Please carefully read the General Section for instructions, training is available. (Form HUD–96010 will be excluded from the page count.) A narrative is not required. However, if a narrative is provided, those pages will be included in the page count.

B. Review and Selection Process

1. Application Selection Process

Two types of reviews will be conducted:

a. A threshold review to determine an applicant's basic eligibility; and

b. A technical review for all applications that pass the threshold review to rate and rank the application based on the ''Rating Factors'' listed in Section V.A.

Only those applications that pass the threshold review will receive a technical review and be rated and ranked.

2. Rating Panels

To review and rate applications, HUD may establish panels, which may include experts or consultants not currently employed by HUD to obtain certain expertise.

3. Ranking

HUD will fund applications in rank order, until all available program funds are awarded. In order to be funded, an applicant must receive a minimum score of 75 points out of a possible 100 points for Factors 1 through 5. The RC/EZ/EC–II bonus points described in the General Section do not apply to this NOFA. If two or more applications have the same number of points, the application with the most points for Factor 3 shall be selected. If there is still a tie, the application with the most points for Factor 1 shall be selected. If there is still a tie, the application with the most points for Factors 2, 4 and then 5 shall be selected, in that order, until the tie is broken. HUD reserves the right to make selections out of rank order to provide for geographic distribution of grantees.

HUD also reserves the right to reduce the amount of funding requested in order to fund as many highly ranked applications as possible. Additionally, if funds remain after funding the highest ranked applications, HUD may fund part of the next highest-ranking application. If an applicant turns down an award offer, HUD will make an award to the next highest-ranking application. If funds remain after all selections have been made, the remaining funds will be carried over to the next funding cycle's competition.

4. Correction to Deficient Applications

See the General Section.

C. Anticipated Announcement and Award Dates

Announcements of awards are anticipated on or before September 30, 2006.

VI. Award Administration Information

A. Award Notices

After all selections have been made, HUD will notify all winning applicants

in writing. HUD may require winning applicants to participate in additional negotiations before receiving an official award. For further discussion on this matter, please refer to the General Section. B. Administrative and National Policy Requirements

Refer to Section VI.B. of the General Section.

1. *Debriefing.* The General Section provides the procedures for requesting a debriefing. All requests for debriefings must be made in writing and submitted within thirty (30) calendar days of receipt of written notification to: Sherone Ivey, Office of University Partnerships, Robert C. Weaver Federal Building; 451 Seventh Street, SW., Room 8106; Washington, DC 20410. Applicants may also write to Ms. Ivey via e-mail at *Sherone_E._Ivey@hud.gov.*

2. *Administrative.* Grants awarded under this NOFA will be governed by the provisions of 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations), A–21 (Cost Principles for Educational Institutions) and A–133 (Audits of States, Local Governments, and Non-Profit Organizations). Applicants can access the OMB circulars at the White House Web site at: *www.whitehouse.gov/omb/circulars/index.html.*

3. *OMB Circulars and Government-wide Regulations Applicable to Financial Assistance Programs.* The General Section provides further discussion.

4. *Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors Labor Relations on Federal and Federally Funded Construction Projects.* See the General Section for further discussion.

5. *Procurement of Recovered Materials.* See Section the General Section for further discussion.

6. *Executive Order 13166, Improving Access to Services For Persons With Limited English Proficiency (LEP).* See the General Section for further discussion.

7. *Code of Conduct.* See the General Section for further discussion.

C. Reporting

All grant recipients under this NOFA are required to submit quarterly progress reports. The progress reports shall consist of two components, a narrative that must reflect the activities undertaken during the reporting period and a financial report that reflects costs incurred by budget line item, as well as a cumulative summary of cost incurred during the reporting period.

For each reporting period, as part of the required report to HUD, grant recipients must include a completed Logic Model form (HUD–96010), which identifies output and outcome achievements.

For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment (ROI) statement. HUD will be publishing a separate notice on the ROI concept.

VII. Agency Contacts

Applicants may contact Sherone Ivey at (202) 708–3061, extension 4200 or Susan Brunson at (202) 708–3061, extension 3852. Persons with speech or hearing impairments may call the Federal Information Relay Service TTY at (800) 877–8339. Except for the ''800'' number, these numbers are not toll-free. Applicants may also reach Ms. Ivey via e-mail at *Sherone_E._Ivey@hud.gov,* and/or Ms. Brunson at *Susan_S._Brunson@hud.gov.*

VIII. Other Information: 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 2528–0206. 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 59 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application, quarterly, and final reports. 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.

Appendix A—Application Checklist—AN/NHIAC

This checklist identifies application submission requirements. Applicants are requested to use this checklist when preparing an application to ensure submission of all required elements. Applicants submitting an electronic application do not have to submit the checklist. Applicants that receive a waiver of the electronic application submission requirement should include a copy of the checklist in their application.

Check off to ensure these items have been included in the application:

____SF–424 ''Application For Federal Assistance''

____Application Checklist (Applicants that submit paper applications must include the checklist in their applications)

____Abstract (must include no more than a two-page summary of the proposed project)

Indicate the page number where each of the Factors is located:

Narrative Statement Addressing the Rating Factors.

The narrative section of an application must not exceed 50 pages in length (excluding forms, budget narrative and abstract). This information must be submitted on 8½ by 11-inch paper, double-spaced on one side of the paper, with one-inch margins (from the top, bottom, left, and right sides of the documents) and printed in standard Times New-Roman 12-point font.

____Factor I

____Factor II

____Factor III

____Factor IV

____Factor V

____HUD–96010 ''Logic Model''

Check off to ensure these items have been included in the application:

Appendix

____Budget

____HUD 424–CB ''Grant Application Detailed Budget''

____Budget Narrative (No form provided, but must be submitted for the total three-year grant period.

Appendix B (All Required Forms)

The following forms are required for submission. All required forms are contained in the electronic application package.

____Application for Federal Assistance (SF–424);

____Survey on Ensuring Equal Opportunity for Applicants (SF–424 Supplement);

____Disclosure of Lobbying Activities (SF–LLL);

____Grant Application Detailed Budget (HUD–424–CB);

____America's Affordable Communities Initiative (HUD–27300), if applicable;

____Applicant/Recipient Disclosure/Update Report (HUD–2880);

____Acknowledgement of Applicant Receipt (Only applicants who submit paper applications (HUD–2993);

____Facsimile Transmittal (HUD–96011), if applicable;

____You Are Our Client Grant Applicant Survey (HUD–2994–A); and

____Logic Model (HUD–96010).

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

UNIVERSITY AND COLLEGE PROGRAMS

TRIBAL COLLEGES AND UNIVERSITIES PROGRAM

Billing Code 4210-01-C

Tribal Colleges and Universities Program

Overview Information

A. Federal Agency Name: Department of Housing and Urban Development, Office of Policy Development and Research, Office of University Partnerships.

B. Funding Opportunity Title: Tribal Colleges and Universities Program (TCUP).

C. Announcement Type: Initial announcement.

D. Funding Opportunity Numbers: The Federal Register Number is FR–5030–N–24. The OMB Approval Number is 2528–0215.

E. Catalog of Federal Domestic Assistance (CFDA) Number: The CFDA Number for this program is 14.519.

F. Dates: The application deadline date is May 22, 2006. Please be sure to read the General Section for electronic application submission and receipt requirements.

G. Additional Overview Content Information:

1. *Purpose of the Program.* To assist Tribal Colleges and Universities (TCU) to build, expand, renovate, and equip their own facilities, and to expand the role of the TCUs into the community through the provision of needed services such as health programs, job training, and economic development activities.

2. *Award Information:* In Fiscal Year (FY) 2006, approximately $2.5 million has been made available for this program by the Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109–115; approved Nov. 30, 2005) and an additional $643,000 in carryover funds. An applicant can request up to $600,000 for a three-year (36 months) grant performance period.

3. *Eligible Applicants:* Tribal Colleges and Universities that meet the definition of a TCU established in Title III of the 1998 Amendments to the Higher Education Act of 1965 (Pub. L. 105–244, approved October 7, 1998). Institutions must be fully accredited or provide a statement in the abstract of the application that states the institution is a candidate for accreditation by a regional institutional accrediting association recognized by the U.S. Department of Education.

Full Text of Announcement

I. Funding Opportunity Description

The purpose of this program is to assist Tribal Colleges and Universities (TCU) to build, expand, renovate, and equip their own facilities, and to expand the role of the TCUs into the community through the provision of needed services such as health programs, job training, and economic development activities.

A. Authority

HUD's authority for making funding available under this NOFA is the Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109–115; approved Nov. 30, 2005). This program is being implemented through this NOFA and the policies governing its operation are contained herein.

B. Modifications

Listed below are major modifications from the Fiscal Year (FY) 2005 program-funding announcement.

1. The provision of public services and program delivery activities are now eligible under this program. The purpose of the Tribal Colleges and Universities Program has been modified to include expanding the role of the TCUs into the community through the provision of needed services such as health programs, job training, and economic development.

2. Commitment letters, memoranda of understandings and/or agreements are not required at the time of application submission but must be on file. Applicants selected for award will be required to submit the signed commitment letters, memoranda of understandings and/or agreements outlined in the application, within twenty (20) calendar days after initial contact from the Office of University Partnerships (OUP). OUP will provide specific instructions on how these documents must be submitted at that time. HUD will only request and consider the resources/organizations outlined in the application. If OUP does not receive those documents in the required format and allotted timeframe, an applicant will not receive points under this factor and the application will be rated and ranked to address this point change.

In scoring this factor, HUD will rate an applicant that provides leveraging resources that are 10 percent or more of the amount requested under this program and that are properly documented, as listed below, will be awarded nine (9) points; applicants that provide leveraging resources that are 7–9 percent of the amount requested under this program and that are properly documented, as listed below, will be awarded six (6) points; applicants that provide leveraging resources that are 4–6 percent of the amount requested under this program and that are properly documented, as listed below, will be awarded three (3) points; applicants that provide leveraging resources that are less than 4 percent of the amount requested or resources are not properly documented will receive zero points.

3. All applicants submitting electronic applications must attach their narrative responses to Rating Factors 1–5 as one attachment. PLEASE DO NOT ATTACH YOUR RESPONSE TO EACH FACTOR SEPARATELY.

II. Award Information

In Fiscal Year (FY) 2006, approximately $2.5 million is made available for this program and an additional $643,000 in carryover funds. An applicant can request up to $600,000 for a three-year (36 months) grant performance period.

III. Eligibility Information

A. Eligible Applicants

Tribal Colleges and Universities that meet the definition of a TCU established in Title III of the 1998 Amendments to the Higher Education Act of 1965 (Pub. L. 105–244, enacted October 7, 1998). Institutions must be fully accredited, or provide a statement in their application that verifies the institution is a candidate for accreditation, by a regional institutional accrediting association recognized by the U.S. Department of Education.

B. Cost Sharing or Matching

None Required.

C. Other

1. *Eligible Activities:* Eligible activities include building, expanding, renovating, and equipping facilities owned by the institution (a long-term lease for five years or more in duration is considered an acceptable form of ownership under this program). Buildings for which TCUP funding is used that also serve the community are eligible; however, the facilities must be predominantly (at least 51 percent of the time) for the use of the institution (*e.g.*, students, faculty, and staff). In addition, public services and program delivery activities for the community such as health programs, job training and economic development are eligible activities. Examples of eligible activities include, but are not limited to:

a. Building a new facility (*e.g.*, classrooms, administrative offices, health and cultural centers, gymnasium, technology centers, etc.);

b. Renovating an existing or acquired facility;

c. Expanding an existing or acquired facility;

d. Equipping university facilities (*e.g.*, lab equipment, library books, furniture, etc.); or

e. Property acquisition;

f. Health screening;

g. Homeownership counseling/training;

h. Technical assistance to establish, expand or stabilize micro-enterprises;

i. Crime, alcohol and/or drug-abuse prevention activities;

j. Youth leadership development programs/activities;

k. Tutoring/mentoring programs;

l. Child care/development programs;

m. Cultural activities/programs; and

n. Applicants can use up to 20 percent of the grant for payments of reasonable grant administrative costs related to planning and execution of the project (*e.g.*, preparation/submission of HUD reports, etc.). A detailed explanation of these costs is provided in the OMB circulars that can be accessed at the White House Web site at: *http://www.whitehouse.gov/omb/circulars/index.html.*

Each activity proposed for funding must meet at least one of the following Community Development Block Grant (CDBG) Program national objectives:

- Benefit low- and moderate-income persons;
- Aid in the prevention or elimination of slums or blight; or
- Meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community, and other financial resources are not available to meet such needs.

Criteria for determining whether an activity addresses one or more objectives are provided at 24 CFR 570.208. The CDBG publication entitled ''Community Development Block Grant Program Guide to National Objectives and Eligible Activities for Entitlement Communities'' describes the CDBG regulations, and a copy can be obtained from HUD's NOFA Information Center at 800–HUD–8929 or 800–HUD–2209 for the hearing-impaired.

2. *Audit Requirements.* See Section III.C. of the General Section.

3. *Threshold Requirements Applicable to All Applicants.* All applicants must comply with the threshold requirements as defined in the General Section and the requirements listed below. Applications that do not meet these requirements will be considered ineligible for funding and will be disqualified.

a. The applicant must meet the eligibility requirements as defined in Section III.A.

b. The applicant may request up to $600,000.

c. Only *one* application can be submitted per campus. If multiple applications are submitted, all will be disqualified. However, different campuses of the same university system are eligible to apply as long as they have an administrative and budgeting structure independent of the other campuses in the system.

d. Institutions that received grants in FY 2005 are not eligible to apply under this NOFA.

e. Applicants must receive a minimum score of 75 points to be considered for funding.

f. An applicant must have a DUNS number to receive HUD grant funds (See General Section).

g. Electronic applications must be received and validated by Grants.gov no later than 11:59:59 p.m. eastern time on the application deadline date May 22, 2006.

4. *Program Requirements.* In addition to the standard requirements listed in Section III.C. of the General Section, applicants must meet the following program requirements:

a. All funds awarded are for a three-year (36 months) grant performance period.

b. While community-wide use of a facility (that is purchased, equipped, leased, renovated or built) is permissible under this program, the facility must be predominantly for the use of the institution (*i.e.*, it must be used by the staff, faculty, and/or students at least 51 percent of the time).

c. If a TCU is a part or instrumentality of a federally recognized tribe, the applicant must comply with the Indian Civil Rights Act (25 U.S.C. 1301 *et seq.*) and all other applicable civil rights statues and authorities as set forth in 24 CFR 1000.12. If the TCU is not a part or instrumentality of a federally recognized tribe the applicant must comply with the Fair Housing Act (42 U.S.C. 3601–19) and implementing regulations at 24 CFR part 100 *et seq.*, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR part 1, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) and implementing regulation at 24 CFR Part 8, and Section 109 of Title One of the Housing and Community Development Act of 1974 (HCDA), as amended, with respect to nondiscrimination on the basis of age, sex, religion, or disability and implementing regulations at 24 CFR part 6.

d. Labor Standards. Institutions and their subgrantees, contractors and subcontractors must comply with the labor standards (Davis-Bacon) requirements referenced in 24 CFR 570.603. However, in accordance with HCDA section 107(e)(2), the Secretary waives the provisions of HCDA section 110 with respect to the TCUP program for grants to a TCU that is part of a tribe, *i.e.*, a TCU that is legally a department or other part of a tribal government, but not a TCU that is established under tribal law as an entity separate from the tribal government. If a TCU is not part of a tribe, the labor standards of HCDA section 110, as referenced in 24 CFR 570.603, apply to activities under the grant to the TCU.

e. Environmental Requirements. Selection for award does not constitute approval of any proposed sites. Following selection for award, HUD will perform an environmental review of activities proposed for assistance in accordance with 24 CFR part 50. The results of the environmental review may require that proposed activities be modified or proposed sites be rejected. Applicants are particularly cautioned not to undertake or commit funds for acquisition or development of proposed properties prior to HUD approval of specific properties or areas. An application constitutes an assurance that the institution will assist HUD to comply with part 50; will supply HUD with all available and relevant information to perform an environmental review for each proposed property; will carry out mitigating measures required by HUD or select alternate property; and will not acquire, rehabilitate, convert, demolish, lease, repair, or construct property and not commit or expend HUD or local funds for these program activities with respect to any eligible property until HUD's written approval of the property is received. In supplying HUD with environmental information, applicants should use the same guidance as provided in the HUD Notice CPD–05–07 entitled, ''Field Environmental Review Processing for Rural Housing and Economic Development (RHED) grants'' issued August 30, 2005. The General Section provides further discussion of the environmental requirements. Further information and assistance on HUD's environmental requirements is available at: *http://hudstage.hud.gov/utilities/intercept.cfm/offices/cpd/lawsregs/notices/2005/05–07.pdf.*

f. Site Control. Where grant funds will be used for acquisition, rehabilitation, or new construction an applicant must demonstrate site control. Funds may be recaptured or deobligated from applicants that cannot demonstrate

control of a suitable site within one year after the initial notification of award.

g. Economic Opportunities for Low- and Very-Low Income Persons (Section 3). The provisions of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) apply to this NOFA and requires that to the greatest extent feasible opportunities for training and employment be given to lower-income residents of the project and contracts for work in connection with the project be awarded in substantial part to person residing in the area of the project. Regulations are located at 24 CFR Part 135.

IV. Application and Submission Information.

A. Address To Request Application Package

Applicants may download the instructions to the application found on the Grants.gov Web site at *http://www.Grants.gov./Apply.* If you have difficulty accessing the information you may call the Grants.gov Support Desk toll free 800–518–GRANTS or e-mail your questions to *Support@Grants.gov.* See the General Section for information regarding the registration process or ask for registration information from the Grants.gov Support Desk.

B. Content and Form of Application Submission

1. Forms

The following forms are required for submission. Copies of these forms are available on line at *http://www.hud.gov/offices/adm/grants/nofa06/snofaforms.cfm.*

a. Application for Federal Assistance (SF–424).

b. Survey on Ensuring Equal Opportunity for Applicants (SF–424 Supplement);

c. Grant Application Detailed Budget (HUD–424–CB);

d. Disclosure of Lobbying Activities (SF–LLL), if applicable;

e. America's Affordable Communities Initiative (HUD–27300), if applicable;

f. Applicant/Recipient Disclosure/Update Report (HUD–2880);

g. Program Logic Model (HUD–96010);

h. Acknowledgement of Applicant Receipt (HUD–2993). Complete this form only if you have received a waiver to the electronic application submission requirement. Applicants submitting electronically are not required to include this form;

i. Facsimile Transmittal Cover Page (HUD–96011). This form must be used as the cover page to transmit third-party documents and other information. Applicants are advised to download the application package, complete the SF–424 first and it will pre-populate the Transmittal Cover page. The Transmittal Cover page will contain a unique identifier embedded in the page that will help HUD associate your faxed materials to your application. Please download the cover page and then make multiple copies to provide to any of the entities responsible for submitting faxed materials to HUD on your behalf. Please do not use your own fax cover sheet. HUD will not read any faxes that are sent without the HUD–96011 fax transmittal cover page; and

j. You Are Our Client Survey (HUD–2994–A). (Optional)

2. Certifications and Assurances

Please read the General Section for detailed information on all the Certifications and Assurances. All applications submitted through Grants.gov constitute an acknowledgement and agreement to all required certifications and assurances. Please include in your application each item listed below. Applicants submitting paper copy applications should submit the application in the following order:

a. *SF–424, Application for Federal Assistance.* Please remember the following:

(1) The full grant amount requested from HUD (entire three years) should be entered, not the amount for just one year;

(2) Include the name, title, address, telephone number, facsimile number, and e-mail address of the designated contact. This person will receive all correspondence; therefore, please ensure the accuracy of the information;

(3) The Employer Identification/Tax ID number;

(4) The DUNS Number;

(5) The Catalog of Federal Domestic Assistance Number for this program is 14.519;

(6) The project's proposed start and completion dates. For the purpose of this application the program start date should be December 1, 2006; and

(7) The signature of the Authorized Organization Representative (AOR) who, by virtue of submitting an application via Grants.gov, has been authenticated by the credential provider to submit applications on behalf of the Institution and approved by the eBusiness Point of Contact to submit an application via Grants.gov. The AOR must be able to make a legally binding agreement with HUD. For details on the Grants.gov registration process, see HUD's Notice on Early Registration published in the **Federal Register** on December 9, 2005 (70 FR 73332).

b. *Application Checklist.* Applicants should use the checklist to ensure that they have all the required components of their application. Applicants submitting an electronic application should not submit the checklist in their application. Applicants receiving a waiver of the electronic application submission requirement should include a copy of the checklist in their application submission. The checklist is located in Appendix A.

c. *Abstract.* Applicants must include no more than a two-page summary of the proposed project. Please include the following:

(1) A clear description of the proposed project activities, where they will take place (be located), the target population that will be assisted, and the impact this project is expected to have on the institution;

(2) A statement that the institution is an eligible institution because it is a two-or four-year fully accredited institution, the name of the accrediting agency and an assurance that the accrediting agency is recognized by the U.S. Department of Education; or the applicant is a candidate for accreditation by a regional instructional accrediting association recognized by the U.S. Department of Education, including the name of the accrediting agency;

(3) The designated contact person, including phone number, facsimile number, and e-mail address (This is the person who will receive *all correspondence;* therefore, please ensure the accuracy of the information);

(4) The project director, if different from the designated contact person for the project, including phone number, facsimile number, and e-mail address.

d. *Narrative statement addressing the Rating Factors.* HUD will use the narrative response to the ''Rating Factors'' to evaluate, rate, and rank applications. The narrative statement is the main source of information. Applicants are advised to review each factor carefully for program specific requirements. The response to each factor should be concise and contain only information relevant to the factor, yet detailed enough to address the factor fully. Please do not repeat material in response to the five factors; instead, focus on how well the proposal responds to each of the factors. Where there are subfactors, each subfactor must be presented separately, with the short title of the subfactor presented. Make sure to address each subfactor and provide sufficient information about every element of the subfactor. The

narrative section of an application must not exceed 50 pages in length (excluding forms, budget narrative, assurances, and abstract) and must be submitted on 8½ by 11-inch paper, double-spaced on one side of the paper, with one-inch margins (from the top, bottom and left to right side of the document) and printed in standard Times New Roman 12-point font. Each page of the narrative must include the applicant's name and should be numbered. Note that although submitting pages in excess of the page limit will not disqualify an applicant, HUD will not consider the information on any excess pages. This exclusion may result in a lower score or failure to meet a threshold requirement. All applicants submitting electronic applications must attach their narrative responses to Rating Factors 1–5 as one attachment. PLEASE DO NOT ATTACH YOUR RESPONSE TO EACH FACTOR SEPARATELY.

e. *Budget.* The budget submission must include the following:

(1) *HUD–424–CB, ''Grant Application Detailed Budget.''* This form shows the total budget by year and by line item for the program activities to be carried out with the proposed HUD grant. Each year of the program should be presented separately. Applicants must also submit this form to reflect the total cost for the entire grant performance period (Grand Total).

Make sure that the amounts shown on the SF–424, HUD–424–CB, and all other required program forms are consistent and the budget totals are correct. Remember to check the addition in totaling the categories on all forms so that all items are included in the total. If there is any inconsistency between any of the required budget forms, the HUD–424–CB will be used. All budget forms must be fully completed. If an application is selected for award, the applicant may be required to provide greater specificity to the budget during grant agreement negotiations.

(2) *Budget Narrative.* Applicants must submit a narrative that explains how the applicant arrived at the cost estimates for any line item over $5,000 cumulative. For example, an applicant proposes to construct an addition to an existing building, which will cost approximately $200,000. The following cost estimate reflects this total: Foundation cost $75,000, electrical work $40,000, plumbing work $40,000, interior finishing work $35,000 and landscaping $10,000. The proposed cost estimates should be reasonable for the work to be performed and consistent with rates established for the level of expertise required to perform the work proposed in the geographical area. When necessary, quotes from various vendors or historical data should be used (please make sure they are kept on file and are available for review by HUD at any time). All direct labor or salaries must be supported with mandated city/state pay scales, Davis-Bacon wage rates/tribally designated wage rate (as appropriate) or other documentation. When an applicant proposes to use a consultant, the applicant must indicate whether there is a formal written agreement. For each consultant, please provide the name, if known, hourly or daily fee, and the estimated time on the project. Applicants must use cost estimates based on historical data from the institution and/or from a qualified firm (*e.g.*, Architectural or Engineering firm), vendor and/or qualified individual (*e.g.*, independent architect or contractor) other than the institution for projects that involve rehabilitation of residential, commercial and/or industrial structures, and/or acquisition, construction, or installation of public facilities and improvements. Such an entity must be involved in the business of rehabilitation, construction, and/or management. Equipment and contracts cannot be presented as a total estimated figure. For equipment, applicants must provide a list by type and cost for each item. Applicants using contracts must provide an individual description and cost estimate for each contract. Construction costs must be broken down to indicate how funds will be utilized (*e.g.*, demolition, foundation, exterior walls, roofing, electrical work, plumbing, finishing work, etc.)

(3) *Indirect costs.* Indirect costs, if applicable, are allowable based on an established approved indirect cost rate. Applicants must have on file, and submit to HUD if selected for award, a copy of their indirect cost rate agreement. Applicants who are selected for funding that do not have an approved indirect cost rate agreement, established by the cognizant federal agency, will be required to establish a rate. In such cases, HUD will issue an award with a provisional rate and assist applicants with the process of establishing a final rate.

f. *Appendix.* Applicants receiving a waiver of the electronic submission requirements and submitting a paper copy of the application must place all required forms in this section. An applicant SHOULD NOT submit resumes, or other back-up materials. If this information is included, it will not be considered during the review process.

C. Submission Dates and Times

A complete application package must be received and validated electronically by the Grants.gov no later than 11:59:59 p.m. eastern time on or before the application deadline date of May 22, 2006. In an effort to address any issues with transmission of your application, applicants are strongly encouraged to submit their applications prior to the application deadline. This will allow an applicant enough time to make the necessary adjustments to meet the submission deadline in the event Grants.gov rejects the application. Please see the General Section for further instructions. Electronic faxes using the Facsimile Transmittal cover sheet (Form HUD–96011) contained in the electronic application must be received no later than 11:59:59 p.m. eastern time on the application deadline date.

D. Intergovernmental Review

This program is excluded for an Intergovernmental Review.

E. Funding Restrictions

Ineligible activities for funding under this program include, but are not limited to the following:

1. Renovation of a facility in which the facility is not used at least 51 percent of the time by the institution;
2. Rental space to another entity that operates a small business assistance center;
3. Building of a new facility, where the activities are for non-students or the activities are run primarily by an outside entity;
4. Using more than 20 percent of the grant for payments of grant administrative costs related to planning and execution of the project (*e.g.*, preparation/submission of HUD reports); and
5. Curriculum development and/or expansion on an institution's existing curriculum.

F. Other Submission Requirements

1. Application Submission and Receipt Procedure

Please read the General Section carefully and completely for the electronic submission and receipt procedures for all applications because failure to comply may disqualify your application.

2. Waiver of Electronic Submission Requirements

Please refer to the General Section for further discussion. Paper applications will not be accepted from applicants that have not been granted a waiver. If

an applicant is granted a waiver, the Office of University Partnerships will provide instructions for submission. Paper application must be received by or before the application due date.

V. Application Review Information

A. Criteria

1. Rating Factor 1: Capacity of the Applicant and Relevant Experience (25 Points)

This factor addresses the extent to which the applicant has the resources necessary to successfully implement the proposed activities in a timely manner.

a. Knowledge and Experience. For First Time Applicants (25 Points), For Previously Funded Applicants (15 Points). In rating this subfactor, HUD will consider the extent to which the applicant clearly addresses the following:

(1) Describe the knowledge and experience of the proposed project director and staff, including the day-to-day program manager/coordinator, consultants (including technical assistance providers), and contractors in planning and managing the type of project for which funding is being requested; and

(2) Clearly identify the following: Key project team members, titles (*e.g.*, project manager/coordinator, etc.), respective roles for the project staff, and a brief description of their relevant experience.

If key personnel have not been hired, applicants must identify the position title, provide a description of duties and responsibilities, and describe the qualifications to be considered in the selection of personnel, including subcontractors and consultants.

Experience will be judged in terms of recent and relevant knowledge and skills of the staff to undertake eligible program activities. HUD will consider experience within the last five (5) years to be recent and experience pertaining to similar activities to be relevant.

b. Past Performance (10 Points) For Previously Funded Grant Applicants Only. This subfactor will evaluate how well an applicant has performed successfully under HUD/TCUP grants. Applicants must demonstrate this by addressing the following information for all previously completed and open HUD/TCUP grants:

(1) A list of all HUD/TCUP grants received, including the dollar amount awarded and the amount expended and obligated as of the date of this application;

(2) A description of the achievement of specific tasks, measurable objectives, and specific outcomes consistent with the approved project management plan;

(3) A list detailing the date the project(s) was completed, was it completed in the original three-year grant performance period; if not completed, why (including when it was or will be completed);

(4) A comparison of the amount of proposed leveraged funds and/or resources to the amount that was actually leveraged; and

(5) A detailed description of compliance with all reporting requirements, including timeliness of submission, whether reports were complete and addressed all information (both narrative and financial) as required by the grant agreement.

HUD will also review an applicant's past performance in managing funds, including, but not limited to: The ability to account for funding appropriately; timely use of funds received from HUD; meeting performance targets for completion of activities. In evaluating past performance, HUD reserves the right to deduct up to five (5) points from this rating score as a result of the information obtained from HUD's records (*i.e.*, progress and financial reports, monitoring reports, Logic Model submission, and amendments).

2. Rating Factor 2: Need/Extent of the Problem (10 Points)

This factor addresses the extent to which there is a need for funding the proposed project activities and an indication of the importance of meeting the need(s). The need(s) described must be relevant to activities for which funds are being requested. In addressing this factor, applicants should provide, at a minimum, the following and must cite statistics and/or analyses contained in at least one or more current data sources that are sound and reliable.

(1) Describe the need(s); and

(2) Describe the importance of meeting the proposed needs.

In rating this factor, HUD will consider only current data that is specific to the area where the proposed project activities will be carried out. Reliable sources of data may include information that describes the need, such as a need to have a building renovated because it is 50 years old and is deteriorating; a new computer lab has been built, but the computers are obsolete; a library has been expanded, but the books are outdated, local/Tribal crime statistics, Indian Housing Plans, etc. When presenting data, include the source and date of the information.

3. Rating Factor 3: Soundness of Approach (44 Points)

This factor addresses the quality and effectiveness of the proposed work plan and the commitment of the institution to sustain the proposed activities.

a. (40 Points) Quality of Work Plan. HUD will evaluate this subfactor based on the extent to which an applicant provides a clear detailed description of the proposed project and anticipated accomplishments.

(1) (35 Points) Specific Activities. The work plan must describe all of the proposed activities and major tasks required to successfully implement the proposed project. In addressing this subfactor applicants must provide a clear description of the proposed activities and address the following:

(a) Describe all proposed activities in measurable terms (*e.g.*, fifty or more students will be receiving computer literacy training, the number of new classes that will be taught as a result of building a new structure);

(b) Describe the major tasks in sequential order necessary to successfully implement the proposed project. Include the target completion dates for the tasks (6 month intervals, up to 36 months);

(c) List and describe how each activity meets one of the following Community Development Block Grant (CDBG) Program national objectives:

- Benefit low- and moderate-income persons;
- Aid in the prevention or elimination of slums or blight; or
- Meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community, and other financial resources are not available to meet such needs.

Criteria for determining whether an activity addresses one or more objective are provided at 24 CFR 570.208;

(d) Describe the measurable objectives that will be realized as a result of implementing the proposed project; and

(e) Identify the key staff, as described in Factor 1, who will be responsible for completing each task.

(2) (5 Points) Describe clearly how each proposed project activity will:

(a) Address the needs identified in Factor 2; and

(b) Relate to and not duplicate other activities in the target area.

b. (2 Points) Involvement of the Faculty and Students. The applicant must describe how it proposes to integrate the institution's students and faculty into the proposed project activities.

c. (2 Points) HUD Policy Priorities. To earn points under this subfactor, HUD requires applicants to undertake specific activities that will assist the Department in implementing its policy priorities and that help the Department achieve its goals and objectives in FY 2007, when the majority of grant recipients will be reporting programmatic results and achievement. In addressing this subfactor, HUD will evaluate the extent to which a program will further and support HUD priorities. The quality of the responses provided to one or more of HUD's priorities will determine the score an applicant can receive. Applicants must describe how each policy priority is addressed. Applicants that just list a priority will receive no points.

The total number of points an applicant can receive under this subfactor is two (2). Each policy priority addressed has a point value of one (1) point, with the exception of the policy priority related to removal of regulatory barriers to affordable housing, which has a value of up to two (2) points. To receive these two (2) points an applicant must indicate how this priority is addressed and submit the completed questionnaire (HUD–27300) ''HUD's Initiative on Removal of Regulatory Barriers'' found in the General Section along with required documentation. It is up to the applicant to determine which of the policy priorities they elect to address to receive the available two (2) points.

4. Rating Factor 4: Leveraging Resources (9 Points)

This factor addresses the ability of the applicant to secure resources that can be combined with HUD's grant funds to achieve the program's purpose.

HUD will consider the extent to which the applicant established partnerships with other entities to secure additional resources to increase the effectiveness of the proposed program activities. Resources may include funding or in-kind contributions, such as services or equipment, allocated for the purpose(s) of the proposed project. Resources can be provided by governmental entities (*e.g.*, Tribal, federal, and/or state governments), public or private nonprofit organizations, for-profit private organizations, or other entities. Overhead and other institutional costs (*e.g.*, salaries, indirect costs) that the institution has waived can be counted.

Examples of potential sources for outside assistance include:

- Tribal, federal, state, and local governments.
- Tribally Designated Housing Entities.
- Local or national nonprofit organizations.
- Banks and/or private businesses.
- Foundations.
- Faith-based and other community-based organizations.

To address this factor, an applicant must provide an outline in the application and have on file written commitment letters, memoranda of understandings and/or agreements that show the extent and firm commitment of all proposed leveraged resources (including any commitment of resources from the applicant's own institution) that address the following information for each leveraged resource/fund:

(1) The name of the organization and the executive officer authorizing the funds/goods and/or services (Only applicable to the narrative section);

(2) The cash amount contributed or dollar value of the in-kind goods and/or services committed (If a dollar amount and its use is not shown, the funding will not be counted);

(3) A specific description of how each contribution is to be used toward the proposed activities;

(4) The date the contribution will be made available and a statement that describes the duration of the contribution;

(5) Any terms or conditions affecting the commitment, other than receipt of a HUD Grant; and

(6) The signature of the appropriate executive officer authorized to commit the funds and/or goods and/or services. (Only applicable to the written documentation.) Please remember that only items eligible for funding under this program can be counted.

Commitment letters, memoranda of understandings and/or agreements are not required at the time of application submission but must be on file. Applicants selected for award will be required to submit the signed commitment letters, memoranda of understandings and/or agreements outlined in the application, within twenty (20) calendar days after initial contact from the Office of University Partnerships (OUP). OUP will provide specific instructions on how these documents must be submitted at that time. Letters, memoranda of understanding, or agreements must be submitted on the provider's letterhead and should be addressed to Sherone Ivey, Acting Associate Deputy Assistant Secretary for University Partnerships. The date of the letter, memorandum of understanding, or agreement from the CEO of the provider organization must be dated no earlier than nine months prior to this published NOFA. OUP will provide specific instructions on how these documents must be submitted when contact is made with the applicant. HUD will only request and consider the resources/organizations outlined in the application. If OUP does not receive those documents in the required format and allotted timeframe, an applicant will not receive points under this factor and the application will be rated and ranked to address this point change.

In scoring this factor, HUD will award nine (9) points to an applicant that provides properly documented leveraging resources as listed in their application that are 10 percent or more of the amount requested under this program; six (6) points to applicants that provide properly documented leveraging resources as listed that are 7–9 percent of the amount requested under this program; three (3) points to applicants that provide properly documented leveraging resources as listed that are 4–6 percent of the amount requested under this program; and zero (0) points to applicants that provide properly documented leveraging resources as listed that are less than 4 percent of the amount requested or resources are not properly documented.

5. Rating Factor 5: Achieving Results and Program Evaluation (12 Points)

This factor reflects HUD's goal to embrace high standards of management and accountability. It measures the applicant's commitment to assess their performance to achieve the program's proposed objectives and goals. Applicants are required to develop an effective, quantifiable, outcome oriented evaluation plan for measuring performance and determining that objectives and goals have been achieved. The Logic Model is a summary of the narrative statements presented in Factors 1–4. Therefore, the information submitted on the logic model should be consistent with the information contained in the narrative statements.

''Outcomes'' are benefits accruing to institutions of higher education during or after participation in the TCUP program. Applicants must clearly identify the outcomes to be measured and achieved. Examples of outcomes include an increased number of campus facilities (*e.g.*, newly built or renovated), an increased number of classroom spaces available, or an increased student enrollment and graduation rate.

In addition, applicants must establish interim benchmarks and outputs that lead to the ultimate achievement of outcomes. ''Outputs'' are the direct

products of the project 's activities. Examples of outputs are the number of new facilities renovated, or the number of new dormitories built. Outputs should produce outcomes for the project. At a minimum, an applicant must address the following activities in the evaluation plan:

a. Short-and-long term objectives to be achieved;

b. Measurable impacts the grant will have on the university or the target population;

This information must be included under this section on a HUD–96010, Program Logic Model form. HUD has developed a new approach to completing this form. Please carefully read the General Section for instructions, training is available. (Form HUD–96010 will be excluded from the page count.) A narrative is not required. However, if a narrative is provided, those pages will be included in the page count.

B. Review and Selection Process

1. Application Selection Process

Two types of reviews will be conducted:

a. A threshold review to determine an applicant's basic eligibility; and

b. A technical review for all applications that pass the threshold review to rate and rank the application based on the ''Rating Factors'' listed in Section V.A. above.

Only those applications that pass the threshold review will receive a technical review and be rated and ranked.

2. *Rating Panels.* To review and rate applications, HUD may establish panels that may include experts or consultants not currently employed by HUD to obtain certain expertise.

3. *Ranking.* HUD will fund applications in rank order, until all available program funds are awarded. In order to be funded, an applicant must receive a minimum score of 75 points out of a possible 100 points to be considered for funding for Factors 1 through 5. The RC/EZ/EC–II bonus points described in the General Section do not apply to this NOFA. If two or more applications have the same number of points, the application with the most points for Factor 3 shall be selected. If there is still a tie, the application with the most points for Factor 1 shall be selected. If there is still a tie, the application with the most points for Factor 2, 4, and then 5 shall be selected in that order, until the tie is broken. HUD reserves the right to select out of rank order to provide for geographic distribution of grantees.

HUD also reserves the right to reduce the amount of funding requested in order to fund as many highly ranked applications as possible. Additionally, if funds remain after funding the highest ranked applications, HUD may fund part of the next highest-ranking application. If an applicant turns down the award offer, HUD will make an award to the next highest-ranking application. If funds remain after all selections have been made, the remaining funds will be carried over to the next funding cycle's competition.

4. *Corrections to Deficient Applications.* See the General Section.

C. Anticipated Announcement and Award Dates

Announcements of awards are anticipated on or before September 30, 2006.

VI. Award Administration Information

A. Award Notice

After all selections have been made, HUD will notify all winning applicants in writing. HUD may require winning applicants to participate in additional negotiations before receiving an official award. For further discussion on this matter, please refer to the General Section.

B. Administrative and National Policy Requirements

Refer to Section VI.B. of the General Section.

1. *Debriefing.* The General Section provides the procedures for requesting a debriefing. All requests for debriefings must be made in writing and submitted within thirty (30) calendar days of receipt of written notification to: Sherone Ivey, Office of University Partnerships, Robert C. Weaver Federal Building, 451 Seventh Street, SW., Room 8106; Washington, DC 20410–6000. Applicants may also write to Ms. Ivey via e-mail at *Sherone_E._Ivey@hud.gov.*

2. *Administrative.* Grants awarded under this NOFA will be governed by the provisions of 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations), A–21 (Cost Principles for Educational Institutions) and A–133 (Audits of States, Local Governments, and Non-Profit Organizations). Applicants can access the OMB circulars at the White House Web site at *http://www.whitehouse.gov/omb/circulars/index.html.*

3. *OMB Circulars and Governmentwide Regulations Applicable to Financial Assistance Programs.* The General Section provides discussion of OMB circulars and governmentwide regulations.

4. *Code of Conduct.* See the General Section for further discussion.

5. *Procurement of Recovered Materials.* See the General Section for further discussion.

6. *Executive Order 13202, Preservation of Open Competition and Government Neutrality Toward Government Contractors' Labor Relations of Federal and Federally Funded Construction Projects.* See the General Section for further discussion if applicable.

7. *Executive Order 13166, Improving Access to Services For Persons With Limited English Proficiency (LEP).* See the General Section for further discussion.

C. Reporting

All grant recipients under this NOFA are required to submit quarterly progress reports. The progress reports shall consist of two components, a narrative that must reflect the activities undertaken during the reporting period and a financial report that reflects costs incurred by budget line item, as well as a cumulative summary report during the reporting period.

For each reporting period, as part of the required report to HUD, grant recipients must include a completed Logic Model (HUD–96010), which identifies output and outcome achievements.

For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment (ROI) statement. HUD will be publishing a separate notice on the ROI concept.

VII. Agency Contacts

Applicants may contact Sherone Ivey at (202) 708–3061, extension 4200, or Susan Brunson at (202) 708–3061, extension 3852. Persons with speech or hearing impairments may call the Federal Information Relay Service TTY at (800) 877–8339. Except for the ''800'' number, these numbers are not toll-free. Applicants may also reach Ms. Ivey via e-mail at *Sherone_E._Ivey@hud.gov,* and Ms. Brunson at *Susan_S._Brunson@hud.gov.*

VIII. Other

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 2528–0215. 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 68 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application, quarterly and final report. 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.

Appendix A—Application Checklist—TCUP

This checklist identifies application submission requirements. Applicants are requested to use this checklist when preparing an application to ensure submission of all required elements. Applicants submitting an electronic application do not have to submit the checklist. Applicants that receive a waiver of the electronic application submission requirement should include a copy of the checklist in their application.

Check off to ensure these items have been included in the application:

____SF–424 ''Application For Federal Assistance''
____Application Checklist (Applicants that submit paper applications must include the checklist in their applications)
____Abstract (must include no more than a two-page summary of the proposed project)

Indicate the page number where each of the Factors is located:

Narrative Statement Addressing the Rating Factors.

The narrative section of an application must not exceed 50 pages in length (excluding forms, budget narrative and abstract). This information must be submitted on 8½ by 11-inch paper, double-spaced on one side of the paper, with one-inch margins (from the top, bottom, and left and right sides of the documents) and printed in standard Times New Roman 12-point font.

____Factor I
____Factor II
____Factor III
____Factor IV
____Factor V
____HUD–96010 Logic Model

Check off to ensure these items have been included in the application:

Appendix
____Budget
____HUD 424–CB ''Grant Application Detailed Budget''
____Budget Narrative (No form provided, but must be submitted for the total three-year grant period.

Appendix B—All Required Forms

The following forms are required for submission. All required forms are contained in the electronic application package.

____Application for Federal Assistance (SF–424);
____Survey on Ensuring Equal Opportunity for Applicants (SF–424 Supplement);
____Disclosure of Lobbying Activities (SF-LLL); if applicable
____Grant Application Detailed Budget (HUD–424–CB);
____America's Affordable Communities Initiative (HUD–27300), if applicable;
____Applicant/Recipient Disclosure/Update Report (HUD–2880);
____Acknowledgement of Applicant Receipt (Only applicants who submit paper applications (HUD–2993);
____Client Comments and Suggestions (HUD–2994);
____You Are Our Client Survey (HUD–2994–A); and
____Logic Model (HUD–96010).

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

FAIR HOUSING INITIATIVES PROGRAM (FHIP)

Fair Housing- Private Enforcement Initiative (PEI)

Fair Housing Education and Outreach Initiative (EOI)

Billing Code 4210-01-C

BILLING CODE 4210–01–C

Fair Housing Initiatives Program

Overview Information:

A. *Federal Agency Name:* Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity.

B. *Funding Opportunity Title:* Fair Housing Initiatives Program (FHIP).

C. *Announcement Type:* Initial Announcement.

D. *Funding Opportunity Number:* The OMB Approval Number is: 2529–0033. The **Federal Register** number for this NOFA is: FR–5030–N–15.

E. *Catalog of Federal Domestic Assistance (CFDA) Number(s):* Private Enforcement Initiative (PEI); Education and Outreach Initiative (EOI) 14.408.

F. *Dates:* The application deadline date shall be on or before May 17, 2006. Applications must be received and validated by Grants.gov no later than 11:59:59 p.m. on the application deadline date. Please see the General Section of the SuperNOFA (the General Section) for information on electronic deadline and timeliness requirements.

G. *Optional, Additional Overview Content Information*

1. Funding Breakdown

This year there are two initiatives, Private Enforcement and Education and Outreach Initiatives, and there are four components under each: The following is a breakdown of each Initiative:

(a) Private Enforcement Initiative (PEI)

(1) Hurricane Katrina Enforcement Component,

(2) General Component,

(3) Performance Based Funding Component, and

(4) Subprime Lending Component.

(b) Education and Outreach Initiative (EOI)

(1) General Component.

(2) Disability Component.

(3) Subprime Lending Component.

(4) Fair Housing Awareness Component.

Please note that there are some new components this year. These are the PEI Enforcement and Subprime Lending Components and the EOI Fair Housing Awareness and Subprime Lending Components. Please see the chart located in this NOFA for information on each of these new components.

2. Electronic Applications

For FY 2006, FHIP electronic applications will be available on *www.Grants.gov/Find* and *http://www.grants.gov/Apply*. For further instructions on electronic application submission requirements using Grants.gov, please read the General Section.

3. Fair Housing Initiatives Program (FHIP) Funding

FHIP funds are used to increase compliance with the Fair Housing Act (the Act) and with substantially equivalent State and local fair housing laws. Approximately $18,100,000 in FY 2006 funds and any potential recapture is allocated to two (2) initiatives as follows:

a. Private Enforcement Initiative (PEI) $13,900,000.

b. Education and Outreach Initiative (EOI) $4,200,000.

4. Award Agreements

HUD expects to award a cost reimbursable cooperative agreement or grant agreement to each applicant selected for award. Upon completion of negotiations, HUD reserves the right to use the funding instrument it determines is most appropriate.

5. Eligible Applicants

Eligible applicants are Qualified Fair Housing Enforcement Organizations (QFHOs) and Fair Housing Enforcement Organizations (FHOs), see 24 CFR 125.103; public or private, for-profit or not-for-profit organizations or institutions and other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices (including entities that will be established as a result of receiving an award under this FHIP NOFA); agencies of State or local governments; and agencies that participate in the Fair Housing Assistance Program (FHAP).

6. Private Enforcement Initiative—Performance Based Funding Component

Applicants awarded funding under the PEI—(PBFC) for FY 2006 will not be eligible to submit applications for additional FHIP funding for FY 2007 and FY 2008. Applicants awarded funding under this component will be eligible to apply for funding in FY 2009. Applicants awarded PBFC funding in FY 2005 are not eligible to submit applications for additional FHIP funding for FY 2006 and FY 2007.

7. Start Date

For planning purposes, assume a start date no later than October 19, 2006.

Full Text of Announcement

I. Funding Opportunity Description

Authority. Section 561 of the Housing and Community Development Act of 1987, as amended (42 U.S.C. 3616), established the FHIP. The implementing regulations are found at 24 CFR part 125. If you are interested in applying for funding under the FHIP, please review carefully the General Section of the SuperNOFA (hereafter, the General Section), the FHIP Authorizing Statute (Sec. 561 of the Housing and Community Development Act of 1987, as amended), and the FHIP Regulations (24 CFR 125.103–501).

A. FHIP Initiatives and Components

The FHIP assists fair housing activities that increase compliance with the Act and with substantially equivalent fair housing laws administered by State and local government agencies under the Fair Housing Assistance Program (FHAP).

1. Private Enforcement Initiative (PEI)

This Initiative assists private, tax-exempt fair housing enforcement organizations in the investigation and enforcement of alleged violations of the Act and substantially equivalent State and local fair housing laws. Under this Initiative, there are four Components, the General Component, the Subprime Lending Component, the Hurricane Katrina Enforcement Component, and the Performance Based Funding Component.

2. Education and Outreach Initiative (EOI)

This Initiative assists organizations that inform the public about their rights and obligations under the Act and substantially equivalent State and local fair housing laws. Applications are solicited for this Initiative under the EOI-Regional/Local/Community-Based Program (R/L/C–B)—in which activities are conducted on a regional/local/community-based level.

Applicants who apply under EOI R/L/C–B may apply under one or more of the following Components, as follows: EOI General Component, EOI Disability Component. EOI Subprime Lending Component, and EOI Fair Housing Awareness Component.

All applications submitted under EOI are required to describe a complaint referral process that results in referrals of fair housing complaints to HUD or Fair Housing Assistance Program (FHAP) substantially equivalent agencies. If funded, you will be required to develop your complaint referral process.

B. Other

1. Program Definitions. The definitions that apply to this FHIP section of the NOFA are as follows:

a. *Broad-based proposals* are those that include activities that are not limited to a single fair housing issue but instead, cover multiple issues related to

housing discrimination covered under the Act, such as: rental, sales, and financing of housing. (See also Full Service Projects below).

b. *Complainant* means the person, including the Assistant Secretary for Fair Housing and Equal Opportunity at HUD, who files a complaint under Section 810 of the Fair Housing Act.

c. *Disability Advocacy Groups* means organizations that traditionally have provided for the civil rights of persons with disabilities. This would include organizations such as Independent Living Centers and cross-disability legal services groups. Such organizations must be experienced in providing services to persons with a broad range of disabilities, including physical, cognitive, and psychiatric/mental disabilities. Such organizations must demonstrate actual involvement of persons with disabilities throughout their activities, including on staff and board levels.

d. *Enforcement proposals* are potential complaints under the Act that are timely, jurisdictional, and well-developed, that could reasonably be expected to become enforcement actions if an impartial investigation found evidence supporting the allegations and the case proceeded to a resolution with HUD or FHAP agency involvement.

e. *Fair Housing Act* means Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3600–3620).

f. *Fair Housing Assistance Program (FHAP) agencies* mean State and local fair housing enforcement government agencies that receive FHAP funds because they administer laws deemed substantially equivalent to the Act, as described in 24 CFR 115.

g. *Fair Housing Enforcement Organization (FHO)* means an organization engaged in fair housing activities as defined in 24 CFR 125.103.

h. *Full-service projects* must include the following enforcement-related activities in the project application: Interviewing potential victims of discrimination; analyzing housing-related issues; taking complaints; testing; evaluating testing results; conducting preliminary investigations; conducting mediation; enforcing meritorious claims through litigation or referral to administrative enforcement agencies; and disseminating information about fair housing laws.

i. *Grassroots organizations* (See General Section).

j. *Jurisdiction* means that the complaint must be timely filed; the complainant must have standing; the respondent and the dwelling involved (where the complaint involves a provision or denial of a dwelling) must be covered by the Act; and the subject matter and the basis of the alleged discrimination, must constitute illegal practices as defined by the Act.

k. *Meritorious claims* means enforcement activities by an organization that resulted in lawsuits, consent decrees, legal settlements, HUD or substantially equivalent agency (under 25 CFR 115.6) conciliations and organization initiated settlements with the outcome of monetary awards for compensatory and/or punitive damages to plaintiffs or complaining parties, or other affirmative relief, including the provision of housing (24 CFR 125.103).

l. *Mortgages with unacceptable terms or conditions or resulting from unacceptable practices means* a mortgage or a group or category of mortgages with one or more of the terms and conditions as specified under 24 CFR part 81.2.

m. *Operating budget* means an organization's total planned budget expenditures from all sources, including the value of in-kind and monetary contributions, in the period for which funding is requested.

n. *Qualified Fair Housing Enforcement Organization (QFHO)* means an organization engaged in fair housing activities as defined in 24 CFR 125.103.

o. *Regional/Local/Community-Based Activities* are defined at 24 CFR 125.301(a) and (d).

p. *Rural Areas* means the following:

(1) A non-urban place having fewer than 2,500 inhabitants (within or outside of the metropolitan areas).

(2) A county or parish with an urban population of 20,000 inhabitants or less.

(3) Territory, including its persons and housing units, in rural portions of ''extended cities.'' The Census Bureau identifies the rural portions of extended cities.

(4) Open country that is not part of or associated with an urban area. The USDA describes ''open country'' as a site separated by open space from any adjacent densely populated urban area. Open space includes undeveloped land, agricultural land, or sparsely settled areas, but does not include physical barriers (such as rivers and canals), public parks, commercial and industrial developments, small areas reserved for recreational purposes, or open space set aside for future development.

(5) Any place with a population not in excess of 20,000 and not located in a Metropolitan Statistical Area.

q. *Traditional Civil Rights Organizations* mean non-profit organizations or institutions and/or private entities with a history and primary mission of securing Federal civil rights protection for groups and individuals protected under the Act or substantially equivalent State or local laws and that are engaged in programs to reduce discriminatory housing practices.

r. *Underserved Areas* mean jurisdictions where there are no Fair Housing Initiatives Program or Fair Housing Assistance Program agencies and where either no public or private fair housing enforcement organizations exist or the jurisdiction is not sufficiently served by one or more public or private enforcement fair housing organizations and there is a need for service.

s. *Underserved Populations* mean groups of individuals who fall within one or more of the categories protected under the Act or who are also:

(1) Of an immigrant population (especially racial and ethnic minorities who are not English-speaking or limited English proficient);

(2) In rural populations,

(3) The homeless,

(4) Persons with disabilities who can be historically documented to have been subject to discriminatory practices not having been the focus of Federal, State or local fair housing enforcement efforts, and

(5) Areas that are heavily impacted with minorities and there is inadequate protection and ability to provide service from the State or local government or private fair housing organizations.

II. Award Information

For Fiscal Year 2006, $20,000,000 is appropriated for the Fair Housing Initiatives Program (FHIP). This appropriated amount may be supplemented by recaptured funds. Of this amount, approximately $18,100,000 is being made available on a competitive basis to eligible organizations responding to this FHIP NOFA. See chart for a breakdown by Initiative/Component.

A. Award Instrument

The type of funding instrument HUD may offer a successful applicant which sets forth the relationship between HUD and the grantee will be a grant or cooperative agreement, where the principal purpose is the transfer of funds, property, services, or anything of value to the applicant to accomplish a public purpose. The agreement will identify the eligible activities to be undertaken, financial controls, and special conditions, including sanctions for violations of the agreement. HUD will determine the type of instrument

under which the award will be made and monitor progress to ensure that the grantee has achieved the objectives set out in the agreement. Failure to meet such objectives may be the basis for HUD determining the agreement to be in default and exercising available sanctions, including suspension, termination, and/or the recapture of funds. Also, HUD may refer violations or suspected violations to enforcement offices within HUD, the Department of Justice, or other enforcement authorities.

If awarded as a Cooperative Agreement, HUD will also exercise the right to have substantial involvement by: Conducting quarterly reviews and approval of all proposed deliverables documented in the applicant's Work Plan or Statement of Work (SOW), and determining whether the agency meets all certification and assurance requirements. HUD will conduct this performance assessment, in part, by using the Logic Model submitted by the applicant and approved by HUD in the award agreement (rating Factor 5). If upon completion of this assessment by the Government Technical Representative (GTR) a determination is made that the quarterly requirements have not been met, the grantee will be obligated to provide additional information or make modifications to its work plan and activities, as necessary, in a timeframe to be established by the GTR.

B. Project Starting Period

For planning purposes, assume a start date no later than October 19, 2006.

III. Eligibility Information

A. Eligible Applicants and Activities

The following chart details each FHIP Initiative/Component and the approximate Funding Available along with Eligible Applicants and Activities:

Initiative/Component	Allocation amount available	Applicant eligibility	Project period	Award caps	Applicant eligible activities
Private Enforcement Initiative (PEI) General Component: Assists private, tax-exempt fair housing enforcement organizations in the investigation and enforcement of alleged violations of the Fair Housing Act and substantially equivalent State and local fair housing laws.	*$5,100,000*	Fair Housing Enforcement Organizations (FHOs) with at least one year of experience in complaint intake, complaint investigation, testing for fair housing violations, and meritorious claims in the two years prior to the filing of the application (24 CFR 125.401(b)(2) and Qualified Fair Housing Enforcement Organizations (QFHOs) with at least two years of enforcement related experience as noted above, and meritorious claims in the three years prior to filing this application (24 CFR 125.103).	*12–18 months*	*$275,000*	Eligible activities include: (1) Complaint intake of allegations of housing discrimination, testing evaluating testing results, or providing other investigative and complaint support for administrative and judicial enforcement of fair housing laws: (2) Investigation of individual complaints and systemic housing discrimination for further enforcement processing by HUD through testing and other investigative methods; (3) Mediation or other voluntary resolution of allegations of fair housing discrimination after a complaint has been filed; and (4) litigating fair housing cases including procuring expert witnesses.
Private Enforcement Initiative (PEI) Performance Based Funding Component Assists private, tax-exempt fair housing enforcement organizations in the investigation and enforcement of alleged violations of the Fair Housing Act and substantially equivalent State and local fair housing laws.	*$8,100,000*	QFHOs and FHOs (with at least one year of enforcement related experience) who have received excellent performance reviews for FHIP PEI awards made in any two FY's beginning with FY 2002 through FY 2004; and have received a minimum score of 95 on the most recent of the 2 performance reviews from their Government Technical Representative.	36 months	$275,000 per year for a three-year duration, based upon appropriations. Eligible PBFC applicants must receive a minimum score of 95 from the FY '06 Technical Evaluation Panel (TEP) to be considered for funding.	See PEI above.

Initiative/Component	Allocation amount available	Applicant eligibility	Project period	Award caps	Applicant eligible activities
Private Enforcement Initiative Hurricane Katrina Enforcement Component. Applicants must undertake fair housing enforcement activities in one of the Hurricane Katrina impacted areas in the states of Louisiana, Mississippi, Alabama, or Texas, or as a result of displacement of persons from areas impacted by Hurricane Katrina.	*$300,000*	See PEI above	12–18 months	$100,000	See PEI above.
Private Enforcement Initiative (PEI) Subprime Lending Component. This component provides funds to assist, private fair-lending enforcement efforts to address discriminatory terms or conditions or resulting from discriminatory practices in the subprime mortgage market. Applicant must demonstrate experience conducting fair-lending enforcement in the subprime market. Such experience includes: pending complaints, investigations, or litigation alleging discriminatory, subprime lending practices; past litigation alleging subprime lending discrimination; fair-lending testing of subprime lenders; published reports that include analysis the applicant has done on racial patterns in subprime lending; and any past or pending investigation or litigation involving discriminatory, predatory lending. Applicant may use this funding for: steering to subprime loans, providing different terms based on prohibited bases, as well as assist with pending complaints, investigation, or litigation alleging discriminatory subprime or predatory lending; or support new fair lending investigations or litigation of discrimination into discriminatory predatory lending, or other discrimination in the subprime market.	*$400,000*	See PEI above	12–18 months	$50,000	See PEI above.

Initiative/Component	Allocation amount available	Applicant eligibility	Project period	Award caps	Applicant eligible activities
Education and Outreach Initiative (EOI)—. EOI Regional, Local and Community Based Program: Assists organizations that inform the public about rights and obligations under the Fair Housing Act and substantially equivalent State and local fair housing laws. Applicants must develop a complaint referral process so that funded activities will result in referrals to HUD of fair housing complaints and other possible discriminatory housing practices.	*$4,200,000*	QFHOs FHOs, public or private for profit or not for profit organizations or institutions, or other public or private entities that carry out programs to prevent or eliminate discriminatory housing practices. This includes agencies of State or local governments and agencies that participate in the Fair Housing Assistance Program (FHAP). See FHIP NOFA-Eligibility Information.	12–18 months	$100,000	Eligible activities include but are not limited to conducting educational symposia or other training, developing innovative fair housing activities or materials into languages applicable to your community throughout your project area; providing outreach and information on fair housing through printed and electronic media; developing fair housing curricula; providing outreach to persons with disabilities and their support organizations and service housing providers; and working with homeless activists or persons.
EOI General Component Open to applicants for all other fair housing education and outreach activities.	*$2,700,000*	Same as EOI above	12–18 months	$100,000	For a list of Eligible Activities See EOI above.
EOI Disability Component *Applicants must* emphasize the fair housing needs of persons with disabilities, so that persons with disabilities, housing providers and the general public better understand the rights and obligations under the Fair Housing Act and fully appreciate housing discrimination that persons with disabilities may encounter. The funded education and outreach activities must be provided to all persons protected under the Fair Housing Act.	*$900,000*	Same as EOI above	12–18 months	$100,000	See above.

Initiative/Component	Allocation amount available	Applicant eligibility	Project period	Award caps	Applicant eligible activities
EOI Subprime Lending Component Applicants must plan public events at a regional/local level which educates consumers on fair housing, financial literacy, credit management and how to avoid high-cost loans and abusive lending practices that violate the Fair Housing Act. Applicants must address in their project: (1) abusive lending practices and the fair housing implications to minority neighborhoods; and (2) legal approaches to confronting abusive lending practices, especially those linked to racial targeting and other potential violations of applicable fair housing laws.	*$300,000*	Same as EOI above. Applicants must have at least three years experience in planning public conferences at the community level.	12–18 months	$50,000	See above.
EOI Fair Housing Awareness Component Applicants must undertake fair housing education and outreach to individuals impacted by Hurricane Katrina Applicants must develop a methodology for educating persons about their fair housing rights under the Act in areas impacted by Hurricane Katrina in the states of Louisiana, Mississippi, Alabama, and Texas or as a result of displacement of persons.	*$300,000*	Same as EOI above	12–18 months	$100,000	See above.

Eligibility of Successor Organizations for PEI. HUD recognizes that QFHOs and FHOs may merge with each other or other organizations. The merger of a QFHO or an FHO with a new organization, that has a separate Employer Identification Number (EIN), does not confer QFHO or FHO status upon the successor. To determine whether the successor organization meets the eligibility requirements for this Initiative, HUD will look at the enforcement-related experience of the successor organization (based upon the successor organization's EIN). The successor organization is not eligible to apply under this Initiative unless it establishes in its application that it is a private, tax-exempt organization with the requisite two years of enforcement related experience for a QFHO or one year experience for an FHO.

Administrative Costs

Eligible administrative costs include leases for office space, under the following conditions:

(1) The lease must be for existing facilities not requiring rehabilitation or construction;

(2) No repairs or renovations of the property may be undertaken with Federal funds; and

(3) Properties in the Coastal Barrier Resource System designated under the Coastal Barrier Resources Act (16 U.S.C. 3501) cannot be leased with Federal funds.

B. Cost Sharing or Matching. No matching funds are required for the Education and Outreach or Private Enforcement Initiatives.

C. Other

1. Threshold Requirements

Program Requirements for All Initiatives. In addition to the civil rights and other threshold requirements found in the General Section, FHIP program applications must also meet the following requirements:

a. *Protected Classes.* All FHIP-funded projects must address housing discrimination based upon race, color, religion, sex, disability, familial status, or national origin. All services and activities must be available to the protected class members.

b. *Tax Exempt Status.* Applicants for the PEI Initiative are ineligible for funding if they are not a 501(c)(3) tax-exempt organization as determined by the Internal Revenue Service (IRS) prior to the application deadline date.

c. *Name Check Review.* See the General Section.

d. *Poor Performance.* All applicants are ineligible for funding if they are a previous FHIP grantee that has received a ''Poor'' performance rating for its most recent performance rating from its Government Technical Representative (GTR). HUD will assess performance ratings for applicants who have received FHIP funding in FY 2002 through FY 2004. If the applicant has received a ''poor'' performance rating for its most recent performance rating from its GTR, its application is ineligible for the FY 2006 competition. An applicant that does not agree with its determination of ineligibility for the FY 2006 competition because of ''poor'' performance must address to HUD's satisfaction the factors resulting in the ''poor'' performance rating before the FHIP application deadline date. If the ''poor'' performance rating is not resolved to the Department's satisfaction before the application deadline date, the application is ineligible for the FY 2006 FHIP NOFA competition. HUD is interested in improving the performance level of all grantees; therefore, applicants who are deemed ineligible because of a ''poor'' performance rating have the right and are encouraged to seek technical assistance from HUD to correct their performance in order to be eligible for future NOFA competition. Applicants who have received a ''poor'' performance prior to FY 2003 must provide written documentation that they have implemented remedies to address those issues and concerns that contributed to a ''poor'' performance rating. This written documentation should be an addendum to the abstract.

e. *Suits Against the United States.* An application is ineligible for funding if, as a current or past recipient of FHIP funds, the organization used any funds provided by HUD for the payment of expenses in connection with litigation against the United States (24 CFR 125.104(f)).

f. *Other Litigation.* An application is ineligible for funding if the organization used funds provided by HUD under this Program to settle a claim, satisfy a judgment, or fulfill a court order in any defensive litigation (24 CFR 125.104).

g. *Maximum award.* Applicants are ineligible for funding if they request funding in excess of the maximum allowed under the Initiative or Component for which they are applying. In addition, inconsistencies in the amount requested and/or miscalculations that result in amounts over the maximum award will be considered excessive; therefore the application will be considered ineligible.

h. *Dun and Bradstreet Numbering System (DUNS) Numbering Requirement.* Refer to General Section for information regarding the DUNS requirement. You will need a DUNS number to complete your electronic application as it is a mandatory field on the electronic application. The Grants.gov registration also requires use of the DUNS number.

i. *Majority of Eligible Activities.* Greater than 50 percent of the activities and costs within the Statement of Work (SOW) and budget are fair housing related activities.

j. *Fair Housing Assistance Program (FHAP).* FHAP agencies who are under a suspension based on agency performance, as designated under 24 CFR Part 115.211(b) at time of application are ineligible for funding.

k. *Minimum TEP Score.* Applicants must receive a minimum TEP score of 75 to be considered for funding.

l. *Application Preference.* Applicants submitting multiple applications must state their preference for funding in the Abstract as applicants can only receive one award under the FHIP.

m. *Independence of Awards.* The application submitted must be independent and capable of being implemented without reliance on the selection of other applications.

n. *Training funds.* The proposed budget must set aside funds to participate in HUD mandatory sponsored or approved training in the amount of $7,000 for EOI and PEI components; and $7000 annually for a 36-month duration for PBFC.

Do not include amounts over the $7,000 (as appropriate) for the training set-aside in this category. If applicants do not include these funds in the budget and are selected for an award, HUD will modify the budget, reallocating the appropriate amount for training.

o. *Accessibility Requirements.* All activities, facilities, and materials funded by this program must be accessible and visitable to persons with disabilities (24 CFR 8.2, 8.4, 8.6, and 8.54).

p. *Fair Housing Act.* HUD expects applicants to address housing discrimination covered under the Act. HUD has determined there is a need to ensure equal opportunity and access to housing in communities across the nation.

q. *Research Activities.* Applicants are ineligible for funding if between 90–100% of their project is aimed at research.

r. *Limited English Proficient (LEP).* Applicants obtaining an award from HUD must provide access to program benefits and information to LEP individuals through translation and interpretive services in accordance with HUD's published LEP Guidance.

s. *OMB Circular.* For-profit awardees are not allowed to earn a profit and must adhere to OMB Circular A–133.

t. *Single Audit Requirement.* All applicants who have expended $500,000 or more in Federal financial assistance in a single year (this can be a program or fiscal year) must be audited in accordance with the OMB–A133 requirements as established in 24 CFR 84 and 85.

u. *Reimbursement Requirement.* All PEI grantees are required to reimburse the Federal government for the amount of the grant from all settlements, conciliations, and agreements obtained as a result of the use of FHIP funds. As an alternative to returning these funds to HUD, grantees may choose to use the funds as program income to further fair housing activities. However, the use of funds for this purpose must be pre-approved in writing by the Government Technical Representative assigned to the grant.

2. Other Program Requirements by Initiative

a. Under the PBFC, applicants must receive a minimum FY 2006 TEP score of 95 to be considered for funding.

b. Under the PEI Subprime Lending Component, applicants must demonstrate experience conducting fair-lending enforcement in the subprime market. Such experience includes: pending complaints, investigations, or litigation alleging discriminatory, subprime lending practices; past litigation alleging subprime lending discrimination; fair-lending testing of subprime lenders; published reports that include analysis the applicant has done on racial and ethnic patterns in subprime lending; and any past or pending investigation or litigation involving discriminatory, predatory lending. Applicant may use this funding to: assist with pending complaints, investigation, or litigation alleging discriminatory sub-prime or predatory lending; or support new fair lending investigations or litigation of discriminatory predatory lending, or other discrimination in the subprime market.

c. Under the PEI Hurricane Katrina Enforcement Component, applicants must undertake fair housing enforcement activities in areas impacted by Hurricane Katrina in the states of Louisiana, Mississippi, Alabama, or Texas; or areas which received

displaced persons as a result of Hurricane Katrina.

d. Under the EOI Fair Housing Awareness Component, applicants must have three (3) years of experience and knowledge working with the local and State governments, social service and financial agencies within each of the states. HUD is particularly interested in applicants that present a plan to conduct outreach and address the needs of persons displaced as a result of Hurricane Katrina. The EOI plan can cover persons displaced within a state or persons that were displaced to a state.

e. Under the EOI Subprime Lending Component, applicants must have at least three years experience in planning public conferences at the community level.

3. Performance Measures and Products. *For all Initiatives and Components.* Applicants must submit a Logic Model (Form HUD 96010), which provides outputs and outcomes in their application. Applicants are also to identify the tools they will use to identify program progress against their proposed outputs and outcomes. See reporting requirements for reporting using the Logic Model and the frequency of the reporting. The form is located in the Instruction Download at *http://www.Grants.gov/Apply* for the FHIP program. The eLogic Model form is a Microsoft Excel ™ form, which provides a drop down list from which you select the responses that best fit your proposed program of activities/outputs and outcomes. The form, in HTML fillable format and a text Logic Model Master file, is available on HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm* for applicants that do not have access to Microsoft Excel ™. Training will be provided by satellite broadcast and webcast. The training materials and schedule will be available at the above HUD website. Applicants should check the site for dates and times for HUD training on the Logic Model.

For FY 2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment statement. HUD will be publishing a separate notice on the ROI concept.

4. Testing Requirements for PEI applicants. All applicants that propose testing must review the FHIP Regulation at 24 CFR Part 125.

a. *Review and Approval of Testing Methodology.* If your application proposes testing, other than rental housing testing, HUD may require copies of the following documents to be reviewed and approved by HUD prior to your carrying out the testing activities.

(1) The testing methodology to be used;

(2) The training materials to be provided for testing; and

(3) Other forms, protocols, cover letters, etc., used in the conduct of testing and reporting of results.

If HUD has approved your testing methodology for FY 2004 and FY 2005, there is no need to submit your testing methodology, unless you are revising the methodology that was approved by HUD. If changes are being made, or you have not had your testing methodology previously approved by HUD, you must submit information in your application.

b. *Retainer Fees.* FHIP recipients are under specific restrictions regarding establishment of retainer agreements and recovery of legal fees from HUD funded cases. Data on fees, settlements and verdicts are public record and must be provided to HUD on an annual basis. Either the grantee or the individual(s) on whose behalf any action is filed cannot waive these provisions. For additional information on these provisions, please see *http://www.hud.gov/offices/fheo/library/index.cfm—Guidance.*

IV. Application and Submission Information

A. *Requesting an Application Package.* This section describes how you may obtain application forms and additional information about the FHIP program. Copies of the published General Section, FHIP NOFA and application forms may be downloaded from the Grants.gov Web site at *http://www.grants.gov* or if you have difficulty accessing the information you may receive customer support from Grants.gov by calling their help line at (800) 518–GRANTS or sending an e-mail to *support@grants.gov.* If you do not have internet access and you need to obtain a copy of the NOFA you can contact HUD's NOFA Information Center toll-free at (800) HUD–8929. Persons with hearing or speech impairments may also call toll-free at (800) HUD–2209.

B. *Content and Form of Application Submission.* All applicants must read and adhere to Initiative-specific information. Applicants are encouraged to review the chart entitled ''Summary of Initiatives/Components.'' To submit documents using the facsimile method, see the General Section for specific procedures governing facsimile submission.

2. *For All Applicants.* The maximum narrative page requirement is ten (10) pages per factor. The narrative pages must be double-spaced. This includes all narrative text, titles and headings. (However, you may single space footnotes, quotations, references, captions, charts, forms, tables, figures and graphs). You are required to use 12-point type size. You must respond fully to each factor to obtain maximum points. Failure to provide narrative responses to all factors other than factor five or omitting requested information will result in less than the maximum points available for the given rating factor or sub-factor. Failure to provide double-spaced, 12-point type size narrative responses will result in five points being deducted from your overall score (one point per factor).

C. *Submission Dates and Times.* Applications must be received and validated by *http://www.grants.gov* no later than 11:59.59 p.m. eastern time on the application deadline date to be considered timely filed. Grants.gov will reject applications that do not meet the deadline requirement. See the General Section for further details.

The chart below gives a brief description of all items to be included within the application:

Complete application package contains *application*	Required content	Required form or format
Cover sheet	(per required form)	Form SF–424, available from (General Section).
Survey for Ensuring Equal Opportunity for Applicants.	(per required form)	SF–424 Supplement.
Budget information	(per required form)	Form SF–424CB and SF–424CBW).
Disclosure of Lobbying Activities	(per required form)	SF–LLL, if applicable.
Applicant-Recipient Disclosure Update Report	(per required form)	HUD–2880.
Certification of Consistency with RC/EZ/EC–IIs Strategic Plan.	(per required form)	HUD–2990.
Program Outcome Logic Model	(per required form)	HUD–96010.

Complete application package contains *application*	Required content	Required form or format
Race and Ethnic Data Reporting Form	(per required form)	HUD–27061.
America's Affordable Communities Initiative	(per required form)	HUD–27300.
Narrative	Described in Section IV.B. of this announcement.	Format described in Section IV.B of this announcement.
Letters from third parties contributing to cost sharing.	Third parties' affirmations of amounts of their commitments.	No specific form or format.
Addendum to Abstract—Correction of Poor Performance (as appropriate).	Written documentation that performance issues and concerns have been cured.	No specific form or format.
Project Abstract	Short summary of project activities, areas of concentration and persons to be served. Preference for funding.	No specific form or format.

D. *Intergovernmental Review.* Intergovernmental Review is not applicable to this program.

E. *Funding Restrictions. PEI Limitations for Education & Outreach*—There is a 10% limit on the amount of education and outreach related activities that can be funded in an enforcement award. If you exceed the limit, points will be deducted in the rating process and funds will be adjusted to maintain the required limitation.

F. *Other Submission Requirements.* Electronic delivery via *http://www.grants.gov/Apply* is HUD's required method for application submission. Applicants interested in applying for FHIP funding must submit their applications electronically or request a waiver from the Assistant Secretary of FHEO. The request must state the basis for the waiver request. HUD's regulation on waivers, found in 24 CFR part 5, states that waivers can be granted for cause. Waiver requests must be submitted at least 20 days prior to the application deadline date. If you receive a waiver of the electronic application submission requirement, your application must be received by HUD no later than 11:59:59 p.m. on the application deadline date. See the General Section for detailed instructions on how to submit applications using Grants.gov and the requirements and instructions for submitting a waiver request.

V. Application Review Information

A. Criteria for PEI and EOI Applications

1. Rating Factor 1: Capacity of Applicant and Relevant Organizational Experience (25 Points)

You must describe staff expertise and your organization's ability to complete the proposed activities within the grant period.

In General. You must describe your staffing plan and the extent to which you plan to add staff (employees) or contractors. If your application proposes using subcontractors and these subcontractor activities amount to more than 10 percent of your total activities, you must submit a separate budget for each subcontractor. Failure to include a separate budget will result in lower points being assessed to your application.

a. *Number and expertise of staff (this includes subcontractors and consultants). (5) Points for current FHIP grantees; (10) Points for New Applicants.* You must complete a summary of staff expertise that will show sufficient, qualified staff who will be available to complete the proposed activities. This summary should include: Names of staff person(s), time each will spend on project, years of fair housing/civil rights experience for each person, titles of staff persons, and a brief paragraph on each staff member which outlines his or her experience. Do not include résumés, or other documents. Those that submit resumes or other lengthy documents on staff experience will have points deducted from their application based on exceeding the ten page submission requirement.

To receive maximum points, your day-to-day program manager must devote a minimum of 75% of his/her time to the project, and this individual must be stationed in the metropolitan area where the project will be carried out. For day-to-day managers who do not have at least 75% of their time devoted to the project, no points will be awarded under this sub-factor. For example, if the Executive Director is responsible for managing the overall program administrative activities, the application should reflect the Executive Director's time as 75%. You may not designate more than one person to fit this 75% criterion. Your application must also clearly identify those persons that are on staff at the time this application is submitted and those persons who will be assigned at a later date and indicate whether the staff person is assigned to work full-time or part-time (if part-time, indicate the percentage of time each person is assigned to the project).

b. *Organizational experience. (10) Points for current FHIP grantees; (15) Points for new applicants.* In responding to this sub-factor, you, the applicant, must show that your organization has:

(1) Conducted a past project or projects similar in scope and complexity to the project proposed in this application (whether FHIP-funded or not), or

(2) Engaged in activities that, although not similar, are readily transferable to the proposed project.

(3) If you are an existing FHIP grantee, you must provide details about the progress and outcomes of your previous grant.

(4) You must provide a listing of all affiliate and/or subsidiary organizations, and identify which of these organizations will assist you in the development and/or implementation of any portion of your proposed FY2006 FHIP funded project. If you do not have any affiliate or subsidiaries, you should state this in your application.

EOI applicants must show that they have engaged in projects that are Regional/Local/Community based. Experience will be judged in terms of recent, relevant and successful experience of your staff to undertake eligible activities. In rating this factor, HUD will consider experience within the last three years to be recent, experience pertaining to the specific activities to be relevant, and experience producing measurable accomplishments to be successful. The more recent the experience and the more experience your own staff members who work on the project have in successfully conducting and completing similar activities, the greater the number of points you will receive for this rating factor.

(a) If you are applying for funding under PEI, you must provide the following information when responding to this sub-factor:

(i) If you propose to conduct testing (other than rental or accessibility

testing), provide a brief narrative that documents that you have conducted successful testing in those areas.

(ii) Discuss your compliance with the requirement to either reimburse the Federal government for compensation received from FHIP-funded enforcement activities or use the compensation as program income to further fair housing activities. If you have not reimbursed the Federal government or used the funds as program income to further fair housing activities, explain why you have not. Also, state whether you reported to HUD any likely compensation that may result in such reimbursement or use for furthering fair housing. Two (2) points will be deducted for this sub-factor if you have not complied with the requirement.

(iii) If you are submitting an application under the PEI Hurricane Katrina Enforcement Component, you must show that activities will be undertaken in one of the areas impacted by Hurricane Katrina in the states of Louisiana, Alabama, Mississippi, or Texas or in areas impacted by the displacement of persons as a result of Hurricane Katrina.

(iv) If you are submitting an application under the PEI Subprime Lending Component, you must demonstrate experience in conducting fair-lending enforcement in the subprime market. Such experience includes: pending complaints, investigations, or litigation alleging discriminatory, subprime lending practices; past litigation alleging subprime lending discrimination; fair-lending testing of subprime lenders; published reports that include analysis the applicant has done on racial patterns in subprime lending; and any past or pending investigation or litigation involving discriminatory, predatory lending. Applicant may use this funding for: steering to subprime loans, providing different terms based on prohibited bases, as well as assist with pending complaints, investigation, or litigation alleging discriminatory subprime or predatory lending; or support new fair lending investigations or litigation of discriminatory predatory lending, or other discrimination in the subprime market.

(v) If you are submitting an application under the EOI Subprime Lending Component, you must show that you have the ability to plan public events at a regional/local level which educates consumers on fair housing, financial literacy, credit management and how to avoid high-cost loans and abusive lending practices that violate the Fair Housing Act. Applicants must address in their project: (1) abusive lending practices and the fair housing implications to minority neighborhoods; and (2) legal approaches to confronting abusive lending practices, especially those linked to racial targeting and other potential violations of applicable fair housing laws. In responding to this sub-factor, the applicant must describe the extent to which its and/or subcontractor's past activities have resulted in public events that have reached and impacted a large number of persons. Applicant must also show that it has experience in developing and implementing innovative strategies resulting in positive public response.

c. *Performance on past project(s). (10) Points for current FHIP grantees; (0) Points for new applicants.* HUD will assess your organization's past performance in conducting activities relevant to your application. For current FHIPs, past performance will be assessed based on your most recent performance assessment received from your HUD Government Technical Representative (GTR) for the past two (2) complete fiscal years (FY 2003 and FY2004).

This information will be provided to the Technical Evaluation Panel (TEP) by HUD staff. Based on past performance, the following points will be deducted from your score under this rating sub-factor:

(1) 10 points out of 10 possible points will be deducted if you received a ''fair performance'' assessment;

(2) 5 points out of 10 possible points will be deducted if you received a ''good performance'' assessment; and

(3) 0 points will be deducted if you received an ''excellent performance'' assessment.

2. Rating Factor 2: Need/Distress/Extent of the Problem (20 Points)

This factor addresses the extent to which there is a need for funding the proposed activities to address documented fair housing problems in target area(s). You will be evaluated on the information that you submit that describes the fair housing need in the geographic area you propose to serve, its urgency and how your project is responsive to that need. Applicants should document and use the Housing Discrimination Study 2000 (HDS2000) sponsored by the Department of Housing and Urban Development and conducted by the Urban Institute in their applications, if applicable. HDS2000 is the third national paired-testing study sponsored by HUD to measure patterns of racial and ethnic discrimination in U.S. housing markets.

a. Documentation of Need. To justify the need for your project, PEI and EOI applicants must describe the following:

(1) The fair housing need, including:

(a) Geographic area to be served and your proximity and experience within the area;

(b) Populations that will be served—your project must serve all persons protected by the Act; and

(c) The presence of housing discrimination, high segregation indices or other evidence of discrimination prohibited by the Act within the project area.

(2) The urgency of the identified need. For example:

(a) The potential consequences to persons if your application is not selected for funding;

(b) The extent to which other organizations provide the services identified in your application;

(c) Other sources that support the need and urgency for this project. (Do not include these sources within your application.) Please provide website information where these sources may be found. Applicants that provide detailed studies, including detailed consolidated plans for their referenced project area will have points deducted from this factor based upon the ten page submission requirement. For example, make reference to reports, statistics, or other data sources that you used that are sound and reliable, including but not limited to, HUD or other Federal, State or local government reports analyses, relevant economic and/or demographic data including those that show segregation, foundation reports and studies, news articles, and other information that relate to the identified need. Provide the Web site where these reports may be found for reference. Chapter V of the *Fair Housing Planning Guide, Vol. 1* has other suggestions for supporting documentation. You may access the Guide from the HUD Web site at *http://www.hud.gov./offices/adm/grants/fundsavail.cfm.*

For all applicants: You must use sound data sources to identify the level of need and the urgency in meeting the need and provide Web site addresses for each data source (ex. Analysis of Impediments to Fair Housing Choice (AI), fair housing studies, etc.) For you to receive maximum points for this factor, there must be a direct relationship between your proposed activities, the outcomes to be accomplished, and the community or communities' fair housing needs, including your knowledge of and your proximity to the targeted area, and the purpose of the program funding.

To the extent possible, the data you use should be specific to the area where the proposed activity will be carried out. For example, if you propose to test in areas impacted by Hurricane Katrina in the states of Louisiana, Mississippi, Alabama or Texas you should document the number of displaced persons relocated to those areas and the impact of the numbers of displaced persons upon existing fair housing services. You should document needs as they apply to the specific area(s) where activities will be targeted and your proximity to the target area, rather than the entire locality or State. If the data presented does not specifically represent your target area, you should discuss why the target area was proposed.

(3) The link between the need and your proposed activities:

(a) How the proposed activities augment or improve upon on-going efforts by public and private agencies, grass-roots faith-based and other community-based organizations and other organizations and institutions in the target area, and/or

(b) Why, in light of other on-going efforts, the additional funding you are requesting is necessary.

b. *In addition*, with respect to Documentation of Need, the following apply to specific FHIP Initiatives or Components:

EOI-Disability Component. Your project must focus on persons with disabilities, however, you must serve all persons protected by the Act.

EOI-Subprime Lending Component. Your project must document and describe your understanding of the problem and its pervasiveness and an understanding of how to plan public events used to address the need.

PEI Subprime Lending Component. Your project must document that funds were used to assist private fair-lending enforcement efforts to address discrimination in the sub-prime mortgage market. Applicant should also document the need to: Assist with pending complaints, investigation, or litigation alleging discriminatory subprime lending; or support new fair lending investigations or litigation of discrimination in the subprime market.

3. Rating Factor 3: Soundness of Approach (35 Points)

You must describe your project in detail, demonstrate how your project activities will support HUD's goals, propose suggested performance measures/outcomes in support of these goals, and identify current baseline conditions and target levels of the performance measures that you plan to achieve. Attach a Statement of Work (SOW) and budget. Your proposed activities must support HUD's policy priorities as referenced in the General Section.

a. *Support of Policy Priorities (8 Points).* Describe how your proposed project will further and support HUD's policy priorities for FY 2006. HUD encourages applicants to undertake specific activities that will assist the Department in implementing its policy priorities and which will help the Department achieve its goals and objectives in FY 2006. HUD will evaluate the extent to which a program will further and support HUD's priorities. The quality of the responses provided to one or more of HUD's priorities will determine the score an applicant can receive. Applicants must describe how each policy priority selected will be addressed.

Applicants that just list a priority will receive no points. Each policy priority addressed must discuss the geographic area to be served in relation to the project's purpose, the persons to be served and the methodology for carrying out these activities. Each policy priority has a point value of one point, with the exception of the policy priority to remove regulatory barriers to affordable housing which has a point value of up to 2 points; and, for EOI applicants only, promoting participation by grassroots faith-based and other community-based organizations, or partnering with an organization promoting participation in grassroots faith-based and other community-based organizations, which has a point value of up to 4 points. It is up to the applicant to determine which of the policy priorities to address to receive the available 8 points. To secure the possible 2 points for efforts to remove regulatory barriers to affordable housing, an applicant must submit the completed questionnaire (HUD 27300), and provide the required documentation. Please see the General Section for further information on Removal of Regulatory Barriers to Affordable Housing. The questionnaire is part of the electronic application package and is also found in the Appendix to the General Section. For the full list of each policy priority, please refer to the General Section.

b. *Proposed Statement of Work (SOW) and Information Requirements (17 Points).* The SOW and budget are attachments that will not count toward the ten (10) page limit on the narrative response to this factor. However, points will be assigned based on the relevance of proposed activities to stated needs, attention to implementation steps, proposed activities consistent with organizational expertise and capacity and accuracy of the SOW and budget.

Statement of Work—Submit a proposed SOW that comprehensively outlines in chronological order the administrative and program activities and tasks to be performed during the grant period. Your outline should identify all activities and tasks to be performed and by whom (*e.g.*, you, a subcontractor, or partner), and the products that will be provided to HUD and when. You should also include a schedule of your activities and products (with interim implementation steps), staff allocation over the term of the project; staff acquisition and training; and activities of partners and/or subcontractors. Applicants should provide numbers on the projected clients to be served. Do not provide ranges or percentages, but a specific number of clients. These numbers should represent individuals to be served entirely with HUD FHIP funding. For the EOI Fair Housing Awareness Component, HUD anticipates that products will be available in at least seven languages plus English. The languages will include French, Korean, Laotian, Vietnamese, Chinese, Arabic, and Spanish. For the EOI Subprime Lending Component, deliverables may include brochures, Public Service Announcements (PSAs) for radio in both majority and minority markets and posters and other graphic materials. Graphic materials may include but are not limited to enlarged reproductions of existing HUD printed PSAs and HUD materials. Provide information on media markets coverage with specific protected class focus, as well as those with Limited English Proficiency and a method for distribution of the finished product.

c. *The Budget Form and the Budget Information (10 Points).* HUD will also assess the soundness of your approach by evaluating the quality, thoroughness, and reasonableness of the budget and financial controls of your organization, including information on your proposed program cost categories. As part of your response, you must prepare a budget that is:

(1) Reasonable in achieving the goals identified in your proposed SOW;

(2) Relate tasks in the SOW to the proposed budget costs;

(3) Cost-effective, and includes a brief discussion of the extent to which your proposed program is cost effective in achieving the anticipated results of the proposed activities in the targeted area. Applicants seeking funding to conduct activities in an area other than the applicant's State or locality must discuss the cost effectiveness of where

the activities will be conducted in relation to the location of the organization. HUD will look at the cost effectiveness of your travel to and from your location to the targeted area(s), personnel expenses for out-stationed personnel, contracts and sub-grantees, and other direct costs, which may include relocation expenses, and telecommunications expenses. Also, indicate how the proposed project is quantifiable based on the needs identified in Rating Factor 2.

(4) Quantifiable based on the need identified in Factor 2, and

(5) Justifiable for all cost categories in accordance with the cost categories indicated in the HUD–424 CB (see General Section Grant Application Detailed Budget). If you are awarded a grant or cooperative agreement under FHIP, staff will request that you include your approved indirect cost rate as part of your negotiations with HUD. If you do not have a Federally approved indirect cost rate and HUD is the cognizant agency, HUD will submit a request within 30 days after award to establish a rate. For information on indirect cost rates, you can review HUD's training on *http://www.hud.gov./offices/adm/grants/fundsavail.cfm.*

(6) *Financial Management Capacity.* Describe your organization's financial management system and your Board's contribution to the organization. In addition, discuss your capabilities in handling financial resources, dissemination to subcontracting affiliates, and maintenance of adequate accounting and internal control procedures.

(7) *Grant Application Detailed Budget Worksheet (HUD–424–CBW).* The HUD–424–CBW must show the total cost of the project and indicate other sources of funds that will be used for the project. While the costs are based only on estimates, the budget narrative work plan may include information obtained from various vendors, or you may rely on historical data. Applicants must round all budget items to the nearest dollar.

A written budget narrative work plan must accompany the proposed budget explaining each budget category listed and must explain each cost category. Failure to provide a written budget narrative work plan will result in 2 points being deducted from your application. It must explain each cost category you list. Where there are travel costs for subcontractors/consultants, you must show that the combined travel costs (per diem rates) are consistent with Federal Travel Regulations (41 CFR 301.11) and travel costs for the applicant's subcontractors and/or consultants do not exceed the rates and fees charged by local subcontractors and consultants. The narrative (which does not count toward the ten page limit) must address the Grant Application Detailed Budget.

4. Rating Factor 4: Leveraging Resources (5 Points)

This factor addresses your ability to secure additional resources to support your project. Points will be awarded on the basis of the percentage of non-FHIP resources you have identified and how firm the commitment is for those resources.

a. Firm Commitment of Leveraging. HUD requires you to secure resources from sources other than what is requested under this FHIP NOFA. Community resources may include funding or in-kind contributions, such as workspace or services or equipment, allocated to the purpose(s) of your proposal. Contributions from affiliates, subsidiaries, divisions, or employees of the applicant do not qualify as in-kind contributions. Resources may be provided by governmental entities (including other HUD programs if such costs are allowed by statute), public or private non-profit organizations, faith-based organizations, for-profit or civic private organizations, or other entities willing to work with you. In order to secure points you must establish leveraging of resources by identifying sources of contributors who have already provided to you letters of firm commitment from the organizations and/or individuals who will support your project. Each letter of firm commitment must:

(1) Identify the organization and/or individual committing resources to the project and identify any affiliation with the applicant,

(2) Identify the sources and amounts of the leveraged resources (the total FHIP and non-FHIP amounts must match those in your proposed budget submitted under Factor 3), and

(3) Describe how these resources will be used under your SOW. The letter must be signed by the individual or organization official legally able to make commitments for the organization. If the resources are in-kind or donated goods, the commitment letter must indicate the fair market value of those resources and describe how this fair market value was determined. (Do not include indirect costs within your in-kind resources). In-kind matching and leveraging contributions, as well as Program Income must comply with 24 CFR 84.23 and 84.24 requirements. FHIP funds cannot be used for in-kind or donated services (for example, a current staff person on a FHIP-funded project). No points will be awarded for general letters of support endorsing the project from organizations, including elected officials on the local, State, or national levels, and/or individuals in your community. See General Section for instructions on how third party documents are to be submitted to HUD via the electronic submission process. For PEI and EOI, if your project will not be supported by non-FHIP resources, then you will not receive any points under this factor. Points will be assigned for each Initiative based on the following scale:

One point will be awarded if less than 5% of the projects total costs come from non-FHIP resources.

Two points will be awarded if between 5% and 10% of the project's total costs are from non-FHIP resources.

Three points will be awarded if between 11% and 20% of the project's total costs are from non-FHIP resources.

Four points will be awarded if between 21% and 30% of the project's total costs are from non-FHIP resources.

Five points will be awarded if at least 31% of the project's total costs are from non-FHIP resources.

5. Rating Factor 5: Achieving Results and Program Evaluation (15 Points)

a. In evaluating this factor, HUD will assess the extent to which you demonstrate how you will measure success or results to be achieved that represent the work of your organization as set out in your budget. Applicants must select from the list of activities and outcomes detailed in the Logic Model for the Initiative applied for and should determine from these selections, their specific methods and measures to assess progress, evaluate program effectiveness, and identify program changes necessary to improve performance. This will ensure that performance measures are met and that grantees are establishing achievable realistic goals. Applicants who have identified outputs and outcome measurements and include means for assessing these measurements, tracking and monitoring performance goals and achievements against these commitments made in the application, will receive higher points than those that do not. To meet this Factor requirement, you must submit HUD's Logic Model.

Instructions and a Microsoft Excel ™ form are provided in the forms appended to the Instruction Download on *www.Grants.gov/APPLY.* Applicants that do not have access to Microsoft Excel ™ may obtain a copy of the form in HTML fillable format along with a

text format of the Master Logic Model listing, from HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

A narrative response is not required for this factor as all applicants must use the Logic Model Form to respond to this Factor. Applicants that submit narrative responses rather than use the Logic Model Form will receive no points under this subfactor. Applicants should also review the Logic Model training which can be found at *http://www.hud.gov/offices/adm/grants/training/training.cfm.*

b. In evaluating this Factor:

(1) HUD will review the activities/outputs and outcomes units of measurement you selected and in relation to the needs of your intended audience or target populations;

(2) Output. The direct products of the applicant's activities that lead to the ultimate achievement of outcomes. Examples of activities and outputs for PEI and EOI applicants can be found at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* Applicants must select one or more activities from the listing of ''Fair Housing Services Provided'' that will be undertaken by your organization. Applicants who do not select from the list ''Fair Housing Services Provided'' or those who wish to add additional services to the list will not receive any points under this Factor.

(3) Outcome. Demonstrate ability to measure outcomes so the major outcome is to increase awareness of fair housing laws and enforce the fair housing act. Outcomes are benefits provided to all protected class members as a result of education and outreach or fair housing enforcement activities; and, performance indicators the applicant expects to achieve or goals it hopes to meet over the term of the proposed grant. The Logic Model has a prepared list of activities, outcomes and indicators associated with Fair Housing. Applicants must choose from this list of ''Short-Term, Intermediate-Term, or Long-Term'' outcomes that are provided as part of the FHIP NOFA. Applicants who do not select from the list ''Outcomes and Indicators'' will not receive any points under this Factor. You should assess progress and track performance in meeting the goals and objectives outlined in the work plan.

Accountability can be achieved using specific measurement tools to assess the impact of your solutions. Examples include:

- Intake Instrument;
- Pre/Post Tests;
- Customer/Client Satisfaction Survey;
- Follow-up Survey;
- Observational Survey;
- Functioning scale; or
- Self-sufficiency scale.

For the EOI-Disability Component, you should also demonstrate how the activities will assist the Department in implementing the New Freedom Initiative (see General Section).

B. Reviews and Selection Process

1. *Rating and Ranking.* Although all rating factors are organized the same way for all FHIP initiatives, there are differences in application requirements and rating criteria, which are indicated throughout the Rating Factor instructions. Your application for funding will be evaluated competitively against all other applications submitted under one of the following Initiatives or Components:

a. Private Enforcement Initiative (PEI)—

(1) General Component (PEI–GC);

(2) Performance Based Funding Component (PBFC);

(3) Subprime Lending Component (PEI–SL);

(4) Hurricane Katrina Enforcement Component (PEI–EC).

b. Education and Outreach Initiative (EOI)—

(1) General Component (EOI–GC);

(2) Disability Component (EOI–DC);

(3) Fair Housing Awareness Component—(EOI–FHAC);

(4) Subprime Lending Component—(EOI–SL).

For all initiatives, all eligible applications will be reviewed and points awarded based upon:

1. Narrative responses to the Factors for Award and accompanying materials, and

2. RC/EC/EZ–IIs bonus points, as applicable. Ineligible applications will not be ranked. The maximum number of points to be awarded for the Rating Factors is 100. See the General Section for information on Bonus Points.

Only applications with a score of seventy-five (75) points or more will be considered of sufficient quality for funding. Generally, applications of sufficient quality for funding will be selected in rank order under each Initiative or Component.

PBFC applicants will be evaluated competitively against other PBFC applicants who apply and have received two years of excellent performance reviews for FHIP PEI awards made in any two consecutive years from FY 2002 through FY 2004, as well as scoring a 95 on their most current performance review. These applicants will then be rated by the Technical Evaluation Panel and ranked by score. Only those applicants who receive a minimum final score of 95 or above from the TEP will be considered for funding under this Component.

2. *Tie Breaking.* When two or more applications have the same total overall score, the application with the higher score under Rating Factor 3 will be ranked higher. If this does not break the tie, the application with the higher score under Rating Factor 1will be ranked higher. If this does not break the tie, the application requesting the lower amount of FHIP funding will be ranked higher. Finally, if this does not break the tie, the application with the higher score under Rating Factor 2 will be rated higher.

For the PBFC, the tie breaking provision does not apply.

3. *Achieving Geographic Diversity of Awards. PEI and EOI:* HUD reserves the right to apply geographic diversity, to ensure that, to the extent possible, applications from more States for each Initiative or Component are selected for funding. If the Selecting Official exercises this discretion, there will be two determinants used: (1) Geography and (2) score. Geographic diversity shall be applied to all qualified applications (applications of sufficient quality for funding—applications that received a score of 75 or more points) in each Initiative or Component in which the Selecting Official applies geographic diversity. The geographic diversity provision will be applied as follows: when there are two or more applications of sufficient quality from the same State, the application(s) with the lower score(s) will be moved to the end of the qualified queue. The applications moved to the end of the qualified queue will retain their geographic rank order. If sufficient funds remain, it is possible that applications moved to the end of the queue may be selected for award.

For the PBFC, the geographic diversity provision does not apply.

4. *Adjustments to Funding.* As provided in the General Section, HUD may approve an application for an amount lower than the amount requested, fund only portions of the application, withhold funds after approval, reallocate funds among activities and/or require that special conditions be added to the grant agreement, in accordance with 24 CFR 84.14, the requirements of the General Section, or where:

a. HUD determines the amount requested for one or more eligible activities is unreasonable or unnecessary;

b. An ineligible activity is proposed in an otherwise eligible project;

c. Insufficient amounts remain to fund the full amount requested in the

application, and HUD determines that partial funding is a viable option;

d. The past record of key personnel warrants special conditions; or,

e. Training funds are not reserved for FHIP training.

5. *Reallocation of Funds.* If after all applications within funding range have been selected or obligations are completed in an Initiative and funds remain available, the Selecting Official or designee will have the discretion to reallocate leftover funds in rank order among Initiatives as follows:

a. For EOI, any remaining funds from any component will be reallocated first within the Initiative; if after reallocating funds within the Initiative left over funds remain, they shall be reallocated to PEI;

b. For PEI, any remaining funds from any component will be reallocated first within the Initiative, if after reallocating funds within the Initiative left over funds remain, they shall be reallocated to EOI.

C. Anticipated Announcement and Award Dates

For planning purposes, anticipate an announcement date of September 23, 2006 and an award date of September 29, 2006.

VI. Award Administration Information

A. Award Notices

1. *Applicant Notification and Award Procedures.*

a. *Notification.* No information about the review and award process will be available during the period of HUD evaluation, which begins on the application deadline date under this NOFA and lasts approximately 90 days thereafter. However, you will be advised, in writing or by telephone, if HUD determines that your application is ineligible or has technical deficiencies which may be corrected as described in the General Section. HUD will communicate only with persons specifically identified in the application on the SF–424. HUD will not provide information about the application to third parties such as subcontractors.

b. *Negotiations.* If you are selected, HUD will require you to participate in negotiations to determine the specific terms of your cooperative or grant agreement. HUD will follow the negotiation procedures described in the General Section. The selection is conditional and does not become final until the negotiations between the applicant and the Department are successfully concluded and the grant or cooperative agreement is signed and executed. HUD will negotiate only with the person identified in the application as the Director of the organization or if specifically identified in the application as the Project Director. HUD will not negotiate with any third party (*i.e.*, a subcontractor, etc.). Grantees awarded funding who have had a 'poor performance' rating in years prior to FY 2003, will be required to provide documentation of the agency's improved performance status during negotiations. The Grant Officer and Government Technical Representative will determine on a case-by-case basis if technical assistance or special conditions are required.

Performance Based Funding Component-Applicants selected for funding under the PBFC will be required to submit a SOW that projects the agency's activities for a period of three years commensurate with the level of funding.

c. *Applicant Debriefing.* After awards are announced, applicants may receive a debriefing on their application as described in the General Section. Materials provided during the debriefing will be the applicant's final scores for each rating factor and final evaluator comments for each rating factor. Applicants requesting a debriefing must send a written request to Annette Corley, Grant Officer, U.S. Department of Housing and Urban Development, FHIP/Support Division, 451 7th Street SW., Room 5224, Washington, DC 20410. HUD will not release the names of applicants or their scores to third parties.

B. Administrative and National Policy Requirements

1. *Accessibility Requirements.* All activities, facilities, and materials funded by this Program must be accessible to persons with disabilities (24 CFR 8.2, 8.4, 8.6, and 8.54).

2. *Protected Classes.* All FHIP-funded projects must address housing discrimination based upon race, color, religion, sex, disability, familial status, or national origin.

3. *Environmental Requirements.* In accordance with 24 CFR 50.19(b)(3), (4), (9), (12), and (13) of HUD regulations, activities assisted under this program are categorically excluded from the requirements of the National Environmental Policy Act and are not subject to environmental review under related laws and authorities.

4. *Procurement of Recovered Materials.* State agencies (FHAP agencies) and agencies of a political subdivision of a State that are using assistance under a HUD program NOFA 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. See General Section for details.

5. *Product Information.* Press releases and any other product intended to be disseminated to the public must be submitted to the Government Technical Representative (GTR) two weeks before release for approval and acceptance.

6. *Ensuring the Participation of Small Businesses, Small Disadvantaged Businesses, and Women Owned Businesses.* (See General Section).

7. *Payment Contingent on Completion.* Payment of FHIP funds is made on a reimbursement basis. Payments are contingent on the satisfactory and timely completion of your project activities and products as reflected in your grant or cooperative agreement. Requests for funds must be accompanied by financial and progress reports.

8. *Copyright Materials.* You may copyright any work that is eligible for copyright protection subject to HUD's right to reproduce, publish, or otherwise use your work for Federal purposes, and to authorize others to do so as required in 24 CFR 84.36.

9. *Complaints Against Awardees.* Each FHIP award is overseen by a HUD Grant Officer (See *http://www.hud.gov* for list of Grant Officers per region). Complaints from the public against FHIP grantees should be forwarded to the Grant Officer. The Grant Officer's name and contact information is provided in the grant agreement. If, after notice and consideration of relevant information, the Grant Officer concludes that there has been inappropriate conduct, such as a violation of FHIP program requirements, terms or conditions of the grant, or any other applicable statute, regulation or other requirement, HUD will take appropriate action in accordance with 24 CFR 84.62. Such action may include: written reprimand; consideration of past performance in awarding future FHIP applications; repayment to HUD of funds received under the grant; or temporary or permanent denial of participation in the FHIP in accordance with 24 CFR part 24.

10. *Double Payments.* If you are awarded funds under this NOFA, you (and any subcontractor or consultant) may not charge or claim credit for the activities performed under this project under any other Federally assisted project.

11. *Performance Sanctions.* A grantee or subcontractor failing to comply with

the requirements set forth in its grant agreement will be liable for such sanctions as may be authorized by law, including repayment of improperly used funds, termination of further participation in the FHIP, and denial of further participation in programs of HUD or any Federal agency.

C. Reporting

1. HUD requires that funded recipients collect racial and ethnic beneficiary data. It has adopted the Office of Management and Budget's Standards for the Collection of Racial and Ethnic Data. In view of these requirements, you should use Form HUD–27061, Racial and Ethnic Data Reporting Form (and instructions for its use), found on *http://www.HUDclips.org,* a comparable program form, or a comparable electronic data system for this purpose. Quarterly and as your project ends, you must report meaningful data derived from client feedback on how they benefited from your project's activities.

2. Listed below is a sample-reporting document of activities and tasks to be performed by a FHIP Grantee.

ADMINISTRATIVE ACTIVITIES

Activities	Tasks	Submitted by	Submitted to
1. Complete HUD–22081 Race and Ethnic Data Reporting Form.	.....	45 Days	GTR/GTM
2. Complete HUD–28807 Disclosure Statements	Submit Disclosure Statement. If no changes occur, submit statement of no change with final report.	When changes occur	GTR/GTM
3. Complete SF–269A Financial Status Report and Written Quarterly Status Reports on All Activities.	Submit SF–269A and Copy of Written Report	Quarterly	GTR/GTM
4. Voucher for Payment	Submit payment request to LOCCS	Per Payment Schedule	GTR/GTM
5. Complete Listing of Current or Pending Grants/Contracts/Other Financial Agreements.	Submit listing for recipient and any contractors	45 Days and At end of Grant.	GTR/GTM
6. Prepare and Submit Draft of Final Report, including HUD 96010.	Submit Draft of Report. Report your eLogic Model Reporting your short- and intermediate term outputs and outcomes as contained in the eLogic Model submitted and approved in your grant agreement. Your report and eLogic Model should identify results ands benefits to date of the work accomplished under the FHIP award. In addition, the eLogic Model should include an attachment that addresses the management questions applicable to your work program. Complaint and testing activities should provide data on complaints received and tests conducted by basis, issues, and outcomes. This should include number of credible, legitimate complaints filed with HUD, a State or local Fair Housing Agency, Department of Justice or private litigator; and types of relief/results.	One month before end of grant term.	GTR/GTM
7. Complete Final Report and Provide Copies of All Final Products Not Previously Submitted.	Submit a copy of the Final Report, including a final Logic Model with all outputs and outcomes identified, and management questions responded to. Submit all Final Products not previously submitted to GTR and GTM.	Within 90 days after end of grant term.	GTR/GTM
8. Submit 2 copies of Final Report and all final program products produced under the Grant (with diskette, where feasible) to HUD.	Submit detailed description of items submitted to GTR and GTM.	Within 90 days after end of grant term.	GTR/GTM

VII. Agency Contacts

You may contact Myron P. Newry or Denise L. Brooks, of the Office of Fair Housing and Equal Opportunity's FHIP Support Division, at 202–708–0800 (this is not a toll-free number). Persons with hearing or speech impairments may contact the Division by calling 1–800–290–1617 (this is a toll-free number).

VIII. Other Information

1. *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 2529–0033. 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 burdens for the collection of information is estimated to average 100 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application, semi-annual reports and final report. 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.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING COUNSELING PROGRAMS

Housing Counseling - Local Housing Counseling Agencies (LHCA)

Housing Counseling - National and Regional Intermediaries

Housing Counseling – State Housing Finance Agencies (SHFA)

Billing Code 4210-01-C

Housing Counseling Program

Overview Information

A. *Federal Agency Name:* Department of Housing and Urban Development, Office of Single Family Housing.

B. *Funding Opportunity Title:* Housing Counseling Program.

C. *Announcement Type:* Initial Announcement.

D. *Funding Opportunity Number:* The **Federal Register** number is: FR–5030–N–03. The OMB Approval number is: 2502–0261.

E. *Catalog of Federal Domestic Assistance (CFDA) Number:* 14.169 Housing Counseling Assistance Program.

F. *Dates:* The application deadline date is May 23, 2006. Please see the General Section for application submission and timely receipt procedures.

G. *Available Funds:* Approximately $39.08 million is made available for eligible applicants under this program NOFA.

Full Text of Announcement

I. Funding Opportunity Description

A. *Program Description.* This program supports the delivery of a wide variety of housing counseling services to homebuyers, homeowners, low-to moderate-income renters, and the homeless. The primary objectives of the program are to expand homeownership opportunities and improve access to affordable housing. Counselors provide guidance and advice to help families and individuals improve their housing conditions and meet the responsibilities of tenancy and homeownership. Counselors also help borrowers avoid inflated appraisals, unreasonably high interest rates, unaffordable repayment terms, and other conditions that can result in a loss of equity, increased debt, default, and eventually foreclosure.

Applicants funded through this program may also provide Home Equity Conversion Mortgage (HECM) counseling to elderly homeowners who seek to convert equity in their homes into income that can be used to pay for home improvements, medical costs, living expenses, or other expenses.

B. *Grant Applicant Categories.* HUD will award a single comprehensive grant to qualified applicants through one of three categories: (1) Local Housing Counseling Agencies (LHCAs); (2) National and Regional Intermediaries (Intermediaries); and (3) State Housing Finance Agencies (SHFAs).

Supplemental funding is available to qualified intermediaries for counseling and educational activities in conjunction with HUD's Home Equity Conversion Mortgage (HECM) Program.

C. *Authority.* HUD's Housing Counseling Program is authorized by Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x).

The Home Equity Conversion Mortgage (HECM) Program is authorized by section 255 of the National Housing Act (12 U.S.C. 1715z–20).

II. Award Information

A. *Amount Allocated.* Of the approximately $41.58 million appropriated for housing counseling in FY 2006 under the Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109–115; approved Nov. 30, 2005), approximately $39.08 million is available for eligible applicants under this NOFA. Specifically, approximately $36.08 million is available for comprehensive counseling, and $3.0 million is available for HECM counseling.

B. *Specific Allocations.* Funding is allocated to each Homeownership Center (HOC), regional HUD offices that oversee the Housing Counseling Program in their jurisdiction, by a formula that incorporates first-time homebuyer rates, default rates, HECM endorsements, past performance by agencies in the jurisdiction, and minority homebuyers.

Applicant categories	Who is eligible	Total amount available
Category 1—LHCAs	HUD-approved Local Housing Counseling Agencies	$14,071,200
Category 2—Intermediaries	HUD-approved National and Regional Intermediaries	22,844,000
Category 3—SHFAs	State Housing Finance Agencies	2,164,800

1. *Category 1—Local Housing Counseling Agencies (LHCAs).* Approximately $14,071,200 is available from HUD to directly fund HUD-approved LHCAs. A LHCA can only request funding for its main office and branches located in the same state as the main office and/or located in one other contiguous state.

Allocations for Category 1 by HOC are as follows: Atlanta $4,002,747, Denver $3,830,864, Philadelphia $3,870,451, and Santa Ana $2,367,138.

2. *Category 2—Intermediaries.* Approximately $22,844,000 is available from HUD to directly fund HUD-approved Intermediaries, including $19,844,000 for comprehensive counseling and $3.0 million for HECM counseling.

3. *Category 3—State Housing Finance Agencies (SHFAs).* Approximately $2,164,800 is available to fund SHFAs that provide housing counseling services directly or serve as intermediaries to Affiliates who offer housing counseling services. Allocations for Category 3 by HOC are as follows: Atlanta $615,886, Denver $589,259, Philadelphia $595,536, and Santa Ana $364,119.

C. *Individual Awards.*

1. *Category 1.* No individual LHCA may be awarded more than $200,000. HUD anticipates that the average total award for LHCAs will be approximately $45,000.

2. *Category 2.* Awards for individual HUD-approved intermediaries may not exceed $5.5 million, which includes any HECM supplemental funding. The limit for Comprehensive Counseling is $2.5 million and the limit for HECM counseling is $3.0 million. HUD anticipates that the average total award for Intermediaries will be $1.3 million.

3. *Category 3.* No individual SHFA may be awarded more than $450,000. HUD anticipates that the average total award for SHFAs will be approximately $145,000.

D. *Grant Period.* Funds awarded shall be available for a period of 12 calendar months.

E. *Award Instrument.* HUD will use a Grant Agreement. All Housing Counseling Program awards will be made on a cost reimbursement basis.

III. Eligibility Information

A. Definitions

1. *Affiliate.* An affiliate is a separately incorporated or organized housing counseling agency connected with an intermediary or SHFA for the purposes of its housing counseling program. To be eligible for a sub-grant an affiliate must be: (1) Duly organized and existing as a nonprofit, (2) in good standing under the laws of the state of its organization, and (3) authorized to do business in the states where it proposes to provide housing counseling services.

2. *Applicant.* ''Applicant'' refers to a HUD-approved housing counseling agency or SHFA applying for a Housing Counseling grant from HUD through this NOFA. The term ''Applicant'' includes the agency's branch or branch offices identified in its application.

3. *Branch.* ''Branch'' or ''Branch Office'' refers to an organizational and subordinate unit of an LHCA or Intermediary not separately incorporated or organized. A Branch or Branch Office must be in good standing under the laws of the state where it is authorized to do business and where it proposes to provide housing counseling services. A Branch or Branch Office cannot be an applicant, affiliate or sub-grantee.

4. *Grantee.* ''Grantee'' refers to the HUD-approved housing counseling agencies or SHFAs that receive housing counseling funds from HUD through this NOFA. The term ''Grantee'' includes the agency's branch or branch offices identified in its application.

5. *HUD HECM Network Counselor.* A ''HUD HECM Network Counselor'' is a housing counselor that has passed the HECM exam administered by HUD and/or its agent, and is approved by HUD to provide HECM counseling nationally by telephone.

6. *Intermediary.* ''Intermediary'' refers to a HUD-approved national or regional organization that provides housing counseling services through its branches or affiliates.

7. *Local Housing Counseling Agency (LHCA).* ''LHCA'' refers to a HUD-approved Local Housing Counseling Agency. LHCAs must be approved by one of HUD's four HOCs. Affiliates of HUD-approved Housing Counseling intermediaries are not HUD-approved LHCAs by virtue of their affiliation with the intermediary. They are, however, eligible to individually apply for HUD approval as an LHCA.

8. *State Housing Finance Agency (SHFA).* For the purpose of this NOFA, a ''SHFA'' is the unique public body, agency, or instrumentality created by a specific act of a state legislature and empowered to finance activities designed to provide housing and related facilities and services, for example through land acquisition, construction or rehabilitation, throughout a state. The term state includes the fifty states, Puerto Rico, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and the U.S. Virgin Islands.

9. *Sub-grantee.* ''Sub-grantee'' refers to an organization to which the grantee awards a sub-grant, and which is accountable to the grantee for the use of the funds provided. A Sub-grantee may be separately incorporated or organized, but connected with an intermediary or SHFA for purposes of this NOFA.

All Sub-grantees must be identified in the grantee's application. Under certain conditions, grantees may amend their Sub-grantee list after awards are made.

B. Eligible Applicants

Eligible applicants include: HUD-approved Local Housing Counseling Agencies (LHCAs); HUD-approved national and regional intermediaries (Intermediaries); and State Housing Finance Agencies (SHFAs).

C. Cost Sharing or Matching

No specific ratio is required. However, in order to receive points under Rating Factor 4, applicants are required to demonstrate the commitment of other private and public sources of funding to supplement HUD funding for the applicant's counseling program. HUD does not intend for the Housing Counseling grants to cover all costs incurred by an applicant.

D. Eligible Activities for Awards Under All Applicant Categories

Grantees and sub-grantees will only be reimbursed for the applicable activities outlined in this Section.

1. Individual counseling or group education/classes regarding the following topics:

a. *Pre-Purchase/Homebuying.* This includes: evaluating mortgagor readiness; search assistance/mobility; fair housing, including how to recognize discrimination; budgeting for mortgage payments; money management (does not include administration of debt management plans whereby an organization pays bills on behalf of a client); selecting a real estate agent, and home inspection. This also may include guidance on: alternative sources of mortgage credit; how to apply for special programs available to potential homebuyers; how to identify and avoid predatory lending practices; locating housing that provides universal design and visitability; how to purchase a home using the Section 8 Homeownership Voucher Program, and referrals to community services and regulatory agencies.

Applicants that provide homebuyer education must also offer individual counseling that complements the group sessions.

b. *Resolving or Preventing Mortgage Delinquency or Default.* This includes: restructuring debt, obtaining re-certification for mortgage subsidy, establishing reinstatement plans, seeking loan forbearance, and managing household finances. This can also include helping clients affected by predatory lending, foreclosure prevention strategies, explaining the foreclosure process, providing referrals to other sources, and assisting clients with locating alternative housing, or pursuing loss mitigation strategies.

c. *Non-Delinquency Post-Purchase, including Improving Mortgage Terms and Home Improvement.* This includes information and advice on finding favorable mortgage loan terms, personal money management, and relations with lenders. It also includes: home improvement and rehabilitation; property maintenance; loan and grant options; the loan or grant application processes; what housing codes and housing enforcement procedures apply for the intended activity; accessibility codes and how to design features to provide accessibility for persons with disabilities; non-discriminatory lending and funding for persons who modify their dwellings to accommodate disabilities; visitability and universal design; how to specify and bid construction work; how to enter into construction contracts; and how to manage construction contracts, including actions to address the non-performance of contractors. Agencies that provide post-purchase education classes must also offer individual counseling to complement group sessions.

d. *Locating, Securing, or Maintaining Residence in Rental Housing.* This refers to renter-related topics, including: helping clients obtain and utilize rent subsidies; pre-rental search assistance/mobility counseling; budgeting for rent payments; educating clients on landlords' and renters' rights; explaining the eviction process; ensuring clients understand their rights when faced with displacement; explaining the responsibility of the entity causing displacement; and providing assistance with locating alternate housing.

e. *Shelter or Services for the Homeless.* Includes referrals to social, community, and homeless services such as emergency shelter or transitional housing.

2. *HECM Counseling*—This includes providing the statutorily-required counseling to individuals/families that may be eligible for, or are interested in obtaining, an FHA-insured Home Equity Conversion Mortgage (HECM). This counseling assists elderly homeowners who seek to convert equity in their homes into income that can be used to pay for home improvements, medical costs, living expenses, or other expenses.

3. *Marketing and Outreach Initiatives.* This includes providing general information and materials about housing opportunities and issues, conducting informational campaigns, advocating with lenders for non-traditional lending standards, and raising awareness about critical housing topics, such as predatory lending or fair housing issues. (Note: affirmative fair housing outreach should be directed at those populations least likely to seek counseling services. To do so, it may be necessary to broaden the target areas or provide translation and interpretive services in languages other than English in order to reach a greater variety of racial and ethnic minorities.)

4. *Training* to increase the capacity of housing counselors and program managers.

5. *Computer equipment/systems* with the objective of improving the quality of counseling and education services available.

6. *Administrative Costs.* For intermediaries and SHFAs, administrative costs associated with managing a network of housing counseling agencies and providing technical assistance.

E. Threshold Requirements

Applications that do not meet all of the following Threshold Requirements are not eligible to receive an award from HUD.

1. Applicants, and Sub-grantees, must meet the Threshold Requirements in the General Section.

2. *Minimum grant request.* Applications must contain a request for comprehensive funds of not less than $20,000 from LHCAs, not less than $50,000 from SHFAs and not less than $200,000 from Intermediaries. Applications for lesser amounts will not be considered. Intermediaries must request a minimum of $500,000 for HECM supplemental funding. HUD will consider the amount of the comprehensive counseling grant being requested to be the value entered into box 15a on form SF–424. For intermediaries also requesting HECM supplemental funding, box 15a of Form SF–424 should reflect the total of the comprehensive request and the HECM supplemental request. For these intermediaries requesting both, the narrative response to Factor 3 must make clear the exact comprehensive and supplemental amounts being requested.

3. *Only HUD-approved Housing Counseling Agencies and SHFAs may apply.* Applicants must be currently approved by HUD as an LHCA or as a housing counseling intermediary, and have secured HUD approval as a housing counseling agency by the publication date of this Housing Counseling Program NOFA. SHFAs are not required to be HUD-approved, but must meet the eligibility requirements listed in this NOFA.

4. *Applicants Requesting Supplemental HECM Funding.* No separate application is needed to apply for supplemental funding. However, applicants requesting supplemental HECM funding must meet the following requirements:

a. Request the supplemental funding by identifying in box 15a of Form SF–424 the total of the comprehensive request and the HECM supplemental request, and making clear in the narrative response to Factor 3 the exact comprehensive and supplemental amounts being requested;

b. Identify HECM-related needs in the target community in its response to Rating Factor 2;

c. Respond to all HECM-related requests for information throughout the NOFA;

d. Include counseling and other related activities targeted at HECM clients over and above the proposed comprehensive counseling activities listed in response to the Rating Factors; and

e. Indicate in the Rating Factors how many individuals will be served specifically with the requested supplemental funding for HECM counseling in addition to those served under the comprehensive counseling award. Be sure to clearly identify the total number projected to be served, the activities to be provided, and the output and outcome goals to be achieved with the supplemental funding.

5. *Recipients of Previous Housing Counseling Grants.* Applicants that received a HUD Housing Counseling grant or grants through the FY2004 HUD Housing Counseling NOFA, and did not receive an extension approved by HUD, must have drawn-down at least 70 percent of award monies by December 31, 2005. Exceptions may be made for applicants that adequately demonstrate that performance projections for the period were exceeded with greater cost efficiency than originally proposed.

F. Other Program Requirements

1. To receive a grant or subgrant under this Housing Counseling NOFA, all applicants and subgrantees (except SHFAs) must be:

a. In good standing under the laws of the state of their organization; and

b. Authorized to do business in the states where they propose to provide housing counseling services.

c. All grantees and sub-grantees must make counseling offices and services accessible to persons with a wide range of disabilities and help persons locate suitable housing in locations throughout the applicant's community, target area, or metropolitan area, as defined by the applicant.

2. *Limits on Applications*

a. *HUD-approved LHCAs.* HUD-approved LHCAs may apply for and receive: one grant under Applicant Category 1; or one sub-grant from an intermediary or SHFA under Applicant Category 2 or 3, but not both. The only exception to this rule is that HUD-approved LHCAs with one or more HUD HECM Network Counselors may receive a sub-grant or be reimbursed exclusively for HECM counseling activities from a HUD-approved intermediary administering the HECM supplemental funds made available through this NOFA.

Funded LHCAs may not make sub-grants to other HUD-approved LHCAs or non-HUD-approved entities.

b. *HUD-approved Intermediaries.* HUD approved intermediaries may only apply for a grant under Applicant Category 2. HUD-approved intermediaries are also eligible for supplemental funding for HECM counseling.

c. *SHFAs.* SHFAs may only apply for grants under Applicant Category 3 for comprehensive counseling funds.

3. *Sub-grantees of Intermediaries and SHFAs.*

a. Sub-grantees of intermediaries and SHFAs are not required to be HUD-approved, although HUD-approved LHCAs may apply to an intermediary or SHFA as a sub-grantee.

b. Intermediaries and SHFAs that award sub-grants to counseling agencies that are not HUD-approved must assure that the sub-grantee organizations meet or exceed HUD's approval standards, listed in Section III.C.4.c, Program Requirements.

c. Sub-grantees must also be in compliance with all civil rights threshold requirements. Intermediaries that do not ensure their sub-grantee's compliance with HUD standards may be prohibited from participating in the Housing Counseling Program. HUD will monitor sub-grantees.

d. To be eligible for funding under Categories 2 or 3, Sub-grantees or branches must not have directly applied for or received a grant under Category 1 of this NOFA, or applied for or received a sub-grant or funding from another intermediary or SHFA under Category 2 or 3 of this NOFA. Sub-grantees may apply for and receive funding from only one intermediary or SHFA under

Category 2 or 3, but not both. The only exception to this rule is that sub-grantees that have one or more HUD HECM Network Counselors that receive a sub-grant from an intermediary or SHFA under Category 2 or 3 may also receive a sub-grant or be reimbursed exclusively for HECM counseling activities, from a HUD-approved intermediary administering the HECM supplemental funds made available through this NOFA.

e. Intermediaries and SHFAs that make sub-grants must execute sub-grant agreements with sub-grantees that clearly delineate the mutual responsibilities for program management, including appropriate time frames for reporting results to HUD. Intermediaries and SHFAs have wide discretion to decide how to allocate their HUD Housing Counseling funding among sub-grantees, with the understanding that a written record must be kept documenting and justifying funding decisions. This record must be made available to sub-grantees and to HUD.

4. *List of HUD-approved Housing Counseling Agencies.* Pursuant to section 106(C)(5) of the Housing and Urban Development Act of 1968, HUD maintains a list of all HUD-approved and HUD-funded counseling agencies, including contact information that interested persons can access. All HUD-approved LHCAs and their branches, and all sub-grantees and branches that receive funding under Applicant Categories 2 and 3 of this NOFA will be placed on this list and must accept subsequent referrals, or when they do not provide the services sought, refer the person to another organization in the area that does provide the services.

5. *Non-Discrimination Requirement.*

a. Grant recipients and sub-grantees are prohibited from discriminating on behalf of or against any segment of the population in the provision of services or in outreach.

b. Organizations funded under this program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this program. If an organization conducts such activities, these activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the HUD-funded programs or services.

6. *Indirect Cost Rate.* Grantees that plan to use grant funds to cover direct costs only are not required to provide an indirect cost rate. However, Grantees that plan to use grant funds to cover any indirect costs must submit their approved indirect cost rate established by the cognizant federal agency. If the grantee does not have an established indirect cost rate, it will be required to develop and submit an indirect cost proposal to HUD, or the cognizant federal agency as applicable, for determination of an indirect cost rate that will govern the award. Applicants that do not have a previously established indirect cost rate with a federal agency shall submit an initial indirect cost rate proposal immediately after the applicant is advised that it will be offered a grant and, in no event, later than three months after the start date of the grant. OMB Circular A–122 established the requirements to determine allowable direct and indirect costs and the preparation of indirect cost proposals, and can be found at *http://www.whitehouse.gov/omb.* Applicants can review Indirect Cost Training on *http://www.hud.gov* at: *http://www.hud.gov/offices/adm/grants/training/training.cfm*.

7. *Economic Opportunities for Low- and Very Low-Income Persons (Section 3).* Section 3 does not apply to Housing Counseling Grants.

8. *Ensuring the Participation of Small Businesses, Small Disadvantaged Businesses, and Woman-Owned Businesses.* See the General Section for information on this topic.

9. *Subcontracting.* Grantees and sub-grantees must deliver all of the counseling activities set forth in the applicant's work plan provided in Factor 3 of this NOFA. Subcontracting with other entities is permitted only in geographical areas where no HUD-approved housing counseling agency exists; however, the subcontractor must meet or exceed the standards for a HUD approved agency.

10. *Conflicts of Interest.* See the General Section. In addition, a grantee or sub-grantee that is using grant funds to pay a subcontractor for housing counseling services pursuant to a housing counseling sub-agreement is prohibited from having a controlling interest in that subcontractor or vice versa. In other words, a grantee or sub-grantee cannot use grant funds to pay for housing counseling services by a subcontractor, if the subcontractor is partially or fully-controlled by the grantee or sub-grantee, or affiliate or vice versa.

11. *Accessible Technology.* See the General Section.

12. *Participation in HUD Sponsored Program Evaluation.* See the General Section.

IV. Application and Submission Information

A. *Receiving an Application Package.* Applicants may download the Instructions to the application found on the Grants.gov Web site at *www.Grants.gov.* The instructions contain the General Section and Program Section of the published NOFA as well as forms that you must complete and attach as a zip file to your application submission. If you have difficulty accessing the information you may call the Grants.gov Support desk toll free 800–518–GRANTS or e-mail your questions to *Support@Grants.gov.*

B. *Content and Form of Application Submission.* Please be sure to read the General Section for application deadline and timely receipt requirements as HUD is using electronic application submission via *www.Grants.gov*. In addition to the instructions in the General Section follow the instructions below:

1. *Size Limitations and Format for Narrative Statements.* Applicants must be as specific and direct as possible. For LHCAs, the narrative portion (responses to all factors) must be limited to 50 double-spaced, 12-point font, single-sided pages. Intermediaries and SHFAs are limited to a total of 100 double-spaced, 12-point font, single-sided pages for the narrative portion. Pages in excess of the size limit will not be read. Number the pages of the narrative statements and include a header that includes the applicant's name and the Rating Factor number and title. Within each narrative, clearly identify each sub-factor immediately above the response for that sub-factor.

2. *Application Checklist.* The Application Checklist indicates forms, information, certifications and assurances that apply to this NOFA.

Housing Counseling NOFA Application Checklist

a. SF–424, Application for Federal Assistance.

b. SF–424 Supplement—Survey on Ensuring Equal Opportunity for Applicants (optional).

c. HUD 424 CB, Grant Application Detailed Budget.

d. SF–LLL, Disclosure of Lobbying Activities (if applicable).

e. HUD–27300, Questionnaire for HUD's Initiative on Removal of Regulatory Barriers (optional regarding eligibility, but mandatory to receive credit in Factor 2 for the Regulatory Barriers policy priority).

f. HUD–2880, Applicant/Recipient Disclosure/Update Report.

g. HUD–2990, Certification of Consistency with the RC/EZ/EC–II

Strategic Plan (LHCAs only, if applicable).

h. HUD–2991, Certification of Consistency with the Consolidated Plan (if applicable).

i. HUD–2994, You Are Our Client Grant Applicant Survey (optional).

j. HUD–96010, Program Outcome Logic Model.

k. HUD–96011 Facsimile Transmittal Cover Page (to be used to transmit third party documents as part of your electronic application).

l. HUD–9902, Housing Counseling Agency Fiscal Year Activity Report (only required for Applicants who did not electronically submit to HUD a form HUD–9902 for the period October 1, 2004 through September 30, 2005, for example, applicants that received approval as a HUD housing counseling agency after September 30, 2005.

m. SHFA Statutory Authority. SHFAs must submit evidence of their statutory authority to operate as a SHFA, as defined in this NOFA, and must submit evidence of their authority to apply for funds and subsequently use any funds awarded. Applicants should verify that their agency profile information is accurately represented in HUD's Housing Counseling System (HCS) and validate the information prior to submitting the grant application.

n. List of all offices. Intermediaries must provide a list of the states in which they maintain offices, including the central office and all affiliates or branch offices. Provide this information for all affiliates and branch offices, not just the ones the applicant proposes to fund through this grant. Indicate with an asterisk or other notation those that will be funded through this grant and the amount, if known.

o. Organization Description. Applicants must provide a brief description, no more than 225 words, of their organizational history and proposed grant activities, as they would like them to appear in the press release issued by HUD in the event that the applicant is funded through this NOFA.

p. Narrative statements as required in this NOFA.

C. *Submission Dates and Times. Application Deadline Date and Proof of Timely Submission.* The application deadline date is May 23, 2006. Please be sure to read the General Section for timely submission and receipt. Failure to follow the submission requirements and procedures may affect your ability to receive an award.

D. *Intergovernmental Review.* The Housing Counseling Program is not subject to Intergovernmental Review.

E. *Funding Restrictions.*

1. *Funding* is limited to the eligible activities described in Section III.D of this NOFA.

2. *Pre-award Costs.* Grantees may incur pre-award costs not more than 90 calendar days prior to the effective date of the grant agreement and only with prior approval from HUD. All pre-award costs are incurred at the applicant's risk and HUD has no obligation to reimburse such costs if the award is inadequate to cover such costs or the award offer is withdrawn because of the applicant's failure to satisfy the requirements of this NOFA.

F. *Other Submission Requirements.* Applications must be submitted via the Grants.gov Web site at *http://www.grants.gov/Apply* by no later than the established deadline date and time. See the General Section for further information.

V. Application Review Information

A. *Criteria.* The Factors for Award, and maximum points for each factor, are outlined below. These factors will be used to evaluate all applications. The maximum number of points for each applicant is 102 for LHCAs and 100 for all other applicants.

1. *Bonus Points—''RC/EZ/EC–II.''* ONLY LHCAs are eligible for 2 bonus points. See the General Section for information regarding ''RC/EZ/EC–II'' bonus points.

2. *Additional Information.* HUD may rely on information from performance reports, financial status information, monitoring reports, audit reports, and other information available to HUD to make score determinations to any relevant Rating Factor.

3. *Responses to Factors for Award.* Responses to the following rating factors should provide HUD with detailed quantitative and qualitative information and relevant examples regarding the housing counseling work of the organization. The Rating Factors contain requests for additional information from applicants interested in supplemental HECM funding.

In responses to the various factors and sub-factors, intermediaries and SHFAs should not submit a separate response for each proposed sub-grantee and branch, but should provide a brief profile of each and summary response for their entire network, highlighting individual activities, partnerships, needs and/or results when appropriate.

a. *Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff* (30 Points).

HUD uses responses to this Rating Factor to evaluate the readiness and ability of an applicant and proposed sub-grantee and branch staff, to immediately begin, and successfully implement, the proposed work plan detailed in Rating Factor 3. HUD will also evaluate how effectively the applicant managed work plan adjustments that may have been required if performance targets were not met within established timeframes and how often work plan adjustments were required.

(1) *Applicants must provide the following information to support evaluation of this Rating Factor.* Information may be provided in a chart or table.

(a) Number of full-time (35 hours + per week) housing counselors working for the applicant and, if applicable, proposed sub-grantees or branches;

(b) Number of part-time housing counselors working for the applicant and, if applicable, proposed sub-grantees or branches;

(c) Number of bilingual housing counselors working for the applicant and, if applicable, proposed sub-grantees or branches;

(d) Average years of housing counseling experience for housing counselors working for the applicant and, if applicable, proposed sub-grantees or branches;

(e) Average years of housing counseling program management experience for the project director(s) for the applicant and, if applicable, proposed sub-grantees or branches;

(f) Average years of related experience, such as experience in mortgage lending, for counselors and project managers;

(g) For intermediaries and SHFAs, the number of sub-grantees and branches that received funding from the applicant through a FY 2004 HUD housing counseling grant(s), if applicable, covering the period October 1, 2004–September 30, 2005.

(2) *Knowledge and Experience* (11 points).

Using the information provided above, demonstrate that the applicant, including proposed sub-grantees and branches, has sufficient personnel with the relevant knowledge and experience to implement the proposed activities in a timely and effective manner, and bilingual language skills, if appropriate.

Specifically, for LHCAs, scoring will be based on the number of years of recent and relevant experience of Housing Counseling Program project directors and recent housing counseling and relevant experience of housing counselors.

For intermediaries and SHFAs, scoring will be based on: The number of years of recent and relevant experience of project directors of proposed sub-

grantees and branches; the number of years of recent housing counseling and relevant experience of counselors in proposed sub-grantees and branches; and the number of years, for key intermediary or SHFA personnel, of recent experience running a housing counseling program consisting of a network of multiple housing counseling agencies. HUD will award higher scores to applicants with more experienced staff and management.

Related experience, such as experience in mortgage lending, will also be considered, but will not be weighted as heavily in the scoring as direct housing counseling or housing counseling program management experience. HUD will also factor in other information that demonstrates the capacity of the applicant, such as relevant staff trainings and certifications. In scoring this section, HUD will evaluate whether the applicant has experience providing the proposed services. HUD will award higher scores to applicants with staff and management that have the greatest combination of experience, training and demonstrated competency.

(a) Submit the names and titles of employees, including subcontractors and consultants who will perform the activities proposed in the applicant's work plan in Rating Factor 3. Clerical staff should not be listed. Describe each employee's, subcontractor's, or consultant's current housing counseling duties and responsibilities, experience in providing one-on-one and group counseling (describe each separately), relevant professional background and experience, and bilingual language skills, if applicable. Experience is relevant if it corresponds directly to projects of a similar scale and purpose. Provide the number of years of experience for each position listed, and indicate where and when each position was held. Indicate whether the position was full-time or part-time, and in the case of part-time positions, provide the number of hours per week. LHCAs may provide individual descriptions of staff limited to one page. These descriptions do not count toward narrative page limitations. Intermediaries and SHFAs acting as intermediaries should summarize in a single chart, for each applicable employee, subcontractor, and consultant of proposed sub-grantees or branches, the number of years of direct counseling or counseling program management experience, and the number of years of relevant experience. Total each column. Do not submit individual resumes for sub-grantee staff. HUD staff will verify experience information submitted during monitoring reviews.

Applicants for HECM supplemental funding must specify the HECM experience of project directors, HUD HECM Network Counselors and the organization. They must also indicate the number of HUD HECM Network Counselors that are in the applicant's network at the time of application, and that the applicant proposes to fund with the requested award.

(b) Indicate for all housing counselors and project directors the specialized trainings received within the last two years relevant to the proposed activities, including specific trainings regarding FHA programs. Include when the training was received and who provided it. Do not include on-the-job training. Applicants that seek supplemental funds for HECM counseling must indicate what relevant training counselors received to prepare them as HECM counselors.

(c) Indicate which housing counselors are certified housing or financial counselors. Describe what type of certification is held, who provided it, when the certification was received, and if applicable, the date certification expires.

(d) Indicate if the applicant, affiliates and branches, utilized an on-line Client Management System during the grant period October 1, 2004, to September 30, 2005. Applicants that use a web-based system during this period will be awarded more points than applicants that did not utilize a web-based system.

Identify the system and describe what data is input and if applicable, how the system analyzes client data, what reports are generated using the system and whether or not it is web-based. If applicable, indicate how the system is used to advise clients about their mortgage options including eligibility for FHA or other types of financing. If the applicant does not currently use an on-line or web-based system but plans to in the coming grant period, October 1, 2006 through September 30, 2007, indicate which system will be used, whether or not it is web based, and how its use will be implemented in terms of training employees to use it and its ability to improve client services and generate reports.

(3) *Grant and Program Requirement Compliance* (14 points).

In scoring this Section, HUD will evaluate how well the applicant met the Program requirements, including reporting and grant document execution, if applicable, for the period October 1, 2004, to September 30, 2005, and its ability to spend all grant funds allotted.

If the applicant did not receive an FY 2004 HUD grant, it must provide a response, with sufficient detail for HUD to evaluate compliance, based on activities and requirements under other sources of funding, such as other federal, state, or local grant awards. Identify the source(s) and amount(s) of funds used for housing counseling. Provide relevant contact information for the agencies or organizations administering these programs so HUD can verify that the information you report is accurate.

(a) *Grantee Requirements.* HUD will evaluate the applicant's performance with regard to the timeliness and completeness with which the applicant satisfied grant requirements, including grant document execution, grant reporting requirements including quarterly (if applicable), mid-term and final reports,

(b) *Form HUD–9902.* HUD will deduct points if the applicant was required to submit a form HUD–9902 for the period October 1, 2004 through September 30, 2005, but failed to do so in a timely manner.

(c) *Expending Grant Funds.* If grant awards were not fully expended during the grant period October 1, 2004, to September 30, 2005, provide an explanation as to the reason why and the steps the applicant has taken to ensure that future funding will be expended according to the terms of the grant agreement. To receive full credit, either 100 percent of grant funds must have been expended in a timely manner *or* all goals must have been achieved prior to expending 100 percent of grant funds. If goals were achieved with fewer funds, state so and briefly provide details of efficiencies realized (if any).

(d) *Biennial Performance Reviews.* Significant findings on biennial performance reviews conducted by HUD staff will be taken into consideration when scoring this section.

(e) *Housing Counseling System (HCS).* HUD will evaluate applicant's timeliness and effectiveness in validating and updating agency information in HCS. Intermediaries and SHFAs must describe procedures and quality control measures used to verify sub-grantee, and if applicable branch or affiliate, information is validated in HCS on a regular basis.

(4) *Management—Goals and Results* (5 points).

In scoring this section, HUD will compare applicant goals and actual results for the period October 1, 2004 through September 30, 2005, and evaluate subsequent changes in approach resulting from any differences, if applicable. HUD's primary concern is

how the applicant managed change, when needed, within the organization as well as a clear and reasonable explanation as to why goals were not met, or why they were exceeded, and what steps were taken organizationally to accommodate either scenario.

For applicants that received a FY 2004 housing counseling grant covering the period October 1, 2004 to September 30, 2005, HUD will compare the projections made in the Program Outcome Logic Model, Form HUD–96010 submitted with the FY2004 Housing Counseling NOFA, including any adjustments based on actual award amounts, to the corresponding actual results for that period reported by the applicant in the Form HUD–9902 submitted to HUD.

Applicants who did not receive a FY 2004 Housing Counseling Grant and therefore did not finalize outcome projections, or who are recently approved, or who were a sub-grantee of an intermediary or SHFA for the period of October 1, 2004 through September 30, 2005, and are now applying for funding under the LHCA category must indicate the detailed, quantifiable goals the organization set for itself for the period covering October 1, 2004 to September 30, 2005, or for the 12 month period ending December 31, 2005 if more appropriate to the Applicant's or other grant-requiring reporting schedule. Also provide the actual results corresponding to these goals and explain any differences in goals versus actual results and indicate what measurement reporting tools were used as well as describe the evaluation process. Form HUD–96010–1, Logic Model Instructions, which is part of Form HUD–96010, provides information regarding measurement reporting tools and the evaluation process. If describing goals corresponding to other grant programs or sources of funding, provide relevant contact information for the agencies or organizations administering those programs so HUD can verify that the goals and corresponding achievements you report are accurate.

b. *Rating Factor 2: Need/Extent of the Problem* (12 Points).

This factor addresses the extent to which there is a need for funding the proposed activities described in the applicant's work plan, and the degree to which the applicant's work plan substantively addresses departmental policy priorities.

(1) *Needs Data* (6 points).

Provide current or recent economic and demographic data, and any other evidence that demonstrates housing counseling need relevant to the target area. All proposed activities in Factor 3 must have corresponding need-related data. Sources for all data provided must be clearly cited. Do not submit copies of reports or tables.

To the extent that the community the applicant serves has documented need in its Consolidated Plan, Analysis of Impediments to Fair Housing Choice (AI), or other planning documents, provide these in the response. Economic and demographic data must include persons with disabilities located in the target area. The U.S. Census Bureau, for example, maintains disability data by state, county, and metropolitan statistical area (MSA) at the following Web site: *http://www.census.gov/hhes/www/disability.html*.

Additionally, the HUD USER Research Information Service and Clearinghouse, available at *http://www.huduser.org/*, allows users to search over 800 HUD publications by subjects and keywords.

In scoring this Section, HUD will evaluate the degree to which the applicant provides current or recent economic and demographic data, and any other evidence that demonstrates housing counseling need relevant to the target area and the activities proposed in projected work plan activities detailed in Rating Factor 3. Applicants that fail to identify current or recent objective data will not receive full points for this factor.

(2) *Departmental Policy Priorities* (6 points).

The Departmental policy priorities are described in detail in the General Section. Of those listed, the following five apply to the Housing Counseling Program for the purpose of this NOFA. Indicate if and describe how the applicant's work plan substantively addresses each of these departmental policy priorities. Applicants are advised to review the policy priorities in the General Section, to assure they fully understand the meaning of each, prior to responding to this sub-factor.

In scoring this section, the applicant will receive one point for each of the departmental policy priorities (a)–(d) that the projected work plan in Factor 3 substantively addresses. Up to 2 points are available for priority (e). The General Section and HUD's Notices identify how policy priority points will be awarded. Copies of HUD's notices published on this issue, can be found on HUD's Web site at *http://www.hud.gov/grants/index.cfm*.

(a) *Providing Increased Homeownership and Rental Opportunities for Low- and Moderate-Income Persons, Persons with Disabilities, the Elderly, Minorities, and Families with Limited English Proficiency.*

(b) *Providing Full and Equal Access to Grassroots, Faith-Based and Other Community-Based Organizations in HUD Program Implementation.*

(c) *Participation of Minority-Serving Institutions in HUD Programs.* Identify partnerships with minority-serving institutions of higher learning such as colleges and trade schools.

(d) *Participation in Energy Star.* Applicants must provide information on how they promote or plan to promote Energy Star materials and practices and buildings constructed to Energy Star standards to homebuyers, renters and other applicable counseling clients. Describe any outreach activities previously conducted and/or planned to promote Energy Star products.

(e) *Removal of Regulatory Barriers to Affordable Housing.* Under this policy priority, higher rating points are available to (1) governmental applicants that are able to demonstrate successful efforts in removing regulatory barriers to affordable housing and (2) nongovernmental applicants that are associated with jurisdictions that have undertaken successful efforts in removing barriers. To obtain the policy priority points for efforts to successfully remove regulatory barriers, applicants must complete form HUD–27300, ''Questionnaire for HUD's Initiative on Removal of Regulatory Barriers.'' A limited number of questions on form HUD–27300 expressly request the applicant to provide brief documentation with its response. Other questions require that, for each affirmative statement made, the applicant supply a reference, URL or brief statement indicating where the back-up information may be found, and a point of contact, including a telephone number or e-mail address. Applicants that do not provide the required URL references or other back-up documentation will not be eligible for the points associated with this policy priority.

c. *Rating Factor 3: Soundness of Approach/Scope of Housing Counseling Services* (35 Points).

This factor addresses the quality and effectiveness of the applicant's historical and proposed housing counseling activities.

(1) *Historical Performance—Quality and Complexity of Services* (8 Points).

In scoring this section, HUD will evaluate the quality of, the variety of, and the level of effort and time associated with the housing counseling services provided by the applicant during the period October 1, 2004 through September 30, 2005. Responses

should contain ''Historical Performance'' as part of the heading for the response. Applicants must provide the following information:

(a) Average hours of housing counseling per client, for the period October 1, 2004, through September 30, 2005, for each of the following service types, including follow-up, the applicant organization provides:

(i) Pre-purchase Counseling.

(ii) Homebuyer Education.

(iii) Delinquency/Default Counseling.

(iv) Non-Delinquency Post-Purchase Counseling.

(v) Home Equity Conversion Mortgage (HECM) Counseling.

(vi) Post-Purchase Education.

(vii) Rental Counseling.

(viii) Homeless/Displacement Counseling.

(ix) Predatory Lending Counseling.

(x) Homeownership Voucher Counseling and Education.

(xi) Other (describe).

Describe the level of effort and time required to provide the housing counseling services described and to meet the needs of clients. Explain the average counseling time per client figures above. Scoring will be based on the degree to which the applicant demonstrates, as compared to other applicants, that sufficient time and resources were devoted to ensure that clients received quality counseling.

(b) *Types of Counseling and Services Offered:* HUD will retrieve this information from the HUD–9902 and the Housing Counseling System (HCS). Verify that the information in these sources is accurate. If applicant received supplemental funding and the services offered were not captured on the HUD–9902, they must describe their activities in detail. Scoring of the variety of housing counseling services offered is weighted to provide the most points for HECM and Post Purchase Default/Loss Mitigation counseling.

(c) *Group Education and One-On-One Counseling.* For the period October 1, 2004, through September 30, 2005, HUD will retrieve from Section 6 of form HUD–9902, the number of clients that participated in Homebuyer Education Workshops or other types of classes offered as group sessions and will retrieve from Section 7a–e, the number of clients that participated in one-on-one counseling. Applicants should explain the figures provided in Form HUD–9902 regarding group session participation and one-on-one counseling. Describe how clients come to participate in one or the other, the relationship between the two, and the role that each plays in the applicant's overall service provision. Estimate the percentage of clients participating in both group education sessions and one-on-one counseling. Scorers will evaluate the extent to which an agency encouraged and provided one-on-one counseling, which HUD considers the most effective form of housing counseling, instead of over-relying on homebuyer education workshops and other forms of group sessions.

(2) *Historical Performance—Impact/Outcomes* (9 points).

To score this Section, HUD will evaluate the applicant's performance for the period October 1, 2004, to September 30, 2005. The quantity of clients the applicant served will be compared to similar applicants providing similar services. Clients served numbers will also be analyzed in the context of the applicant's total housing counseling budget for the same period, FY2004. HUD will also consider the degree to which the services provided were time and resource intensive. Additionally, for intermediaries and SHFAs, HUD will evaluate the geographic coverage and scope of the applicant's activities for the period October 1, 2004, through September 30, 2005, including the number of states served by affiliates or branches, if applicable, and the overall size of the housing counseling network during that period.

(a) *Cost per client.* Clients served figures will be obtained from the Form HUD–9902 for the period October 1, 2004 through September 30, 2005, submitted to HUD by the applicant, which reflects activities funded both with HUD housing counseling grant funds, if applicable, and with other leveraged resources. Applicants that were not required to submit Form HUD–9902 for the period October 1, 2004 through September 30, 2005 must complete one as part of this application. In addition, the applicant must provide the following information.

(i) FY 2005 total housing counseling budget, covering the period October 1, 2004–September 30, 2005, including HUD housing counseling grant(s) or sub-grants, if applicable, as well as other resources leveraged specifically for housing counseling. Do not include funds for down payment or closing cost assistance, Individual Development Accounts, emergency services, or other resources not used for the direct provision of housing counseling.

(ii) Indicate how location, type of counseling, client type, and expenses may have affected client volume. Justify expenses and explain why they were reasonable, strategic, and appropriate.

(b) Percentage of Grant Funding Passed Through: Intermediaries and SHFAs that received one or more FY 2004 HUD housing counseling grant, for the grant period October 1, 2004, to September 30, 2005, must also indicate what percentage of their grant(s) was passed through directly to sub-grantees or branches, and explain how funds not passed through were spent.

LHCAs applying under Applicant Category 1 that received one or more FY 2004 HUD housing counseling grants for the grant period October 1, 2004, to September 30, 2005, must indicate what percentage of their grant(s) was spent on the salaries and benefits of housing counselors and project directors. Explain how other funds were spent.

Applicants that did not receive a FY 2004 HUD housing counseling grant must characterize their performance through other housing counseling funding sources, for example other federal, state or local government grants, providing as much detail, similar to that requested above, as possible.

(c) Geographic Coverage: Intermediaries and SHFAs must identify the sub-grantees, affiliates and branches, and corresponding states, to which the applicant provided housing counseling funding, for the period October 1, 2004, through September 30, 2005, through:

(i) FY 2004 HUD housing counseling grant funds, if applicable.

(ii) All housing counseling resources.

(3) Projected *Performance/Work Plan—Quality and Complexity of Services* (9 points).

This section involves information on housing counseling services to be conducted during the period October 1, 2006, through September 30, 2007. In scoring this Section, HUD will consider the types and variety of housing counseling and education services being offered, and other activities occurring in support of the applicant's housing counseling program.

HUD will also evaluate the quality of the applicant's proposed housing counseling services, and level of effort and time associated with providing the proposed counseling services to the number of clients it estimates it will serve. Scoring will be based on the degree to which the applicant demonstrates, as compared to other applicants, that for each type of counseling service delivered, average, greater than average or less than average time and resources will be devoted to ensure that clients receive quality counseling.

Applicants must provide the following information, which will be used in conjunction with responses in Rating Factor 5, as a basis to support the scoring of the sub-factors below. There must be consistency between Rating

Factor 3 and the projected outputs and outcomes in Rating Factor 5. Responses must contain ''Projected Performance'' as part of the heading for the response.

(a) Describe the various types of housing counseling and education services, and if applicable intermediary activities, the applicant proposes to undertake, and identify the geographic area the services will cover. Also, describe planned follow-up activities, if applicable. Proposed services and activities must relate to the needs identified in Rating Factor 2. Scoring of the variety of housing counseling services offered is weighted to provide the most points for one-on-one counseling regarding HECM and Post Purchase Default/Loss Mitigation. To be eligible for the full points available for these service types, applicants proposing to provide HECM and/or Default/Loss Mitigation counseling must have prior HUD-approval to provide these services.

Intermediaries and SHFAs acting as intermediaries should describe in detail their plans to train proposed sub-grantees and branches, provide technical assistance, and evaluate compliance with program requirements, for example through site visits.

(b) Average hours of housing counseling time the applicant estimates per client, for each of the activities listed in part (a), including follow-up. If the projected average times are the same as those listed for the period covering October 1, 2004–September 30, 2005, the applicant may simply state so in lieu of listing them again here.

Also provide the proposed average hourly labor-rate for housing counselors working for the applicant, affiliates, or branch network, if applicable, including benefits.

(c) Indicate the names and titles of employees, including subcontractors and consultants, allocated to each proposed activity, as well as the corresponding staff hours for each task, and demonstrate that the applicant has the human resources to accomplish the proposed activities and serve the number of individuals the applicant proposes to serve. The staff information should include who from Rating Factor 1 will be involved and any new staff, subcontractors or consultants that will be hired for the October 1, 2006–September 30, 2007 grant period.

For intermediaries and SHFAs, the total number of sub-grantees and branches, and corresponding number of states, that the applicant estimates will receive funding through the proposed FY 2006 HUD Housing Counseling Grant during the grant period October 1, 2006, to September 30, 2007. If applying for HECM supplemental funding, indicate the number of sub-grantees and branches the applicant estimates for comprehensive counseling, and for any HECM supplemental funding requested.

(d) Describe plans to effectively serve and/or communicate with persons with limited English proficiency (LEP) and persons with disabilities who require alternative formats, for example materials that are available in languages other than English.

(e) Intermediaries and SHFAs must also:

(i) Describe the housing counseling and education activities to be provided by proposed sub-grantees and branches, explicitly stating the types of services to be offered, preferably in a chart.

(ii) Describe the applicant's legal relationship with sub-grantees (i.e. membership organization, field, or branch office, subsidiary organization, etc.).

(iii) Explain the process that will be used to determine sub-grantee funding levels and distribute funds. If applicable, indicate how sub-grantee funding levels are adjusted on an on-going basis based on performance.

(4) *Projected Performance/Work Plan—Coordination* (5 points).

HUD will consider the extent to which, as compared to similar applicants, the applicant can demonstrate it will coordinate proposed activities with other organizations, and if applicable with other services and products offered by the applicant's organization, in a manner that benefits their clients. Scoring will also be based on the degree to which the applicant takes steps to avoid conflicts of interest, and discloses to clients that they have a choice in matters such as the loan product they choose and the house that they purchase.

(a) Describe partnerships and efforts to coordinate proposed activities with other organizations, including, but not limited to, emergency and social services providers, lending organizations, homeowner insurance providers, down payment and closing cost assistance programs, nonprofit housing providers, and local or state government. For example, describe agreements with lenders regarding non-traditional lending standards or participation in the Consolidated Planning process or the Analysis of Impediments. Any written agreements or memoranda of understanding in place should be described. These agreements and memoranda of understanding will be reviewed by HUD staff as a part of the biennial reviews and on-site monitoring visits. Applicants should also highlight internal products and functions, such as loan products available to clients, down payment and closing cost assistance programs, as well as internal affordable housing programs that can be a resource for clients.

Applicants requesting HECM supplemental funding should highlight the partnerships or internal products that are relevant to HECM activities.

(b) Describe plans to avoid conflicts of interest, such as methods for disclosing to participants that they are free to choose lenders, loan products, and homes, regardless of the recommendations made by counselors. To receive full credit in this Section, the applicant must state their plan and describe the disclosure forms and materials used by the applicant to communicate to clients that, while affordable homes, lending products and other forms of assistance might be available through the applicant, and partnerships in which the applicant has entered, the client is under no obligation to utilize these services. These plans and disclosures will be reviewed by HUD staff as a part of the biennial reviews and on-site monitoring visits.

(5) *Projected Performance/Work Plan—Coverage/Efficient Use of Resources* (4 points).

In scoring this Section, HUD will evaluate the geographic coverage of the applicant's proposed activities, and spending decisions.

(a) *Percentage of Grant Funding To Be Passed Through:* Intermediaries and SHFAs must indicate what percentage of their proposed award will be passed through directly to sub-grantees and branches, and explain how funds not passed through will be spent.

LHCAs that apply under Applicant Category 1 must indicate what percentage of their proposed award will be spent on the salaries and benefits of housing counselors and project directors. Explain in detail how other proposed funds will be spent.

(b) *Geographic Coverage:* Intermediaries and SHFAs must identify the sub-grantees and branches, and corresponding states, the applicant proposes will receive funding through this grant award. Indicate which, if any proposed sub-grantees and branches, serve Colonias. In the event that an intermediary is also applying for HECM supplemental funding, indicate the agencies and corresponding states in which the HUD HECM Network counselors you propose to fund are located. Applicants unable to precisely identify proposed sub-grantees and branches to receive funding through the proposed grant must identify the most

likely sub-grantees and branches, based on past experience, and explain what process will be used to select actual sub-grantees and branches. Pursuant to the applicable regulations at 24 CFR 84.82(d)(3)(iii) and 85.30(d)(4), grantees must receive HUD's prior written approval for sub-grants.

d. *Rating Factor 4: Leveraging Resources* (10 Points).

HUD housing counseling grants are not intended to fully fund an applicant's housing counseling program, or that of its sub-grantees. All organizations that use housing counseling grant funds are expected to seek other private and public sources of funding for housing counseling to supplement HUD funding. Any agency that does not have other resources available will receive no points for this factor.

Applicants will be evaluated based on their ability to show that they have obtained additional resources for their housing counseling activities, for the period October 1, 2006–September 30, 2007, including: direct financial assistance; in-kind contributions, such as services, equipment, office space, labor; etc. Resources may be provided by governmental entities, public or private nonprofit organizations, for-profit private organizations, or other entities committed to providing assistance. Grantees will be required to maintain evidence that leveraged funds were actually provided to the agency. These files will be reviewed by HUD staff as a part of the biennial reviews and on-site monitoring visits.

(1) Applicants must provide a comprehensive list of all leveraged funds and in-kind contributions being claimed. Include the amount and the source. All contributions, including cash and third party in-kind, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the criteria set forth in 24 CFR 84.23.

(2) Additionally, resources provided by the applicant may count as leveraged resources. These amounts must include only funds that will directly result in the provision of housing counseling services, but not resources for activities such as down payment and closing cost assistance, IDA programs, and emergency services.

(3) Intermediaries and SHFAs should include information on leveraged resources for only anticipated sub-grantees and branches that will be funded through this application.

(4) Points for this factor will be awarded based on the satisfactory level of leveraging and financial sustainability and the percentage of the applicant's total housing counseling budget that the requested HUD housing counseling funds would represent. The amount of grant funds requested will impact the ratio used to score this factor, as this factor evaluates the proposed HUD grant as a percentage of the total counseling budget. For example, a LHCA requesting the maximum comprehensive grant amount of $200,000 with leveraged funds equaling that grant will only receive 7 points. If that same LHCA requests only $140,000 with the same leveraged funds of $200,000, the score will be 8. Depending on organization type, the following scales will be used to determine scores for this factor:

LHCAs and SHFAs

1–25%—10 points
26–40%—9 points
41–48%—8 points
49–55%—7 points
56–65%—6 points
66–75%—5 points
76–85%—4 points
86–91%—3 points
92–95%—2 points
96–99%—1 point

Intermediaries

1–15%—10 points
16–23%—9 points
24–29%—8 points
30–35%—7 points
36–41%—6 points
42–47%—5 points
48–53%—4 points
54–59%—3 points
60–65%—2 points
66–99%—1 point

e. *Rating Factor 5: Achieving Results and Program Evaluation* (13 points).

This factor emphasizes HUD's determination to ensure that applicants meet commitments made in their applications and grant agreements and assess their performance in achieving agreed upon performance goals. This reflects HUD's Strategic goal to embrace high standards of ethics, management and accountability.

The purpose of this factor is for the applicant to identify projected outputs and outcomes corresponding to the proposed workplan in Factor 3. The developed logic model submitted with the application will serve as a reporting tool for applicants selected to receive an award, allowing HUD to compare proposed program outputs and outcomes with actual results. In scoring this Factor, HUD will consider the appropriateness of the goals given the award the applicant is applying for and evaluate the proposed outputs and outcomes for their effectiveness and efficiency in delivering housing counseling services to the population to be serviced. Additionally, scorers will evaluate the extent to which an applicant's proposal includes one-on-one counseling or encourages affiliates to undertake one-on-one counseling. HUD considers one-on-one counseling the most effective form of housing counseling, as compared to homebuyer education workshops and other forms of group sessions.

(1) *Program Outcome Logic Model* (2 points).

This year HUD has created a new method for completing the Logic Model form. Applicants will now be able to select appropriate outputs and outcomes from a series of ''pick lists'' for the Housing Counseling Program. The pick list can be found in the form HUD–96010 in the Grants.gov Housing Counseling Program Instructions Download. Using the pick list, for each column of the logic model, applicants can select and insert their outputs and outcomes in the appropriate columns of the Logic Model.

The pick lists also provide for an associate unit of measure for each output and outcome, and applicants must utilize the measure provided that is associated to the activity. Applicants must identify projected output and outcome values that correspond to the unit of measure. For example, insert whole numbers, not percentages, when the unit of measure is ''Households''.

These amounts should represent results to be achieved entirely as a result of the HUD housing counseling funding. If, in reality, various funding sources will contribute to the services provided each individual, the applicant must prorate their response to reflect a figure representing services provided with only funding from the proposed grant. HUD will ultimately compare these output projections with actual accomplishments reported in the form HUD–9902, so applicants should make their projections based on what they expect to achieve for reporting on the HUD–9902. In other words, applicants are projecting what their future form HUD–9902 will look like. In addition, HUD has provided a series of management questions, which awardees will be expected to respond to in reporting back to HUD. The management questions place a framework around the data you will be reporting to HUD. The management questions are included in the Logic Model and applicants should use them as a guide to understanding what HUD is interested in learning about the major element of your program. HUD will provide training on the Logic Model through webcasts and detailed step-by-step instructions for using the new form

and format. The schedule for the webcasts and instructions can be found at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm* For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment (ROI) statement. HUD will be publishing a separate notice on the ROI concept.

Applicants must complete and submit Form HUD–96010. Applicants will be scored based on how the applicant's Form HUD–96010 corresponds to the narrative responses for Factor 2 and 3. To receive full credit, the Form HUD 96010 must identify:

(a) *Outputs.*

Outputs are the direct products of the applicant's activities that lead to the ultimate achievement of outcomes. Based on the proposed work plan in Factor 3 and the amount being requested through this NOFA, applicants should select the appropriate outputs and their associated units of measure from the choices provided in the pick list, and provide the corresponding number to be achieved for each proposed output.

If requesting supplemental funding, indicate the specific number of households the applicant projects it, or if applicable, sub-grantees and branches, will serve under the comprehensive counseling portion of the requested award and with requested HECM supplemental funding.

(b) *Outcomes.*

Outcomes are benefits accruing to the households as a result of participation in the program. Outcomes are performance indicators the applicant expects to achieve or goals it hopes to meet over the term of the proposed grant. Using the pick lists provided, applicants should select each appropriate outcome and associated unit of measure related to the proposed work plan, and provide the corresponding number to be achieved for each proposed outcome. Projected outcomes should reflect the number you expect to report in the HUD Housing Counseling Grant Activities column on the Form HUD–9902.

The proposed outcomes the applicant provides will be compared to actual results in the measurement of grant performance and future grant application evaluations.

(2) *Projected Performance/Work Plan—Impact* (6 points).

In scoring this Section, HUD will evaluate the proposed outputs from the logic model, specifically the number of clients that the applicant estimates will be served under the proposed HUD grant, by the applicant and sub-grantees, if applicable, for the grant period October 1, 2006, to September 30, 2007. Scoring will be based on the cost per client, compared historical averages for similar services and similar applicants. Proposed clients served numbers will also be analyzed in the context of budget, costs, spending decisions, the types of services provided, level of effort expended, etc.

(a) Provide a context for, or qualify the number of clients the applicant projects to serve with the proposed HUD grant. Indicate how location, counseling and client types, and expenses may affect client volume, and whether the impact will be short-term or long-term. Justify proposed expenses and explain why they are reasonable, strategic, and appropriate for the counseling activities identified above.

(3) *Projected Performance—Group Education and One-On-One Counseling.* (3 points)

HUD will utilize logic model output projections to evaluate what percentage of total clients the applicant estimates will participate in group education, what percentage will participate in one-on-one counseling, and what percentage will participate in both group sessions and one-on-one counseling. Describe how clients are selected for one or the other, the relationship between the two, and the role that each will play in the overall service provision. Scorers will evaluate the extent to which an agency plans to encourage and provide one-on-one counseling, which HUD considers the most effective form of housing counseling, instead of over-relying on homebuyer education workshops and other forms of group sessions.

(4) *Evaluation Plan.* (2 points)

Applicants must also submit an evaluation plan for how they are going to track actual accomplishments against anticipated achievements and ensure that the program can provide the services projected to be delivered and outcomes projected to be achieved.

(a) *Information Collection.* Describe the applicant's procedures for measuring outputs and outcomes. Describe follow-up activities with clients to collect outcome information.

(b) *Data Analysis and Work Plan Adjustments.* Indicate how the information will be evaluated, and the steps the applicant has in place to make adjustments to the work plan if performance targets are not met within established timeframes. National and regional intermediaries and SHFAs should indicate if and how the performance of sub-grantees and branch offices affects current and future sub-grants and allocations.

B. *Review and Selection Process.* Two types of reviews will be conducted.

1. *Technical Review.* First, each application will be reviewed for technical sufficiency, in other words, whether the application meets the threshold requirements set out in this NOFA and the General Section and whether all required forms have been submitted. The General Section provides the procedures for corrections to deficient applications.

2. *General Review.* The second review considers the responses to the rating factors outlined above and other relevant information. Applications will be evaluated competitively, and ranked against all other applicants that applied in the same funding category.

3. *Rating Panels.* Detailed information on the rating review panels appears in the General Section.

4. *Minimum Score for Fundable Applications.* The minimum score for fundable applications is 75 points.

5. *Funding Methodology.*

a. Comprehensive Counseling. The following funding formula will be used to calculate the comprehensive counseling portion of the awards under Categories 1–3. Only applicants who receive a score of 75 points or above will be considered eligible for funding. All eligible applicants will then be funded in proportion to the score they receive. Regarding the comprehensive counseling portion of an award, all grantees will receive the lower of either the comprehensive award amount determined with the formula, or the amount actually requested by the applicant. HUD will consider the amount of the comprehensive counseling grant being requested to be the value entered into box 15a on form SF–424. For intermediaries also requesting HECM supplemental funding, box 15a of Form SF–424 should reflect the total of the comprehensive request and the HECM supplemental request. For these intermediaries requesting both, the narrative response to Factor 3 must make clear the exact comprehensive and supplemental amounts being requested. The formula will work as follows for each category:

(1) Funding Round 1. Every applicant that scores 75 points or above will receive a base award ($20,000 for LHCAs; $50,000 for SHFAs; and $200,000 for intermediaries). The total number of applicants receiving the base award will be multiplied by the relevant base amount, and that amount will be subtracted from the total amount available under the Category, or in the cases of Categories 1 and 3, available to the HOC.

(2) Funding Round 2. Then, the remaining balance after funding the

Round 1 base awards will be divided by the total number of points all applicants in that Category, and HOC in the cases of Categories 1 and 3, score that are above the 75-point cutoff. The calculation will result in a dollar value for each point. The number of points that all applicants in a Category, and in a HOC in the cases of Categories 1 and 3, score above the 75 point base will be multiplied by that dollar value. The result of that calculation will be added to the base award. Any remaining funds after this calculation will carry over into the next funding round.

(3) This same methodology will be used for each subsequent round of funding until all available funds are awarded, or until all eligible applicants are funded to the maximum dollar amount allowed. Subsequent rounds of calculations, if needed, will distribute remaining funds to applicants that scored above 95 points, 91–95 points, 86–90 points, and 80–85 points, respectively.

b. Supplemental Funding. The same methodology described above in section a will be used to distribute the available HECM supplemental funds. Regarding supplemental funding, all grantees will receive the lower of either the supplemental award amount determined with the formula, or the specific amount of supplemental funding actually requested by the applicant. Each applicant will only submit one application and receive a score based on the application for the comprehensive counseling grant. Comprehensive counseling funds will be allocated based on this score. Subsequently, for HECM supplemental funding, responses to each rating factor will be evaluated on a yes/no, adequate/inadequate basis. An adequate response will result in a score for the supplemental funding identical to the comprehensive score on each respective rating factor. An inadequate supplemental response will result in a 1-point deduction from the comprehensive score. After all five rating factors have been evaluated, the adjusted ratings will result in a distinct score for the HECM supplemental funds. This method will result in scores for supplemental funding that may be equal to the comprehensive score, or up to five points less than the comprehensive score. In no case can an applicant receive a higher score on an application for supplemental funding than it received on its comprehensive application. An applicant will receive a separate score for its application for comprehensive counseling, and for HECM supplemental funding. The base award for the HECM supplemental funding will be $40,000 for intermediaries. Only applicants scoring 75 points or above are eligible for supplemental funding. However, because of the limited amount of funds available, all applicants scoring 75 points or above are not guaranteed supplemental funding. The top two scoring intermediary applicants (scoring 75 points or above) that are eligible for HECM supplemental funds, and have not already been fully funded in accordance with the funding methodology described in this section, will receive supplemental HECM funding.

6. *Reallocation of Unspent Funds.* If funds designated for a specific grant Category, HOC, or for supplemental funding remain unspent after the formulas have been run and award recommendations are determined, HUD may, at its discretion, reallocate those funds to any other funding Category or supplemental funding area under this NOFA. Additionally, HUD may reallocate unspent funds to any HOC jurisdiction or to HUD Headquarters for awards under this NOFA. HUD may also reallocate unspent funds for housing counseling support activities. Any reallocation will be based on demand and unmet need.

VI. Award Administration Information

A. *Award Notices:* Following selection, applicants will receive notification from HUD regarding their application.

1. *Publication of Recipients of HUD Funding.* HUD's regulations at 24 CFR part 4 provide that HUD will publish a notice in the **Federal Register** to notify the public of all decisions made by the Department. Please see the General Section for more information on this topic.

2. *Debriefing.* Applicants may receive a debriefing on their application submission. Please see the General Section for a further discussion of the time frame in which the debriefing request may be submitted.

B. *Administrative and National Policy Requirements:*

1. *Environmental Requirements.* In accordance with 24 CFR 50.19(b)(9) and (12) of the HUD regulations, activities assisted under this program are categorically excluded from the requirements of the National Environmental Policy Act and are not subject to environmental review under the related laws and authorities.

2. *Audit Requirements.* Grantees that expend $500,000 or more in federal financial assistance in a single year (this can be program year or fiscal year) must be audited in accordance with the OMB requirements as established in 24 CFR Part 84. Additional information regarding this requirement can be accessed at the following Web site: *http://harvester.census.gov/sac.*

3. *Other Matters.*

a. *Relocation.* See the General Section.

b. *OMB Circulars and Government-wide Regulations Applicable to Financial Assistance Programs.* See the General Section.

c. *Prohibition Against Lobbying Activities.* See the General Section.

d. *Procurement of Recovered Materials.* See the General Section.

f. *Executive Order 13279 Equal Protection of the Laws for Faith-Based and Community Organizations.* See the General Section.

g. *Salary Limitation for Consultants.* See the General Section.

h. *Executive Order 13132, Federalism.* See the General Section.

i. *Sense of Congress.* See the General Section.

C. *Reporting:*

1. *Fiscal Year Activity Report.* Grantees are required to submit Form HUD–9902, Fiscal Year Activity Report, via HUD's web-based Housing Counseling System (HCS). The information compiled from this report provides HUD with its primary means of measuring program performance.

2. *Program Outcome Logic Model.* If the actual award amount differs from the proposed award, Grantees are required to submit an updated Form HUD–96010, Program Outcome Logic Model before the grant agreement will be executed. Additionally, Grantees will be required to submit an updated Form HUD–96010, Program Outcome Logic Model, reflecting actual achievements, with each quarterly, midterm and final report, in accordance with the reporting requirements of the grant agreement. The information in this form provides the primary means through which HUD will monitor the ongoing performance of the grantee.

VII. Agency Contact(s)

A. *Technical Assistance.* For technical assistance in downloading or submitting an application package using *www.Grants.gov*, contact the Grants.gov support desk at 800–518–Grants or by sending an e-mail to *support@grants.gov*.

B. *Programmatic Information.* For program related information, LHCAs and SHFAs should contact the HOC serving their area, as indicated below. Intermediaries should contact HUD Headquarters, Program Support Division at (202) 708–0317 (this is not a toll-free number). Hearing and speech challenged persons may access the

telephone numbers listed below by calling the Federal Information Relay Service at 800–877–8339.

Homeownership Center	States
Philadelphia Homeownership Center, Ms. Brenda Bellisario, Acting Director, Program Support Division, Wannamaker Building, 100 Penn Square East, 12th Fl, Philadelphia, PA 19107–3389. For programmatic information contact: Robert Wright, *Robert_Wright@hud.gov* (215) 656–0527 x3406.	Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia.
Atlanta Homeownership Center, Ms. Gayle Knowlson, Director, Program Support Division, 40 Marietta Street, 8th Floor, Atlanta, GA 30303–2806. For programmatic information contact: E. Carolyn Hogans, *E._Carolyn_Hogans@hud.gov* (404) 331–5001, x2129.	Alabama, Puerto Rico, Florida, Georgia, Illinois, Indiana, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
Denver Homeownership Center, Ms. Irma Devich, Director, Program Support Division, 1670 Broadway, Denver, CO 80202–4801, For programmatic information contact: 303–672–5200, Vic Karels x1995, *Victor_E._Karels@hud.gov* Jonna Munson x1987, *Jonna_R._Munson@hud.gov*.	Arkansas, Colorado, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wisconsin, Wyoming.
Santa Ana Homeownership Center, Mr. Jerrold Mayer, Director, Program Support Division, Santa Ana Federal Building, 34 Civic Center Plaza, Room 7015, Santa Ana, CA 92701–4003, For programmatic information contact: Rhonda J. Rivera, *rhonda_j._rivera@hud.gov* 1–888–827–5605 x3210.	Alaska, Arizona, California, Hawaii, Oregon, Idaho, Nevada, Washington.

VIII. Other Information

A. *Satellite Broadcast.* HUD will hold an informational broadcast via satellite for potential applicants to learn more about the program, the FY 2006 Logic Model requirements, and the application. For more information about the date and time of the broadcast, consult the HUD Web site at: *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

B. *Public Access, Documentation, and Disclosure.* See the General Section for more information on this topic.

C. *Paperwork Reduction Act.* The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2502–0261. 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 68 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application, semi-annual reports and final report. 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.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

LEAD-BASED PAINT HAZARD CONTROL GRANT PROGRAM

LEAD HAZARD REDUCTION DEMONSTRATION GRANT PROGRAM

OPERATION LEAD ELIMINATION ACTON PROGRAM

Billing Code 4210-01-C

Lead-Based Paint Hazard Control Grant Program, Lead Hazard Reduction Demonstration Grant Program, and Operation Lead Elimination Action Program

Overview Information

A. *Federal Agency Name:* Department of Housing and Urban Development, Office of Healthy Homes and Lead Hazard Control.

B. *Funding Opportunity Title:* Lead-Based Paint Hazard Control Program and Lead Hazard Reduction Demonstration Program and Operation Lead Elimination Action Program (LEAP).

C. *Announcement Type:* Initial announcement.

D. *Funding Opportunity Number:* FR–5030–N–13; OMB Approval Number 2539–0015.

E. *Catalog of Federal Domestic Assistance (CFDA) Number(s):* 14.900 Lead-Based Paint Hazard Control in Privately Owned Housing and 14.905 Lead Hazard Reduction Demonstration Program, and 14.903 Operation Lead Elimination Action Program.

F. *Dates:* Applications must be received and validated by Grants.gov no later than 11:59:59 p.m. Eastern Time on June 7, 2006. See the General Section for specific instructions regarding application submission.

G. *Optional, Additional Overview Content Information:*

1. Purpose of the Program.

a. The purpose of the Lead-Based Paint Hazard Control Program is to assist states, Native American Tribes and local governments in undertaking comprehensive programs to identify and control lead-based paint hazards in eligible privately owned housing for rental or owner-occupants.

b. The purpose of the Lead Hazard Reduction Demonstration Program is the same as the Lead Hazard Control, but the Lead Hazard Reduction Demonstration Program is targeted for urban jurisdictions with the highest lead-based paint hazard control needs.

c. The purpose of the Operation Lead Elimination Action Program (LEAP) is to provide grants to private sector and nonprofit organizations to leverage funds for addressing lead hazards in privately owned housing units and eliminating lead poisoning as a major public health threat to young children.

2. Available Funds. Approximately $159,136,036 million (Lead Hazard Control Program, Lead Hazard Reduction Program and Lead Elimination Action Program (LEAP)).

3. Eligible Applicants.

a. To be eligible to apply for funding under the Lead-Based Paint Hazard Control Program, the applicant must be a state, Native American Tribe, city, county, or other unit of local government. Multiple units of a local government (or multiple local governments) may apply as a consortium; however, you must identify a lead applicant that will be responsible for ensuring compliance with all requirements specified in this NOFA. State government and Native American tribal applicants must have an EPA approved State Program for certification of lead-based paint contractors, inspectors, and risk assessors in accordance with 40 CFR part 745 in effect on the application deadline date to be eligible to apply for Lead-Based Paint Hazard Control Program funds.

b. To be eligible to apply for the Lead Hazard Reduction Demonstration Program, the applicant must be a city, county, or other unit of local government. States and Indian Tribes may apply on behalf of units of local government within their jurisdiction, if the local government designates the state or the Indian Tribe as their applicant. Multiple units of a local government (or multiple local governments) may apply as part of a consortium; however, you must identify a prime applicant that will be responsible for ensuring compliance with all requirements specified in this NOFA. State government and Native American tribal applicants must have an EPA approved State Program for certification of lead-based paint contractors, inspectors, and risk assessors in accordance with 40 CFR part 745 in effect on the application deadline date to be eligible to apply for Lead Hazard Reduction Demonstration Grant funds.

c. To be eligible to apply for funding under the Operation Lead Elimination Action Program (LEAP), the applicant must be a non-profit or for-profit entity or firm. For-profit institutions are not allowed to earn a fee. Colleges and Universities are also eligible to apply. National and local groups are encouraged to apply. States, cities, counties and units of local government and their departments are not eligible.

4. Match. See NOFA Criteria by Grant Program Chart in Section III. Eligibility Information.

Full Text of Announcement

Section I. Funding Opportunity Description

A. Program Description

The Lead-Based Paint Hazard Control Program and the Lead Hazard Reduction Demonstration Program are authorized by Section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992, Pub. L. 102–550). HUD's authority for making funding available under this NOFA for the Lead-Based Paint Hazard Control Program, and the Lead Hazard Reduction Demonstration Program is the Transportation, Treasury, and Housing and Urban Development, the Judiciary, the District of Columbia, Independent Agencies Appropriations Act, 2006 (Pub. L. 109–115; approved November 30, 2005). The Lead-Based Paint Hazard Control Grant Program assists states, Native American Tribes and local governments in undertaking programs for the identification and control of lead-based paint hazards in eligible privately owned rental and owner-occupied housing units. The Lead Hazard Reduction Demonstration Program has the same goal as Lead Hazard Control Program, but is targeted for urban jurisdictions with the highest lead-based paint hazard control needs. The purpose of the Operation Lead Elimination Action Program (LEAP) is to provide grants to private sector and nonprofit organizations to leverage funds for addressing lead hazards in privately owned housing units and eliminating lead poisoning as a major public health threat to young children. Refer to the HUD Web site *http://www.hud.gov/offices/lead/lhc/index.cfm* for instructions on downloading the table, ''Eligibility of HUD Assisted Housing,'' that lists the HUD-associated housing programs that meet the definition of eligible housing under this NOFA. HUD is interested in promoting lead hazard control approaches that result in the reduction of elevated blood lead levels in children for the maximum number of low-income families with children under six years of age, for the longest period of time, and that demonstrate techniques which are cost-effective, efficient, and replicable elsewhere. For purposes of this NOFA, ''children under six years of age'' are defined as children up to six years of age. Refer to the HUD Web site *http://www.hud.gov/offices/lead/lhc/index.cfm*, for instructions on how to obtain copies of Title X, HUD's Lead-Safe Housing Regulation, and the companion interpretive guidance publication. If you are a hearing-or speech-impaired person, you may reach the telephone number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

Because lead-based paint is a national problem, these funds will be awarded to programs that will fulfill the following objectives:

1. Maximize the combination of children less than six years of age protected from lead poisoning and housing units where lead-hazards are controlled;

2. Target the reduction of elevated blood lead levels in children for the maximum number of low-income families with children less than six years of age, for the longest period of time;

3. Stimulate lower-cost and cost-effective methods and approaches to lead hazard control work that can be replicated;

4. Build local capacity to safely and effectively address lead hazards during lead hazard control, renovation, remodeling, and maintenance activities by integrating lead safe work practices into housing maintenance, repair, weatherization, rehabilitation and other programs that will continue beyond the grant period;

5. Affirmatively further fair housing and environmental justice;

6. Develop a comprehensive community approach to address lead hazards in housing by mobilizing public and private resources, involving cooperation among all levels of government, the private sector, and grassroots community-based nonprofit organizations, including faith-based organizations, to develop cost-effective methods for identifying and controlling lead-based paint hazards;

7. Establish a public registry (listing) of lead-safe housing or inclusion of the lead-safe status of properties in a publicly accessible address-based property information system to be affirmatively marketed to families with young children; and

8. To the greatest extent feasible, promote job training, employment, and other economic opportunities for low-income and minority residents and businesses that are owned by and/or employ minorities and low-income persons as defined in 24 CFR 135.5 (see 59 FR 33881, June 30, 1994).

B. Changes in the FY 2006 Competitive NOFA

1. The Lead-Based Paint Hazard Control Program, Lead Hazard Reduction Demonstration Program, and Operation LEAP are included in this *single* NOFA.

2. The Competitive Performance-Based Renewal category, under the Lead Hazard Control Grant Program, is not offered in this NOFA.

3. Direct lead hazard control activities are detailed below at Section 3 C 1.

4. Number of pages for the rating factor responses has been increased from 15 to 20 pages.

5. Funding requests greater than the maximum amount for the grant program will be deemed ineligible and not reviewed.

Section II. Award Information

A. Funding Available

From current and past years' funding, approximately $84,911,331 will be available for the Lead-Based Paint Hazard Control Program, approximately $59,615,180 will be available for the Lead-Based Paint Hazard Reduction Grant Program, and approximately $14,609,525 will be available for Operation Lead Elimination Action Program (LEAP).

1. Approximately 32 to approximately 40 grants will be awarded to applicants for the Lead-Based Paint Hazard Control Program. In addition, HUD will award a grant for $3,000,000 in fiscal year 2005 funds to the City of Charleston, 823 Meeting Street, Charleston, SC 29403, to resolve a funding error under the fiscal year 2004 Lead-Based Paint Hazard Control Program NOFA, in accordance with Sec. VI.A.3 of the fiscal year 2004 General Section. Approximately 10 to approximately 12 grants will be awarded to applicants for the Lead Hazard Reduction Demonstration Program, and approximately 4 to approximately 6 grants will be awarded to applicants for Operation LEAP. Grant award amounts for the Lead-Based Paint Hazard Control Program shall be from approximately $1 million up to a maximum of $3 million per grant, for the Lead Hazard Reduction Demonstration Program, from approximately $1 million up to a maximum of $4 million, and for Operation Lead Elimination Action Program (LEAP) a maximum of $2 million per grant. Applications for amounts larger than the applicable maximum amount for a program will be deemed ineligible and will not be reviewed.

2. The project duration shall be up to 36 months for all grant recipients. Period of performance extensions for delays due to exceptional conditions beyond the grantee's control will be considered by HUD in accordance with 24 CFR 84.25(e)(2) or 85.30(d)(2), as applicable, and the OHHLHC Program Guide. Such extensions, when granted, are one time only, and for no longer than a period of one year from the original period of performance end date.

B. Contracts or Other Formal Arrangements

1. If selected for funding, grantees are required to maintain a contract administration system to ensure sub-grantee and contractor conformance with the terms, conditions, and specifications of contracts. Grantees must enter into written contracts or agreements with sub-grantees and contractors, which identify specific services to be provided such as staffing requirements, time periods for the performance of work, project budget, and total amount of compensation to be provided; methods and documentation requirements for obtaining reimbursement of expenses; record keeping and reporting requirements; requirements placed upon the sub-grantee or contractor to comply with applicable federal laws, regulations, circulars, and Executive Orders; and provisions providing the grantee with access to financial and other documents and files for the purpose of monitoring sub-grantee or contractor performance and compliance with the local contract or agreement, and applicable Federal laws, regulations, circulars and Executive orders.

2. All applicants are encouraged to enter into formal arrangements with grassroots community-based nonprofit organizations, including faith-based organizations, or other community-based organizations, particularly if such organizations will be reimbursed for eligible activities under this NOFA. (This does not apply to Native American Tribes.) These formal arrangements could be a contract, a Memorandum of Understanding (MOU), a Memorandum of Agreement (MOA), or a letter of commitment. Such relationships should be established prior to the actual execution of an award or within 120 days of the effective start date of the grant agreement.

Section III. Eligibility Information

See the General Section for additional eligibility requirements applicable to HUD Programs.

A. Eligible Applicants

See chart below that describes eligible applicants, required match, and an amount for direct activities required for each of the three programs.

NOFA CRITERIA BY GRANT PROGRAM CHART

Programs	Eligible applicants	Percent of HUD Award		
		Match	Direct lead hazard control costs	Administrative and other allowable costs
Lead Hazard Control Program (LHC).	State, Native American Tribe, city, county, or other unit of local government. Multiple units of a local government (or multiple local governments) may apply as part of a consortium.	Minimum 10%	Minimum 65%	Administrative Maximum 10%. Balance may be used for Other Allowable Costs.
Lead Hazard Reduction Demonstration.	City, county, or other unit of local government. Multiple units of a local government (or multiple local governments) may apply as part of a consortium.	Minimum 25%	Minimum 90%	Administrative Maximum 10%. Balance may be used for Other Allowable Costs.
Operation Lead Elimination Action Program.	For-profit entity or firm. (not to earn a fee); Non-profit entities; Colleges and Universities; and National and Local Groups.	No match requirement.	Minimum 65%	Administrative Maximum 10%. Balance may be used for Other Allowable Costs.

1. Fiscal Year 2005 awardees of any of the three competitive programs detailed in this NOFA, including the Lead-Based Paint Hazard Control, Lead Hazard Reduction Demonstration and Operation LEAP, are not eligible to apply for any of these three programs during this competitive NOFA cycle.

2. Applicants may submit only one application for each of the three competitive programs covered by this NOFA.

B. Cost Sharing or Matching

This section applies to all three grant programs.

See NOFA Criteria by Grant Program Chart above. If an applicant does not include the minimum 10 percent for lead hazard control or 25 percent for Lead Hazard Reduction Demonstration match requirements in the application, it will be considered ineligible for an award. Matching and/or leverage contributions may be in the form of cash including private sector funding, or in-kind (non-cash) contributions or a combination of these sources. With the exception of Community Development Block Grant (CDBG) funds, or other programs that only allow their funds to be considered local funds and therefore eligible to be used as matching funds, federal funds may not be used to satisfy any statutorily required matching requirement, as applicable. Federal funds may be used, however, for contributions above the statutory (10 and 25 percent match) requirement. Program match shall be limited to contributions, which would be eligible for payment from grant funds, and may be in the form of cash, including private sector funding, or in-kind (non-cash) contributions or a combination of these sources. The applicant must submit a letter of commitment for the match from each organization other than itself that is providing a match, whether cash and/or in-kind. The letter must indicate the amount and source of match, and detail how the matching funds will be specifically dedicated to and integrated into supporting the proposed grant program. The signature of the authorized official on the Form SF–424 commits matching or other contributed resources of the applicant organization. A separate letter from the applicant organization is not required.

C. Other

1. Eligible Costs and Activities. This section applies to all three grant programs unless otherwise specified.

All lead hazard control activities funded under the Lead-Based Paint Hazard Control Program, the Lead Hazard Reduction Demonstration Program and Operation LEAP must be conducted in compliance with the applicable requirements of HUD's Lead-Safe Housing Regulation, 24 CFR part 35, and the companion Interpretive Guidance publication. Activities must also comply with any additional requirements in effect under a state or Tribal Lead-Based Paint Training and Certification Program that has been authorized by the EPA pursuant to 40 CFR 745.320. There are, in general, four categories of eligible costs under each competitive grant program included in this NOFA, including: direct costs for lead-based paint hazard identification and control activities, other direct costs, indirect costs, and administrative costs.

a. Description of Direct Lead-Based Paint Hazard Identification and Control Activities. Direct costs are defined as the allocable portion of allowable costs incurred directly for the purposes of the grant. Direct costs for lead hazard control activities consist of lead dust, soil and paint-chip testing and associated laboratory costs, the purchase or lease of a maximum of two X-ray fluorescence analyzers used by the grant program (if not otherwise available) and necessary maintenance during the grant period, combined lead paint inspection and risk assessments, interim controls, abatement of lead-based paint or lead-based paint hazards (but see section C.1(a)(6) for abatement limitations), occupant protection and temporary relocation of occupants when lead hazard control intervention work supported by this program is conducted in a unit, and clearance examinations. Direct costs for lead-based paint hazard identification and control activities do not include blood lead testing of residents or workers, housing rehabilitation beyond what is specifically required to carry out effective lead hazard control, and training, community education and outreach, applied research, purchase of supplies or equipment, or administrative costs without which the hazard control could not be completed and maintained.

(1) Performing lead dust, soil and paint-chip testing, combined lead-based paint inspections and risk assessments, and engineering and architectural activities that are required for, and in direct support of, interim control and lead hazard abatement work, of eligible housing units constructed prior to 1978 to determine the presence of lead-based paint and/or lead hazards from paint, dust, or soil through the use of acceptable testing procedures.

(2) All laboratory analysis in support of required testing and evaluation under this NOFA must be conducted by a laboratory recognized for the analysis by the EPA National Lead Laboratory Accreditation Program (NLLAP).

(3) All lead-based paint testing results, summaries of lead-based paintwork, and clearances must be

provided to the owner of the unit, together with a notice describing the owner's legal duty to disclose the results to tenants and buyers. Files must contain verifiable evidence, such as a signed and dated receipt. Refer to 24 CFR 35.125 of the Lead Safe Housing Regulation.

(4) All lead-based paint hazards identified in a housing unit or common area of multifamily housing enrolled in this grant program must be controlled or eliminated by either of the following strategies or a combination of the two.

(5) Interim Controls. According to the HUD Guidelines, interim controls of lead-based paint hazards including lead-contaminated dust and soil in housing must include specialized cleaning techniques to address lead dust.

(6) Lead-Based Paint Hazard Abatement. Abatement is regarded as complete abatement of all lead-based paint or lead-based paint hazards and is only authorized in states or localities that require complete abatement by law. HUD does not consider abatement of all lead hazards to be cost effective in most circumstances; therefore, a grantee must make a special request in writing prior to conducting complete abatement of lead hazards. Abatement of lead-contaminated soil should be limited to areas with bare soil in the immediate vicinity of the structure (*i.e.*, the drip line or foundation of the unit being treated, and children's play areas).

(7) Undertaking minimal housing rehabilitation activities that are specifically required to carry out effective hazard control, and without which the hazard control could not be completed and maintained. These grant funds may be used for lead hazard control work done in conjunction with other housing rehabilitation programs, to the extent practicable. HUD encourages integration of this grant program with housing rehabilitation, maintenance, weatherization, and other energy conservation activities.

(8) Carrying out temporary relocation of families and individuals during the period in which hazard control is conducted and until the time the affected unit receives clearance for re-occupancy. If families or individuals are temporarily relocated in a project which utilizes Community Development Block Grant funds, the guidance and requirements of 24 CFR 570.606(b)(2)(i)(D)(1)–(3) must be met. HUD recommends you review these regulations when preparing your proposal.

(9) Conducting clearance dust-wipe testing and laboratory analysis.

b. Description of Eligible Other Direct Costs.

(1) Purchasing or leasing supplies having a per-unit cost under $5,000 (except for the purchase or lease of up to two X-ray florescence analyzers used by the grant program).

(2) Performing blood lead testing and air sampling to protect the health of the hazard control workers, supervisors, and contractors.

(3) Conducting targeted community awareness, affirmative marketing, education or outreach programs on lead hazard control and lead poisoning prevention designed to increase the ability of the program to deliver lead hazard control services including educating owners of rental properties, tenants, and others on the Residential Lead-Based Paint Hazard Reduction Act, Lead-Safe Housing Rule, and applicable provisions of the Fair Housing Act especially as it pertains to familial status (*e.g.*, families with children) and disability discrimination, offering educational materials in languages that are common in the community other than English, consistent with HUD's published LEP Recipient Guidance, 68 FR 70968, and providing training on lead-safe maintenance and renovation practices and management. Upon request, this also would include making all materials available in alternative formats to persons with disabilities (*e.g.*, Braille, audio, and large type).

(4) Supporting data collection, analysis, and evaluation of grant program activities. This includes compiling and delivering such data as may be required by HUD. This activity is an item under other direct costs.

(5) Preparing a final report at the conclusion of grant activities.

(6) Conducting required pre-hazard control blood lead testing of children under six years of age residing in or frequently visiting units undergoing lead hazard control work.

(7) Providing resources to build capacity for lead-safe housing and lead hazard control, including free delivery of HUD-approved lead-safe work practices training courses for housing rehabilitation contractors, rehabilitation workers, homeowners, renters, painters, remodelers, maintenance staff, and others conducting renovation, rehabilitation, maintenance or other work in private housing; free delivery of lead sampling technician training, lead-based paint worker or contractor certification training; and subsidies for licensing or certification fees to low-income persons seeking credentials as lead-based paint workers or contractors or lead sampling technicians.

(8) Conducting planning, coordination, and training activities to comply with HUD's Lead-Safe Housing Regulation (24 CFR part 35, subparts B–R). These activities should support the expansion of a workforce properly trained in lead-safe work practices which is available to conduct interim controls on HUD-assisted housing covered by these regulations.

(9) Conducting outreach and related activities that are directly tied to a matching and/or leveraging strategy, and that will result in increased lead hazard control activities in low-income privately owned or owner-occupied housing with lead-based paint hazards. If applicants propose outreach and/or related activities, keep in mind that these activities must be tied to a leveraging strategy. Therefore, you must describe when and what this activity will match and/or leverage, and how it will be used to address a lead hazard.

(10) Lead hazard control activities tied directly to a matching and/or leveraging strategy and conducted in low- and very low-income eligible privately owned owner-occupied or investor-owned rental units. All units must be occupied by a family with a child under the age of six, except rental properties must be occupied by a family with a child under the age of six, or preference provided to a low- and very low-income family with a child under age six and the rents must be affordable for a minimum of 3 years after completion of the final lead clearance.

(11) Participating in applied research, studies, or developing information systems to enhance the delivery, analysis, or conduct of lead hazard control activities, or to facilitate targeting and consolidating resources to further childhood lead poisoning prevention efforts.

c. For reference to the Administrative Cost requirements, please see *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

d. For reference to the Indirect Cost requirements, please see *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

2. *Eligibility of HUD-Assisted Housing.* The table ''Eligibility of HUD-Assisted Housing,'' posted at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm,* lists the housing units that may participate under each of the three competitive programs detailed in this NOFA. Only those HUD-assisted units on the list are eligible to participate and receive Lead-Based Paint Hazard Control Grant, Lead Hazard Reduction Demonstration Grant and Operation LEAP funds.

3. *Threshold Requirements.* As an eligible applicant, you must meet all of the threshold requirements in Section III.C of the General Section as well as

any specific threshold requirements listed in this subsection. Applications will not be funded if they do not meet the threshold requirements.

a. Applicants under the Lead-Based Paint Hazard Control Program are required to match 10 percent of the funds requested with other funds or resources, while a 25 percent match is required for the Lead Hazard Reduction Demonstration Grant Program. There is no match requirement for Operation LEAP.

b. Applicants under the Lead Hazard Reduction Demonstration Program must have at least 3,500 pre-1940 occupied rental housing units in order to apply under the Lead Hazard Reduction Demonstration Program. Failure to provide the number of pre-1940 occupied rental units referenced in the Factor 2 Table (Form HUD 96013) will result in the application not being rated or ranked. Multiple local governments may apply as part of a consortium in an effort to meet the required number (3,500) of occupied rental units; however, you must identify a prime applicant that will be responsible for ensuring compliance with all requirements under this NOFA. No minimum requirement for the number of pre-1940 occupied units for Lead Hazard Control and Operation LEAP.

c. All applicants under the Lead Hazard Reduction Demonstration Program must provide the actual number of children with documented elevated blood lead levels residing within the jurisdiction(s) where the lead hazard control work will be conducted for the 2002, 2003 and 2004 complete calendar years and identify the source of the data. Failure to provide these data will result in the application not being rated or ranked.

d. EPA Authorization. If you are a state government or Native American Tribal government, you must have an EPA-authorized Lead-Based Paint Training and Certification Program in effect on the application deadline date to be eligible to apply for Lead Based Paint Hazard Control Grant funds. The approval date in the **Federal Register** notice published by the EPA will be used in determining the Training and Certification status of the applicant state or Native American Tribal government. If you do not have an EPA authorized program, the application will not be rated or ranked.

e. DUNS Requirement. You will need a Dun and Bradstreet Universal Data Numbering System (DUNS) number in order to register and submit your electronic application through *http://www.grants.gov.* Refer to the General Section for more information.

f. Consolidated Plans. (This requirement does not apply to Native American Tribes.) You must submit, as an appendix, the current lead-based paint element from the approved Consolidated Plan or the jurisdiction(s) where the lead hazard control will be conducted. In lieu of submitting a hard copy of the lead-based paint element from the current consolidated plan(s), you may substitute a Web site address. The Web site must contain the lead-based paint element of the current Consolidated Plan(s). If the jurisdiction does not have a currently approved Consolidated Plan, but it is otherwise eligible for this grant program, you must include the jurisdiction's abbreviated Consolidated Plan, which includes a lead-based paint hazard control strategy developed in accordance with 24 CFR 91.235.

g. An applicant requesting a funding amount greater than the maximum grant award amount will be deemed ineligible and not reviewed.

4. *Environmental Requirements.* a. Recipients of lead-based paint hazard control grants and lead hazard reduction demonstration grants must comply with 24 CFR part 58, Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities and must carry out environmental review responsibilities as a responsible entity under part 58.

b. Properties assisted with Operation LEAP funds under the Department of Housing and Urban Development Appropriations Act, 2006, are covered by the provisions of section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994, which are implemented by HUD regulations at 24 CFR part 58. Under part 58, a responsible entity, usually the unit of general local government, must assume the environmental review responsibilities for activities funded under Operation LEAP. Under 24 CFR 58.11, if a responsible entity or the recipient objects to the responsible entity performing the environmental review for Operation LEAP activities, HUD may designate another responsible entity to perform the review or may perform the environmental review itself under the provisions of 24 CFR part 50.

c. For all grants under this NOFA, recipients and other participants in the project are prohibited from undertaking, or committing or expending HUD or non-HUD funds (including HUD leveraged or match funds) on a project or activities under this NOFA (other than activities listed in 24 CFR 58.34, 58.35(b) or 58.22(f)) until the responsible entity completes an environmental review and the applicant submits and HUD approves a Request for the Release of Funds and the responsible entity's environmental certification (both on form HUD 7015.15) or, in the case of Operation LEAP grants where HUD has determined to perform the environmental review under part 50, HUD has completed the review and notified the grantee of its approval. The results of the environmental reviews may require that proposed activities be modified or proposed sites rejected. For part 58 procedures, see *http://www.hud.gov/offices/cpd/energyenviron/environment/index.cfm.* For assistance, contact Karen Choi, the Office of Healthy Homes and Lead Hazard Control Environmental Officer at (213) 534–2458 (this is not a toll-free-number) or the HUD Environmental Review Officer in the HUD Field Office serving your area. If you are a hearing- or speech-impaired person, you may reach the telephone number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339. Recipients of a grant under these funded programs will be given additional guidance in these environmental responsibilities.

5. *Administrative and Other Requirements.* If awarded, the applicant must comply with the requirements below and maintain appropriate documentation to demonstrate compliance with the requirements specified below. The requirements apply to all grant programs unless otherwise specified.

a. Lead-Based Paint Hazard Reduction Act (Title X of the Housing and Community Development Act of 1992), Section 1011 of Title X. Section 217 of Public Law 104–134 (the Omnibus Consolidated Rescissions and Appropriations Act of 1996, 110 Stat. 1321, approved April 26, 1996) amended Section 1011(a) of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X) to read as follows:

Section 1011. Grants for Lead-Based Paint Hazard Reduction in Target Housing

''(a) General Authority. The Secretary is authorized to provide grants to eligible applicants to evaluate and reduce lead-based paint hazards in housing that is not federally assisted housing, federally owned housing, or public housing, in accordance with the provisions of this section. Grants shall only be made under this section to provide assistance for housing that meets the following criteria—

(1) For grants made to assist rental housing, at least 50 percent of the units must be occupied by or made available

to families with incomes at or below 50 percent of the area median income level and the remaining units shall be occupied or made available to families with incomes at or below 80 percent of the area median income level, and in all cases the landlord shall give priority in renting units assisted under this section, for not less than 3 years following the completion of lead abatement activities, to families with a child under the age of six years, except that buildings with five or more units may have 20 percent of the units occupied by families with incomes above 80 percent of area median income level;

(2) For grants made to assist housing owned by owner-occupants, all units assisted with grants under this section shall be the principal residence of families with income at or below 80 percent of the area median income level, and not less than 90 percent of the units assisted with grants under this section shall be occupied by a child under the age of six years or shall be units where a child under the age of six years spends a significant amount of time visiting * * *''

(1) Certified and Trained Performers. Funded activities must be conducted by persons qualified for the activities according to 24 CFR part 35, subparts B–R (possessing certification as abatement contractors, risk assessors, inspectors, abatement workers, or sampling technicians, or others having been trained in a HUD-approved course in lead-safe work practices).

(2) Lead hazard evaluation and control work must be conducted in compliance with HUD's Lead Safe Housing Rule, 24 CFR part 35, the HUD Guidelines, and applicable federal, state and local regulations and guidance.

6. *Prohibited Practices.* You must not engage in the following prohibited practices:

a. Open flame burning or torching;

b. Machine sanding or grinding without a high-efficiency particulate air (HEPA) exhaust control;

c. Uncontained hydroblasting or high-pressure wash;

d. Abrasive blasting or sandblasting without HEPA exhaust control;

e. Heat guns operating above 1,100 degrees Fahrenheit;

f. Chemical paint strippers containing methylene chloride or other volatile hazardous chemicals in a poorly ventilated space; and

g. Dry scraping or dry sanding, except scraping in conjunction with heat guns or around electrical outlets or when treating no more than two square feet in any one interior room or space, or totaling no more than 20 square feet on exterior surfaces.

7. *Written Policies and Procedures.* You must have clearly established, written policies and procedures for eligibility, program marketing, unit selection, expediting work on homes occupied by children with elevated blood lead levels, and all phases of lead hazard control, including risk assessment, inspection, development of specifications, pre-hazard control blood lead testing, financing, temporary relocation and clearance testing. Grantees, subcontractors, sub-grantees, sub-recipients, and their contractors must adhere to these policies and procedures.

8. *Continued Availability of Lead-Safe Housing to Low-Income Families.* Units in which lead hazards have been controlled under this program shall be occupied by or continue to be available to low-income residents as required by Title X (Section 1011). You must maintain a publicly available registry (listing) of units in which lead hazards have been controlled and ensure that these units are affirmatively marketed to agencies and families as suitable housing for families with children less than six years of age. The grantee must also provide the owner with the lead hazard evaluation and control information generated by activities under this grant, so that the owner can comply with his/her disclosure requirements under 24 CFR part 35, Subpart A.

9. *Testing.* In developing your application budget, include costs for lead paint inspection, risk assessment, and clearance testing for each dwelling that will receive lead hazard control, as follows:

a. General. All testing and sampling shall comply with the Lead Safe Housing and conform to the current HUD Guidelines, the EPA lead hazard standards at 40 CFR part 745, and federal, state, or tribal regulations developed as part of the appropriate contractor certification program, whichever is more stringent. It is particularly important to provide this full cycle of testing for lead hazard control, including interim controls.

b. Lead-Based Paint and Lead-Based Paint Hazard Identification. A combined lead-based paint inspection and risk assessment is required.

c. Clearance Testing. If rehabilitation is conducted in conjunction with lead hazard control, clearance may be conducted either after the lead hazard control work is completed, and again after any subsequent rehabilitation work is completed, or after all of the lead hazard control and rehabilitation work is completed. Clearance shall be successfully completed before re-occupancy.

10. *Blood lead testing.* Each child under six years of age should be tested for lead poisoning within the six months preceding the lead hazard control work. Any child with an elevated blood lead level must be referred for appropriate medical follow-up. The standards for such testing are described in the Centers for Disease Control and Prevention (CDC) publications Preventing Lead Poisoning in Young Children (1991), and Screening Young Children for Lead Poisoning: Guidance for State and Local Public Health Officials (1997).

11. *Cooperation With Related Research and Evaluation.* You shall cooperate fully with any research or evaluation sponsored by HUD, CDC, EPA or other government agency and associated with this grant program, including preservation of project data and records and compiling requested information in formats provided by the researchers, evaluators or HUD. This also may include the compiling of certain relevant local demographic, dwelling unit, and participant data not contemplated in your original proposal. Participant data shall be subject to the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA and the Privacy Rule can be found at *http://www.hhs.gov/ocr/hipaa.*

12. *Data collection.* You will be required to collect, maintain, and provide to HUD the data necessary to document and evaluate grant program outputs and outcomes.

13. *Financial Control.* Financial control systems shall be established including methods and procedures to ensure that only grant eligible expenses are charged to the grant as reimbursable expenses or project match; that appropriate documentation of time worked on and charged to the grant is maintained; and that no more than 10 percent of grant funds are used for administrative costs and that indirect cost allocation plans are updated annually.

14. *Section 3 Employment Opportunities.* Please refer to Section III.C of the General Section. The requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) are applicable to this program. This sub-factor will be evaluated on the extent to which an applicant describes how it proposes to:

a. Provide opportunities to train and employ lower-income residents of the project area; and

b. Award substantial contracts to persons residing in the project area.

Applicants that demonstrate their responsiveness to the section 3 requirement may receive up to 2 rating points. Annual submission of Form HUD–60002 is required.

Regulations regarding the provision of Section 3 of the Housing and Urban Development Act of 1968 can be located at 24 CFR part 135.

15. *Replacing Existing Resources.* Funds received under the grant programs covered under this NOFA shall not be used to replace existing community resources dedicated to any ongoing project.

16. *Certifications and Assurances.* By signing the SF–424, you are agreeing to the certifications and assurances listed in the General Section and this NOFA.

17. *Code of Conduct.* If awarded assistance, you will be required, prior to entering into a grant agreement with HUD, to submit a copy of your Code of Conduct and describe the methods you will use to ensure that all officers, employees, and agents of your organization are aware of your Code of Conduct. Refer to the General Section for information about conducting business in accordance with HUD's core values and ethical standards.

18. *Lead-Safe Work Practice Training Activities.* Applicants under the Lead-Based Paint Hazard Control Grant Program are encouraged to provide resources to promote the expansion of a workforce properly trained in lead-safe work practices and which is available to conduct interim controls and/or lead hazard abatement as well as follow lead-safe work practices while performing work on HUD assisted housing units and to safely repair, rehabilitate, and maintain other privately owned residential property. The effort is permissible under the Lead Hazard Reduction Demonstration Program, when funded as part of the 10 percent remaining after direct lead hazard control activities are funded under this program.

19. *Coordination Among Critical Agencies.* If awarded assistance under the Lead-Based Paint Hazard Control or Lead Hazard Reduction Demonstration programs, applicants shall participate in the state-wide or jurisdiction-wide strategic plan to eliminate childhood lead poisoning as a major public health problem by 2010, or assist in the development of one plan in states or localities that do not have such a plan. The CDC strategic elimination plans for state and local childhood lead poisoning prevention programs can be downloaded from *http://www.cdc.gov/nceh/lead/Strategic%20Elim%20Plans/strategicplans.htm.*

Additionally, if awarded lead hazard control and lead hazard demonstration funds, applicants shall enter into or extend existing collaborative agreements or arrangements with childhood lead poisoning prevention programs among health agencies, housing agencies, community development agencies, and code enforcement agencies (or equivalent) for their target area(s) local jurisdiction(s), and, for state or tribal applicants, with their state or tribal health agencies, housing agencies, development agencies, and code enforcement agencies (or equivalent). Agreements or arrangements must describe how the health department and the housing and/or development agency have or will consider enrolling housing units (or multifamily buildings) in which one or more children under age 6 years have elevated blood lead levels, with priority to housing where repeated and/or severe cases of childhood lead poisoning have occurred. (Because of the presence of a variety of priorities, it is not a requirement that units with lead-poisoned children be enrolled, but the process for giving such units high priority should be described and implemented.) HUD encourages Operation LEAP applicants to enter into such agreements.

20. *Work Plan.* Upon award, a work plan shall be developed and consist of the measurable quarterly performance goals and specific time-phased objectives established for each of the major activities and tasks required to implement the program. These major activities and tasks are outlined in the Quarterly Progress Reporting System (Form HUD–96006) and include: Program Management and Capacity Building including data collection and program evaluation; Community Education, Outreach and Training; and Lead Hazard Activities including testing, interventions conducted, and temporary relocation.

a. Describe how lead hazard units, especially those known to house elevated blood lead levels of children under six years of age, will be identified, selected, prioritized, and considered for treatment under this grant and/or other programs of the grantee or grantee's team members. An elevated blood lead level is defined as an excessive absorption of lead that is a confirmed concentration of ten (10) micrograms of lead per deciliter of whole blood.

You must demonstrate how you consider housing units identified by local health and child welfare agencies where incidences of childhood lead poisoning have occurred, particularly those where multiple poisonings have been reported, for enrollment into lead hazard control treatment programs, as well as demonstrate the use of other sources of information on high priority housing;

b. Your work plan should address your jurisdiction's Consolidated Plan goals for pursuing community planning and development and housing programs relative to lead and other housing-related issues that affect the health of residents. The work plan must include a detailed strategy to:

(1) Obtain data from state or local health departments or from families themselves (either directly, for example, through service organizations that families distribute their information) on the addresses of housing units in which children have been identified as lead poisoned, as required by 24 CFR 91.100(a)(2); and

(2) Continue or enter into collaborative agreements or arrangements with applicable state or local health and child welfare agencies, community development organizations, and housing agencies and/or other housing organizations to team with HUD Lead Hazard Control, Lead Hazard Reduction Demonstration, and LEAP grantees to identify and address childhood lead poisoning in the jurisdiction collaboratively, and describe the methods for coordinating among these agencies.

(3) Demonstrate specific steps and/or actions that will be taken to ensure that other resources in the community are utilized to increase funding, to locate and provide training, and to link with other local programs engaged in lead hazard control activities;

(4) Describe how the project will be managed, and the timeline for staffing the program, establishing a lead-based paint contractor pool, and obtaining HUD approval for the Request for the Release of Funds (HUD Form 7015.15);

(5) Describe how assistance and funding will flow from you to the actual performers of the hazard reduction work;

(6) Describe the selection process for sub-grantees, sub-contractors, or sub-recipients;

(7) Describe the financing mechanism used to support lead hazard control work in units (name of administering agency, eligibility requirements, type of financing (grant, forgivable or deferred loans, private sector financing, etc.)), any owner matching requirement, and the terms, conditions, and amounts of assistance available, include affordability terms and forgiveness and recapture of funds provisions;

(8) Perform combined lead-based paint inspection and risk assessment

testing procedures using the HUD Guidelines, applicable sections of the Lead Safe Housing Regulations and EPA standards to identify lead hazards and to conduct clearance testing.

(9) Describe the process for developing work specifications and bids on properties selected for lead hazard control work;

(10) The specific intervention methods and clearance procedures to be conducted for units enrolled and treated;

(11) The number of rental-occupied, vacant, and owner-occupied units, including the number of single-family and multifamily units, proposed for interim controls and hazard abatement;

(12) The occupant protection and relocation plan that will be carried out for residents required to be out of their homes during hazard control activities;

(13) The education, outreach, and training activities to be undertaken by the program;

(14) The overall outcomes for community education, outreach, and training activities, including the number of events and the number of individuals to receive education, outreach, and training.

(15) The blood lead testing and other health measures to be undertaken to protect children under six years of age and other occupants of units undergoing lead hazard control work; and

(16) The evaluation process used to measure program performance, with particular attention given to program performance in the five key areas evaluated by OHHLHC on a quarterly basis (NOFA Rating Factor 5 response): Number of units inspected and risk assessed; number of units cleared of lead hazards; the amount of grant funds disbursed through the Line of Credit Control System (LOCCS); the number of persons reached through outreach and education efforts; and the number of persons trained in lead hazard control courses. For Operation LEAP, only the quarterly assessment will include one additional performance measure which is the amount of leverage.

(17) The grantee's accounting, finance, and internal audit procedures.

(a) Procedures for obtaining funding through government resources, match, leverage, and other contributed resources,

(b) Procedures for the procurement process and the reimbursement process of vendors, contractors, and sub-grantees

(18) Quarterly performance benchmarks. The benchmarks for a 36-month grant are on the Work Plan Development Worksheet with Minimum Benchmark Standards for 36 Months—Form HUD–96008, (You can download Form HUD–96008 at *http://www.hudclips.org/subnonhud/html/forms.htm.* and can also find it on the HUD OHHLHC Web site at: *http://www.hud.gov/offices/lead/lhc/index.cfm.*

The development of your work plan should include and reflect the benchmark standards. All applicants are required to complete the Factor 3 Table—Soundness of Approach, and the Work Plan Development Worksheet with Minimum Benchmark Standards for 36 Months—Form HUD–96008.

21. *Detailed budget.* A detailed budget submission which identifies the total budget (federal share and matching and/or leverage contribution) identified on Form HUD–424 CBW with supporting narrative and cost justifications for all budget categories of your grant request. You must provide a separate estimate for the overall grant management element (Administrative Costs), which is more fully defined in Section IV.E of this NOFA. All applicants must provide a detailed budget for any subcontractors, sub-grantees, or sub-recipients receiving greater than 10 percent of the federal budget request. In the event of a discrepancy between grant amounts requested in various sections of the application, the amount you indicate on the Form SF–424 will govern as the correct value.

22. *Institutional Review Board (IRB).* Indicate if your program includes conducting research involving human subjects in a manner which requires IRB approval and periodic monitoring under 24 CFR part 60, which incorporates the Department of Health and Human Service's regulations, at 45 CFR part 46. For additional information on what constitutes human subjects, research or how to obtain an institutional assurance, see the Department of Health and Human Services, Office of Human Research Protection (OHRP) Web site at *http://www.hhs.gov/ohrp.*

Section IV. Application and Submission Procedures

A. Address To Request Application Package

See the General Section for specific procedures concerning the electronic application submission requirements.

Guidebook and Further Information: If you have difficulty accessing the information, you may call the help desk help line at (800) 518–GRANTS or e-mailing *support@grants.gov.* If you are hearing impaired you may reach the numbers above through (800) HUD–2209 (TTY) (these are toll-free numbers).

B. Content and Form of Application Submission

Applicants eligible to apply under this NOFA are to follow the submission requirements described in Section IV.C.1.a. below:

1. Applicant Information.

a. Application Format. The application narrative response to the Rating Factors from new and eligible prior grantees is limited to a maximum of 20 pages (excluding appendices and worksheets) of size 8½″ x 11″ using a 12-point (minimum) font with not less than ¾″ margins on all sides. Materials provided in the appendices should directly apply to the specific rating factor narrative. Applicants are strongly urged not to submit information that is not required and/or requested by the NOFA or does not directly apply to a specific narrative response. The narrative rating responses should be submitted as a single Microsoft Word document file. All attachments must identify the related factor in the footer by providing the rating factor and the page number (*e.g.*, Factor 1 Attachment, pg. 1), and should be submitted as a single zip file, attachment to the electronic application.

b. Application Checklist (Voluntary). Your application must contain all of the required information noted in this NOFA and the General Section. These items include the standard forms, and the certifications and assurances listed in the General Section that are applicable to this NOFA. The forms required for application submission and instructions can be found in the application at *http://www.grants.gov.* The ''Checklist and Submission Table of Contents'' below includes a list of the required items needed for submitting a complete application and receiving consideration for funding. Inclusion of this ''Checklist and Submission Table of Contents'' with your proposal is recommended but not required.

Checklist and Submission Table of Contents

- Application Checklist (Paper copy applications only).
- Applicant Abstract (limited to a maximum of 2 pages).
- Rating Factor Response (limited to a maximum of 20 narrative pages plus the following forms).

1. Capacity of the Applicant and Relevant Organizational Experience—Form HUD–96012.
2. Needs/Extent of the Problem—Form HUD–96013.
3. Soundness of Approach (Work Plan/Budget)—Form HUD–96014;
4. Leveraging and Matching Resources—Form HUD–96015

5. Achieving Results and Program Evaluation—Logic Model—Form HUD–96010

• Materials to be submitted in response to rating factors (does not count towards 20-page limit).

Application for Federal Assistance—Form SF–424.

Survey on Ensuring Equal Opportunity for Applicants—Form SF–424 Supplement.

Grant Application Detailed Budget Worksheet—HUD–424 CBW, Total Budget (Federal Share and Matching) with Supporting Narrative and Cost Justification.

Disclosure and Update Report—Form HUD–2880.0

Certification of Consistency with the RC/EZ/EC—II Strategic Plan—Form HUD–2990.

Certification of Consistency with the Consolidated Plan—Form HUD–2991.

Disclosure of Lobbying Activities (if applicable)—Form SF–LLL.

Development Worksheet with Minimum Benchmark Standards (36 Months) Form HUD–96008.

Facsimile Transmittal (for electronic applications)—Form HUD–96011.

Questionnaire for HUD's Initiative on Removal of Regulatory Barriers, including the required information (if applicable)—Form HUD–27300, including required documentation or URL references—

You Are Our Client Survey—Form HUD–2994–A (optional).

• Threshold Requirements.

Only those applications that meet the threshold review requirements will be rated and ranked. Threshold requirements are identified below:

a. Lead-Based Paint Element in Consolidated Plan.

b. 10 Percent (Lead Hazard Control Program) or 25 Percent (Lead Hazard Reduction Demonstration Program) Matching Contribution and no match requirement for Operation LEAP.

c. Funding request no greater than the maximum amount for the grant program.

• Material in support of the Rating Factors (20 page limit).

Budget Narrative.

Match, Leverage, and other sources of contributed resources. Submit an itemized breakout of your required matching contribution, including:

a. Letters or other evidence of commitment from donors; and

b. The amounts and sources of contributed resources, including donated in-kind services.

c. Applicant Contributors. Provide contracts, Memoranda of Understanding or Agreement, letters of commitment or other documentation describing the proposed roles of agencies, local broad-based task forces, participating grassroots community-based nonprofit organizations, including faith-based organizations, local businesses, and others working with the program.

d. Consolidated Plan Element. (This requirement does not apply to Native American Tribes). You must submit as an appendix a current lead-based paint element from your current approved Consolidated Plan or the jurisdiction(s) where the lead hazard control work will be conducted. In lieu of submitting a hard copy of the lead-based paint element from your current consolidated plan, you may substitute a Web-site address. The Web-site must link directly to the lead-based paint element of a current Consolidated Plan. If your jurisdiction does not have a currently approved Consolidated Plan, but it is otherwise eligible for this grant program, you must also include your jurisdiction's abbreviated Consolidated Plan, which includes a lead-based paint hazard control strategy in accordance with 24 CFR 91.235. You should include the discussion of any lead-based paint issues in your jurisdiction's Analysis of Impediments, particularly as it addresses your target areas.

C. Submission Dates and Times

Application Submission Dates: The application deadline date is June 7, 2006. Refer to the General Section for timely submission requirements.

D. Intergovernmental Review

Not required.

E. Funding Restrictions

1. Ineligible Activities. You may not use grant funds for any of the following ineligible activities:

a. Purchase of real property.

b. Purchase or lease of supplies having a per-unit cost in excess of $5,000, except for the purchase and lease of up to two X-ray fluorescence analyzers used by the grant program;

c. Chelation or other medical treatment costs related to children with Elevated Blood Lead levels (EBLs). Non-federal funds used to cover these costs may be counted as part of the required matching contribution.

d. Lead hazard control activities in publicly owned housing, or project-based Section 8 housing (this housing stock is not eligible under Section 1011 of the Lead-Based Paint Hazard Reduction Act).

e. Activities that do not comply with the Coastal Barrier Resources Act (16 U.S.C. 3501).

f. Lead-hazard control or rehabilitation of a building or manufactured home that is located in an area identified by the Federal Emergency Management Agency (FEMA) under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128) as having special flood hazards unless:

(1) The community in which the area is situated is participating in the National Flood Insurance Program in accordance with the applicable regulations (44 CFR parts 59–79), or less than a year has passed since FEMA notification regarding these hazards; and

(2) Where the community is participating in the National Flood Insurance Program, flood insurance on the property is obtained in accordance with section 102(a) of the Flood Disaster Protection Act (42 U.S.C. 4012a(a)). You are responsible for assuring that flood insurance is obtained and maintained for the appropriate amount and term.

(3) Please see *http://www.hud.gov/offices/adm/grants/fundsavail.cfm* for reference to the Administrative Cost requirements.

(4) Please see *http://www.hud.gov/offices/adm/grants/fundsavail.cfm* for reference to the Indirect Cost requirements.

F. Other Submission Requirements

Applicants are required to submit applications electronically via the Web site *http://www.grants.gov.* See section IV.F of the General Section for additional information on the electronic process and how to request a waiver from the requirement if necessary.

Section V. Application Review Information

A. Criteria

The following section applies to all applicants unless otherwise specified.

1. Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (Up to 20 Points Maximum for All Applicants)

a. *Capacity of the Applicant (10 points).* This rating factor addresses your organizational capacity necessary to successfully implement the proposed activities in an efficient manner. All applicants must respond to this Rating Factor, including completing the Factor 1 Table. The technical merit or threshold compliance of the applicant will be rated unless otherwise specified. The ''applicant'' includes the applicant organization as a whole, the applicant staff, including key personnel responsible for implementing the program, grassroots community-based nonprofit organizations, including faith-

based organizations, sub-contractors, consultants, sub-recipients, and members of consortia that are firmly committed to your program.

Applicants are to list by name and/or position title all key personnel, whether currently vacant or contingent upon an award, including the percentage of time to be dedicated to the proposed program. Key personnel should include, at a minimum, one Project Director and one Program Manager. The applicant must describe the relevant knowledge and experience of the Project Director and Program Manager, and any additional key personnel, who will carry out program activities, including the time commitment of each to the proposed program. The applicant must describe the proposed roles and responsibilities of each key personnel, including any/all relevant current or previous experience in the planning and management of large, complex and interdisciplinary programs involving housing rehabilitation or lead hazard control, childhood lead poisoning prevention, or similar work. The day-to-day program manager must be experienced in the management of housing rehabilitation or lead hazard control, childhood lead poisoning prevention, or similar work involving project management, and must be dedicated to the proposed program for a minimum of 75 percent of the time. If awarded two or three grants under this NOFA, HUD grantees will negotiate 100 percent of total time spent on the grants. Additional program staff experience, roles, responsibilities and time commitment must also be described.

Similarly, applicants must list and describe sub-grantees and sub-contractor organizations that will provide services and carry out critical activities for the proposed grant program, including their capacity, as demonstrated by experience in initiating and implementing related environmental, health, or housing projects. List key personnel from each sub-grantee or sub-contractor organization who will provide services, their respective roles and responsibilities on the proposed program and the time to be dedicated to the proposed program.

The applicant must demonstrate that it has sufficient personnel or will have the capability to retain qualified experts or professionals, and be prepared to perform lead-based paint hazard evaluation, lead-based paint hazard control intervention work, and other proposed activities within 120 days of the effective date of the grant award. HUD reserves the right to terminate the grant if sufficient personnel or qualified experts are not retained within this 120-day period. Résumés (for up to three key personnel) or position descriptions for those key personnel to be hired, and organizational charts for the grant program must be submitted. Factor 1 Table—Key Personnel and Partners, must be completed and submitted.

b. *Relevant Organization Experience (10 points)*.

(1) New Applicants. In rating this factor, HUD will consider a new applicant's recent, relevant, and demonstrated experience in undertaking eligible program activities. Organizational capacity should be demonstrated in a table that describes prior experience in initiating and implementing lead hazard control efforts and/or related environmental, health or housing projects or programs. Applicants must indicate how this prior experience will be used in carrying out the proposed comprehensive Lead-Based Paint Hazard Control, Lead Hazard Reduction Demonstration and Operation LEAP Grant Programs.

The applicant should include, as an appendix item to this rating factor, 1–2-page résumé of up to three key personnel responsible for the grant (*e.g.*, project director, program manager, etc). Include a table that lists the relevant and most recent experience in initiating and implementing lead hazard control efforts and/or related environmental, health or housing projects or programs and/or grants awarded (which may also include philanthropic/foundation awards for LEAP applicants) that you currently manage or have previously managed within the past three years (*e.g.*, Lead Hazard Control, CDBG Housing Rehabilitation, Childhood Lead Poisoning Prevention Program, Healthy Homes Demonstration, Weatherization, Operation LEAP, etc.), an organizational chart for the overall organization and the project/grant program, and include the following details for each project:

- Federal/state/local/private agency providing the project;
- Title of the project; and
- Name of the Project Director and Program Manager.
- Dollar amount of the project;
- Deliverables planned;
- Deliverables and accomplishments achieved;
- Start and end date of the project;
- Whether or not the project was completed on time;
- Discussion of any significant obstacles and how they were resolved.

HUD's evaluation process will consider an applicant's past performance record as reported to HUD in effectively organizing and managing its grant operations, in meeting performance and work plan benchmarks and goals, and in managing funds, including its ability to account for funds appropriately, the timely use of funds received either from HUD or other federal, state or local programs, and meeting performance milestones. HUD may also use other information relating to these items from sources at hand, including public sources such as newspapers, Inspector General or Government Accountability Office Reports or Findings, hotline complaints, or other sources of information that possess merit.

(2) Current or previous grantee under any of this NOFA's programs. HUD will evaluate the applicant's quarterly performance reports for the last four (4) quarters as of the most recent reporting year. Based on the overall performance rating of the last 4 reporting quarters under the OHHLHC Quarterly Progress Reporting System, up to a maximum of 10 points will be awarded based on the combination of green, yellow, or red performance ratings.

2. Rating Factor 2: Need/Extent of the Problem (20 Points Maximum for Lead-Based Paint Hazard Control and Lead Hazard Reduction Demonstration Programs, and 10 Points Maximum for Operation LEAP)

This factor refers to whether or not the community where eligible lead hazard control activities will be conducted has significant lead-based paint hazards to be addressed and an urgent need for HUD funding to address the problem in your identified target area(s). Each applicant will be evaluated and scored in this rating factor based on documented need as evidenced by thorough, credible, and applicable data and information. The applicant is to complete the Factor 2 Table—Need/Extent of the Problem.

Multiple tables (one per target area) are permissible. Provide the number of children less than 6 years of age in the target and jurisdiction area(s). The data submitted to HUD may be verified using data available from the Census, HUD user, other data available to HUD and/or in cooperation with the CDC. Points will be awarded in this rating factor based on the information documenting the number of children with an elevated blood lead level, the number of pre-1978 housing units (use pre-1980 data, if pre-1978 data are unavailable), and the number and percentage of families with incomes at or below 80% of the Area Medium Income as determined by HUD within your jurisdiction and/or target areas.

a. Points will be awarded based on the documented number of children with an

EBL entered in the Rating Factor 2 table. Documented Number of Children with an Elevated Blood Lead (EBL) *(10 Points Maximum for Lead-Based Paint Hazard Control and Lead Hazard Reduction Demonstration Programs, and 3 Points Maximum for Operation LEAP).* Provide the actual number of children documented as having an elevated blood lead (EBL) residing within the jurisdiction where the lead hazard control work will be conducted for the most recent complete calendar year and identify the source of the data. HUD will accept data for the most recent of the following calendar years: 2003, 2004, and 2005. States must report the number in the city, county, or other area where funds will actually be used. Consortia of local governments must report the number in the cities or counties making up the consortium. Operation LEAP applicants must report the EBL data from the designated targeted areas. For the purposes of this application, the ''documented number of children'' with an EBL is based on the CDC level of concern. A child under six years of age with a blood lead level test result equal to or greater than 10 micrograms of lead per deciliter of blood, based on a test that was performed by a medical health care provider, is considered to have an EBL. The actual number of children with an EBL (not an estimate) must be included in this application in order to receive points for this sub-factor. Do not send the children's names or addresses or other identifiers. Failure to provide this number in the application means that no points will be awarded for this sub-factor. For you to receive maximum points for this rating factor, there must be a direct and substantial relationship between your proposed lead hazard control activities, Consolidated Plan's lead element, and the documented community needs. Since an objective of the program is to prevent at-risk children from being poisoned, specific attention must be paid to documenting the identified need as it applies to any selected targeted area(s). Applicants shall complete the Factor 2 Table.

b. Points will be awarded based on the documented housing market data relevant to the specified target area(s) entered in the Rating Factor 2 table. *(5 Points for Lead-Based Paint Hazard Control and Lead Hazard Reduction Demonstration Programs, and 3 Points Maximum for Operation LEAP).* Points will be awarded for the number of pre-1940 housing units in the applicant's jurisdiction(s) according to the table, ''Points Awarded for Number of Pre-1940 Occupied Rental Housing Units in Target Area,'' that can be downloaded from *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* Housing Age for the following sub-categories: Pre-1940, 1940–1949, 1950–1959, 1960–1969, 1970–1979 and 1980 or newer (Census information includes 1970–1979 category). The table shows the number of points awarded based on the number of pre-1940 housing units in the grant target area(s).

c. Points will be awarded based on the documented percentage of very-low (income less than 50 percent of the area median) and low- (income less than 80 percent of the area median) income families, as determined by HUD and entered in the Rating Factor 2 table *(5 Points Maximum for Lead-Based Paint Hazard Control and Lead Hazard Reduction Demonstration Grant Programs and 4 Points Maximum for Operation LEAP).* ''Points Awarded for Number of Very Low and Low-Income Percentages of Families in Target Area'' can be downloaded from *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* The table shows the number of points awarded based on the number of very low and low-income percentages of families in target area(s).

3. Rating Factor 3: Soundness of Approach (40 Points Maximum for All Applicants)

Applicants for these grant programs shall complete the Rating Factor 3 Table Soundness of Approach. All Applicants: Based on analysis of internal historical data, lead hazard control grant programs average approximately 1 unit for every $8,000 of grant and matching/leveraged dollars spent. It is, therefore, anticipated that all programs under this NOFA will meet or exceed this standard. If your particular work plan will exceed this unit per grant and match or leverage threshold, you will be expected to justify and explain the cost per unit ratio. This factor addresses the quantity, quality and cost-effectiveness of your proposed work plan. The work plan should include specific, measurable, and time-phased objectives for each major program activity and should reflect benchmark performance standards for unit production, expenditures, obtaining match/leverage funds, community outreach and education, skills training, and other activities including accounting for program activities. These benchmark standards as well as policy guidance on developing work plans are available at the HUD Web site: *http://www.hud.gov/offices/lead/grantfrm/hudgrantee.cfm.* This policy guidance provides a sample format and outline for developing a Work Plan.

Applicants for Lead-Based Paint Hazard Control and Lead Hazard Reduction Demonstration Programs should describe the proposed activities and provide HUD with measurable outcome results to be achieved with the requested funds. Measurable outcome results should be stated in terms relevant to the purpose of the program funds as a direct result of the work performed within the performance period of the grant (*e.g.*, estimated number of units to be made lead-safe, estimated number of children living in units made lead-safe, estimated number of persons to be trained to perform lead hazard control activities, estimated number of educational programs to be presented and/or the number of persons to be served by such programs, and the basis for these estimates). Each proposed activity must be eligible in accordance with the requirements of this NOFA and meet statutory requirements for assistance to low- and very low-income persons.

Applicants for the Operation Lead Elimination Action Program (LEAP) should describe in detail their approach for leveraging private sector resources. LEAP is intended to leverage significant private sector resources that will then be used to address lead hazards in privately owned housing occupied by low- and moderate-income families with children less than 6 years of age. Keeping in mind that HUD's Lead-Based Paint Hazard Control grants average approximately 1 unit for every $8,000 of grant and matching dollars spent, therefore, a LEAP program should meet or exceed this performance using private resources. HUD expects that the leveraged funds in comparison to the HUD funds would be substantially greater (for example, a grant applicant is proposing to use $4 million in private sector resources with $2 million in LEAP funds (a 2:1 ratio)). The number of units the applicant would expect to control by these resources would be approximately 500 units. Your application should indicate in Rating Factor 4—Leveraging—the extent of funding you commit to leverage. Your application should include in this Rating Factor 3 your approach for obtaining the leveraged funding and your approach to controlling lead-based paint hazards in housing using the HUD and leveraged funds.

a. *Lead Hazard Control Work Plan Strategy (20 Points all Applicants):* Describe the overall work plan goals and time-phased strategy to complete work within the 36-month period of performance (Form HUD–96008). Describe the methods, schedule and milestones that will be used to identify

and control lead-based paint hazards and to achieve the desired project outcomes. Include summary information about the estimated numbers of clients to be contacted, units and families enrolled, units to receive risk assessments and inspections, units to receive lead hazard control work, individuals or groups to be trained, and individuals and groups to be reached through education and/or outreach activities.

Additionally, provide responses to the following: Program Management. Describe the overall approach to implement the proposed program. Describe how the program will be organized, managed and staffed.

(1) Program Administration and Financial Management. Describe the approach and method to successfully administer the proposed program.

(a) Include details about staff and project oversight/monitoring, contract administration (to ensure sub-grantees and contractors conform to the terms, conditions and specifications of contracts or other formal agreements), and how assistance and funding will flow from the grantee to those who will perform work under the proposed program.

(b) Explain how your proposed technical approach addresses local conditions and needs, *e.g.,* especially maximizing the number of children protected from lead hazards.

(c) Discuss the lead hazard control financing strategy, including financing eligibility requirements, terms, conditions, dollar limits, amounts available for lead hazard control work in the various categories (explain) of housing intended for intervention (*e.g.*, single-family, multi-family, vacant, owner- or tenant-occupied), and who is responsible for establishing, administering and overseeing this aspect of the program. Describe how recapture of grants or loan funds to owners of assisted units will occur when recipients fail to comply with any terms and conditions of the financing arrangement (*e.g.*, failure to comply with affordability, affirmatively marketing and providing priority to renting units to families with children under six years of age, sale of property, etc.). Explain the assistance instrument (*e.g.*, grants, deferred loans and/or forgivable loans and the basis and schedule for forgiveness), and the role of other resources such as private sector financing and matching requirements, if any, from rental property owners. Identify the process and those responsible for coordination and payment between the program and contractors performing the work.

(2) Program Start-Up. Describe program start-up activities during the first 120 days of the grant.

(a) Provide information about internal and external capacity-building steps necessary to ensure a smooth and timely start-up phase. Provide detailed information about hiring staff, training staff or other organizations to provide the knowledge and skills required to address lead hazard control, including establishment of a qualified contractor pool, and lead poisoning prevention actions that are essential for successfully implementing your program (*e.g.*, education, testing, housing interventions).

(b) Include a description of how sub-grantees, sub-contractors or sub-recipients are selected to carry out intended activities. If these entities have already committed to the program, provide a detailed description of previous or existing goals, accomplishments and outcomes relative to such collaborative agreements or arrangements with and among these agencies. If these collaborative agreements or arrangements have not yet been entered into, provide a detailed description to address plans and strategies to do so.

(c) Describe your proposed involvement of grassroots community-based nonprofit organizations, including faith-based organizations, in the proposed activities including the development of consortia. These activities may include outreach, community education, marketing, inspection, and housing evaluations and interventions.

(d) Explain the environmental review and Request for Release of Funds process, and who is responsible, to obtain the required HUD approval for intended lead hazard control work on eligible, enrolled units. Include a description of the steps to be taken, and who will be responsible, to comply with applicable environmental reviews for individual projects.

(3) Outreach, Recruitment and Unit Enrollment. Describe the methods and strategies, including the individuals and/or sub-grantees, sub-recipients or contractors responsible for marketing and outreach to intended target area(s) and/or residents, including recruitment and enrollment activities to supply the program with sufficient numbers of eligible clients within an established timeframe.

(a) Describe how you will identify, select, prioritize and enroll eligible housing units in which you will undertake lead hazard control interventions, especially those known to house EBL children. Include the number of eligible privately owned housing units, including the number of owner-occupied, rental, vacant, single and/or multi-family units to be enrolled.

(b) Discuss the eligibility criteria for unit selection, who will identify and how the program will identify units that meet these criteria.

(c) Describe measures you will perform to sustain recruitment. The staff is responsible for both monitoring recruitment status and implementing the measures identified to sustain recruitment.

(d) Discuss possible recruitment problems, impediments that you anticipate to recruitment, probability of dropouts and plans to over-recruit to compensate for dropouts.

(e) Explain how you will obtain data from state or local health departments on the addresses of housing units in which children have been identified as lead poisoned. Explain how referrals of eligible units will be obtained from childhood lead poisoning prevention programs, other health care or housing agencies or health providers that serve children.

(f) Discuss how referrals from the Section 8, Housing Choice Voucher program and other agencies that provide housing assistance to low-income households with children, including CDBG, HOME Investment Partnerships Program-funded housing programs, Weatherization or other sources, will be received and processed.

(g) Describe how you will obtain information in order to document the occupants of units assisted, meet the Title X income and family composition requirements by identifying key staff who will certify as to the eligibility of each unit assisted, based on the determination of income, and when required, the presence of a child or children under six years of age.

(h) Discuss the degree to which your proposed program focuses on eligible privately owned housing units occupied or to be occupied by low-income families with children under six years of age. Include in this discussion, details on how you will consider, prioritize and treat units known to house one or more lead poisoned children.

(i) Describe your planned approach to control lead hazards in vacant and/or occupied units before children are poisoned.

(j) Indicate how you intend to respond to the needs of EBL children housed in units located outside of the target area(s).

(k) Address the issue of patient confidentiality per the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as

it relates to the release of addresses of units where children have been poisoned by lead-based paint hazards within your jurisdiction(s). Provide thorough details of all security measures to be taken to ensure that the privacy of patient information obtained for the purposes of public health services conducted through the lead hazard control program will be safeguarded.

b. *Technical Approach/Lead Hazard Control Intervention (10 Points for all Applicants).* Applicants shall describe the technical approach and associated costs for testing enrolled units, blood-lead testing of children in enrolled units, lead hazard control methods and strategies, occupant protection and temporary relocation.

Describe who will perform the process of conducting combined lead-based paint inspections and risk assessments in eligible privately owned housing to confirm the presence of lead-based paint hazards in enrolled units to receive lead hazard control work. Explain how you will ensure that all information regarding lead hazard control work, lead-based paint test results, etc. are provided to property owners, including the provision of a statement describing the owner's legal obligation to disclose the results to tenants (before initial leasing, or before lease renewal with changes) and buyers (prior to sale) per the requirements of 24 CFR part 35, subpart A. Disclosure of other identified housing-related health or safety hazards to the owner of the unit, for purposes of remediation, is encouraged but not required. Describe your testing methods, schedule, and costs for combined lead-based paint inspections and risk assessments and clearance examinations. If you propose to use a more restrictive standard than the HUD/EPA thresholds (*e.g.*, less than 0.5 percent or 1.0 milligrams/square centimeter for lead in paint, or less than 40, 250, 400 micrograms/square foot for lead in dust on floors, sills and troughs, respectively, or less than 400 parts per million (ppm) in bare soil in children's play areas and 1200 ppm for bare soil in the rest of the yard) identify the standard(s) that will be used. All testing shall be performed in accordance with applicable regulations.

(1) Describe the methods, measures and cost for performing blood lead testing in children less than six years of age.

(a) Describe strategies to increase blood lead testing of children within the target area(s).

(b) Explain who will be responsible for ensuring and how you will ensure that all children less than six years of age who occupy units to be assisted with lead hazard control work receive blood lead testing within six months of commencement of work on the unit.

(c) Identify the individual responsible for and measures to ensure that children identified with an elevated blood-lead level are referred to appropriate medical care and how patient confidentiality, privacy and the security of medical information is protected as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(2) Describe the lead hazard control methods and strategies you will undertake and the number of single family and multi-family units that you will treat for each method selected (*e.g.*, interim controls and/or hazard abatement), including the estimated cost for each strategy per unit type and the basis for those estimates. Applicants should assume that interim controls are the preferred approach for their strategies and project unit output targets accordingly.

(a) Discuss efforts to incorporate cost-effective lead hazard control methods.

(b) If applicants maintain that approaches other than interim controls are necessary, a justification is necessary. For example, abatement might be justified in an area where significant amounts of low-income housing stock are highly distressed or where lead hazard control work is being combined with rehabilitation. Where highly distressed housing stock exists, applicants should explain why options for households to move to lead-safe housing are not viable.

(c) Complete abatement in all lead-based painted surfaces in all units is generally not an accepted strategy. In cases where only a few surfaces have identified lead-based paint hazards and abatement is cost-effective, the applicant must provide a detailed rationale for selecting complete abatement as a strategy.

(3) Indicate the individual or entity responsible for, and describe the process for developing the work specifications and the lead hazard control contractor bid and selection process (*i.e.*, the contracting) on properties selected for lead hazard control work. Explain the management process to ensure the cost-effectiveness of intended lead hazard control methods. Explain the coordination of germane activities among lead hazard control, rehabilitation, weatherization, and other contractors performing work other than lead hazard control.

(4) Describe your plan and the individual(s) responsible for occupant protection and the temporary relocation (Information on Relocation Guidelines will appear on the Web site) of occupants of units selected to receive lead hazard control work. Describe strategies to avoid overnight relocation in small-scale projects consistent with applicable subsections of HUD's Lead Safe Housing Regulations. Your plan should address the use of safe houses and other temporary housing arrangements, storage of household goods, stipends, incentives, etc.

(5) Describe who will ensure and how the applicant will ensure that contractors, property owners and maintenance personnel performing interim controls and lead hazard abatement work are properly trained and/or certified, and how work will be monitored and supervised to ensure that contractors perform work of reasonable quality in compliance with work specifications and applicable federal regulations.

(6) Provide a realistic schedule for completing key program activities and outputs, by quarter, so that all activities and outputs can be completed before or within the grant period of performance. Key production activities include unit enrollment, lead-based paint inspection and risk assessments, completion and clearance of units.

(7) Describe the estimated elapsed timeframe for treating a typical unit that will receive lead hazard control work, from referral and intake to completion and clearance. Estimate the amount of time required to treat a typical unit to receive lead hazard control work. Explain how the program will accommodate emergency referrals (*e.g.*, units occupied by a child under six years of age with an EBL).

(8) Describe the workflow and production control methods. Provide guidelines and/or flowcharts that demonstrate the agency and team member responsibilities for each step in the unit production process (from intake and enrollment to completion and clearance of units). Describe how coordination and hand-offs from individuals or agencies to and from each step in the unit production process will be carried out. Discuss how the actual production status of units, from intake and enrollment to completion and clearance, will be monitored, and how and when impediments to production will be identified and remedied.

(9) Explain how the proposed program will integrate and stage proposed lead hazard control activities with rehabilitation (or weatherization, Healthy Homes Demonstration, etc.). Identify the individuals and agencies to coordinate these efforts and the number of units anticipated to be blended from these other programs and resources.

c. Economic Opportunity (Up to 7 maximum points for all applicants). Describe the individual or agency responsible for the promotion, recruitment, and provision of training in lead-safe work practices and other lead certification disciplines (*e.g.*, supervisor, worker, risk assessor, inspector, etc.) to individuals and contractors in housing related trades, such as painters, remodelers, renovators, maintenance personnel, rehabilitation specialists, and others. Also, describe the methods you will employ to promote, recruit and provide the training.

(1) Section 3 Requirement (2 of 7 points). Detail the means to be used to provide appropriate economic opportunities to residents and businesses of the target area, in compliance with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and HUD's implementing rules at 24 CFR part 135. Describe how you will accomplish said Section 3 requirements by identifying the number of individuals to receive such training per discipline, the schedule for delivering said training opportunities for low and very low-income persons living within the applicant's jurisdiction, and how trained individuals will be linked to employment opportunities with businesses owned by low and very low-income persons living within the grantee's jurisdiction.

(2) Lead Hazard Control Outreach and Coordination (5 of 7 points).

(a) Coordination on Health Programs.

(i) Describe your involvement in coordination among critical agencies, including participation in the CDC state-wide or jurisdiction-wide strategic plan to eliminate childhood lead poisoning by 2010.

(ii) Describe your involvement in collaborative agreements or arrangements with childhood lead poisoning prevention programs among health agencies, housing agencies, community development agencies, and code enforcement agencies (or equivalent) for the target jurisdiction, as applicable. Applicants shall include a description of their previous or existing goals, accomplishments, and outcomes relative to such collaborative agreements or arrangements with and among these agencies. If these collaborative agreements or arrangements have not yet been entered into, a detailed description to address plans and strategies to do so shall be provided.

(iii) Describe the learning opportunities to be made available to community members, including families, workers, small businesses and others, to help develop a strategic community health education model that identifies lead-related health hazards and their solutions, and educates community members and affects wider efforts in the applicant's targeted area. Applicants shall discuss the opportunity-to-learn approaches to educate children, parents, workers, business people, and other community members about lead poisoning prevention and lead hazard control. Include how the proposed educational program will continue to meet the needs of those children already living in units to receive lead hazard control work.

(b) Lead Hazard Control Outreach and Community Private Sector Involvement.

(i) Applicants are encouraged to solicit participation of grassroots community-based and private sector organizations, including faith-based organizations to accomplish outreach and community involvement activities intended to build long-term capacity to sustain accomplishments in the target area.

(ii) Describe the role of grassroots community-based nonprofit organizations, including faith-based organizations, in specific program activities (*e.g.*, hazard evaluation and control, monitoring, awareness, education and outreach within the community).

(c) Proposed Methods of Communication and Outreach.

(i) Describe how the applicant will ensure that outreach and related education commitments by sub-grantees and/or sub-contractors will be honored and executed.

(ii) Identify the individuals and/or entities responsible for community education and the delivery methods. Include a brief description of the proposed curriculum or subjects to be communicated, and the groups to be targeted to receive said education.

(iii) Explain how the intended education program(s) will be culturally sensitive, targeted, and linguistically appropriate. Identify the means available to supply the educational materials in other languages (identify all that apply) common to the community.

(iv) Include the estimated number of individuals to receive the intended education and the estimated number of events to be delivered.

(d) Affirmatively Furthering Fair Housing.

(i) Describe strategies and methodologies that affirmatively further fair housing and increase access to lead-safe housing for all segments of the population: homeowners, owners of rental properties, and tenants.

(ii) Identify who will ensure and how the applicant will ensure that the program will continue to affirmatively market and match treated units with low-income families with children less than six years of age in the future.

(iii) Explain how this outreach strategy will avoid housing discrimination against families with young children, and how families will have adequate, lead-safe housing choices in the future. This strategy could include plans to develop and implement a registry of lead-safe housing that is available to the public, or to incorporate the inclusion of the lead-safe status of properties in another publicly accessible address-based property information system. The strategy could also include affirmatively marketing your services to those populations least likely to apply and who may not be served by any of the organizations working with you or the grantee team.

d. HUD's Departmental Policy Priorities and Consolidated Plan (6 Points for all applicants; each policy priority is 1 point, except Removal of Regulatory Barriers (#4) is 2 rating points—HUD Form 27300 is required to receive point (s)). Indicate if, and describe how, you will address any of HUD's departmental policy priorities (see General Section for more detailed explanation of HUD's policy priorities). Applicants shall also provide evidence of the priority that the community's Consolidated Plan and Analysis of Impediments to Fair Housing Choice has placed on addressing the needs described.

The policy priorities that are applicable to this NOFA, and which the applicant should address, are: (1) Improving our Nation's Communities (focus on distressed communities); (2) Providing Full and Equal Access to Grassroots Community-based Nonprofit Organizations, including Faith-based Organizations in HUD Program Implementation; (3) Participation of Minority-Serving Institutions in HUD Programs; (4) Removal of Regulatory Barriers to Affordable Housing; and (5) Promoting Energy Efficiency and Energy Star. HUD expects the applicants to implement Energy Star building techniques and utilize Energy Star appliances whenever activities of the grant afford the opportunity. (For information on Energy Star Programs and Appliances, see *http://www.epa.gov/epahome/athome.htm*.

(1) Describe how the proposed program would contribute to satisfying the stated needs in the Consolidated Plan or Indian Housing Plan, and

eliminate impediments identified in the Analysis of Impediments (AI).

(2) Describe how your strategy will provide long-term benefits to families with children less than six years of age.

e. *Data Collection and other Program Support Activities (2 points for all applicants).*

(1) Identify and discuss the specific methods you will use (in addition to HUD reporting requirements) to document activities, progress, program effectiveness, and how changes necessary to improve performance will be identified and implemented. Explain who is responsible and how you will collect, document and report on information collected.

(2) Describe how databases, including Web sites, computer, paper or other formats, will incorporate the provisions of the Privacy Act of 1974, such that the addresses of enrolled, treated and/or cleared housing units shall not include personal information that could identify any child affected.

(3) Provide a detailed description of any proposed participation in research activities, studies, or development of information systems designed to enhance the delivery, analysis, or conduct of lead hazard control activities, or that will facilitate the targeting and pooling of resources to further childhood lead poisoning prevention efforts. If you are proposing to participate in research activities, describe the objectives, methodology, and impact of the proposed research activities.

4. Rating Factor 4: Matching and Leveraging Resources (10 Points Maximum for Lead-Based Paint Hazard Control and Lead Hazard Reduction Demonstration Program, and 20 Points Maximum for Operation LEAP)

This rating factor applies to all programs unless otherwise specified. This factor addresses your ability to obtain other community and private sector funds that can be combined with HUD's program resources to achieve program objectives. In evaluating this factor, HUD will primarily consider the amount of match and/or leveraged funding you commit to provide (in relation to the amount of HUD funding you request). In evaluating this factor, HUD will consider the extent to which you have established working relationships with other entities to get additional funds or commitments to increase the effectiveness of the proposed program activities. Describe how you will obtain information in order to document the occupants of units assisted to meet Title X income and family composition requirements. Identify the key staff who will certify as to the eligibility of each unit assisted under the grant based on the determination of income, and when required, the presence of a child under six years of age. Funds may include cash or in-kind contributions of services, equipment, or supplies allocated to the proposed program. Funds may be provided by governmental entities, public, or private organizations, and other entities teaming with you. Matching and other contribution arrangements (other funds not meant for direct eligible activities under this program) with rental property owners may have the benefits of increasing the efficiency of public lead hazard identification and control expenditures and creating a financial stake for rental property owners in the quality of lead hazard control work. Contractual or other formal relationships with grassroots community-based nonprofit organizations, including faith-based organizations, are a requirement for state and local government applicants. Documentation of relationships with grassroots community-based nonprofit organizations, including faith-based organizations, must be provided in this application in the form of either signed agreements or commitment letters from organization officials who have the authority to commit the organization. This requirement does not apply to Native American Tribe applicants. You also may team with other program funding recipients to coordinate the use of funds in your target area(s).

a. *Strategy and Approach (5 points Lead-Based Paint Hazard Control and Lead Hazard Reduction Demonstration Program, and 15 points maximum for Operation LEAP).*

(1) Describe the proposed strategy for leveraging (*e.g.*, private sector for Operation LEAP and public and private for Lead-Based Paint Hazard Control and Lead Hazard Reduction Demonstration Program) resources including:

(a) Target audiences/constituencies;

(b) Use of contractors/subgrantees/ team organizations and their method of selection;

(c) Methods of outreach/promotion;

(d) Types of leveraging to be employed;

(e) Proposed use and distribution of funds/resources leveraged;

(f) Overall project management and coordination; and

(g) Proposed schedule of activities within the 36-month period of performance;

b. *Matching and/or Leveraging Contributions (5 maximum points for all applicants).* Points based on the documented leverage funding will be awarded based on the charts below.

(1) Matching and leveraged funds must be shown to be specifically dedicated to and integrated into supporting activities. Refer to Section III.B, Cost Sharing or Matching Requirements for additional information. Project match and/or leverage shall be limited to contributions which would be eligible for payment from grant funds, and may be in the form of cash, including private sector funding, or in-kind (non-cash) contributions or a combination of these resources. Leverage may be in the form of cash from private sector funding or other resources or in the form of non-cash contributions or a combination of these resources. You may not include any federal funds as part of the match, unless those funds are specifically permitted by statute to be used as matching funds, such as CDBG funds. Other funds from the private sector or other sources committed to the program that exceed the required match, if any, will provide points for this rating factor. Contributions (match funds or other contributed resources) above any statutory minimum match may include funds from other federally funded programs, and/or state, local, charity, nonprofit or for-profit entities. The signature of the authorized official on the Form SF–424 commits matching or other contributed resources of the applicant organization.

Staff in-kind contributions should be given a monetary value based on the local market value of the staff skills; you are responsible for tracking the number of labor hours provided in the match for each labor category. If you do not provide letters from contributors specifying details and the amount of the actual contributions, those contributions will not be counted. Contributions required of rental property owners may be included as part of your match. You should document and provide the amount of the match and/or leverage from each funding source.

Applicants will not receive full points under this rating factor if they do not submit evidence of a firm commitment and the appropriate use of match and/ or leveraged resources under the grant program. Such evidence must be provided in the form of letters of firm commitment, memoranda of understanding, or other signed agreements to participate from those entities identified as team members in your application. Each letter of commitment, memorandum of understanding, or agreement to participate should include the

organization's name, the proposed level of commitment, and the responsibilities as they relate to your proposed program. The commitment must be signed by an official of the organization legally able to make commitments on behalf of the organization and should be submitted at the time of the application submission. Describe the role of grassroots community-based nonprofit organizations, including faith-based organizations, in specific program activities, such as hazard evaluation and control; monitoring; and awareness, education, and outreach within the community. Describe how you will ensure that commitments to sub-grantees specified in your proposal will be honored and executed, contingent upon an award from HUD.

The applicant is encouraged to employ creativity and initiative in achieving the objectives of the program. Some examples of possible strategies/approaches include the following:

(a) Enlisting the support and resource commitment of financial institutions, foundations, private industry, the general public, property owners, and others to make residential housing lead-safe and eliminate lead poisoning as a public health threat to children;

(b) Soliciting the support of national building materials providers, building component manufacturers, and housing-related national retail outlets to donate money and/or materials to lead hazard control programs in housing and health departments, landlords and owner-occupants to eliminate lead-based paint hazards in privately owned low-income dwellings. For example, a window, wallboard, or paint manufacturer/retailer could donate or coordinate the donation and distribution of windows, wallboard, or paint to lead-based paint hazard control and/or lead hazard control elements of rehabilitation projects throughout the country. This strategy could also include the distribution of discount coupons for purchases of paint or other materials from national suppliers for lead-based paint hazard control projects;

(c) Forming teams with banks or other mortgage or financial institutions willing to provide no- or low-interest home improvement loans to finance lead hazard control activities and abatement measures among low-income recipients who would not otherwise be served. By participating, banks could fulfill a major element of their responsibilities under the Community Reinvestment Act;

(d) Forming teams to facilitate the coordination and distribution of donated building materials, such as windows, trim molding, or paint, etc. to local projects involved in lead hazard control programs;

(e) Identifying and facilitating the availability and use of temporary relocation facilities for families who need to move out of their dwellings while lead hazard control work is being undertaken. For example, hotel chains, colleges, and other lead-safe sites could be contacted to make housing available for the temporary relocation of families during lead hazard control;

(f) Working with landlords, tenant groups and others to form consortia or otherwise engage landlords and owner-occupants to enroll their eligible housing units in local lead hazard control or rehabilitation programs. The applicant should obtain commitments from landlords to provide matching resources for work to be done on their units. For example, the lead hazard control program could offer landlords grant funds for replacement windows if the landlords contribute the cost of additional repairs (such as basic system upgrades, or other rehabilitation work including painting and maintenance) that is associated with lead hazard control. To encourage such commitments, efforts should be made to educate landlords about the primary benefits (effect on children's health) and supplementary benefits that can result from lead hazard reduction work such as improving an apartment's physical condition and marketability;

(g) Expanding dust testing and clearance testing, especially in high-risk communities;

(h) Promoting homebuilder, remodeler, or contractor associations to coordinate efforts to reduce lead hazards by contributing technical assistance, training, presentations and materials and/or labor to lead hazard control efforts;

(i) Encouraging landscaping firms, nurseries, and landscape architects to contribute lead-safe soil, mulch, and other forms of vegetation cover and shrubbery designed to mitigate lead contamination of soil around the exterior/perimeter and play areas of affected housing units;

(j) Working with health, housing, and community development organizations or other entities to conduct lead poisoning prevention activities, including efforts to plan, participate in, and/or facilitate strategic planning to eliminate lead poisoning as a public health threat to young children by 2010. As part of this effort, the applicant should describe the process for considering enrolling housing units (or multi-family buildings) in which one or more children under age 6 years have EBLs, with priority to housing where repeated and/or severe cases of childhood lead poisoning have occurred. (Because of the presence of a variety of priorities, it is not a requirement that units with lead-poisoned children be enrolled, but the process for giving such units high priority should be described and implemented.);

(k) Working with grassroots nonprofit community organizations, including faith-based or other community-based organizations, that are committed to improving the quality of life of young children in high risk housing; and

(l) Providing training for significant numbers of trades people to implement lead-safe work practices, such as window replacement and weatherization work

OPERATION LEAP APPLICANTS

Documented leverage above requested HUD amount (percent)	Points awarded
≤50	0
>50–≤100	1
>100–≤150	2
>150–≤200	3
>200–≤300	4
>300	5

LEAD HAZARD CONTROL APPLICANTS

Documented match and other contributions of the requested HUD amount (percent)	Points awarded
10	0
>10–≤20	1
>20–≤30	2
>30–≤40	3
>40–≤50	4
>50	5

LEAD HAZARD REDUCTION DEMONSTRATION APPLICANTS

Documented match and other contributions of the requested HUD amount (percent)	Points awarded
25	0
>25–≤30	1
>30–≤35	2
>35–≤40	3
>40–≤50	4
>50	5

5. Rating Factor 5: Achieving Results and Program Evaluation (10 Points Maximum for All Applicants)

This rating factor reflects HUD's goal to embrace high standards of ethics, management, and accountability.

a. Describe in detail your needs and service activities, identify the outputs

and short-term, intermediate-term and long-term outcomes (5 points).

(1) State clearly the project activities including specific goals (''benchmarks'') of each activity and how you will achieve those goals.

(2) Describe how you will measure the results. Provide your goals, inputs, activities, outcomes and performance benchmarks (goals) for the entire grant period. In the narrative, explain how you will document and track your goals, program activities, and schedules. Identify the procedures you will follow to make adjustments to your work plan to improve performance if benchmarks are not met within established timeframes.

b. *Logic Model (5 points).*

(1) Applicants must complete and return the Form HUD–96010. Information about developing a Logic Model is available at: *http://www.hud.gov/offices/admin/grants/fundsavail.cfm.* HUD is moving to a standardized ''Master'' Logic Model from which you can select needs, activities, and outcomes appropriate to your program. See the General Section for detailed information on use of the ''Master'' Logic Model. HUD is requiring grantees to use program-specific questions to self-evaluate the management and performance of their program. Training on HUD's logic model and the reporting requirements for addressing the Management questions will be provided via satellite broadcast. In evaluating Rating Factor 5, HUD will consider how you have described the benefits and outcome measures of your program. HUD will also consider the evaluation plan, to ensure the project is on schedule and within budget. For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment statement. HUD will be publishing a separate notice on the ROI concept.

(2) Performance indicators should be objectively quantifiable and should measure actual achievements against anticipated achievements. Step 1. The planning component of the logic model should identify the problem or need and develop a plan. Step 2. The intervention component of the logic model should identify the kinds of services, activities, and outputs projected. Step 3. The impact component of the logic model should identify the projected outcomes. Step 4. The accountability (phase one) component of the logic model should include data sources, measurement, and reporting tools. Step 5. The accountability (phase two) component of the logic model should include the evaluation methodology or the evaluation process. As a planning tool, the logic model can provide the statement of need and also provide the rationale for the proposed service or activity. For goals or benchmarks, the logic model can provide a set of quantifiable goals including timeframes. These goals allow you, the applicant, and HUD to monitor and assess your progress in achieving your program work plan. The process for the achievement of outcome goals should include identifying the expected outcome and the estimated number needed to achieve the goal or the expected outcome in terms of the community impact or changes in economic and social status. The following describes what are measurement-reporting tools. Some examples are survey instruments; attendance log; case report; pre-post tests; or waiting lists. Describe where data are maintained, for example, central databases; individual case records; specialized access databases, tax assessor databases; and local precinct. Also, identify the location where the database is maintained, updated, etc., for example, on-site, subcontractor, or specify (*e.g.*, identify what the other is).

6. Bonus Points (2 Rating Points for All Programs)

This NOFA provides for the award of two bonus points for eligible activities/projects that the applicant proposes to locate in federally designated Empowerment Zones (EZs), Renewal Communities (RCs), or Enterprise Communities designated by United States Department of Agriculture (USDA) in round II (EC-IIs) and that are certified to be consistent with the area's strategic plan or RC Tax Incentive Utilization Plan (TIUP). Discuss whether any of the proposed activities will occur in any of these areas and how they will benefit the residents of those zones or communities. Applicants must submit a completed Certification of Consistency with the RC/EZ/EC-II Strategic Plan—Form HUD–2990, and also meet the requirements listed in the General Section for a possible award of two bonus points.

B. Reviews and Selection Process

1. Rating and Ranking. Please Refer to the General Section

a. Only those applications that meet the threshold review requirements will be rated and ranked. HUD intends to fund the highest ranked applications in each category receiving a minimum score of 75 within the limits of funding.

b. Remaining Funds. Refer to the General Section for HUD's procedures if funds remain after all selections have been made within a category.

c. The scoring criteria to be used to award the maximum points for this NOFA are how fully and thoroughly the applicant answers each item listed in each rating factor. Criteria may be obtained at *http://www.hud.gov/offices/lead/index.cfm.*

2. Factors for Award Used To Rate and Rank Applications

a. Implementing HUD's Strategic Framework and Demonstrating Results. HUD is committed to ensuring that programs result in the achievement of HUD's strategic mission. To support this effort, grant applications submitted for HUD programs will be rated on how well they tie proposed outcomes to HUD's policy priorities and Annual Goals and Objectives, and the quality of proposed Evaluation and Monitoring Plans.

b. The maximum number of points to be awarded is 102. This maximum includes two bonus points as described in the General Section.

c. The factors for rating and ranking eligible grantees under all categories, and the maximum points for each factor are stated below:

Rating factors	Maximum points	
	LHC * & LHRD **	LEAP ***
1. Capacity of the Applicant and Relevant Organizational Experience	20	20
2. Need/Extent of the Problem	20	10
3. Soundness of Approach	40	40
4. Matching and Leveraging Resources	10	20
5. Achieving Results and Program Evaluation	10	10
Empowerment Zone, Renewal Zones and Enterprise Community (II), Bonus Points	2	2

Rating factors	Maximum points	
	LHC * & LHRD **	LEAP ***
Total	102	102

* Lead-Based Paint Hazard Control.
** Lead Hazard Reduction Demonstration.
*** Operation Lead Elimination Action Program.

Section VI. Award Administration Information: Refer to the General Section for Additional Details on Award Administration

A. Award Notices

1. Successful applicants will receive a letter from the Office of Healthy Homes and Lead Hazard Control Grant Officer indicating that they have been selected for an award. This letter will provide additional details regarding the effective start date of the grant and any additional data and information to be submitted to execute a grant agreement. This letter is not an authorization to begin work or incur costs under the grant. A fully executed grant agreement is the authorizing document. Unsuccessful applicants will also be notified that their application was not selected for an award and will be afforded an opportunity to request a debriefing on the unsuccessful application according to the procedures outlined in the General Section.

2. Negotiation. Refer to the General Section for additional details.

3. Adjustments to Funding. Refer to the General Section for additional details.

B. Administrative and National Policy Requirements

Refer to the General Section for additional details regarding the Administrative and National Policy Requirements applicable to HUD Programs.

1. *Flood Disaster Protection Act.* Under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128), you may not use these grant funds for lead-hazard control or rehabilitation of a building or manufactured home that is located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless:

a. The community in which the area is situated is participating in the National Flood Insurance Program in accordance with the applicable regulations (44 CFR parts 59–79), or less than a year has passed since FEMA notification regarding these hazards; and

b. Where the community is participating in the National Flood Insurance Program, flood insurance on the property is obtained in accordance with section 102(a) of the Flood Disaster Protection Act (42 U.S.C. 4012a(a)). You are responsible for assuring that flood insurance is obtained and maintained for the appropriate amount and term.

2. *National Historic Preservation Act.* The National Historic Preservation Act of 1966 (16 U.S.C. 470) and the regulations at 36 CFR part 800 apply to the lead-hazard control or rehabilitation activities that are undertaken pursuant to this NOFA.

3. *Waste Disposal.* You must handle waste disposal according to the requirements of the appropriate local, state, and federal regulatory agencies. You must handle disposal of wastes from hazard control activities that contain lead-based paint, but are not classified as hazardous in accordance with state or local law or the HUD Guidelines for the Evaluation and Control of Lead-Based Hazards in Housing (HUD Guidelines). The Guidelines are available from the HUD Web site at: *http://www.hud.gov/offices/lead/guidelines/hudguidelines/index.cfm.*

4. *Worker Protection Procedures.* You must observe the procedures for worker protection established in the HUD Guidelines, as well as the requirements of the Occupational Health and Safety Administration (OSHA) (29 CFR 1926.62, Lead Exposure in Construction), or the state or local occupational safety and health regulations, whichever are most protective. If other applicable requirements contain more stringent requirements than the HUD Guidelines, the more rigorous standards shall be followed.

5. *Davis-Bacon Act.* The Davis-Bacon Act does not apply to these programs. However, if you use grant funds in conjunction with other federal programs in which Davis-Bacon prevailing wage rates apply, then Davis-Bacon provisions will apply to the extent required under the other federal programs.

6. *Procurement of Recovered Materials.* See the General Section for information concerning this requirement.

7. *Executive Order 13202.* Refer to the General Section.

C. Reporting

Successful applicants will be required to submit quarterly, annual, and final program and financial reports according to the requirements of the Office of Healthy Homes and Lead Hazard Control. Your quarterly, annual and final report must include a completed Logic Model form HUD–96010, *approved and incorporated into your award agreement,* showing specific outputs and outcome results against those proposed and accepted as part of your approved grant agreement. For specific reporting requirements, see policy guidance: *http://www.hud.gov/offices/lead/index.cfm.* Specific guidance and additional details will be provided to successful applicants.

Section VII. Agency Contact(s)

For Further Information and Technical Assistance: You may contact Jonnette Hawkins, Director, Program Management and Assurance Division, Office of Healthy Homes and Lead Hazard Control, 451 Seventh Street, SW., Washington, DC 20410–3000, telephone (202) 755–1785, extension 7593 (this is not a toll-free number) facsimile (202) 755–1000, e-mail: *Jonnette_G._Hawkins@hud.gov* (use underscores). For grants administrative questions, you may contact Ms. Curtissa L. Coleman, Office of Healthy Homes and Lead Hazard Control; telephone (202) 755–1785, extension 7580 (this is not a toll-free number) or via e-mail at *Curtissa_L._Coleman@hud.gov.* If you are a hearing-or speech-impaired person, you may reach the above telephone number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

Section VIII. Other Information

For additional general, technical, and grant program information pertaining to the Office of Healthy Homes and Lead Hazard Control, visit: *http://www.hud.gov/offices/lead.*

Section IX. 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 2539–0015. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection displays a currently valid OMB control number. Public reporting burden for the collection of information is estimated to average 80 hours per application and 16 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application, semi-annual reports, and final report. 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.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TECHNICAL STUDIES NOFA

LEAD TECHNICAL STUDIES and

HEALTHY HOMES TECHNICAL STUDIES

Billing Code 4210-01-C

Lead Technical Studies and Healthy Homes Technical Studies Programs

Overview Information

A. Federal Agency Name: Department of Housing and Urban Development, Office of Healthy Homes and Lead Hazard Control.

B. Funding Opportunity Title: Lead Technical Studies and Healthy Homes Technical Studies.

C. Announcement Type: Initial announcement.

D. Funding Opportunity Number: The Funding Opportunity Number is: FR–5030–N–29. The OMB Paperwork Approval number is: 2539–0015.

E. Catalog of Federal Domestic Assistance (CFDA) Numbers: 14.902, Lead Technical Studies Grant Program, and 14.906, Healthy Homes Technical Studies Grant Program.

F. Dates: The application deadline date is June 6, 2006. Applications submitted through *http://www.grants.gov* must be received and validated by grants.gov no later than 11:59:59 pm eastern time on the application deadline date. See the General Section IV, regarding application submission procedures and timely filing requirements.

G. Additional Overview Content Information: 1. *Purpose:* To fund technical studies to improve existing methods for detecting and controlling lead-based paint and other housing-related health and safety hazards, to develop new methods to detect and control these hazards, and to improve our knowledge of lead-based paint and other housing-related health hazards.

2. *Available funding:* The total amount to be awarded is approximately $5.75 million, of which approximately $3.75 million is for Lead Technical Studies and approximately $2 million is for Healthy Homes Technical Studies.

3. *Anticipated awards:* The anticipated amounts and numbers of individual awards for the Lead Technical Studies Program will be approximately 3 to approximately 10 awards, ranging from approximately $200,000 to a maximum of $1 million. The anticipated amounts and number of individual awards for the Healthy Homes Technical Studies Program will be approximately 2 to approximately 5 awards, ranging from approximately $200,000 to a maximum of $1 million. In addition, there will be one award in each technical studies program to correct funding errors made in the fiscal year 2004 Technical Studies NOFAs.

4. *Type of awards:* Cooperative agreements, with substantial involvement of the government will be awarded (see Paragraph II.C for a description of substantial involvement).

5. *Eligible applicants:* Academic, not-for-profit and for-profit institutions located in the U.S., state and units of local general government, and federally recognized Native American tribes are eligible to apply. For-profit firms are not allowed to earn a fee (*i.e.*, make a profit from the project).

6. Cost sharing or ''matching'' is not required; however, applicant ''leveraging'' contributions are encouraged (see Section V.A.4.d).

7. There is no limit on the number of applications that each applicant may submit.

8. The applications for this NOFA can be found at *http://www.grants.gov.* The application is an electronic application. You must be registered at *http://www.grants.gov* to submit your application. Registration is a multi-step process, and HUD recommends that you allow at least 10 days to complete the registration process. The General Section contains information on submission requirements and procedures. Please carefully review the General Section before reading the program section so that you understand the Grants.gov electronic application process.

Full Text of Announcement

I. Funding Opportunity Description

A. Purpose of the Programs

The overall goal of both the Lead and the Healthy Homes Technical Studies programs is to gain knowledge to improve the efficacy and cost-effectiveness of methods for evaluation and control of lead-based paint and other housing related health and safety hazards. This also supports HUD's Strategic Goal to Strengthen Communities and the associated policy priority to Improve Our Nation's Communities by improving the environmental health and safety of families living in public and privately owned housing.

B. Program Description

HUD is funding studies to improve HUD's knowledge of lead-based paint hazards and other housing-related health hazards, and to improve or develop new hazard assessment and control methods, with a focus on the key residential health and safety hazards. Key hazards are discussed in Appendix A of this NOFA. A list of references that serves as the basis for the information provided in this NOFA is provided as Appendix B to this NOFA. Both Appendix A and Appendix B of this NOFA can be found on HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm).*

1. General Goals

a. Lead Technical Studies (LTS). The overall goal of the Lead Technical Studies grant program is to gain knowledge to improve the efficacy and cost-effectiveness of methods for evaluation and control of residential lead-based paint hazards.

Through the Lead Technical Studies Program, HUD is working to fulfill the requirements of sections 1051 and 1052 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X) (42 U.S.C. 4854 and 4854a) which directs HUD to conduct research on topics which include the development of ''improved methods for evaluating [and] reducing lead-based paint hazards in housing,'' among others.

Brief descriptions of active and previously funded lead technical studies projects can be found on HUD's Web site at *http://www.hud.gov/offices/lead/techstudies/index.cfm.* Where appropriate, you are strongly encouraged to ensure that your proposed study builds upon HUD-sponsored work that has been previously completed, in addition to other relevant research (*i.e.*, that contained in government reports and in the published literature).

The results of the technical studies will be used in part to update HUD's *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (Guidelines).* For supporting references, including where to find the *Guidelines,* see Appendix B on HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

b. Healthy Homes Technical Studies (HHTS). The overall goals and objectives of the Healthy Home Initiative (HHI), which includes the HHTS Program and the Healthy Homes Demonstration Grant Program (see the Healthy Homes Demonstration Grant Program NOFA published in this SuperNOFA), are to:

(1) Mobilize public and private resources, involving cooperation among all levels of government, the private sector, grassroots community-based organizations, including faith-based organizations, and other non-profit organizations, to develop the most promising, cost-effective methods for identifying and controlling housing-related hazards; and

(2) Build local capacity to operate sustainable programs that will continue to prevent, minimize, and control housing-related hazards in low- and very low-income residences when HUD funding is exhausted.

The HHI departs from the more traditional approach of attempting to correct one hazard at a time. HUD is interested in promoting approaches that are cost-effective and efficient and result in the reduction of health threats for the maximum number of residents, and in particular, low-income children.

In April 1999, HUD submitted a preliminary plan that described the HHI to Congress. The submission (Summary and Full Report), and a description of the HHI are available on the HUD Web site at *http://www.hud.gov/offices/lead/hhi/index.cfm.*

In addition to deficiencies in basic housing facilities that may impact health, changes in the U.S. housing stock and more sophisticated epidemiological methods and biomedical research have led to the identification of new and often more subtle health hazards in the residential environment (*e.g.*, asthma triggers). While such hazards will tend to be found disproportionately in housing that is substandard (*e.g.*, structural problems, lack of adequate heat, poor maintenance, etc.), such housing-related environmental hazards may also exist in housing that is otherwise of good quality. Appendix A of this NOFA briefly describes the key housing-associated health and injury hazards HUD considers targets for intervention. HUD has also developed resource papers on a number of topics of importance under the HHI, including mold, environmental aspects of asthma, carbon monoxide, and unintentional injuries. These resource papers can be downloaded at *http://www.hud.gov/offices/lead/hhi.*

Brief descriptions of current and recently completed Healthy Homes Technical Studies projects and grantee contact information can be found on the HUD Web site at *http://www.hud.gov/offices/lead/hhi/hhigranteeinfo.cfm.*

2. Community Participation

HUD believes that it is important for researchers to incorporate some aspect of meaningful community participation in the development and implementation of studies that are conducted in communities and/or involve significant interaction with community residents. Community participation can improve study effectiveness in various ways, including the development of more appropriate research objectives, improving recruitment and retention of study participants, improving participants' involvement in and understanding of the study, improving ongoing communication between researchers and the affected community, and more effectively disseminating study findings. HUD encourages applicants to consider using a ''community based participatory research (CBPR)'' approach, where applicable, in study design and implementation. (See *e.g.*, the report published by the National Institute of Environmental Health Sciences titled ''Successful Models of Community-Based Participatory Research'' at: *http://www.niehs.nih.gov/translat/pubs.htm*). CBPR is characterized by substantial community input in all phases of a study (*i.e.*, design, implementation, data interpretation, conclusions, and communication of results).

C. Authority

The lead technical studies program is authorized under sections 1011(g)(1), 1011(o), and 1051–1053 of the Residential Lead Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992, 42 U.S.C. 4851 *et seq.*). The Healthy Homes technical studies program is authorized under sections 501 and 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1 and 1701z–2). Fiscal Year 2006 funds for both programs are authorized under Public Law 109–115, 119 Stat. 2396, approved November 30, 2005.

II. Award Information

A. Funding Available

Approximately $3.75 million in fiscal year 2006 funds is available for Lead Technical Studies. In addition, HUD will award a grant for $745,471 in fiscal year 2005 funds to the Regents of the University of California, Irvine, 300 University Towers, Irvine, CA 92697–7600, to resolve a funding error under the fiscal year 2004 Lead Technical Studies Program NOFA, in accordance with Sec. VI.A.3 of the fiscal year 2004 General Section. Approximately $2 million is available for Healthy Homes Technical Studies, of which HUD will award $829,880 to Advanced Energy, 909 Capability Drive, Suite 2100, Raleigh, NC 27606, to resolve a funding error under the fiscal year 2004 Healthy Homes Technical Studies Program NOFA, in accordance with Sec. VI.A.3 of the fiscal year 2004 General Section. Cooperative agreements will be awarded on a competitive basis following evaluation of all eligible proposals according to the rating factors described in Section V.A.4 of this NOFA. HUD anticipates that approximately three to ten awards will be made for the Lead Technical Studies Program, and that 2 to 5 awards will be made for the Healthy Homes Technical Studies Program with awards ranging from approximately $200,000 to no more than $1 million for each program. Applications for additional work related to existing HUD-funded technical studies (*i.e.*, for work outside of the scope of the original agreement) are eligible to compete with applications for new awards. These applications will be evaluated in the same manner as new applicants.

B. Anticipated Start Date and Period of Performance for New Grants

The start date for new awards is expected to be October 1, 2006. The period of performance cannot exceed 36 months from the time of award. The proposed performance period should include adequate time for project components such as the Institutional Review Board process, if required, the recruitment of new staff and/or study participants, and the development of new instrumentation or methods (*e.g.*, analytical methods), all of which have been found to delay projects in the past. Period of performance extensions for delays due to exceptional conditions beyond the grantee's control will be considered for approval by HUD in accordance with 24 CFR 85.25(d)(2) or 85.30(e)(2), as applicable, and the OHHLHC Program Guide. If approved, grantees will be eligible to receive a single extension of up to 12 months in length. Applicants are encouraged to plan studies with shorter performance periods than 36 months; however, when developing your schedule, you should consider the possibility that issues may arise that could cause delays.

C. Type of Award Instrument

Awards will be made as cooperative agreements. Anticipated substantial involvement by HUD staff for cooperative agreements may include, but will not be limited to:

1. Review and suggestion of amendments to the study design, including: Study objectives; field sampling plan; data collection methods; sample handling and preparation; and sample and data analysis.

2. Review and provision of technical recommendations in response to quarterly progress reports (*e.g.*, amendments to study design based on preliminary results).

3. Review and provision of technical recommendations on the journal article(s) and final study report (including electronic format for submission of research data).

4. Requirements for peer review of scientific data in accord with the Office of Management and Budget Information Quality Guidelines. All HUD-sponsored research is subject to the OMB Final

Information Quality Bulletin for Peer Review (70 FR 2664–2677, January 14, 2005) prior to its public dissemination. In accordance with paragraph II.2 of the Bulletin, HUD will not need further peer review conducted on information that has already been subjected to adequate peer review. Therefore grantees must provide enough information on their peer review process for HUD to determine whether additional review is needed.

III. Eligibility Information

A. Eligible Applicants

Academic and not-for-profit institutions located in the U.S., state and units of local general government, and federally recognized Native American tribes are eligible under all existing authorizations. For-profit firms also are eligible; however, they are not allowed to earn a profit from the project. Applications to supplement existing projects are eligible to compete with applications for new awards. Federal agencies are not eligible to submit applications. The General Section identifies threshold requirements that must be met for an organization to receive an award.

B. Cost Sharing or Matching

Cost sharing or matching is not required. In rating your application, however, you will receive a higher score under Rating Factor 4 if you provide evidence of significant leveraging.

C. Eligible Activities

1. Lead Technical Studies

HUD is interested in the following lead technical studies topics:

a. *Development of alternative or improved clearance methods.* The clearance of a dwelling following lead hazard control activities is achieved by collecting dust-wipe samples following a standard protocol, with subsequent analysis of the samples by a laboratory recognized under the National Lead Laboratory Accreditation Program (NLLAP). Lead hazard control costs could be reduced if immediate clearance results could be obtained in the field. Existing techniques that can be used to analyze dust samples in the field include the use of portable X-ray fluorescence (XRF) analyzers and anodic stripping voltammetry (ASV) instruments. It is theoretically possible to also employ colorimetric methods to analyze clearance samples. These techniques can be used in a screening context in which a ''failure'' would indicate the need for additional cleaning before definitive clearance wipe samples are collected for analysis by an appropriate laboratory. It is possible for an organization using a field-based technology to achieve recognition as a portable laboratory under NLLAP; however, it is HUD's understanding that, to date, this has not been done. HUD is interested in funding research that improves the performance of portable analytical technologies for lead dust-wipe analysis with the ultimate goal of improving the feasibility for such technologies to be used to conduct definitive analyses in the field.

HUD has funded research for the on-site use of X-ray Fluorescence (XRF) for dust wipe lead analysis and does not intend to fund additional work on this topic through this NOFA.

b. *Reducing exterior soil and dust-lead hazards.* Studies have shown that lead in exterior dust and soil can be an important source of lead exposure to young children, both through direct contact and indirectly when tracked or blown into the home. HUD has funded several studies that have assessed approaches to reducing the risk posed by this large environmental lead reservoir. Examples of these studies have focused on the following topics: reducing the bioavailability (as determined using in vitro testing) of lead in soil through the addition of composted biosolids or other additives; reducing soil hazards in urban yards through targeted landscaping (*e.g.*, raised beds, improving ground cover); reducing exterior dust-lead levels through exterior building treatments and street and sidewalk cleaning; and reducing surface soil-lead hazards by overlaying clean soil with grass cover (see, *e.g.:* Binns *et al.*, 2004 and Farfel *et al.*, 2005 in Appendix B).

Additional study is needed to assess the long-term effectiveness of interim controls to reduce soil and exterior dust-lead hazards. Research is also needed to develop interim controls and strategies for exterior dust and soil that are reasonable in cost, feasible to implement, and which do not require frequent maintenance to retain their effectiveness. Also, the relationship between control of soil lead hazards and interior dust lead levels has not been adequately described.

c. *Effectiveness of Ongoing Maintenance Program Activities in Controlling Lead-Based Paint Hazards.* There are few studies directly assessing the effectiveness of ongoing lead-based paint maintenance programs. HUD is interested in evaluating the effectiveness and feasibility of ongoing lead-based paint maintenance programs, identifying program components for which particular implementation difficulties exist, and evaluating proposed measures for overcoming those difficulties. Such an evaluation of program components could address whether and how technically-acceptable and cost-effective work practices are selected and implemented, how effectively supervisors monitor work activities to ensure that lead-based paint hazards are controlled and that dust and debris are contained and cleaned up during and after work, and how well clearance procedures (including necessary re-cleaning) are integrated into the maintenance program, among other factors.

d. *Use of Available Databases to Evaluate the Efficacy of Lead Hazard Control Activities.* Public databases can be used to help target and assess the effectiveness of lead hazard control activities. Examples of this include the use of census data to identify neighborhoods that are at high risk for lead poisoning (*e.g.*, age and value of housing used in combination with indicators of socioeconomic status) and the use of blood-lead screening data to target dwellings that have been associated with repeated identification of resident children with elevated blood-lead levels. Geographic Information Systems (GIS) have also been successfully used as a tool to help target high-risk housing. At a broader level, serial blood-lead screening data could be used to assess the effectiveness of lead hazard control activities or laws that require lead hazard control treatments in high risk housing (*e.g.*, by comparing community screening results before and after laws were enacted while accounting for the overall downward trend in blood lead levels). HUD is interested in studies that assess effective and creative uses of public databases to improve the efficacy of lead hazard control programs (*e.g.*, targeting neighborhoods), assess the effectiveness of enforcement and lead hazard control activities and regulations, and other uses of these data that further the goal of improving methods for the identification and control of residential lead-based paint hazards. Applicants proposing projects under this topic area should focus primarily on the use of existing data as opposed to the collection of new data through field activities. An applicant must demonstrate why the collection of any new data is important in the context of a proposed study (*e.g.*, to validate a model developed using publicly available data) and that there is a limited amount of new data being collected.

e. *Other Focus Areas that are Consistent with the Overall Goals of HUD's Lead Technical Studies Program.*

HUD will consider funding applications for technical studies on other topics that are consistent with the overall goals and objectives of the LTS program, as described above. In such instances, for an applicant to receive an award, it is necessary that the applicant describe in sufficient detail how the proposed study is consistent with the overall lead technical studies program goals and objectives.

Note: A limited amount of lead hazard control activities, which are construction as opposed to research, may be conducted as part of a project (see Section IV.E.8 of this NOFA).

2. Healthy Homes Technical Studies

HUD hopes to advance the recognition and control of residential health and safety hazards and more closely examine the link between housing and health. The overall objectives of the HHTS studies projects to be funded through this NOFA include, but are not limited to:

a. Development and evaluation of low-cost test methods and protocols for identification and assessment of housing-related hazards;

b. Development and assessment of cost-effective methods for reducing or eliminating housing-related hazards;

c. Evaluation of the effectiveness of housing interventions and public education campaigns, and barriers and incentives affecting future use of the most cost-effective strategies;

d. Investigation of the epidemiology of housing-related hazards and illness and injuries associated with these hazards, with an emphasis on children's health;

e. Evaluation of residential health and safety hazard assessment and control methodologies and approaches (including both existing methods and the evaluation of improved or novel approaches);

f. Analysis of existing data or justified generation of limited new data to improve knowledge regarding the prevalence and severity of specific hazards in various classes of housing, with a focus on low-income housing. Specific examples include:

(1) The prevalence of carbon monoxide and other indoor air quality hazards;

(2) The prevalence and patterns of moisture problems and biological contaminants associated with excess moisture (*e.g.*, fungi, mold, bacteria, dust mites);

(3) The prevalence of specific childhood injury hazards in housing; and

(4) Improved understanding of the relationship between a residential exposure and childhood illness or injury.

Applicants that propose this type of study should discuss how the knowledge that is gained from the study could be used in a program to reduce these hazards in target communities.

g. Low-cost analytical techniques and instruments for the rapid, on- and off-site determination of environmental contaminants of concern (*e.g.*, bioaerosols, pesticides, allergens). HUD's primary interest is in the improvement of existing instruments or methods, and not in the development of new technologies or instruments. The OHHLHC has noted that these types of studies pose a high risk of experiencing significant delays. Applicants seeking to develop new technologies/instruments should discuss why, if funded, their proposed project would be unlikely to experience significant delays in its completion.

h. Objectives of particular interest to HUD include:

(1) Improving or assessing the efficacy of current methods for residential Integrated Pest Management (IPM). IPM approaches focus on the use of economical means for managing pests, which incorporate information on the life cycles of pests and their interaction with the environment, while minimizing hazards to people, property, and the environment. HUD is particularly interested in IPM methods for reducing cockroach and/or rodent populations in multifamily housing, with an emphasis on low-income housing.

(2) Controlling excess moisture by reducing migration through the building envelope and condensation of water vapor on interior surfaces, with an emphasis on low-cost interventions for low-income housing;

(3) Improving indoor air quality, such as through cost-effective approaches to upgrading residential ventilation or improving control/management of combustion appliances. Applicants should discuss how proposed approaches might affect residential energy costs (*e.g.*, increasing air exchange rates resulting in an increase in heating costs);

(4) Dust control measures (*e.g.*, preventing track-in of exterior dust and soil, improved methods for interior dust cleaning) have been identified as key areas in the HHI Preliminary Plan;

(5) Evaluating the effectiveness of education and outreach methods designed to provide at-risk families with the knowledge to adopt self-protective behaviors with respect to housing-related health hazards.

(6) *Other Focus Areas that are Consistent with the Overall Goals of HUD's Healthy Homes Technical Studies Program.* HUD will consider funding applications for technical studies on other topics that are consistent with the overall goals and objectives of the HHTS program, as described above. In such instances, for an applicant to receive an award, it is necessary that the applicant describe in sufficient detail how the proposed study is consistent with the overall healthy homes technical studies program goals and objectives.

i. General Information. In proposing to conduct a study on a particular topic, applicants should consider:

(1) The ''fit'' of the proposed hazard assessment and/or control methods within the overall goal of addressing ''priority'' health and safety hazards in a cost-effective manner;

(2) The efficacy of the proposed methods for hazard control and risk reduction (*e.g.*, how long is effective hazard reduction maintained);

(3) Where and how these methods would be applied and tested, and/or perform demonstration activities; and

(4) The degree to which the study will help develop practical, widely applicable methods and protocols or improve our understanding of a residential health hazard.

Applications for a study for which the sole or primary focus is on lead-based paint hazards are ineligible for funding under the HHTS program. Such studies should be submitted for funding under the Lead Technical Studies Program.

Applicants should consider the efficiencies that might be gained by working cooperatively with one or more recipients of HUD's Healthy Homes Demonstration and/or Lead Hazard Control grants, which are widely distributed throughout the U.S. Information on current grantees is available at *hhtp://www.hud.gov/offices/lead.*

You may address one or more of the technical studies topic areas within your proposal, or submit separate applications for different topic areas.

Note: A limited amount of hazard control activities, which are construction as opposed to research, may be conducted as part of an HHTS project (see Section IV.E.8 of this NOFA).

D. Other

1. *Threshold Requirements Applicable to all Applicants.*

To be scored and ranked under the Rating Factors, and thus be eligible to receive funds from HUD, you must meet all of the threshold requirements

described in the General Section. Threshold requirements include Eligibility, Compliance with Fair Housing and Civil Rights Laws, Conducting Business in Accordance with Core Values and Ethical Standards, Delinquent Federal Debts, and Pre-Award Accounting System Surveys.

2. *Program Requirements.*

The following requirements are applicable to both Healthy Homes Technical Studies and Lead Technical Studies Programs:

a. Program Performance. Grantees shall take all reasonable steps to accomplish all activities within the approved period of performance. HUD reserves the right to terminate the grant prior to the expiration of the period of performance if the grantee fails to make reasonable progress in implementing the approved program of activities or fails to comply with the terms of the grant agreement.

b. Regulatory Compliance. Grantees must comply with all relevant federal, state, and local regulations regarding exposure to and proper disposal of hazardous materials.

c. Blood Lead Testing. Any blood lead testing, blood lead level test results, medical referral, or follow-up for children under six years of age will be conducted according to the recommendations of the Centers for Disease Control and Prevention (CDC), *Preventing Lead Poisoning in Young Children* (see Appendix B of this NOFA).

d. Restricted Use of Funds. HUD technical studies grant funds will not replace existing resources dedicated to any ongoing project.

e. Laboratory Analysis for Lead. Laboratory analysis covered by the NLLAP will be conducted by a laboratory recognized under the program.

f. Human Research. Human research subjects will be protected from research risks in conformance with Federal Policy for the Protection of Human Subjects, required by HUD at 24 CFR 60.101, which incorporates the Department of Health and Human Services (DHHS) Protection of Human Subjects regulation at 45 CFR part 46.

g. OSHA Compliance. The requirements of the Occupational Safety and Health Administration (OSHA) (*e.g.*, 29 CFR part 1910 and/or 1926, as applicable) or the state or local occupational safety and health regulations, whichever are most stringent, will be met;

h. Civil Rights. The institution administering the grant must meet the civil rights threshold set forth in the General Section.

i. Disclosure. All test results and other information in pre-1978 housing related to lead-based paint or lead-based paint hazards must be provided to the owner of the unit, together with a statement describing the owner's legal duty to disclose the knowledge of lead-based paint and its hazards to tenants (before initial leasing, or before lease renewal with changes) and buyers (before sale) (24 CFR Part 35, subpart A). Disclosure of other identified housing-related health or safety hazards to the owner of the unit, for purposes of remediation, is encouraged but not required.

j. Privacy. Submission of any information on the properties to databases (whether web site, computer, paper, or other format) of addresses of identified, treated or cleared housing units is subject to the protections of the Privacy Act of 1974, and shall not include any personal information that could identify any child affected. You should also check to ensure you meet state privacy regulations.

k. Applicants must incorporate meaningful community involvement into any study that requires a significant level of interaction with a community during implementation (e.g., projects being conducted within occupied dwellings or which involve surveys of community residents). The term community refers to a variety of populations comprised of persons who have commonalities that can be identified (e.g., based on geographic location, ethnicity, health condition, common interests). Applicants should identify the community that is most relevant to their particular project. There are many different approaches to involving the community in the conception, design, and implementation of a study and the subsequent dissemination of findings. Examples include but are not limited to: establishing a structured approach to obtain community input and feedback (e.g., through a community advisory board); including one or more community-based organizations as study partners; employing community residents to recruit study participants and collect data; and enlisting the community in the dissemination of findings and translation of results into improved policies and/or practices. A discussion of community involvement in research involving housing-related health hazards can be found in Chapter 5 of the Institute of Medicine publication titled ''Ethical Considerations for Research on Housing-Related Health Hazards Involving Children'' (see Appendix B for more information on this report).

l. Economic Opportunities for Low- and Very Low-Income Persons (Section 3). This program is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u). Section 3 requires recipients to ensure that, to the greatest extent feasible, 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 businesses which provide economic opportunities to low- and very low-income persons. The regulations may be found at 24 CFR part 135.

m. Standardized Dust Sampling Protocol and Quality Control Requirements. Grantees collecting samples of settled dust from participant homes for environmental allergen analyses (e.g., cockroach, dust mite) will be required to use a standard dust sampling protocol, unless there is a strong justification to use an alternate protocol (e.g., the study involves the development of an alternative sampling method). The HUD protocol can be found on the OHHLHC website at: *http://www.hud.gov/offices/lead/hhi/hhiresources.cfm*. Grantees conducting these analyses will also be required to include quality control dust samples, provided by OHHLHC at no cost to the grantee, with the samples that are submitted for laboratory analyses. For the purpose of budgeting laboratory costs, you should assume that five percent of your total allergen dust samples would consist of QC samples.

3. *DUNS Requirement.*

Refer to the General Section for information regarding the DUNS requirement. A DUNS number must be provided for the institution that is submitting an application. Your DUNS number must be included in your electronic application submission. Be sure to use the DUNS number that you have registered as an Authorized Organization Representative (AOR) with Grants.gov and that your eBusiness Point of Contact has authorized you to submit an application on behalf of the applicant organization (see the General Section for details about the Grants.gov registration process).

IV. Application and Submission Information

If you are interested in applying for funding under this program, please review carefully the General Section and the following additional information.

A. Addresses To Request Application Package

All the information required to submit an application is contained in the program section of this NOFA and the General Section. Applications can be downloaded from the Web at: *https://apply.grants.gov/forms_apps_idx.html http://www.grants.gov/APPLY.* If you have difficulty accessing the information you may call the Grants.gov helpline toll-free at (800) 518–GRANTS (4726) from Monday to Friday from 7 a.m. to 9 p.m. eastern time, or send an e-mail to *Support@grants.gov*.

B. Content and Form of Application Submission

1. *Applicant Data.* Your application must contain the items listed in this section. These items include the standard forms contained in the General Section that are applicable to this funding announcement (collectively referred to as the ''standard forms''). Copies of these forms are available on line at *http://www.hud.gov/offices/adm/grants/nofa06/nofaforms.cfm.* The required items are:

a. Application Abstract. An abstract with the project title, the names and affiliations of all investigators, and a summary of the objectives, expected results, and study design (two-page maximum) must be included in the proposal.

b. All forms as required by the General Section. However, forms HUD–2991 (Certification of Consistency with the Consolidated Plan) and HUD–27061 (Race and Ethnicity Data) are not required with the application for these programs.

c. Materials Submitted. A project description/narrative statement addressing the rating factors for award under the program (LTS or HHTS) for which you are applying. The narrative statement must be identified in accordance with each factor for award (Rating Factors 1 through 5). Number the pages of your narrative statement and include a header and a footer that provides the name of the applicant and the name of the HUD program to which you are applying. The project description or narrative must be included in the responses to the rating factors. The response to the rating factors should not exceed a total of 25 pages, single-sided, with a minimum 12-point font. Any pages in excess of this limit will not be read. The points you receive for each Rating Factor will be based on the portion of your narrative statement that you submit in response to that particular factor, supplemented by any appendices that are referenced in your response and discussed in that portion of your narrative statement. Supporting materials that are not referenced or discussed in your responses to the individual rating factors will not be considered. Additional materials (e.g., appendices) must be submitted with your application according the directions in the General Section. The footer on the pages of these materials should accurately describe the Factor that they are supporting.

d. Evidence of leveraging/partnerships. You should provide evidence of leveraging/partnerships by submitting the following with your application: Letters of firm commitment; memoranda of understanding; and/or agreements to participate by those entities identified as partners in the project efforts. Each document of commitment must include the organization's name, proposed level of commitment (with monetary value) and responsibilities as they relate to specific activities or tasks of your proposed program. The commitment must also be signed by an official of the organization legally able to make commitments on behalf of the organization.

e. Institutional Review Boards. In conformance with the Common Rule (Federal Policy for the Protection of Human Subjects, codified by HUD at 24 CFR part 60.101, which incorporates the DHHS regulation at 45 CFR part 46), if your research involves human subjects, your organization must provide an assurance (e.g., a letter signed by an appropriate official) that the research has been reviewed and approved by an Institutional Review Board (IRB) before you can initiate activities that require IRB approval. To be eligible for these funds, before initiating such activities you must also provide the number for your organization's assurance (i.e., an ''institutional assurance'') that has been approved by the Department of Health and Human Service's Office for Human Research Protections (OHRP). For additional information on what constitutes human subject research or how to obtain an institutional assurance see the OHRP Web site at *http://www.hhs.gov/ohrp/*.

f. Supporting Materials. Include the resumes of the principal investigator and other key personnel and other materials that are needed in your response to the rating factors (e.g., organizational chart, letters of commitment, a list of references cited in your responses to the rating factors). Each resume shall not exceed three pages, and is limited to information that is relevant in assessing the qualifications and experience of key personnel to conduct and/or manage the proposed technical studies. This information will not be counted towards the Rating Factors narrative 25-page limit.

g. Additional Information. Submit other optional information provided in support of your application following the directions in the General Section. These additional optional materials must not exceed 20 pages. Any pages in excess of this limit will not be read. h. Budget. Include a total budget with supporting cost justification for all budget categories of the federal grant request. Use the budget format discussed in Rating Factor 3, Section V.A.4.c, below. In completing the budget forms and justification, you should address the following elements:

(1) Direct Labor costs, including all full- and part-time staff required for the planning and implementation phases of the project. These costs should be based on full time equivalent (FTE) or hours per year (hours/year) (i.e., one FTE equals 2,080 hours/year);

(2) Allowance for one trip to HUD Headquarters in Washington, DC, for each year of your grant, planning each trip for two people. The first trip will occur shortly after grant award for a stay of two or three days, depending on the location, and the remaining trips will have a stay of one or two days, depending on the location;

(3) A separate budget proposal for each subrecipient receiving more than 10 percent of the total federal budget request;

(4) Supporting documentation for salaries and prices of materials and equipment, upon request; and

(5) Indirect Cost Rates. Organizations that have a federally negotiated indirect cost rate should use that rate and the appropriate base. The documentation will be verified during award negotiations. Organizations that do not have a federally negotiated rate schedule must obtain a rate from their cognizant federal agency, otherwise the organization will be required to obtain a negotiated rate through HUD.

Checklist for Technical Studies Program Applicants

Item

(1) Applicant Abstract (limited to a 2-pages).

(2) Rating Factor Responses (Total narrative response limited to 25 pages).

(a) Capacity of the Applicant and Relevant Organizational Experience (22 points).

(b) Need/Extent of the Problem (15 points).

(c) Soundness of Approach (45 points).

(d) Leveraging Resources (8 points).

(e) Achieving Results and Program Evaluation (10 points).

(3) Required materials in response to rating factors (does not count towards 25-page limit).

(a) Resumes of Key Personnel (limited to 3 pages per resume).

(b) Organizational Chart.

(c) Letters of Commitment (if applicable)—Letters of commitment should include language defining the activities to be performed, the contributions to be made, and the monetary value of each.

Note: HUD recommends against including letters of support that do not commit services, materials, or funds; they will not add to the consideration of your application.

(4) Optional material in support of the Rating Factors (20 page limit).

(5) Required Forms and Budget Material.

(a) Form SF 424 (Application for Federal Assistance).

(b) Form HUD–424–CBW (Budget Worksheet).

(c) Form HUD–96010 (Logic Model Form).

(d) Form SF 424 Supplement (Survey on Ensuring Equal Opportunity for Applicants) (to be completed by private nonprofit organizations only).

(e) Form SF LLL (Disclosure of Lobbying Activities, if applicable).

(f) Form HUD–2880 (Applicant/Recipient Disclosure/Update Report)

(g) Form HUD–2990 (Certification of Consistency with the RC/EZ/EC–II Strategic Plan, required only for applicants who are seeking these bonus points).

(h) Form HUD 2994–A (You Are Our Client Grant Applicant Survey, Optional).

(i) Form HUD–96011 (Facsimile Transmittal, for electronic applications) (Used as the cover page to transmit third party documents and other information designed for each specific application for tracking purposes. HUD will not read faxes that do not use the HUD–96011 as the cover page to the fax).

C. Submission Dates and Times

Electronic applications must be received and validated by Grants.gov on or before 11:59:59 p.m. eastern time on June 6, 2006. All narrative files and any scanned documents must be submitted as a single zip file attachment to the electronic application. Refer to the General Section for specific application submission instructions including acceptable submission dates, times, methods, acceptable proof of application submission and receipt procedures, and other information regarding application submission. Materials associated with your electronic application submitted by facsimile transmission must also be received by 11:59:59 p.m. eastern time on the application deadline date. See the General Section for information on how to submit third party letters and other documents as part of your electronic submission utilizing form HUD–96011, Facsimile Transmittal.

D. Intergovernmental Review

This NOFA is excluded from the requirement of an Intergovernmental Review.

E. Funding Restrictions

1. Administrative Costs. There is a 10 percent maximum allowance for administrative costs. Additional information about allowable administrative costs is provided in Appendix C of this NOFA, which is available at: *http//www.hud.gov/offices/adm/grants/fundsavail.cfm.*

2. Purchase of Real Property. The purchase of real property is not an allowable cost under this program.

3. Purchase or Lease of Equipment. The purchase or lease of equipment having a per unit cost in excess of $5,000 is not an allowable cost, unless prior written approval is obtained from HUD.

4. Medical treatment. Medical treatment costs are not allowable under this program.

5. Profit. For profit institutions are not allowed to earn a profit.

6. You must comply with the Coastal Barrier Resources Act (16 U.S.C. 3501).

7. You may not conduct lead-based paint or healthy home hazard control activities or related work that constitutes construction, reconstruction, repair or improvement (as referenced in Section 3(a)(4) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128)) of a building or mobile home which is located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless:

a. The community in which the area is situated is participating in the National Flood Insurance Program in accordance with the applicable regulations (44 CFR parts 59–79), or less than a year has passed since FEMA notification regarding these hazards; and

b. Where the community is participating in the National Flood Insurance Program, flood insurance on the property is obtained in accordance with section 102(a) of the Flood Disaster Protection Act (42 U.S.C. 4012a(a)). You are responsible for assuring that flood insurance is obtained and maintained for the appropriate amount and term.

8. Construction activities. The amount of HUD technical studies grant funds used for lead-based paint hazard control activities may not exceed 10% of the total HUD funds awarded under the LTS application. The amount of HUD technical studies grant funds used for construction activities may not exceed 50% of the of the total HUD funds awarded under the HHTS application.

F. Other Submission Requirements

1. Application Submission and Receipt Procedure. Please read the General Section carefully and completely for the electronic submission and receipt procedures for all applications because failure to comply may disqualify your application.

2. Waiver of Electronic Submission Requirements. Applicants must submit their request to waive the electronic application requirement at least 30 days before the submission deadline date by e-mail to *OHHLHC_2006_NOFA@hud.gov* or by fax to (202) 755–1000. The submission must address all items identified in the General Section. HUD will provide its decision regarding the request. If you are granted a waiver of the electronic application submission, the program office will provide instructions for submission. HUD will only accept alternate submissions from applicants whose waiver request was granted that are received no later than 11:59:59 pm eastern time on the application deadline date. The applicant must retain documentation to prove its waiver request was actually received by HUD (e.g., FAX transmittal report showing telephone number dialed and number of pages successfully transmitted).

V. Application Review Information

A. Criteria

1. *Threshold Requirements.* Applications that meet all of the threshold requirements will be eligible to be scored and ranked, based on the total number of points allocated for each of the rating factors described in Section V.A.4 of this NOFA. Your application must receive a total score of at least 75 points to remain in consideration for funding.

2. *Award Factors.* Each of the five factors is weighted as indicated by the number of points that are assigned to it. The maximum score that can be attained is 102 points. Applicants should be certain that each of these factors is adequately addressed in the project

description and accompanying materials.

Applicants are eligible to receive up to two bonus points for projects located within federally designated Renewable Communities (RCs), Empowerment Zones (EZs), or Enterprise Communities (ECs) designated by USDA in round II (EC–IIs) (collectively referred to as RC/EZ/EC–IIs), and which will serve the residents of these communities (see the General Section). In order to be eligible for these bonus points, applicants must meet the requirements of the General Section and submit a completed form HUD–2990, with descriptive language in the budget discussion describing the actual work that is to be done in these communities.

3. *Rating Factors. a. Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (22 Points).* This factor addresses the extent to which you have the ability and organizational resources necessary to successfully implement your proposed activities in a timely manner. The rating of your application will include any sub-grantees, consultants, sub-recipients, and members of consortia that are firmly committed to the project (generally, ''subordinate organizations''). In rating this factor, HUD will consider the extent to which your application demonstrates:

(1) *The capability and qualifications of the principal investigator and key personnel* (14 points). HUD will assess the qualifications of these people to carry out the proposed study as evidenced by academic background, relevant publications, and recent (within the past 10 years) relevant research experience. Publications and research experience are considered relevant if they required the acquisition and use of knowledge and skills that can be applied in the planning and execution of the technical study that is proposed under this NOFA; and

(2) *Past performance of the study team in managing similar projects* (8 points). HUD will evaluate your demonstrated ability to successfully manage various aspects of a complex technical study in such areas as logistics, study personnel management, data management, quality control, community study involvement (if applicable), and report writing, as well as overall success in project completion (*i.e.*, projects completed on time and within budget). You should also demonstrate that your project would have adequate administrative support, including clerical and specialized support in areas such as accounting and equipment maintenance.

If applicable, provide the number and title of current and past OHHLHC grants as well as past performance of the organization (applicant or partners) on other grant(s) or project(s) related to environmental health and safety issues, or other experience in a similar program. Provide details about the nature of the project, the funding agency, and your performance (e.g., timely completion, achievement of desired outcomes). If your organization has an active OHHLHC grant or cooperative agreement, provide a description of the progress and outcomes achieved under that award. (This may include an updated logic model.)

If you completed one or more HUD-funded Technical Studies grants, your performance will be evaluated in terms of achievements made under the previous grant(s).

b. Rating Factor 2: Need/Extent of the Problem (15 Points). This factor addresses the extent to which there is a need for your proposed technical study. In responding to this factor, you should document in detail how your project would make a significant contribution towards achieving some or all of HUD's stated goals and objectives for one or more of the topic areas described in Section I.B.1.a (LTS) or I.B.1.b (HHTS), as appropriate for the program to which you are applying. For example, you should demonstrate how your proposed study addresses a need with respect to the development of improved methods for the assessment and control of residential lead-based paint hazards or addresses a need associated with an important housing-related health hazard, with an emphasis on children's health. This is especially important for applicants that are proposing to study a lead or healthy homes topic that is not highlighted as a priority area by HUD in section I.C of this NOFA; such applicants that do not provide supporting language to demonstrate this will not receive points under this rating factor. Specific topics to be addressed for this factor include (five points for each item):

(1) A concise review of the research need that is addressed in your study and why it is high priority with respect to the program. For HHTS applicants, include available documented rates of illness or injury associated with the hazard or hazards that you are addressing, including local, regional, and national data, as applicable.

(2) A discussion of how your proposed project would significantly advance the current state of knowledge for your focus area, especially with respect to the development of practical solutions.

(3) A discussion on how you anticipate your study findings will be used to improve current methods for assessing or mitigating the hazards under study. Indicate why the method/protocol that would be improved through your study would likely be widely adopted (e.g., low cost, easily replicated, lack of other options).

c. Rating Factor 3: Soundness of Approach (45 Points). This factor addresses the quality of your proposed technical study plan. Specific components include:

(1) *Soundness of the study design (22 points).* The project description/study design must be thorough and feasible, and reflect your knowledge of the relevant scientific literature, which should be thoroughly cited in your application. You should clearly describe how your study builds upon the current state of knowledge for your focus area. If possible, your study should be designed to address testable hypotheses that are clearly stated. Your study design should be statistically based with adequate power to test your stated hypotheses. The study design should be presented as a logical sequence of steps or phases with individual tasks described for each phase. You should identify any important ''decision points'' in your study plan and you should discuss plans for data management, analysis and archiving. HUD has observed that studies can miss targeted performance timelines because of delays in the IRB approval process or unexpected difficulties with recruiting study participants. If applicable, describe actions that you will take to minimize the possibility that your study would experience delays in these areas (e.g., understanding likely IRB requirements in advance, planning on additional avenues for recruitment).

If you are proposing to conduct a study that includes a significant level of community interaction (e.g., studies involving participant recruitment, survey research, environmental sampling on private property), describe your plan for meaningful involvement of the affected community in your proposed study. You should define the community of interest with respect to your proposed study and discuss why your proposed approach to community involvement will make a meaningful contribution to your study and to the community.

(2) *Policy Priorities (5 points).* Indicate if your proposed study will address any of the FY 2006 policy priorities that are applicable to this NOFA (see the General Section for additional details

regarding these policy priorities). You will receive one point under Rating Factor 3(2) for each of the applicable FY 2006 policy priorities that are found in the General Section and applicable to the Technical Studies NOFA that are adequately addressed in your application, with the exception of ''Removal of Barriers to Affordable Housing,'' for which you can receive up to two points (see the General Section). Policy priorities that are applicable to the Lead Technical Studies Program NOFA are: (1) Improving our Nation's Communities (focus on distressed communities); (2) Providing Full and Equal Access to Grass-Roots Faith-based and other Community-based Organizations in HUD Program Implementation; (3) Participation of Minority -Serving Institutions in HUD Programs, and (4) Removal of Barriers to Affordable Housing.

(3) *Quality assurance mechanisms (8 points).* You must describe the quality assurance mechanisms that will be integrated into your project design to ensure the validity and quality of the results. Applicants that receive awards will be required to submit a Quality Assurance Plan to HUD (see paragraph VI.C.2).

(a) Areas to be addressed include, but are not limited to: Acceptance criteria for data quality, procedures for selection of samples/sample sites, sample handling, measurement and analysis, pre-testing and validation of questionnaires or surveys, measures to ensure accuracy during data management, and any standard/nonstandard quality assurance/control procedures to be followed. Documents (e.g., government reports, peer-reviewed academic literature) that provide the basis for your quality assurance mechanisms should be cited.

(b) If your project involves human subjects in a manner that requires IRB approval and periodic monitoring, address how you will obtain such approval. Before you can receive funds from HUD for activities that require IRB approval, you must provide an assurance that your study has been reviewed and approved by an IRB and evidence of your organization's ''institutional assurance.'' Describe how you will provide informed consent (e.g., from the subjects, their parents or their guardians, as applicable) to help ensure their understanding of, and consent to, the elements of informed consent, such as the purposes, benefits and risks of the research. Describe how this information will be provided and how the consent will be collected. For example, describe your use of ''plain language'' forms, flyers and verbal scripts, and how you plan to work with families with limited English proficiency or primary languages other than English, and with families including persons with disabilities.

(c) For the collection of data using instruments, such as surveys and visual assessment tools, describe the procedures that you will follow to ensure accurate data capture and transfer. Also, describe any research done (or planned) to validate the instrument.

(4) *Project management plan (6 points).* The proposal should include a management plan that provides a schedule for the completion of major tasks, with associated benchmarks and major study milestones, and major deliverables, with an indication that there will be adequate resources (e.g., personnel, financial) to successfully meet the proposed schedule. The major tasks and benchmarks/deliverables identified in the management plan should be consistent with those identified in the Logic Model (see description under Rating Factor 5). You should include preparation of one or more articles for peer-reviewed academic journals and submission of the draft(s) to the journal(s) after HUD acceptance during the agreed upon performance period of your grant. The final deliverable can be submitted to HUD during the agreed upon period of performance or during the 90-day closeout period following award expiration.

(5) *Budget Proposal (4 points).*

(a) Your budget proposal should thoroughly estimate all applicable direct and indirect costs, and be presented in a clear and coherent format in accordance with the requirements listed in the General Section. HUD is not required to approve or fund all proposed activities. You must thoroughly document and justify all budget categories and costs (Form HUD–424–CBW) and all major tasks, for yourself, sub-recipients, major subcontractors, joint venture participants, or others contributing resources to the project. A separate budget must be provided for partners who are proposed to receive more than 10 percent of the federal budget request.

(b) Your narrative justification associated with these budgeted costs should be submitted as part of the Total Budget (Federal Share and Matching), but is not included in the 25-page limit for this submission.

(c) The application will not be rated on the proposed cost; however, cost will be considered in addition to the rated factors to determine the proposal most advantageous to the Federal Government. Cost will be the deciding factor when proposals ranked under the listed factors are considered acceptable and are substantially equal.

d. Rating Factor 4: Leveraging Resources (8 Points). Your proposal should demonstrate that the effectiveness of HUD's Technical Studies grant funds is being increased by securing other public and/or private resources or by structuring the project in a cost-effective manner, such as integrating the project into an existing study (either funded by HUD or another source) that will be concurrent with your proposed study. Resources may include funding or in-kind contributions (such as services, facilities or equipment) allocated to the purpose(s) of your project. Staff and in-kind contributions should be assigned a monetary value.

You should provide evidence of leveraging/partnerships by submitting: Letters of firm commitment, memoranda of understanding, and/or agreements to participate from those entities identified as partners in the project efforts. Each document must include the organization's name, proposed level of commitment (with monetary value) and responsibilities as they relate to specific activities or tasks of your proposed program. The commitment must also be signed by an official of the organization legally able to make commitments on behalf of the organization. Simple letters that only indicate support of the proposed study are not sufficient.

e. Rating Factor 5: Achieving Results and Program Evaluation (10 Points). This factor emphasizes HUD's commitment to ensuring that applicants keep promises made in their applications and assess their performance to ensure performance goals are met. Achieving results means you, the applicant, have clearly identified the benefits or outcomes of your program. Outcomes are ultimate goals. Benchmarks or outputs are interim activities or products that lead to the ultimate achievement of your goals.

Program evaluation requires that you, the applicant, identify program outcomes, interim products or benchmarks, and indicators that will allow you to measure your performance. Performance indicators should be objectively quantifiable and measure actual achievements against anticipated goals. Your evaluation plan should identify what you are going to measure, how you are going to measure it, and the steps you have in place to make adjustments to your work plan if performance targets are not met within established timeframes.

This rating factor reflects HUD's goal to embrace high standards of ethics, management and accountability. In evaluating this factor, HUD will consider how you have described the procedures you will follow to have reliable outcome measures and performance, so that the project will be recognized as being of high quality that provides benefits to the community.

In your response to this Rating Factor, discuss the performance goals for your project and identify specific outcome measures. Describe how the outcome information will be obtained, documented, and reported. You must complete and return the eLogic Model™ Form HUD–96010 included in the download instructions found as part of the application at *http://www.Grants.gov/Apply*. You must show your proposed project short-term, intermediate, long-term and final results. Instructions on the Logic model is contained in the General Section and instructions that are contained in Tab 1 of the electronic form. The form features drop down menus from which to select and construct the Logic Model response relevant to your proposal. The Master Logic Model is on the HUD Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm* and the electronic version is in the instruction download at *http://www.Grants.gov/APPLY* under the program NOFA.

Also, in responding to this factor, you should:

(1) Identify benchmarks that you will use to track the progress of your study;

(2) Identify important study milestones (e.g., the end of specific phases in a multiphase study, recruitment of study participants, developing a new analytical protocol), which should also be clearly indicated in your study timeline. Also identify potential obstacles in meeting these objectives, and discuss how you would respond to these obstacles;

(3) For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment statement. HUD will be publishing a separate notice on the ROI concept.

B. Review and Selection Process

1. *Corrections to Deficient Applications.* The General Section provides the procedures for correcting deficient applications.

2. *Rating and Ranking.* Awards will be made in rank order for each type of Technical Studies Program applications (Lead or Healthy Homes), within the limits of funding availability for the program.

a. *Partial Funding.* In the selection process, HUD reserves the right to offer partial funding to any or all applicants. If you are offered a reduced grant amount, you will have a maximum of 14 calendar days to accept such a reduced award. If you fail to respond within the 14-day limit, you shall be considered to have declined the award.

b. *Remaining Funds.* See the General Section for HUD's procedures if funds remain after all selections have been made within either type of Technical Studies Program.

VI. Award Administration Information

A. Award Notices

1. *Notice of Award.* Applicants who have been selected for award will be notified by letter from the Grant Officer. The letter will state the program for which the application has been selected, the amount the applicant is eligible to receive, and the name of the Government Technical Representative (GTR). This letter is not an authorization to begin work or incur costs under the award. An executed grant or cooperative agreement is the authorizing document.

HUD may require that all the selected applicants participate in negotiations to determine the specific terms of the grant agreement and budget. If you accept the terms and conditions of the grant, you must return your signed grant agreement by the date specified during negotiation. In cases where HUD cannot successfully conclude negotiations with a selected applicant or a selected applicant fails to provide HUD with requested information, an award will not be made to that applicant. In this instance, HUD may offer an award, and proceed with negotiations with the next highest-ranking applicant. After receiving the letter, additional instructions on how to have the grant account entered into HUD's Line of Credit Control System (LOCCS) payment system or its successor will be provided. Other forms and program requirements will also be provided.

In accordance with OMB Circular A–133 (Audits of States, Local Governments and Non-Profit Organizations), grantees expending $500,000 in Federal funds within a program or fiscal year must submit their completed audit-reporting package along with the Data Collection Form (SF–SAC) to the Single Audit Clearinghouse, the address can be obtained from their Web site. The SF–SAC can be downloaded at *http://harvester.census.gov/sac/*.

2. *Debriefing.* The General Section provides the procedures applicants should follow for requesting a debriefing.

B. Administrative and National Policy Requirements

1. Environmental Requirements

a. Eligible Construction and Rehabilitation Activities.

(1) A Technical Studies award does not constitute approval of specific sites where activities that are subject to environmental review may be carried out. Recipients conducting eligible construction and rehabilitation activities must comply with 24 CFR part 58, ''Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities''. Recipients that are States, units of general local government or Indian tribes must carry out environmental review responsibilities as a responsible entity under part 58. Where the recipient is not a State, unit of general local government or Indian tribe, a responsible entity, usually the unit of general local government or Indian tribe, must assume the environmental review responsibilities for construction or rehabilitation activities funded under this NOFA. Under 24 CFR 58.11, where the recipient is not a State, unit of general local government or Indian tribe, if a responsible entity or the recipient objects to the responsible entity performing the environmental review, HUD may designate another responsible entity to perform the review or may perform the environmental review itself under the provisions of 24 CFR part 50. In such cases, following grant award execution, HUD will be responsible for ensuring that any necessary environmental reviews are completed. See paragraph (2) below for additional assistance.

(2) For all grants under this NOFA, recipients and other participants in the project are prohibited from undertaking, or committing or expending HUD or non-HUD funds (including HUD leveraged or match funds) on, a project or activities under this NOFA (other than activities listed in 24 CFR 58.34, 58.35(b) or 58.22(f)) until the responsible entity completes an environmental review and the applicant submits and HUD approves a Request for the Release of Funds and the responsible entity's environmental certification (both on form HUD 7015.15) or, in the case where the recipient is not a State, unit of general local government or Indian tribe and HUD has determined to perform the environmental review under part 50, HUD has completed the review and notified the grantee of its approval. The results of the environmental reviews may require that proposed activities be modified or proposed sites rejected. For

part 58 procedures, see *http://www.hud.gov/offices/cpd/energyenviron/environment/index.cfm.* For assistance, contact Karen Choi, the Office of Healthy Homes and Lead Hazard Control Environmental Officer at (213) 534–2458 (this is not a toll free-number) or the HUD Environmental Review Officer in the HUD Field Office serving your area. If you are a hearing- or speech-impaired person, you may reach the telephone number via TTY by calling 1–800-HUD–2209. Recipients of a grant under these funded programs will be given additional guidance in these environmental responsibilities.

b. All other activities not related to construction and rehabilitation activities are categorically excluded from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and are not subject to environmental review under the related laws and authorities.

2. *Program Performance.* Awardees shall take all reasonable steps to accomplish all HUD-funded activities within the approved period of performance. HUD reserves the right to terminate the grant or cooperative agreement prior to the expiration of the period of performance if an awardee fails to make reasonable progress in implementing the approved program of activities.

3. *Conducting Business in Accordance with HUD Core Values and Ethical Standards.* If awarded assistance under this NOFA, prior to entering into a grant agreement with HUD, you will be required to submit a copy of your code of conduct and describe the methods you will use to ensure that all officers, employees, and agents of your organization are aware of your code of conduct. See the General Section for information about conducting business in accordance with HUD's core values and ethical standards.

4. *Participation in HUD-Sponsored Program Evaluation.* See the General Section.

5. *Removal of Barriers to Affordable Housing.* See the General Section.

6. *HUD Reform Act of 1989.* The provisions of the HUD Reform Act of 1989 that apply to this NOFA are explained in the General Section.

7. *Audit Requirements.* Any grant recipient that expends $500,000 or more in federal financial assistance in a single year must meet the audit requirements established in 24 CFR parts 84 and 85 in accordance with OMB Circular A–133.

8. *Executive Order 13202.* Compliance with HUD regulations at 24 CFR 5.108 that implement Executive Order 13202, ''Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally-Funded Construction Projects'', is a condition of receipt of assistance under this NOFA.

Note: This Order only applies to construction work.

9. *Procurement of Recovered Materials.* See the General Section for information concerning this requirement.

C. Reporting

1. *Post Award Reporting Requirements.* Final budget and work plans are due 60 days after the start date.

2. *Quality Assurance Plan (QAP).* Successful applicants will be required to submit a Quality Assurance Plan to HUD prior to initiating work under the grant. This is a streamlined version of the format used by some other federal agencies, and is intended to help ensure the accuracy and validity of the data that you will collect under the grant. You should plan for this and include it in your study work plan. See *http://www.hud.gov/offices/lead*, for the QAP template for this program.

3. *Progress Reporting.* Progress reporting is required on a quarterly basis. Project benchmarks and milestones will be tracked using a benchmark spreadsheet that uses the benchmarks and milestones identified in the Logic Model form (HUD–96010) approved and incorporated into your award agreement. For specific reporting requirements, see policy guidance at: *http://www.hud.gov/offices/lead.*

4. *Racial and Ethnic Beneficiary Data.* HUD does not require grantees to collect racial and ethnic beneficiary data for this program. Grantees conducting studies that do not involve people, such as those confined to the laboratory or certain types of environmental sampling, will not be required to submit Form–27061 to HUD. If, however, racial and ethnic data are collected and reported as part of a study funded under this program NOFA, you must use the Office of Management and Budget's Standards for the Collection of Racial and Ethnic Data as presented on Form HUD–27061, Racial and Ethnic Data Reporting Form (and instructions for its use), found on *http://www.grants.gov.*

5. *Final Report.* The grant agreement will specify the requirements for final reporting (e.g., final technical report and final project benchmarks and milestones achieved against the proposed benchmarks and milestones in the Logic Model which was approved and incorporated into your award agreement).

6. *Draft Scientific Manuscript(s).* Copies of materials to be submitted for publication, at least one of which should be peer-reviewed.

VII. Agency Contact(s)

For technical help in downloading an application from Grants.gov or submitting an application via Grants.gov, call the Grants.gov help desk at 800–518-GRANTS. For programmatic questions on the Lead Technical Studies program, you may contact Dr. Robert Weisberg, Office of Healthy Homes and Lead Hazard Control, at (202) 755–1785, extension 7687 (this is not a toll-free number) or via e-mail at *Robert_F._Weisberg@hud.gov*. For programmatic questions on the Healthy Homes Technical Studies program, you may contact Dr. Peter Ashley, Office of Healthy Homes and Lead Hazard Control, at (202) 755–1785, extension 7595 (this is not a toll-free number) or via e-mail at *Peter_J._Ashley@hud.gov.* For grants administrative questions, you may contact Ms. Curtissa L. Coleman, Office of Healthy Homes and Lead Hazard Control, at telephone (202) 755–1785, extension 7580 (this is not a toll-free number) or via e-mail at *Curtissa_L._Coleman@hud.gov*. If you are a hearing- or speech-impaired person, you may reach the above telephone numbers through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

VIII. Other Information

A. Other Office of Healthy Homes and Lead Hazard Control Information

For additional general, technical, and grant program information pertaining to the Office of Healthy Homes and Lead Hazard Control, visit *http://www.hud.gov/offices/lead.*

B. 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 2539–0015. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. Public reporting burden for the collection of information is estimated to average 80 hours per respondent for the application and 16 hours per

respondent hours per annum per respondent for grant administration. This includes the time for collecting, reviewing, and reporting the data for the application, quarterly and final report. 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.

C. Appendices

Appendices A, B and C to this NOFA are available from HUD's Web site at: *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

LEAD OUTREACH GRANT PROGRAM

Billing Code 4210-01-C

Lead Outreach Grant Program

Overview Information

A. Federal Agency Name: Department of Housing and Urban Development, Office of Healthy Homes and Lead Hazard Control (OHHLHC).

B. Funding Opportunity Title: Lead Outreach Grant Program.

C. Announcement Type: Initial announcement.

D. Funding Opportunity Number: The **Federal Register** number is: FR–5030–N–17. The OMB approval number is 2539–0015.

E. Catalog of Federal Domestic Assistance (CFDA) Number(s): 14.904, Lead Outreach Grant Program.

F. Dates: The application deadline date is June 6, 2006.

G. Additional Important Information:

1. *Overall Purpose.* This funding opportunity is to provide funding for information dissemination about lead poisoning prevention through outreach, training and education, and certain technical assistance activities.

2. *Available Funds.* Approximately $2 million is available under this program.

3. *Number of Awards.* Approximately between 8–12 grants will be awarded.

4. *Type of Awards.* The awards will be made as cooperative agreements.

5. *Eligible Applicants.* Academic and non-for-profit institutions located in the U.S., state and local governments, and federally recognized Native American tribes are eligible under all existing authorizations. For-profit firms also are eligible; however, they are not allowed to earn a fee (i.e., no profit can be made from the project).

6. *Matching Requirements and Leveraging.* Ten (10) percent match is required by the applicant. See Section III.B. for more information on match and leverage.

7. *Application information.* Applications for this NOFA can be found at *www.grants.gov*. Applications must be received and validated by *www.grants.gov* no later than 11:59:59 PM eastern time on the application deadline date of June 6, 2006.

8. *Limitations on Applications.* There are three categories of activity under this NOFA. Applicants must submit a completed application for each category for which they are applying.

Full Text of Announcement

I. Funding Opportunity Description

Background information about lead, lead-based paint hazards and other information applicable to all OHHLHC NOFAs can be found on the OHHLHC's Web site at: *www.hud.gov/offices/adm/grants/fundsavail.cfm.*

A. Purpose of the Program

The purpose of this program is to:

1. Raise public awareness of childhood lead poisoning prevention and proper lead hazard identification and control methods for at-risk communities and children, especially underserved populations and minorities;

2. Provide training and education: (A) Develop a sustainable national or regional/local capacity of trained and educated individuals. (B) Educate certain groups about lead hazards; educate tenants and homeowners so they can report lead hazards to property owners, managers and/or public health or housing officials, as appropriate.

3. Provide technical assistance to grantees under OHHLHC's Lead Elimination Action Program (''LEAP''), Lead Hazard Control, Lead Technical Studies, and Lead Reduction Demonstration programs on grant management and lead technical issues.

B. Authority

The authority for this program is sections 1011(e)(8) and (g)(1) of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992), and the Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109–115, 119 Stat. 2396; approved November 30, 2005).

C. Changes in the FY 2006 Competitive NOFA

Listed below are major changes from the FY 2005 Lead Outreach NOFA:

1. Applicants may choose to apply for any or all of the three categories: (1) Outreach; (2) training and education and/or; (3) technical assistance to OHHLHC grantees. Applicants must submit a completed application for each category for which they are applying.

2. Eligible activities relate to the category of activity selected and are narrowly identified.

3. For-profit organizations are eligible to apply.

4. Referral or enrollment of units in treatment programs is not required.

5. Ten (10) percent match is required for eligibility. Leveraging beyond the match, though not required, will enable applicants to obtain points.

6. All grantees funded under this program must use existing outreach, training curricula and technical assistance documents unless they adequately justify the need to create new ones.

7. HUD has specified application format requirements.

II. Terms of Award

A. Available Funding

Approximately $2 million in fiscal year 2006 and prior year funds is available under this program. Available funds will be divided among three activity categories: Community Outreach: Approximately $1.2 million (approximately 5 cooperative agreements); Training and Education: Approximately $400,000 (approximately 2 cooperative agreements); OHHLHC Lead Grantee Technical Assistance: Approximately $400,000 (approximately 2 cooperative agreements). Technical Assistance applicants can apply for the nation as a whole and/or for one or more of the geographic areas:

(1) Eastern United States. (HUD Region I (New England: CT, MA, ME, NH, RI, VT), Region II (NJ, NY), Region III (Mid-Atlantic: DC, DE, MD, PA, VA, WV), Region IV (Southeast: AL, MS, FL, KY, NC, GA, PR, SC, TN));

(2) Central United States. (HUD Region V (Midwest: IL, IN, MI, MN, OH, WI), VI (Southwest: AR, LA, NM, OK, TX), VII (Great Plains: IA, MO, KS, NE), and VIII (Rocky Mountains: CO, MT, ND, SD, UT, WY)); and

(3) Western United States. (HUD Region IX (Pacific/Hawaii: AZ, CA, HI, NV) and Region X (Northwest: AK, ID, OR, WA)).

B. Type of Award and Period of Performance

Awards will be made as cooperative agreements with substantial government involvement. The anticipated start dates for new awards is expected to be October 1, 2006. The period of performance is 24 months from date of award.

III. Eligibility Information

A. Eligible Applicants

Academic and not-for-profit institutions located in the U.S., state and local governments, and federally recognized Native American Tribes are eligible under all existing authorizations. For-profit firms also are eligible; however, they are not allowed to earn a fee (i.e., no profit can be made from the project). Existing OHHLHC grantees of (or applicants to) the following programs are not eligible to apply as applicants, subrecipients or contractors under this NOFA: lead hazard control, lead hazard reduction demonstration, Lead Elimination Action Program (LEAP), or Lead Technical Studies.

B. Cost Sharing or Matching Requirements

Applicants must provide a matching contribution of at least 10 percent of the requested cooperative agreement sum. Matching contributions may be in the form of cash, including private sector funding, or in-kind (non-cash) contributions or a combination of these sources. Program match shall be limited to contributions, which would be eligible for payment from cooperative agreement funds, and may be in the form of cash, including private sector funding, or in-kind (non-cash) contributions or a combination of these sources. The applicant must submit a letter of commitment for the match from each organization other than itself that is providing a match, whether cash and/or in-kind. The letter must indicate the amount and source of the match, and detail how the matching funds will be specifically dedicated to and integrated into supporting the proposed cooperative agreement program. The signature of the authorized official on the Form SF–424 commits matching or other contributed resources of the applicant organization. A separate letter from the applicant is not required.

C. Other

1. Threshold Requirements. Applicants must also meet the threshold requirements of the General Section, including the Civil Rights threshold.

2. Program Requirements and Program Priorities. This section consists of both general requirements for all three activity categories followed by specific program requirements for each activity category. Although it is possible that, in a particular community, one or more of these policy priorities may not be appropriate, applicants should conform to the following policies or explain their proposed deviation from them:

a. General.

(1) All activities under this program must assist the regional/local area to develop or implement a strategy to eliminate lead poisoning, target at-risk populations or areas, and implement programs to meet those populations' information needs.

(2) All grantees' regular, routine activities must provide information to owners and low-income occupants about regional/local resources for housing rehabilitation and lead hazard control programs.

(3) All applicants are encouraged to target minority populations and utilize minority media in an effort to achieve diversity in outreach and educational efforts.

(4) All printed products are to be submitted to HUD for review and in final form as deliverables in electronic format suitable for web posting.

(5) Each awardee is expected to manage their program and use a project management tool, such as a logic model, to manage and evaluate their programs' effectiveness and modify their strategies as needed to achieve the greatest return on HUD's investment. Often, modest additional actions to gather information about results would enable grantees to better measure the impact of their outreach and education efforts.

(6) Each awardee will be assigned a GTR (Government Technical Representative) at Headquarters, who will provide oversight and approve grantees' activities and deliverables. The Government Technical Monitor (GTM) will be the Healthy Homes Field Representative for the awardee's region. When planning and conducting activities to be held in the GTM's region, awardees shall inform the GTM of its plans and activities, consider the GTM's input and recommendations and report to the GTM (in addition to any other reporting requirements) the accomplishments of the assistance. However, the GTR has the ultimate authority to monitor the performance and approve deliverables and drawdowns.

b. Specific program requirements for each of the three activity categories.

(1) Outreach providers must:

(a) Increase lead awareness among the general public;

(b) Provide information to owners and low-income occupants about regional/local resources for housing rehabilitation and lead hazard control programs; and

(c) Create a detailed outreach strategy as part of their work plan.

(2) Training and Education providers must:

(a) meet a documented regional/local need for:

(i) sustainable capacity of lead-safety trained workers and/or EPA-or state-certified lead professionals; or

(ii) structured education of other groups about lead poisoning prevention and control;

(b) target a specific, appropriate audience;

(c) use a HUD-approved curriculum for all interim controls training and specify training materials to be used;

(d) provide plans for sustainability including train-the-trainer programs.

(3) TA providers must:

(a) Observe the following priorities for content of TA:

(i) performance of assessment, intervention or clearance goals according to work plan,

(ii) improvement in the ability of grantees to design and implement programs that reflect sound management and fiscal controls,

(iii) adequate documentation of income eligibility,

(iv) adequate monitoring of subgrantees/subrecipients,

(v) adequate monitoring and documenting of match and/or leverage funds, as applicable,

(vi) compliance with Title X rules regarding the presence of children less than six years of age in assisted, owner-occupied units, and

(vii) organizational, management and financial management controls.

3. Description of National TA and Regional/local TA. Two types of technical assistance (TA) may be performed under this NOFA: National and Regional/local TA.

a. National TA activities are those that address, at a nationwide level, one or more of the program activities and/or priorities identified in Section III of this NOFA. National TA activities may include the development of written products (if adequately justified), development of online materials and training courses, delivery of training courses previously approved by HUD, organization and delivery of workshops and conferences, and delivery of direct TA as part of a national program.

b. Regional/local TA activities also must address the priorities identified in this NOFA. However, the Regional/local TA is targeted to the specific needs of OHHLHC's grantees in the regional area in which the TA is proposed. Regional/local TA activities are limited to the development of need assessments, direct TA to certain OHHLHC grantees, organization and delivery of workshops and conferences, and customization and delivery of previously HUD-approved trainings. Regional/local TA providers must notify regional/local HUD field offices of proposed activities, as appropriate. All TA activities will be administered by a Government Technical Representative (GTR) at HUD Headquarters and Government Technical Monitors (GTM) in various regions of the U.S. For more information on OHHLHC's grantees or a list of HUD's Healthy Homes Representatives and their regional distribution, please visit *http://www.hud.gov/offices/lead.* Information about HUD's field office locations may also be obtained on HUD's Web site at: *http://www.hud.gov/localoffices.cfm.*

4. Demand-Response System. TA providers must operate within the structure of OHHLHC's demand-response system. Under the demand-response system, TA providers are required to:

a. When requested by a GTR, market the availability of their services to existing and potential recipients within the jurisdictions in which the assistance will be delivered;

b. Respond to requests for assistance from the TA provider's GTR;

c. When requested by its GTR, conduct a needs assessment to identify the type and nature of the assistance needed by the recipient of the assistance; and,

d. Obtain its GTR's approval before responding to direct requests for technical assistance from OHHLHC personnel or grantees.

5. Training. All training activities performed under this program must conform to the following requirements:

a. Design the course materials as ''step-in'' packages so that HUD or other TA providers may independently conduct the course on their own;

b. Make the course materials available to the GTR in sufficient time for review (minimum of three weeks) and receive concurrence from the GTR on the content and quality prior to delivery;

c. Provide all course materials in an electronic format that will permit wide distribution among TA providers, field offices, and HUD grantees;

d. Arrange for delivery of the training with HUD participation when requested by the GTR;

e. Establish minimum enrollments for deliveries of training courses; implement and disseminate fair course cancellation policies;

f. Deliver HUD-approved training courses that have been designed and developed by others on a ''step-in'' basis when requested; and

g. For Interim Controls (Lead Safe Work Practices), training providers must comply with HUD's Interim Criteria to Evaluate Training Courses in Lead-Safe Work Practices. The costs associated with attending these required sessions are eligible under the cooperative agreement.

D. Policies Applicable to All Categories in This NOFA

1. Awardees must use or minimally adapt existing outreach, training and technical assistance documents unless they can adequately justify in their application that a dire need exists in their community to create new ones. Before creating a new product (such as a brochure, curriculum or technical document), grantees must investigate if a similar item already exists and can be used or revised with a level of effort lower than would be spent creating a new equivalent product. Applicants must ensure that materials are appropriate for the target populations, including persons with Limited English Proficiency (LEP), and for visually impaired or other disabled persons (see Eligible Activities, below). All new products and adaptations/translations must be submitted to HUD as deliverables, in electronic format suitable for Web posting.

2. For use under this program, all documents in languages other than English must be culturally neutral (understandable by speakers of all dialects of the target language). Translators must be certified by the American Translators Association. Quality reviews are required for all translations. Translations will not be allowed for federal documents that have been translated into the target language. Awardees are responsible to determine if a translation already exists.

3. Grantees are expected to communicate and coordinate, as appropriate, with other HUD program personnel and field offices at the direction of the GTR.

4. All training activities must conform to the training requirements applicable to TA providers as described in this NOFA.

E. Eligible Activities

Consideration will only be given to proposed activities that are specifically listed as eligible in this NOFA. Other work activities, although they may be supportive of lead hazard control grantees or their activities, are ineligible. All activities must address childhood lead poisoning prevention and/or control at the national and/or regional/local levels. Eligible activities relate to the three activity categories. The following section lists category-specific eligible activities.

1. Activities Eligible under the Community Outreach Category:

a. Door-to-door canvasses, small-group meetings, community meeting visits, health fairs, conducting presentations or speaking engagements to inform the public and owners of housing, including owners receiving rehabilitation or other tax credits, about programs that can assist in the control of the identified hazards; other activities to publicize or conduct events that highlight lead hazards in the home environment;

b. Earned media (no-cost PSAs, news stories in radio, print, or TV to raise public awareness and promoting name recognition for treatment program);

c. Advertising (paid ads on buses, billboards, etc.);

d. Use of collateral materials and campaign props and incentives. These materials include outreach brochures and printed materials, visual presentations, giveaways with phone numbers/ contact information on Outreach Provider, mascots, cleaning kits, meals not to exceed $10 in value per meal per person, etc., but not training materials (see Training and Education category). Outreach materials and props can support general outreach and education efforts. However, the budget must include details of the items including cost per item. All expenditures made by a grantee must be linked to specific outreach activities and listed in the approved budget.

e. Development and maintenance of infrastructure and support such as telephone hotlines and web sites;

f. Entering into working arrangements with regional/local non-profit organizations, including grassroots community-based organizations, faith-based organizations; chambers of commerce; public and private social service agencies; corporations, retailers, construction organizations, or unions for the purpose of coordinating or conducting joint outreach activities.

g. Other outreach activities designed to disseminate information to targeted populations identified as being at-risk of lead poisoning;

h. Making materials available in alternative formats for persons with disabilities (*e.g.*, Braille, audio, large type) upon request, and providing materials in languages other than English that are common in the community, consistent with HUD's published Limited English Proficiency (LEP) Recipient Guidance, 68 FR 70968 (see above);

i. Program administration in accordance with the guidelines established under funding restrictions;

j. Program evaluation and assessment activities to improve the effectiveness of present and future outreach efforts and to measure whether efforts have successfully been targeted to at risk populations;

k. Innovative use of funds to provide direct technical expertise and assistance to regional/local community groups, residents, and other appropriate community stakeholders to resolve regional/local lead poisoning problems, as approved by the GTR;

2. Activities Eligible under the Training and Education Category:

a. Delivery of HUD-approved (or state-approved, as applicable) Lead-Safe Work Practices (Interim Controls), EPA- or state-approved lead training, or Lead Awareness training curricula to the target audience, visual assessment training;

b. Training regional/local residents and businesses, including retail paint sales associates and managers, on

identifying and preventing lead-based paint hazards, and lead-safe maintenance and renovation work practices, etc.;

c. Educating tenants, owners, housing inspectors, and others about HUD's lead safety regulations, including the Lead Disclosure Rule (24 CFR part 35), regional/local building codes, and HUD's Housing Quality Standards (HQS) and Uniform Physical Condition Standards (UPCS), as applicable;

d. Training curriculum design, development, maintenance and evaluation; preparing training materials, including photographs or other graphics. (Compliance with copyright laws is the responsibility of the grantee);

e. Applying for or maintaining curriculum/provider jurisdictional or HUD approval (as applicable);

f. Promoting or marketing training courses directly or through partnerships with organizations conducting outreach;

g. Delivery of formal or one-on-one or group educational or training sessions in classrooms, homes or other locations;

h. Delivery of informal one-on-one or group educational sessions, workshops or demonstrations in homes or other locations (cleaning techniques, etc.);

i. Participation in training-related partnerships and task forces; and,

j. Auditing course delivery, training, mentoring and evaluating trainers to increase lead safety training capacity.

3. Activities Eligible under the Technical Assistance (TA) Category: Funds may be used to provide TA to grantees, their sub-grantees and contractors of OHHLHC's grant programs for the following activities:

a. Provide technical and/or general programmatic assistance to OHHLHC grantees in need of such assistance to develop recommendations for facilitating the quick and cost-effective implementation of Grantee work plans. Eligible activities for the TA category include communication with the GTR of the grant receiving TA, its GTM and grant officer, as described below.

(1) Maintain liaison with the grantee, GTR for the grant receiving TA, GTM, and Grant Officer to help avoid resolve grant performance problems and resolve them when they occur.

(2) Review grantee documents and records of operations, staff communications, grantee field and/or financial performance (within the limits of confidentiality), as well as meet with program personnel and partners.

(3) Provide the GTR of the grant receiving TA and Grant Officer with copies of all correspondence issued to the grantee pertinent to activities for which the technical assistance is being provided.

(4) Make recommendations to the GTR of the grant receiving TA on:

(a) Program design;

(b) Program management; and

(c) Marketing.

(5) Provide the GTR of the grant receiving TA with a final written TA report.

b. TA activities also include, but are not limited to, reporting, developing or providing written information such as papers, manuals, guides, and brochures; needs assessments; and training.

IV. Application and Submission Information

A. Address To Request Application Package

All the information required to submit an application can be downloaded from the Web at: *http://www.grants.gov*. Consult the General Section for more information. If you have difficulty accessing the information, you may call the Grants.gov helpline toll-free at (800) 518–GRANTS or e-mail *Support@grants.gov*.

B. Content and Form of Application Submission

1. *Application Format.* Because of the electronic submission process, proposals must conform to the formatting requirements below to be eligible. All material submitted must be required or be in support of the narrative response to the rating factors. Any material, whether required or supplemental, that is not properly located in the application, and referenced and discussed within the narrative statement as described below, will not be rated. The narrative response to all rating factors (see below) must be submitted within a single electronic file within the zip file attached to the application. The narrative response to the five rating factors may not exceed 25 pages (excluding required additional materials and worksheets, see below) equivalent to one-side only on 8½ × 11 inch paper using a standard 12-point font with not less than ¾ inch margins on all sides. Each attachment or appendix must be an individual electronic file. All pages must be numbered in order starting with the cover page and continuing through the appendices.

2. *Prohibition on Materials Not Required.* Submission of materials other than those specified as allowable by this NOFA are prohibited. Reviewers will not consider other resumes, reports, charts, letters, or any other documents attached to the application.

3. *Required Application Contents:* Applications must contain all of the information required by this NOFA, including the following items:

a. Application Abstract. An abstract is required. It may not exceed 2 pages in length, and must summarize the proposed project, including the objectives, proposed activities and expected results, the dollar amount requested, and contact information for the applicant and project partners. The abstract will be used for developing the Congressional Release and Public Announcement if the application is funded.

b. Narrative Response. A narrative statement with supporting required forms and other documents addressing the five rating factors for award is required. This portion of the application consists of a narrative response to each of the five rating factors (25-page limit), specific HUD-required forms documents (which do not count toward the page limit), and optional supplemental material (20-page limit). Pages in excess of these limits will not be read. Each of Rating Factors 1–5 has an associated required form (HUD–96012, HUD–96013, HUD–96014, HUD–96015, and HUD–96010, respectively) that does not count toward the page limits, and must be located immediately after the response to that rating factor (see list of forms, below). Applicants are advised to review each factor carefully for program specific requirements. The response to each factor should be concise and contain only information relevant to the factor, but detailed enough to address each factor fully. Please do not repeat material in response to the five factors; instead, focus on how well the proposal responds to each of the factors. In factors where there are sub-factors, each sub-factor must be presented separately, with the short title of the sub-factor presented. Make sure to address each sub-factor and provide sufficient information about every element of the sub-factor. All information relative to a given rating factor MUST be contained in the narrative for that rating factor. If it is found in a different rating factor, IT WILL NOT BE CONSIDERED. In addition, supplemental material that is not referenced and discussed within that portion of the narrative will not be considered.

c. In addition to the abstract and narrative response described above, the following materials (which do not count toward the page limits) must be included in the locations specified: resumes, process flow diagram for the project (*not* the employer's organizational chart), budget, and other required forms. The standard forms can be found in the application package on Grants.gov and on HUD's Web site.

(1) Resumes and a process flow diagram for your project must be placed immediately following the narrative response to Rating Factor 1. Resumes for project director, day-to-day program manager and up to 3 key personnel (limited to 3 pages per resume for a maximum of 15 pages total) are required. (See Rating Factor 1.)

(2) Include a detailed budget for any subcontractors, subgrantees, or subrecipients receiving greater than 10 percent of the federal budget request. Use the budget format discussed in Rating Factor 3.

(3) Form HUD–96010, Logic Model, must be placed immediately following Rating Factor 5.

(4) General letters of support have no value and are discouraged.

d. Applicants are encouraged to use the following checklist to ensure that all required materials have been prepared and submitted. Do not submit the checklist (see below) with the application.

Checklist for Applicants

- Abstract (limited to 2 pages).
- Required information supporting Rating Factors.

1. Capacity of the Applicant and Relevant Organizational Experience plus Form HUD–96012; Resumes of Proposed Project Director, Day-to-day Program Manager and up to 3 Key Personnel; Project Organization Chart.

2. Need/Extent of the Problem plus Form HUD–96013.

3. Soundness of Approach plus Form HUD–96014; budget forms and narrative budget justification.

4. Matching and Leveraging Resources plus Forms HUD–96015, Leveraging Resources; Letters of Commitment attached immediately after Rating Factor 4.

5. Achieving Results and Program Evaluation plus HUD–96010 Logic Model.

- Additional Material Supporting the Rating Factors (attachments, appendices, etc.: 20-page limit).
- Complete List of Required Forms and Budget Material.
- Form SF–424 (Application for Federal Assistance).
- Form HUD–CBW (Budget Worksheet).
- Form SF–424 Supplement (Survey on Ensuring Equal Opportunity for Applicants) (to be completed by private nonprofit organizations only).
- Form SF–LLL (if applicable) (Disclosure of Lobbying Activities).
- Form HUD–2880 (Applicant/Recipient Disclosure/Update Report).
- Form–2990 Certification of Consistency with the EZ/EC Strategic Plan (required only for applicants who are seeking these bonus points).
- Form HUD–2994A You Are Our Client Grant Applicant Survey (Optional).
- Form HUD–27300 Removal of Regulatory Barriers (if applicable) (up to 2 points can be awarded).
- Rating Factor Forms:
  - Rating Factor 1: HUD–96012.
  - Rating Factor 2: HUD–96013.
  - Rating Factor 3: HUD–96014.
  - Rating Factor 4: HUD–96015.
  - Rating Factor 5: HUD–96010.
  - Form HUD–96011 Facsimile Transmittal, for electronic applications (used as the cover page to transmit third-party documents and other documentation designed for each specific application for tracking purposes. HUD will not read faxes that do not use the HUD–96011 as the cover page to the fax).

C. Submission Dates and Times

Application Submission Dates: The application deadline date is June 6, 2006. Refer to the General Section for additional requirements including registration requirements, deadline dates, Grants.gov validation, proof of delivery, and other information regarding electronic application submission via *www.grants.gov*.

D. Intergovernmental Review

Not applicable to this program. See 24 CFR part 52.

E. Funding Restrictions

1. Administrative Costs. Administrative costs are eligible. Administrative costs are the awardee's allowable direct and indirect costs for the overall management, coordination, monitoring, and evaluation for the program. No more than 10 percent of the funds can be used for administrative costs. This applies to applicants electing to serve as a conduit to sub-recipients, who will in turn perform the direct program activities eligible under this NOFA. Applicants are responsible for reviewing the important information about administrative costs that apply to this NOFA, which is posted on the OHHLHC's Web site at: *http://www.hud.gov/offices/lead*. Eligible administrative costs include leases for office space, under the following conditions:

(1) The lease must be for existing facilities not requiring rehabilitation or construction;

(2) No repairs or renovations of the property may be undertaken with federal funds:

(3) Properties in the Coastal Barrier Resources System designated under the Coastal Barrier Resources Act (16 U.S.C. 3501) cannot be leased with federal funds.

2. HUD will not fund the following ineligible activities:

a. Purchase of real property.

b. Purchase or lease of equipment having a per-unit cost in excess of $5,000, unless prior written approval is obtained from HUD.

c. Identification of lead-based paint or hazards, hazard reduction (including, interim controls or abatement), rehabilitation, remodeling, maintenance, repair, or any other construction work, blood lead testing of adults or children, laboratory analysis, medical treatment, clearance examinations and visual assessment.

d. Activities, by parties following a determination of non-compliance, required in order to fulfill court orders or consent decrees, settlements, conciliation agreements, or other compliance agreements.

e. Renovations or construction work on office space leased for the program.

F. Other Submission Requirements

Applications are required to be submitted electronically via the Web site *http://www.grants.gov*. See Section IV.F of the General Section for additional information on the electronic process. Waivers may only be granted for cause. See General Section for further discussion.

V. Application Review Information

A. Criteria

1. Following threshold review, applications will be reviewed by an Application Review Panel (ARP) which will assign each application a score based on the rating factors. Awards will be made separately in rank order within the limits of funding availability.

2. HUD may use other information from sources at hand, such as Department records, newspapers, Inspector General or Government Accounting Office Reports or Findings, hotline complaints, or other sources of information that have been proven to have merit. HUD may also request additional information from successful applicants as conditions of award. If the applicant fails to provide the information at that time, the award will not be made.

3. Factors for Award Used to Evaluate and Rate Application. The factors for rating and ranking applicants, and maximum points for each factor, are provided below. The maximum number of points to be awarded is 102, including the two (2) RC/EZ/EC–II bonus points. A specific number of

points is assigned to each rating factor. Applicants should be certain that these factors are adequately addressed in the project description and accompanying materials. Do not assume that HUD has any information about you or your project.

4. Rating Factors for All Categories.

a. Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (20 points). This factor includes information about the organization, its individual employees and partners, and past performance. Higher points will be given for more recent, relevant experience of high quality. The following areas will be evaluated: organizational capacity, experience and past performance (for previous grantees), individual staff and participants' qualifications including education and experience, and specific qualifications related to the categories of activities under this NOFA.

(1) Organizational Experience. This sub-factor addresses the extent to which the applicant has the organizational experience necessary to successfully implement the proposed activities in a timely manner. HUD will evaluate the organization's experience in initiating, implementing, and evaluating related outreach, health education and training, technical assistance and recruitment projects, or solving community problems directly related to this program. In rating this sub-factor, HUD will consider the extent to which the proposal demonstrates organizational experience that is recent and relevant. HUD will consider organizational experience within the last five (5) years to be recent and experience pertaining to activities of similar scope to be relevant.

(a) Describe whether you have sufficient personnel, or will be able to quickly hire qualified experts or professionals to begin your proposed project within 30 days of award, if funded.

(b) Describe how the principal components of your project organization will participate in, or support, your project, and how you propose to coordinate with your partners. Include a project-specific organizational chart indicating the organizational capacities of and interrelationships among the various entities involved in the project.

(c) Past performance in previous projects with an emphasis on health education, outreach and recruitment, training and education, or technical assistance. This sub-factor evaluates the extent to which an applicant has performed previous work successfully. Provide details about the nature of projects performed through grants or contracts. Applicants failing to disclose previous grants or contracts with OHHLHC or HUD may be deemed ineligible for award. Provide the following specific information:

(i) A detailed list outlining the achievement of specific tasks, measurable objectives (benchmarks) and outcomes consistent with the approved timeline/work plan;

(ii) Comparison of proposed required match funds and resources in a previous grant with what was actually matched; and,

(iii) A detailed list outlining the timeliness and completeness of complying with all reporting requirements. In addressing timeliness, compare when reports were due with when they were actually submitted.

(2) *Individual Qualifications:*

(a) Project Director and Day-to-Day Project Manager. Identify the individuals proposed to serve as the proposed overall project director and day-to-day project manager. The terms ''Project Director'' and ''Day-to-Day Project Manager'' must be used in the application to earn points for individuals having these responsibilities, regardless of their current, employer-assigned position titles. Describe their individual qualifications that will enable them to function effectively in their assigned roles. Include knowledge, work experience, management experience, education, training, and publications. Include specific projects they have performed involving planning and managing large and complex interdisciplinary outreach, educational or TA programs, especially those involving housing, public health, or environmental initiatives.

(b) Other Key Personnel. Identify up to three additional key personnel. For each, provide individual qualifications, experience, percentage commitment to the project, salary costs to be paid by funds from this program, and role in the proposed project. You must provide resumes (or position descriptions and copies of job announcements including salary range, for vacant positions) for the project director, project manager, and three additional key personnel.

(c) Sub-recipients (sub-grantees, subcontractors and consultants). Include descriptions of their experience and qualifications. Detail their grant and financial management experience. You may find it useful to include a table indicating the name, position and percentage contribution of participating individuals, specifying organizational affiliation. Describe who is responsible for quality control of processes and materials produced by sub-recipients.

(3) In addition to other eligibility criteria and knowledge of OHHLHC's grant programs, category applicants must also demonstrate specific capacity as follows:

(a) Outreach Providers: specific capacity to provide outreach services, such as holding community meetings, health fairs, adapting printed materials, writing public service announcements, etc. Applications that include development and distribution of media products in languages other than English must include a discussion of the applicant's (or sub-grantee's/contractor's) expertise in those languages and in meeting the informational needs of non-English-speaking, underserved populations. Outreach grantees involving face-to-face interaction with the community should have staff that are well-trained, motivated, committed to the program, and reflect the characteristics of the target community.

(b) Training and Education Providers: Specific capacity to provide the type of training programs proposed.

(c) Technical Assistance Providers: Specific capacity to provide technical assistance services related to grant management and lead-based paint technical issues. Applicants may use in-house staff, sub-contractors, sub-grantees, and regional/local organizations with the requisite experience and capabilities. Where appropriate, applicants should make use of TA providers located in the jurisdiction receiving services. This draws upon regional/local expertise and persons familiar with the opportunities and resources available in the area to be served while reducing travel and other costs associated with delivery of services.

b. Rating Factor 2: Need/Extent of the Problem (10 Points). This factor addresses the extent to which there is a need for funding the proposed program activities and an indication of the importance of meeting the need(s) in the target area. The proposal will be evaluated on the extent to which the level of need for the proposed activities and the importance of meeting the need(s) are documented. Applicants must use statistics or other analyses contained in at least one or more current data sources that are sound and reliable. In rating this factor, HUD will consider data collected within the last five (5) years to be current. The data used must be specific to the area where the proposed activities will be carried out (for projects with specific regional/local target areas, do not apply the data to the entire regional/locality or state). To receive maximum points for this factor,

proposals addressing one or a few communities must explain the extent to which the targeted community's Five Year Consolidated Plan(s) and Analysis(es) of Impediments to Fair Housing Choice (AI) identify the level of the problem and the urgency in meeting the need. Applicants proposing TA services on a regional or national basis may demonstrate the extent to which there is a regional or national need to address deficiencies in Consolidated Plans. Sources for regional/localized data can be found at: *http://www.ffiec.gov.* Other reliable sources of data include, but are not limited to, Census reports, HUD Continuum of Care gap analysis and its E-Map (to find additional information, go to HUD's Web site: *http://www.hud.gov/emaps*), Comprehensive Plans, community needs analyses such as provided by the United Way, the applicant's institution, and other sound, reliable, and appropriate sources. Needs in terms of fulfilling court orders or consent decrees, settlements, conciliation agreements, and voluntary compliance agreements may also be addressed. TA providers may identify their specific areas of expertise and relate them to a demonstrated need.

c. Rating Factor 3: Soundness of Approach (40 Points). This factor contains three sub-factors:

(1) Your goals and objectives,

(2) The quality and cost-effectiveness of your proposed work plan, and

(3) Proposed budget.

Higher points will be given to applications that contain approaches with clearly articulated goals, activities and sub-activities, and demonstrate a logical progression of implementation steps.

(1) *Project Goals (10 Points).* Describe:

(a) The goals and objectives for your project based on the need described under Rating Factor 2, and

(b) How proposed activities would address your goals and HUD's policy priorities. See the General Section for information on HUD's policy priorities. The policy priorities that are applicable to the Lead Outreach grant NOFA and that are eligible for one point each are: (1) Improving our Nation's Communities (focus on distressed communities); and (2) providing full and equal access to grass-roots faith-based and other community-based organizations in HUD program implementation. Removal of regulatory barriers to affordable housing is eligible for up to 2 points provided the required documentation, as specified in form HUD 27300 (Removal of Regulatory Barriers), is part of the application submission to HUD. Applicants may also provide a Web site URL for a Web site where the required documentation is readily accessible for use.

(2) *Work Plan (20 Points).* This portion of the response will be evaluated based on the extent to which the proposed work plan demonstrates the following:

(a) The general approach and overall strategy to achieve stated goals. For maximum points for this factor, clearly define the relationship between a community's needs (goals) and proposed activities;

(b) Specific, measurable and time-phased objectives for each major program activity, accompanied by a complementary schedule indicating proposed date(s) of completion (in three-month intervals);

(c) Specific services and/or activities. The work plan must identify all major tasks and list all proposed activities in sequential order. Describe in detail how you will identify and serve participants receiving services, especially participants in high-risk groups and communities, vulnerable populations and persons traditionally underserved. Include a brief, concise outreach strategy or marketing plan, as applicable, in the work plan and list on the Logic Model (submitted under Rating Factor 5). Applicants must identify their approaches to overcoming poor response, attendance or participation difficulties. Explain how you will ensure that proposed activities do not duplicate activities by others for the target area previously completed or currently underway;

(d) Identify the personnel responsible for major tasks;

(e) Products or outputs and expected outcomes or impacts;

(f) Proposed methods to research existing materials or develop new ones, and print and disseminate materials for outreach, training or TA. Describe how you will ensure that materials will be of consistently high quality and technically sound;

(g) The quality of the plan to manage the project. Include details about your management and financial systems, and how you will track and ensure the cost-effectiveness of expenditures and will link them to specific activities;

(h) How you propose to coordinate with HUD field offices and HUD program personnel, as applicable, in their applications; and

(i) A detailed description of how you will make materials available in alternative formats for persons with disabilities (*e.g.*, Braille, audio, large type) upon request, and provide materials in languages other than English that are common in the community, consistent with HUD's published Limited English Proficiency (LEP) Recipient Guidance, 68 FR 70968.

(j) Institutionalization (*applies to outreach and training category applicants only*). A detailed description of how the applicant plans to mainstream lead poisoning prevention into its regular, permanent programs. To evaluate institutionalization, HUD will evaluate the extent to which the applicant (and partners) demonstrate:

(i) Commitment to undertake project activities in the future;

(ii) Support and involvement of the applicant's organizational leadership;

(iii) Commitment to include lead-related work in decisions affecting policy and program development; and,

(iv) Evidence of mainstreaming of permanent lead safety content into programmatic materials, outreach, training, and technical assistance initiatives.

In evaluating this sub-factor, HUD will also assess the probability of success of the program, the significance of the tasks identified, and how realistic the proposed time frames are. HUD will consider the extent to which proposals in the outreach category demonstrate the following characteristics derived from HUD's evaluation of successful outreach activities in its grant programs:

- Well-functioning, effective program;
- Solid communication capabilities;
- Participation in community events and presentation at small group meetings;
- Well-known and respected in the community;
- Staff that reflect the linguistic and ethnic characteristics of the target community;
- Establish good communication and coordination with sub-grantees;
- Sub-grantees whose primary mission has a clear connection to protecting children from lead poisoning;
- Sub-grantees who are respected in their communities, capable of performing their required duties, and view lead safety as a critical component of serving the target community.

(3) *Budget Justification (10 Points).* HUD is not required to approve or fund all proposed activities. Your budget will be evaluated for its reasonableness, clear justification, and consistency with the work plan. Submit a narrative justification associated with the budget that documents and explains all budget categories and costs for each major task of the work plan. Identify the source of funds as HUD, match or leverage. Each budget page should identify the entity and project year to which it applies. Higher points will be awarded for greater percentages of sub-contracting

and substantive work performed by grassroots organizations, including faith-based and other community-based non-profit organizations, Fair Housing Organizations, advocates for various minority and ethnic groups, and persons with disabilities.

In completing the budget forms and justification, you should address the following specific elements:

(a) Direct Labor. Direct Labor costs should include all full- and part-time staff required for the planning and implementation phases of the project. These costs should be based on full time equivalent (FTE) or hours per year (hours/year) (*i.e.*, one FTE equals 2,080 hours/year);

(b) Travel to HUD Meetings. You should budget for three trips to HUD Headquarters in Washington, DC, planning each trip for two people for 2 or 3 days, depending on your location;

(c) Sub-grantee and Sub-recipient Budgets. A separate budget proposal must be provided for any sub-recipient(s) receiving greater than 10 percent of the total federal budget request;

(d) Provide supporting documentation for salaries and cost of materials and equipment;

(e) Federally Negotiated Indirect Cost Rate. Organizations that have a federally negotiated indirect cost rate should provide documentation of that rate. Organizations not having a federally negotiated rate schedule must obtain a rate from their cognizant federal agency. Applicant and sub-grantee budgets should reference only their own indirect cost rates.

d. *Rating Factor 4: (15 points).* This factor evaluates ability to: (1) Contribute matching resources from your organization; (2) leverage (secure) other public and/or private sector resources (such as financing, supplies, or services) that can be added to HUD's funds to perform eligible activities; and, (3) sustain your proposed project from sources other than HUD. Ten (10) percent matching is required for funding eligibility and represents the applicant's contribution to the project. Leveraging, from entities other than the applicant, is not required for eligibility. Higher points will be awarded for higher percentages of matched and/or leveraged resources, compared to the amount of HUD funds requested. To receive points for match and leverage, all contributions promised during the period of performance must be expressed in dollar values and documented in a commitment letter submitted with the application from a responsible official of each contributing organization. Matching funds must be provided unconditionally. Indirect costs cannot be used as matching contributions in excess of the required ten (10) percent match. For more information on matching and leveraging resources, see OHHLHC's Web site at *www.hud.gov/offices/lead.*

e. *Rating Factor 5: Achieving Results and Program Evaluation (15 points).* This rating factor reflects HUD's goal to embrace high standards of ethics, management, and accountability. Describe in detail your needs and service activities, identify the outputs and short-term, intermediate-term and long-term outcomes. State clearly the project activities including specific goals (''benchmarks'') of each activity and how you will achieve those goals. Describe how you will measure the results. Provide your goals, inputs, activities, outcomes and performance benchmarks (goals) for the entire grant period. In the narrative, explain how you will document and track your goals, program activities, and schedules. Identify the procedures you will follow to make adjustments to your work plan to improve performance if benchmarks are not met within established timeframes.

Applicants must complete and return the Logic Model Form HUD–90610. HUD is moving to a standardized ''Master'' Logic Model from which you can select needs, activities, and outcomes appropriate to your program. See the General Section for detailed information on use of the ''Master'' Logic Model. HUD is requiring grantees to use program-specific questions to self-evaluate the management and performance of their program. For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment statement. HUD will be publishing a separate notice on the ROI concept. Training on HUD's Logic Model and reporting requirements for addressing the Management questions will be provided via satellite broadcast. In evaluating Rating Factor 5, HUD will consider how you have described the benefits and outcome measures of your program. HUD will also consider the evaluation plan, to ensure the project is on schedule and within budget. Information about developing a Logic Model is available at: *http://www.hud.gov/offices/admin/grants/fundsavail.cfm.*

f. *Bonus Points for Federally Designated Zones and Communities (2 points).* HUD will award two bonus points to each application that includes a valid form HUD–2990 certifying that the proposed activities/projects in the application are consistent with the strategic plan for an empowerment zone (EZ) designated by HUD or the United States Department of Agriculture (USDA), the tax incentive utilization plan for an urban or rural renewal community designated by HUD (RC), or the strategic plan for an enterprise community designated in round II by USDA (EC–II) and that the proposed activities/projects will be located within the RC/EZ/EC–II identified above and are intended to serve the residents. A listing of the RC/EZ/EC–IIs is available on the Internet at *http://www.hud.gov/cr.*

B. Reviews and Selection Process

1. Rating and Ranking. Awards will be made in rank order for applications within the limits of funds available.

2. Partial Funding. In the selection process, HUD reserves the right to offer partial funding to any or all applicants. If you are offered a reduced grant amount, you will have a maximum of 14 calendar days to accept such a reduced award. If you fail to respond within the 14-day limit, you shall be considered to have declined the award. Please see the General Section for a discussion of adjustments to funding that may be made by HUD during the selection process.

3. Remaining Funds. See the General Section for HUD's procedures if funds remain after all selections have been made.

4. Minimum Points for Award. Your application must receive a total score of at least 75 points to be considered for funding.

C. Anticipated Announcement and Award Dates

HUD anticipates announcing awards under this program on or about October 1, 2006.

VI. Award Administration Information

A. Award Notices

1. *Notice of Award.* Applicants that have been selected for award will be notified by letter from the Grant Officer. The letter will state the program for which the application has been selected, the amount the grantee is eligible to receive, and the name of the Government Technical Representative (GTR). This letter is not an authorization to begin work or incur costs under the grant.

2. *Negotiations.* HUD may require that selected applicants participate in negotiations to determine the specific terms of the grant agreement and budget. In cases where HUD cannot successfully conclude negotiations with a selected applicant or a selected

applicant fails to provide HUD with requested information, an award will not be made to that applicant. In this instance, HUD may offer an award, and proceed with negotiations with the next highest-ranking applicant. If you accept the terms and conditions of the grant, you must return your signed grant agreement by the date specified during negotiation.

3. *Award Adjustments.* Additionally, HUD may adjust the amount of funds allocated for specific geographical areas to fund National TA providers and other TA providers for activities that cannot be fully budgeted for or estimated by HUD at the time this NOFA was published. HUD may also require selected applicants, as a condition of funding, to provide coverage on a geographically broader basis than proposed in order to supplement or strengthen the TA network in terms of the size of the area covered and types and scope of TA proposed. If funds remain after all selections have been made, the remaining funds may be redistributed for Local TA and/or used for National TA, or made available for other TA program competitions.

4. *LOCCS Payment System.* After receiving the letter, additional instructions on how to have the grant account entered into HUD's Line of Credit Control System (LOCCS) payment system will be provided. Other forms and program requirements will also be provided.

5. *Start of Work.* All awardees are expected to commence activity immediately upon completion of budget and work plan negotiations, and execution of the grant agreement.

6. *Applicant Debriefing.* See the General Section for information regarding unsuccessful applicant debriefing.

B. Administrative and National Policy Requirements

1. *Environmental Review.* In accordance with 24 CFR 50.19(b)(2), (b)(3) and (b)(9), activities assisted under this program are categorically excluded from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and are not subject to environmental review under the related laws and authorities.

2. *HUD Reform Act of 1989.* Applicants must comply with the requirements for funding competitions established by the HUD Reform Act of 1989 (42 U.S.C. 3531 *et seq.*) as defined in the General Section.

3. *Audit Requirements.* Any grant recipient that expends $500,000 or more in federal financial assistance in a single year must meet the audit requirements established in 24 CFR parts 84 and 85 in accordance with OMB Circular A–133. In accordance with OMB Circular A–133 (Audits of States, Regional/local Governments and Non-Profit Organizations), grantees will have to submit their completed audit-reporting package along with the Data Collection Form (SF–SAC) to the Single Audit Clearinghouse, at the address obtained from their Web site. The SF–SAC can be downloaded at: *http://harvester.census.gov/sac/.*

4. *Timely Hiring of Staff.* HUD reserves the right to terminate grant awards made to applicants that fail to timely hire (within 90 days of award) staff to fill key positions identified in the applicant's proposal as vacant.

5. *Executive Order 13202.* Compliance with HUD regulations at 24 CFR 5.108 that implement Executive Order 13202, ''Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects'', is a condition of receipt of assistance under this NOFA.

6. *Procurement of Recovered Materials.* See the General Section for further information.

7. Conducting Business in Accordance with HUD Core Values and Ethical Standards. Refer to the General Section for information about conducting business in accordance with HUD's core values and ethical standards.

C. Reporting

The following items are Post-Award Reporting Requirements.

1. Final Budget and Work Plan. Final budget and work plans are due 60 days after the effective date of the grant.

2. Racial and Ethnic Data Reporting Form. For all activities that involve working directly with beneficiaries, HUD requires that funded recipients collect racial and ethnic beneficiary data. HUD does not require Outreach awardees to report ethnic and racial beneficiary data as part of their application package. However, such data must be reported annually, at a minimum, during the implementation of your program. You must use the Office of Management and Budget's Standards for the Collection of Racial and Ethnic Data to report these data, using Form HUD–27061, Racial and Ethnic Data Reporting Form, found on *www.grants.gov*, along with instructions for its use, or a comparable electronic data system for this purpose.

3. Progress reporting. Progress reporting is done on a quarterly basis. For specific reporting requirements, see policy guidance at: *http://www.hud.gov/offices/lead*. OHHLHC awardees submit quarterly reports via an on-line reporting system. Beginning in FY 2006, OHHLHC will use the awardee's Logic Model to measure its performance. The quarterly report must reflect all benchmarks (output goals) and proposed outcomes (results) that are indicated on the Logic Model *with an associated cost estimate*. Attaching a dollar value to the outputs and outcomes enables awardees to meet HUD's reporting requirements.

4. Final Report. An overall final grant report, due at the completion of the grant, will detail activities (*e.g.*, the number of low-income housing units enrolled in lead hazard treatment programs as a result of activities performed under this grant, number and type of materials produced, activities conducted, evaluation of the various outreach and educational methods used, findings, and recommended future actions at the conclusion of grant activities). The final report shall include final project benchmarks and milestones achieved against the proposed benchmarks and milestones in the Logic Model (Form HUD–96010) approved and incorporated into your award agreement.

VII. Agency Contacts

For programmatic questions, you may contact Jonnette Hawkins, Office of Healthy Homes and Lead Hazard Control; telephone (202) 755–1785, extension 7593 (this is not a toll-free number) or via e-mail at *Jonnette_G._Hawkins@hud.gov.* For grants administrative questions, you may contact Mr. Royal Rucker, Office of Healthy Homes and Lead Hazard Control; telephone (202) 755–1785, extension 7584 (this is not a toll-free number) or via e-mail at Royal *A. Rucker@hud.gov.* If neither of these individuals is available, you may contact the Office's general Lead Regulations hotline, at (202) 755–1785, extension 7698. Your call will be forwarded in one business day for subsequent response by the appropriate staff. If you are a hearing-or speech-impaired person, you may reach the above telephone numbers through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

VIII. Other Information

For additional information about this NOFA, program, or for general, technical, and grant program information pertaining to the Office of Healthy Homes and Lead Hazard

Control, visit: *http://www.hud.gov/offices/lead.*

IX. 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 2539–0015. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. Public reporting burden for the collection of information is estimated to average 80 hours per annum per respondent for the application and 16 hours per annum for grant administration. This includes the time for collecting, reviewing, and reporting the data for the application, semi-annual reports, and final report. 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.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HEALTHY HOMES DEMONSTRATION PROGRAM

Billing Code 4210-01-C

Healthy Homes Demonstration Program

Overview Information

A. Federal Agency Name: Department of Housing and Urban Development, Office of Healthy Homes and Lead Hazard Control (OHHLHC).

B. Funding Opportunity Title: Healthy Homes Demonstration Program.

C. Announcement Type: Initial announcement.

D. Funding Opportunity Number: The Federal Register number is: FR–5030–N–10. The OMB Paperwork approval number is: 2539–0015.

E. Catalog of Federal Domestic Assistance (CFDA) Number(s): 14.901 Healthy Homes Demonstration Program.

F. Dates: The application deadline date is June 7, 2006. Applications submitted through *http://www.grants.gov* must be received and validated by grants.gov no later than 11:59:59 pm eastern time on the application deadline date. See the General Section IV, regarding application submission procedures and timely filing requirements.

G. Additional Overview Content Information. 1. *Purpose of the Program.* The purpose of the Healthy Homes Demonstration Program is to develop, demonstrate, and promote cost-effective, preventive measures to correct multiple safety and health hazards in the home environment that produce serious diseases and injuries in children of low-income families.

2. *Available Funds.* HUD anticipates that approximately $4,370,000 million in fiscal year 2006 and prior year funds will be available.

3. *Number of Awards.* Approximately four to approximately six cooperative agreements will be awarded ranging up to a maximum of $1,000,000, and an award will be made to resolve a funding error under the fiscal year 2004 Healthy Homes Demonstration NOFA.

4. *Eligible Applicants.* Include not-for-profit institutions and for-profit firms, located in the U.S., state and local governments, federally recognized Indian Tribes, and colleges and universities. For-profit firms are not allowed to make a profit from the project.

5. *Type of award.* Cooperative Agreement.

6. *Match.* None required, but strongly encouraged.

7. *Limitations.* There are no limitations on the number of applications that each applicant can submit.

8. *Information on application.* The applications for this NOFA can be found at *www.grants.gov.* The General Section contains information about Grants.gov registration, submission requirements, and submission procedures.

Full Text of Announcement

I. Funding Opportunity Description

A. Background

The Healthy Homes Demonstration Program is a part of HUD's Healthy Homes Initiative (HHI). In April 1999, HUD submitted to Congress a preliminary plan containing a full description of the HHI. This description (Summary and Full Report) is available on the HUD Web site at: *http://www.hud.gov/offices/lead/reports/HHIFull.pdf;* this site also contains additional information on the HHI and a link to its Web site.

HUD believes that it is important for grantees to incorporate meaningful community participation, to the greatest extent possible, in the development and implementation of programs that are conducted in communities and/or involve significant interaction with community residents. Community participation can improve program effectiveness in various ways, including the development of more salient program objectives, recruitment and retention of study participants, participants' understanding of the program, ongoing communication, and more effectively disseminating study findings.

HUD encourages applicants to consider using a ''community based participatory research (CBPR)'' approach, where applicable, in study design and implementation. (See, *e.g.*, the report published by the National Institute of Environmental Health Sciences titled ''Successful Models of Community-Based Participatory Research'' at: *http://www.niehs.nih.gov/translat/pubs.htm*). CBPR is characterized by substantial community input in all phases of a study (*i.e.*, design, implementation, data interpretation, conclusions, and communication of results). The HHI seeks proposals that provide a coordinated approach to address multiple hazards caused by a limited number of building deficiencies. The HHI approach should result in substantial savings since separate visits to a home by an inspector, public health nurse, or outreach worker can add significant costs.

In addition to deficiencies in basic housing facilities that may impact health, changes in the U.S. housing stock and more sophisticated epidemiological methods and biomedical research have led to the identification of new and often more subtle health hazards in the residential environment. While such health hazards will tend to be found disproportionately in housing that is substandard (*e.g.*, structural problems, lack of adequate heat, etc.), these environmental health hazards also exist in housing that is otherwise of good quality. A brief description of the housing-associated health and injury hazards HUD considers key targets for intervention can be found on HUD's website at: *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* The website also lists some of the references that serve as the basis for the information provided in the Healthy Homes Demonstration Program NOFA.

B. Healthy Homes Initiative Goals

1. Develop and implement demonstration projects that address multiple housing-related problems affecting the health of children;

2. Mobilize public and private resources, involving cooperation among all levels of government, the private sector, and grassroots community-based, nonprofit organizations, including faith-based organizations, to develop the most promising, cost-effective methods for identifying and controlling housing-based health hazards;

3. Build local capacity to operate sustainable programs that will prevent and control housing-based health hazards in low- and very low-income residences when HUD funding is exhausted; and

4. Affirmatively further fair housing and environmental justice. HUD encourages applicants to undertake specific activities that will assist the Department in implementing its Policy Priorities. HUD's fiscal year 2006 Policy Priorities are discussed in the General Section.

C. Healthy Homes Demonstration Objectives

The objectives of the Healthy Homes Demonstration Program include direct remediations, (that include assessment of housing-related hazards), education and outreach and capacity building. HUD recognizes that, in many cases, activities may meet multiple objectives. Awardees must expend at least 65% of grant funds on direct remediations in the home.

1. Direct remediations that target children in homes where environmental triggers may be contributing to the child's illness may include the following kinds of activities:

a. As part of your targeted home intervention program, development of cost-effective protocols for identifying homes that are candidates for remediations, identifying health hazards

in these homes, and screening out homes where structural or other factors (e.g., cost) make remediations impractical;

b. As part of your targeted home intervention program, development of appropriately scaled, flexible, cost-effective and efficient assessment and intervention strategies that take into account the range of unhealthy conditions encountered in housing, that maximize the number of housing units that receive remediations and the number of positive or negative health outcomes as a result. HUD believes health outcomes are an important component of this NOFA and wants to assess how remediations affect the health of the population being served, and be able to compare with the population at large. Therefore any health outcome, positive, negative or neutral, should be documented where appropriate.

c. As part of your targeted home intervention programs, development of methodologies for evaluating intervention effectiveness and assessing the effect of the intervention on resident or program participant health.

2. Education and outreach that furthers the goal of protecting children from environmentally induced illness, including:

a. Targeting, through education and outreach, specific high-risk communities and other identified audiences such as homeowners, landlords, health care deliverers, pregnant women, children, residential construction contractors, maintenance personnel, housing inspectors, real estate professionals, home buyers, and low-income minority families;

b. Development and delivery of public outreach programs that provide information about effective methods for preventing housing-related childhood diseases and injuries, and promote the use of these remediations, especially in low- and very low-income residences;

c. Increased public awareness of housing-related health hazards that threaten children, through the use of media strategies using print, radio and television, including the use of minority media and provision of materials in alternative formats and materials for populations with Limited English Proficiency (LEP)).

3. Capacity Building in the target community to assure Healthy Homes programs are sustained beyond the life of the award period, including:

a. Development of local capacity in target areas for target groups to operate sustainable programs to prevent and control housing-based health hazards.

The authority for this program is sections 501 and 502 of the Housing and Urban Development Act of 1970 and the Consolidated Appropriations Act, 2006 (Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006 Public Law 109–115, 119 Stat. 2396, approved: November 30, 2006.)

II. Award Information

A. Funding Available

Approximately $4,370,000 million in fiscal year 2006 funds are available for the Healthy Homes Demonstration Program cooperative agreements, of which HUD will award a grant of $1,000,000 in fiscal year 2006 funds to Self-Help, Inc., Avon, MA, to resolve a funding error under the fiscal year 2004 Healthy Homes Demonstration Program NOFA, in accordance with Sec. VI.A.3 of the fiscal year 2004 General Section. HUD anticipates that approximately four to six cooperative agreements will be awarded, ranging up to and including $1,000,000.

Applicants may wish to review of currently funded grants on the Healthy Homes Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm/offics/adm/grants/fundsavail.cfm.*

B. Anticipated Start Date and Period of Performance for New Cooperative Agreements

The start date for new Cooperative Agreements is expected to be October 1, 2006, with a period of performance not to exceed 36 months. Applicants may need to plan studies with performance periods less than 36 months, if necessary to include adequate time for the Institutional Review Board process, recruitment of study participants, and development of new methods (e.g., survey forms, data base, etc).

III. Eligibility Information

A. Eligible Applicants

Eligible applicants include not-for-profit institutions and for-profit firms, located in the U.S., state and local governments, and federally recognized Indian Tribes. For-profit firms are not allowed to make a profit from the project.

B. Cost Sharing or Matching

Cost sharing or matching is not required. In rating your application, however, HUD will award a higher score under Rating Factor 4 if you provide evidence of significant leveraging.

C. Other

1. Threshold Requirements Applicable to All Applicants Under the SuperNOFA

As an applicant, you must meet all the threshold requirements described in the General Section. Applications that do not address the threshold items will not be funded. Cooperative agreements will be awarded on a competitive basis following evaluation of all proposals according to the rating factors described in this NOFA. A minimum score of 75 out of a possible 102, *which includes up to 2 bonus points for activities proposed to be located in RC/EZ/EC–II communities* is required for award consideration.

2. Eligible Activities

The following activities and support tasks are eligible under the Healthy Homes Demonstration Program.

a. Evaluating housing to determine the presence of health hazards (e.g., moisture intrusion, mold growth, pests and allergens, unvented appliances, exposed steam pipes or radiators, deteriorated lead-based paint) through the use of accepted assessment procedures.

b. Remediating existing housing-based health hazards and addressing conditions that could recur.

c. Undertaking rehabilitation activities to effectively control housing-based health hazards, without which the intervention could not be completed and maintained. Funds under this program may only be used to address lead-based hazards at the de minims level (see 24 CFR 35.1350(d)). Such lead hazard evaluation and/or controls may not be a principal focus of the cooperative agreement or grant. (Lead hazard evaluation control activities are carried out under HUD's Lead-Based Paint Hazard Control Grant Program, Lead Hazard Demonstration Grant Program, Operation Lead Elimination Action Program, and Lead Outreach Grant Program.) For information about conducting de minims remediation for lead-based paint hazards, refer to the HUD Guidelines for the Evaluation and Control of Lead-Based Hazards in Housing (HUD Guidelines). The *Guidelines* and/or applicable regulations may be downloaded from HUD's Web site at *www.hud.gov/offices/lead/leadsaferule/LSFRFinal_21June04.rte.*

d. Carrying out temporary relocation of families and individuals while the remediation is conducted and until the time the affected unit receives clearance for re-occupancy. See the General Section and Section VI.B.4 of this NOFA

for discussion of regulations that apply when relocating families.

e. Environmental sampling and medical testing to protect the health of the intervention workers, supervisors, and contractors, unless reimbursable from another source.

f. Conducting testing, analysis, and mitigation for lead, mold, carbon monoxide and/or other housing-related health hazards as appropriate, following generally accepted standards or criteria. A laboratory recognized by the Environmental Protection Agency's (EPA's) National Lead Laboratory Accreditation Program (NLLAP) must analyze clearance dust samples related to lead-based paint. Samples to be analyzed for fungible submitted to a laboratory accredited in the Environmental Microbiological Laboratory Accreditation Program (EMLAP), administered by the American Industrial Hygiene Association (AIHA).

g. Carrying out necessary architectural, engineering and work specification development and other construction management services.

h. Providing training on Healthy Homes practices to homeowners, renters, painters, remodelers, and housing maintenance staff working in low- or very low-income housing.

i. Providing cleaning supplies for hazard intervention and hazard control to grassroots community-based nonprofit organizations, including faith-based organizations, for use by homeowners and tenants in low-income housing, or to such homeowners and tenants directly. (See the General Section for more information about grassroots community-based nonprofit organizations, including faith-based organizations.)

j. Providing modest incentives (financial or other, i.e. coupons for a video rental, coupons for groceries; stipends for completion of surveys, child care, cleaning kits, etc.) subject to approval by HUD, to encourage recruitment and retention in the interventions, participation in educational and training activities and other program-related functions.

k. Conducting community education programs on environmental health and safety hazards. Materials should be available in alternative formats for persons with disabilities (e.g., Braille, audio, large type) upon request, and in languages other than English that are common in the community, consistent with HUD's published ''Limited English Proficiency (LEP) Recipient Guidance'' (see *http://www.hud.gov/offices/fheo/promotingFH/LEP/cfm*).

l. Securing liability insurance for housing-related health hazard evaluation and control activities. This is not considered an administrative cost.

m. Supporting data collection, analysis, and evaluation of project activities. (As a condition of the receipt of financial assistance under this NOFA, all successful applicants will be required to cooperate with all HUD staff and contractors performing HUD funded research and evaluation studies.)

3. Program Requirements

In addition to the program requirements in the General Section, applicants must also meet the following program requirements.

a. Institutional Review Board (IRB) Approval. In conformance with the Common Rule (Federal Policy for the Protection of Human Subjects, codified by HUD at 24 CFR 60.101), if your grant activities include research involving human subjects, your organization must provide an assurance (e.g., a letter signed by an appropriate official) that the research has been reviewed and approved by an IRB before you can initiate activities that require IRB approval. You must also provide the number for your organization's assurance (i.e., an ''institutional assurance'') that has been approved by the Department of Health and Human Service's Office of Human Research Protections (OHRP). For additional information on what constitutes human subject research or how to obtain an institutional assurance see the OHRP Web site at: *http://www.hhs.gov/ohrp.*

b. HIPAA Authorization. The Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 requires covered entities that transmit health information electronically (health care providers, health plans, etc.) to protect that information. This may be accomplished by obtaining authorization from the patient or parent, obtaining a waiver of authorization from an IRB or HIPAA Privacy Board or de-identifying data. You should identify whether your proposal will fall under the HIPAA Privacy Rule and if so how you plan to address these requirements. Additional information on HIPAA and the Privacy Rule can be found at *http://www.hhs.gov/ocr/hipaa.*

c. Community Involvement. Applicants must incorporate meaningful community involvement throughout the entire program in any study that requires a significant level of interaction with a community (e.g., projects being conducted within occupied dwellings or which involve surveys of community residents). A community is made up of various groups of persons who have commonalities that can be identified (e.g., based on geographic location, ethnicity, health condition, common interests). Applicants should identify the community that is most relevant to their particular project. There are many different approaches to involving the community in the conception, design, and implementation of a project and the subsequent dissemination of findings. Examples include, but are not limited to: Establishing a structured approach to obtain community input and feedback (e.g., through a community advisory board); including one or more community-based organizations as study partners; employing community residents to recruit study participants and collect data; and enlisting the community in the dissemination of findings and translation of results into improved policies and/or practices. A discussion of community involvement in research involving housing-related health hazards can be found in Chapter 5 of the Institute of Medicine publication titled ''Ethical Considerations for Research on Housing-Related Health Hazards Involving Children,'' at: *http://www.iom.edu/cms/12552/26004/2981.aspx.*

d. Program Performance. Awardees shall take all reasonable steps to accomplish all healthy homes activities within the approved period of performance. HUD will closely monitor the awardee's performance with particular attention to completion of specified activities, deliverables and milestones, and number of units proposed to be assessed or to receive remediation. Any previous requests for no cost extensions will be taken into account when evaluating the capacity of the applicant to do the work under Rating Factor 1.

e. Work Activities. All lead hazard control activities must be conducted in compliance with HUD's Lead-Safe Housing Rule, 24 CFR Part 35. Grantees must also comply with any additional requirements in effect under a state or Native American Tribal Lead-Based Paint Training and Certification Program that has been authorized by the EPA pursuant to 40 CFR 745.320.

f. Compliance with Lead Disclosure Rule. All lead-based paint and lead-based paint hazard test and hazard reduction results must be provided to the owner of the unit, with a statement describing the owner's legal duty to disclose the results to tenants (before initial leasing, or before lease renewal with changes) and buyers (before sale) if the housing was constructed before 1978 (24 CFR Part 35, subpart A). This information may only be used for

purposes of remediation of hazards in the unit and not for retribution/eviction. Disclosure of other identified housing-related health or safety hazards to the owner of the unit, for purposes of remediation, is encouraged but not required.

g. Integrated Pest Management. All pest control activities shall incorporate the principles and methods of integrated pest management (IPM). In technical terms, IPM is the coordinated use of pest and environmental information with available pest control methods to prevent unacceptable levels of pest damage by the most economical means and with the least possible hazard to people, property, and the environment. The IPM approach emphasizes a targeted use of pesticides that limits the possibility of human exposure (*e.g.*, as opposed to wide-spread applications) and includes interventions based on the behavior of the target pest (*e.g.*, preventing access to food or water). One source for information on IPM is Environmental Health Watch; you can download information from its web site: *http://www.ehw.org/Asthma/ASTH_Cockroach_Control.htm.*

h. Dust Sampling Protocol. Awardees collecting samples of settled dust from participant homes for environmental allergen analyses (*e.g.*, cockroach, dust mite) will be required to use a standard dust sampling protocol, unless there is a strong justification to use an alternate protocol. The HUD protocol is posted on the OHHLHC Web site at: *http://www.hud.gov/offices/lead/techstudies/allergen-dust-sample.protocol.doc.* Awardees conducting these analyses will also be required to include quality control dust samples, provided by OHHLHC at no cost, with the samples that are submitted for laboratory analyses. For the purpose of budgeting laboratory costs, assume that 5% of your total allergen dust samples would consist of QC samples.

i. Hazardous Waste Disposal. Awardees must follow procedures for hazardous waste disposal as required by the EPA (*e.g.*, 40 CFR parts 61, 260–282, 300–374, and/or 700–799, as applicable), the Department of Transportation (*e.g.*, 49 CFR parts 171–177), and/or appropriate state or local regulatory agencies.

j. Worker Protection Procedures. Awardees must comply with the procedures for worker protection established in the HUD Guidelines as well as the requirements of OHSA, *e.g.*, 29 CFR part 1910 and/or 1926, as applicable, or the state or local occupational safety and health regulations, whichever are more stringent.

k. Written Policies and Procedures. You must have written policies and procedures for all phases of interventions, including evaluation, development of specifications, financing, occupant relocation, independent project inspection, and clearance testing (*e.g.*, for mold, lead, carbon monoxide or other hazards, as applicable). You and all your subcontractors, sub-recipients, and their contractors must comply with these policies and procedures.

l. Data Collection and Provision. You must collect, maintain, and provide to HUD the data necessary to document the various approaches used to evaluate and control housing-based health hazards, including evaluation and control methods, building conditions, medical and familial information (with confidentiality of individually-identifiable information ensured) in order to determine the effectiveness and relative cost of these methods.

m. Section 3 Employment Opportunities. Recipients of assistance in the Healthy Homes Demonstration Program must comply with Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects) and the HUD regulations at 24 CFR part 135, including the reporting requirements of subpart E. See Section V, Rating Factor 3 for recommendations for implementing Section 3 Employment Opportunities.

n. Conducting Business in Accordance with HUD Core Values and Ethical Standards. If awarded assistance under the Healthy Homes Demonstration NOFA, you will be required to submit a copy of your code of conduct and describe the methods you will use to ensure that all officers, employees, and agents of your organization are aware of your code of conduct. If you previously submitted your Code of Conduct to HUD and it appears in the listing on HUD's Web site at *http://www.hud.gov/offices/adm/grants/codeofconduct/conduct.cfm,* you do not have to resubmit the information unless there has been a change in the legal name, address or authorizing official for your organization. See the General Section for information about conducting business in accordance with HUD's core values and ethical standards.

4. DUNS Requirement

Refer to the General Section for information regarding the DUNS requirement.

IV. Application and Submission Information

A. Web Address To Access an Application Package

Copies of this published NOFA and application forms for this program may be downloaded from the Grants.gov Web site at *http://www.grants.gov.* If you have difficulty accessing the information you may call the Grants.gov helpline toll-free at (800) 518–GRANTS or e-mail *Support@grants.gov.* Helpline customer representatives will assist you in accessing the information.

B. Content and Form of Application Submission

The following provides instructions on the items to be submitted as part of the application. See the General Section for instructions for submitting third party documents and electronic files.

1. An abstract describing the goals and objectives of your proposed program (2-page limit, single-spaced, 12-point standard font, ¾-inch margins) must be included in the proposal. The abstract should include the title of your proposed project, the name, mailing address and telephone number of the principal contact person for the primary entity and the same information for sub-contractors, partners, etc.

2. A narrative statement addressing the rating factors for award. Number the pages of your narrative statement and include a header and a footer that provides the name of the applicant and the name of the program to which you are applying. Narrative statements provided as part of the application should be individually labeled to identify the rating factor to which the narrative is responding (*e.g.* Factor 1, Capacity, etc.). You are strongly advised to use the format of the NOFA as an outline for discussion of your rating factors. The overall response to the rating factors must not exceed a total of 25 pages including all rating factors (single-sided, single-spaced, 12 point standard font, ¾-inch margins). Any pages in excess of this limit will not be read.

3. The score for each rating factor will be based on the rating factor's numbered portion of your narrative statement, supplemented by materials referenced and discussed in that portion of your narrative statement. Information relative to a given rating factor must be contained in the narrative for that rating factor. If it is found in another rating factor, it will not be considered. In addition, supplemental material that is not referenced and discussed within the narrative statements will not be rated.

4. The position descriptions and resumes, if available, of your project director and project manager and up to three additional key personnel (in accordance with Rating Factor 1), not to exceed 2 pages each (single-spaced, 12-point font with ¾-inch margins). This information will not be counted toward the page limit.

5. Any attachments, materials, references, or other relevant information that directly support the narrative must not exceed 20 pages for your entire application. Any pages in excess of this limit will not be read. See the General Section for instructions for submitting third party documents or material not readily available in electronic format.

6. A detailed budget with supporting justification for all budget categories of your funding request, in accordance with Rating Factor 3, (2)(b). This information will not be counted towards the page limits. In completing the budget forms and justification, you should address the following elements:

a. Direct Labor costs should include all full- and part-time staff required for the planning and implementation phases of the project. These costs should be based on full time equivalent (FTE) or hours per year (hours/year) (*i.e.*, one FTE equals 2,080 hours/year).

b. You should budget for three trips for two people to HUD Headquarters in Washington, DC, assuming a 2–3 day stay.

c. A separate budget proposal should be provided for any sub-recipients receiving more than 10 percent of the total federal budget request.

d. You should be prepared to provide supporting documentation for salaries and prices of materials and equipment upon request.

e. Organizations that have a federally negotiated indirect cost rate should use that rate and the appropriate base. Other organizations should submit their proposal with their suggested indirect rate. If they are funded and HUD is the cognizant agency, it will set a rate; otherwise HUD will request the cognizant federal agency to set the rate.

f. You should submit a copy of the negotiated rate agreements for fringe benefits and indirect costs, if applicable, as an attachment to the budget sheets.

7. Applicants are encouraged to use the following checklist to ensure that all required materials have been prepared and submitted. You are not required to submit this checklist with your application.

Checklist for Healthy Homes Demonstration Program Applicants

- Applicant Abstract (limited to 2 pages).
- Rating Factor Responses (Total narrative response limited to 25 pages).

1. Capacity of the Applicant and Relevant Organizational Experience—Form HUD 96012.
2. Need/Extent of the Problem-Form HUD–96016.
3. Soundness of Approach.
4. Leveraging Resources—Form HUD–96015.
5. Achieving Results and Program Evaluation—Form HUD–96010 Logic Model.

- Required materials in response to rating factors (does not count towards 25-page limit).

Form SF 424 Application for Federal Assistance.

Form HUD–424–CB Grant Application Detailed Budget Work Sheet.

Form SF–424 Supplement Survey on Ensuring Equal Opportunity for Applicants (to be completed by private nonprofit organizations only).

Form SF–LLL Disclosure of Lobbying Activities.

Form HUD–2880 Applicant/Recipient Disclosure/Update Report.

Form HUD–2990 Certification of Consistency with the RC/EZ/EC–II Strategic Plan (if applicable).

Form HUD–96011 Facsimile Transmittal to be used as the cover page for faxing third party information for electronic applications only. See the General Section.

Resumes of Key Personnel (limited to 2 pages per resume).

Organizational Chart.

Letters of Commitment (if applicable).

Form HUD–2994–A You are Our Client Grant Applicant Survey (Optional).

- Optional material in support of the Rating Factors (20 page limit).

C. Submission Dates and Times

Electronic applications must be submitted and received and validated by Grants.gov on or before 11:59:59 p.m. eastern time on June 7, 2006. All narrative files and any scanned documents must be submitted as a zip file, single attachment to the electronic application. Refer to the General Section for additional submission requirements. Materials associated to your electronic application submitted by facsimile transmission must also be received by 11:59:59 p.m. eastern time on the application submission date. Applicants submitting a waiver from electronic submission must submit their request at least 15 days before the application due date. If a waiver request is approved, the applicant will receive instructions for submitting the paper application. All paper applications must be received at the appropriate HUD office(s) by the deadline date.

D. Intergovernmental Review

Not required for this submission.

E. Funding Restrictions

1. Administrative Costs. There is a 10% maximum allowance for administrative costs. Additional information about allowable administrative costs is provided in Appendix D of this NOFA at: *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

2. Purchase of Real Property is not permitted.

3. Purchase or lease of equipment having a per unit cost in excess of $5,000 is not permitted, unless prior written approval is obtained from HUD.

4. Medical costs are not permitted.

5. For-profit organizations cannot receive a fee or profit.

6. Applicants must comply with the Coastal Barrier Resources Act (16 U.S.C. 3501).

7. Awardees may not use grant funds for hazard control of a building or manufactured home that is located in an area identified by the Federal Emergency Management Agency (FEMA) under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128) as having special flood hazards unless:

a. The community in which the area is situated is participating in the National Flood Insurance Program in accordance with the applicable regulations (44 CFR parts 59–79), or less than a year has passed since FEMA notification regarding these hazards; and

b. Where the community is participating in the National Flood Insurance Program, flood insurance on the property is obtained in accordance with section 102(a) of the Flood Disaster Protection Act (42 U.S.C. 4012a(a)). You are responsible for assuring that flood insurance is obtained and maintained for the appropriate amount and term.

F. Other Submission Requirements

HUD requires applicants to submit applications electronically through *www.grants.gov* unless you request and are granted a waiver to the electronic submission requirements. See the General Section.

V. Application Review Information

A. Criteria

1. Rating and Ranking

Applications will be reviewed by an Application Review Panel (ARP) which will assign each application a numerical

score based on the rating factors presented below. The ARP chairperson initially selects and provides at least one application to panel members to score during a calibration round to ensure that all panel members are consistent in their interpretation of the rating factors. When the calibration round is completed, each application is reviewed and scored by at least two panel members who will assign a score based on the rating factors. Each factor is weighted as indicated by the number of points that are attainable for it. An average score is then computed for each application. The ARP chair may call upon an advisor to the ARP to review and comment on a proposal; however, the advisor does not score the application. Nonetheless, advisor comments will be documented and retained as a part of the record. The ARP holds a final meeting to identify the top-ranking applications to be recommended for funding. Awards will be made separately in rank order within the limits of funding availability. The maximum score that can be assigned to an application is 102 points.

Applicants are eligible to receive up to two bonus points for projects located within federally designated Renewable Communities (RCs), Empowerment Zones (EZs), or Enterprise Communities (ECs) designated by USDA in round II (EC–IIs) (collectively referred to as RC/EZ/EC–IIs), and which will serve the residents of these communities (see the General Section). In order to be eligible for the bonus points, applicants must submit a completed Form HUD–2990.

2. Rating Factors

The factors for rating and ranking applicants, and maximum points for each factor, are provided below. Applicants should be certain that these factors are adequately addressed in the narrative relevant to the rating factors and the accompanying materials. Please refer to the guide to Scoring of Rating Factors at: *http://www.hud.gov/offices/adm/grants/fundsavail.cfm/offices/adm/grants/fundsavail.cfm.*

a. Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (15 Points). This factor addresses your organizational capacity necessary to successfully implement your proposed activities in a timely manner. The rating of you or your staff includes any grassroots community-based nonprofit organizations, including faith-based organizations, sub-contractors, consultants, sub-recipients, and members of consortia that are firmly committed to your project. HUD strongly encourages the formation and development of consortia in implementing your project goals. Applicants that either are or propose to partner, fund, or sub-contract with grassroots community-based nonprofit organizations, including faith-based organizations, in conducting their work programs will receive higher rating points as specified in the General Section. In rating this factor, HUD will consider the four items listed below.

(1) Capacity and Qualifications of Principal Investigator and Key Personnel. (6 points). Describe your recent, relevant, and successful demonstrated experience in undertaking eligible program activities. Describe the knowledge and experience of the proposed overall project director and day-to-day project manager in planning and managing large and complex interdisciplinary programs, especially those involving housing, public health, or environmental programs. Include information on your project staff, their experience with housing and health programs, percentage commitment to the project, and position titles. Project directors should make a time commitment of at least 20% and project manager's time commitment should be at least 50%. Resumes of up to two pages each and position descriptions for up to three key personnel in addition to the project director and project manager, and a clearly delineated organizational chart for the Healthy Homes project you propose, must be included in your application submission. Position descriptions and copies of job announcements (including salary range, percent time commitment, specifying percentage covered by the grant) should be included for any key positions that are currently vacant or contingent upon an award. Document that you have sufficient personnel, or will be able to quickly retain qualified personnel to begin your project immediately, and to perform activities in a timely and effective fashion. Successful applicants must hire all key staff positions identified in the proposal as vacant or required in the award agreement within 120 days of award. Describe how principal components of your organization will participate in, or support, your project.

(2) Qualifications of Applicant and Partner Organizations (4 points). Include names, descriptions of the experience and qualifications of subcontractors. Document how you propose to coordinate with and monitor sub-contractors, including frequency of meetings, on site inspections and submission of formal monthly or quarterly reports. Discuss your communication and coordination with partners, including partner responsibilities, meeting frequency, etc. If partners are community-based grassroots, non-profit organizations, including faith-based organizations, include documentation demonstrating their community-based grassroots status, such as organizational profile, 501(c)(3) status, Social Services budget. (Lengthy documents are not required. Face pages or extracted relevant text is adequate.)

(3) Past Performance of the Organization (5 points). This section refers to applicants who have any prior experience in another Healthy Homes or Lead Hazard Control grant, another grant related to environmental health and safety issues, or other experience in a similar program. Provide details about the nature of the project, the funding agency, and your performance, relative to performance measures and the achievement of desired housing- and health-related outcomes. If your organization is an existing Healthy Homes grantee, provide a description of the progress and outcomes achieved in that grant. Current grantees that are on or ahead of target may earn one point based on their demonstrated ability to date. If you received previous Healthy Homes Demonstration funding, you will be evaluated in terms of cumulative progress and achievements under the previous grant.

You must complete and submit the Factor 1, Table 1, posted at *www.hud.gov/offices/adm/grants/fundsavail.cfm,* to support narrative information. This table in supporting materials for your application. It will not be counted towards your page limit.

b. Rating Factor 2: Need/Extent of the Problem (15 Points). This factor addresses the extent for your proposed activities to document healthy homes and housing-related hazards in your target area(s) and target group(s).

(1) Target Area for Proposed Activities (5 points). Specifically identify a target area for your proposed activities. Document a critical level of need for your proposed activities in this target area by providing data documenting targeted groups that are traditionally underserved or have special needs. For a maximum score, data provided should specifically represent the target area, rather than general statistics or information pertinent to a larger geographic area. If specific statistics are not available, discuss why this is the case.

HUD will award two bonus points to each application that includes a valid Form HUD 2990 certifying that the activities/projects in the application are consistent with the strategic plan for an empowerment zone (EZ) designated by

HUD or the United States Department of Agriculture (USDA), the tax incentive utilization plan for an urban or rural renewal community designated by HUD (RC), or the strategic plan for an enterprise community designated in round II by USDA (EZ–II), and that the proposed activities/projects will be located within the RC/EZ/EC–II identified above and are intended to serve the residents.

(2) Link to Housing based Health Hazard (10 points). Your documentation should summarize available data linking housing-based health hazards to disease or injuries to children in your target area. Examples of data that might be used to demonstrate need include:

(a) Economic and demographic data (3 points) including poverty and unemployment rates and the number and percentage of low- and very low-income families with incomes less than 50 percent and 80 percent of the median income, respectively, as determined by HUD, for the area. Statistics that describe low- and very-low income families are available at: *http://factfinder.census.gov/home/saff/main.HTML?lang=en.* Applicants should also consult local data sources, such as city government web sites, for target area data.

(b) Rates of childhood illnesses (4 points) (e.g., asthma, elevated blood lead levels) or injuries (e.g., falls, burns) among children residing in your target areas that could be caused or exacerbated by exposure to conditions in the home environment; and

(c) The age and condition of housing (3 points). In responding, provide data available in your jurisdiction's currently approved Consolidated Plan and the Analysis of Impediments to Fair Housing Choice (AI) or Indian Housing Plan or derived from current census data or from other sources of comparable quality.

c. Rating Factor 3: Soundness of Approach (50 Points). (1) *Approach for Implementing the Project* (36 points). HUD is interested in comparability among the Healthy Homes Programs, in order to further standardize outcomes and performance measures. As a result, we have provided at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm/offices/adm/grants/fundsavail.cfm,* a standardized approach for implementing home remediations. Applicants are encouraged to use this model for carrying out your project activities and designing and implementing your work plan.

(a) Project Approach (3 points). Describe your approach to implement your proposed project. In particular describe the methods, schedule and milestones that will be used to identify and control housing-based health hazards and to achieve the desired improvements in the health of the families you serve. Include summary information about the estimated numbers of clients to be contacted, clients enrolled, units to be assessed, units to receive remediations, individuals to be trained, and individuals or groups that will be reached through education or outreach activities. Health outcome measures, such as pediatric asthma hospitalizations, emergency room visits for asthma, falls, burns, etc., should be documented to the extent possible. The use of tables to describe schedule, milestones and summary data is encouraged.

(b) Start up (4 Points). (i) Describe the process you intend to follow for obtaining IRB approval and HIPAA Authorization, if necessary. In particular, identify the organization that will review your project and provide a timeframe.

(ii) Provide detailed information regarding how program staff and, where applicable, partnering organizations will be trained in the disciplines needed to successfully implement your project (e.g., resident education, assessments and remediations). Include an outline of training curricula, a description of qualifications of trainers, and describe how individuals or groups to be trained will be selected.

(iii) If you are proposing to conduct a study or intervention that includes a significant level of community interaction (e.g., resident recruitment, home-based remediations, data collection, environmental sampling on private property) describe your plan for meaningful involvement of the affected community in your proposed study. You should define the community of interest with respect to your proposed project and discuss why your proposed approach to community involvement will make a meaningful contribution to your project and to the community.

(iv) Describe any proposed involvement of grassroots community-based, nonprofit organizations, including faith-based organizations, in the proposed activities including the development of consortia. These activities may include outreach, community education, marketing, inspection, and housing evaluations and remediations.

(c) Outreach and Recruitment (7 Points). (i) Describe how you will identify, select, prioritize, and enroll units of housing in which you will undertake housing-based health hazard remediations, targeting low-income families with young children under the age of six (72 months) to the extent feasible.

(ii) Describe measures you will perform to sustain recruitment, including incentives, and the staff responsible for both monitoring recruitment status and implementing the measures identified to sustain recruitment.

(iii) Discuss possible recruitment problems, impediments that you anticipate, probability of dropouts and plans to over-recruit to compensate for dropouts.

(iv) Discuss strategies to address the effect of the Health Insurance Portability and Accountability Act (HIPAA) on your recruitment, if applicable.

(v) Describe how you will provide appropriate program information and gain informed consent from the subjects, their parents and guardians, as applicable. Describe how you will ensure that participants understand and consent to the elements of the program such as the purposes, benefits and risks of the research activities.

(vi) Describe your proposed methods to reach high-risk groups and communities, vulnerable populations and persons traditionally underserved.

(vii) Describe how you will affirmatively further fair housing, which would include, but not be limited to: Affirmative marketing of the program to those least likely to apply based on race, color, sex, familial status, national origin, religion, or disability, (especially when persons in these demographic groups are generally not served by the grassroots community-based, nonprofit organizations, including faith-based organizations or other partner organizations); providing materials in alternative formats for persons with disabilities; providing materials in languages other than English for individuals with limited English proficiency and their families; assuring long-term residency by families currently living in the community; and assuring that priority for treated units go to those who need the features (treatment) of the unit.

(d) Unit Assessments, Occupant Health Surveys and Medical Referrals (3 Points). (i) Describe the assessment tools your project will employ to establish baseline data for unit condition, knowledge of program participant and/or the health of the occupant(s). These tools include questionnaires, visual assessment protocols and environmental sampling and analysis.

(ii) Describe your process for evaluating units of housing in which you will undertake housing-based

health hazard remediations. Provide the estimated total number of owner-occupied and/or rental units in which you will perform assessments and conduct remediations.

(iii) Describe the process to be followed for referring children for medical case management when needed. Describe the organizations that will be involved in this process and their prior experience serving the target population(s).

(e) Remediations (7 Points). (i) Describe your process for the development of work specifications for the selected physical remediations.

(ii) Discuss your process to select and obtain contractors for conducting remediations in selected units and provide details about the competitive bidding process.

(iii) Discuss efforts to incorporate cost-effective methods to address multiple environmental health and safety hazards, and describe the specific remediations you will employ to control housing-based health hazards before children are affected; and/or to control these hazards in units where children have already been treated for illnesses or injuries associated with housing-based health hazards (*e.g.*, burns, lead poisoning, asthma). In your budget submission, provide an estimate of the cost of each intervention (material costs and labor costs associated with installation) and an estimate of costs projected per unit.

(iv) Discuss how you will assure that the contractor will comply with all applicable Federal regulations.

(v) Describe the financing strategy, including eligibility requirements, terms, conditions, and amounts available, to be employed for conducting housing remediations. You must discuss the way funds will be administered (*e.g.*, use of grants, deferred loans, forgivable loans, other resources, private sector financing, etc.) as well as the agency that will administer the process.

(vi) Describe your plan for the relocation of occupants of units selected for intervention, if temporary relocation is necessary (see Section VI, below). Address the use of safe houses and other housing arrangements, storage of household goods, stipends, incentives, etc., and the source of funding for relocation.

(vii) Describe your plan for ensuring right of return and/or first referral for occupants of units selected for intervention who have had to move for intervention to occur.

(f) Community Education, Outreach and Capacity Building/Training (3 Points). (i) Describe your proposed methods for community and/or targeted education and training. These should include community awareness, education, training, and outreach programs that support your work plan and are culturally sensitive and targeted appropriately. Provide information about specific educational/outreach activities with quantitative data (number of individuals to be reached, etc.) and a description of the intended audience.

(ii) Discuss if Healthy Homes training programs will be expanded to include public housing agencies or Tribally Designated Housing Entities and other potential collaborators, such as grassroots community-based, nonprofit organizations, including faith-based organizations, and if so, your plan for doing this.

(g) HUD's Departmental Policy Priorities (6 Points). Indicate if, and describe how, you will address any of HUD's departmental policy priorities (see General Section). You will receive points for each of the applicable FY 2006 policy priorities that are adequately addressed in your application to a maximum of six points. Policy priorities that are applicable to the Healthy Homes Demonstration NOFA are: (1) Improving our Nation's Communities (focus on distressed communities); (2) Providing Full and Equal Access to Grassroots Community-based, Nonprofit Organizations, including Faith-based Organizations in HUD Program Implementation; (3) Participation of Minority-Serving Institutions in HUD Programs; (4) Removal of Regulatory Barriers to Affordable Housing; and (5) Promoting Energy Efficiency and Energy Star. HUD expects the applicant to implement Energy Star building techniques and utilize Energy Star appliances whenever activities of the grant afford the opportunity. For information on Energy Star Programs and Appliances, see *http://oaspub.epa.gov/webi/meta_first_new2.try_these_first;* and *energystar.gov.*

Each policy priority is worth one point, except for policy priority (4), Removal of Regulatory Barriers to Affordable Housing, which is worth up to 2 points, provided the applicant responds to this policy priority as described in this NOFA and submits the required documentation as described in Form HUD 27300. Applicants may also provide a URL website address where the documentation can be readily found.

(h) *Economic Opportunity* (3 points). To the greatest extent feasible, your project should promote job training, employment, and other economic opportunities for low-income and minority residents and businesses which are owned by, and/or employ, low-income and minority residents as defined in 24 CFR 135.5.

(i) Describe how you or your partners will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and HUD's implementing rules at 24 CFR part 135 by:

(A) Providing training and employment opportunities for low- and very low-income persons living within the awardee's jurisdiction, and by

(B) Purchasing goods and supplies, or contracting for services from businesses owned by low- and very low-income persons living within the targeted jurisdiction; information about Section 3 requirements is available at, *http://www.hud.gov/offices/adm/grants/fundsavil.cfm;*

(ii) Describe how your proposed project will provide opportunities for self-sufficiency, particularly for persons enrolled in welfare-to-work programs, or providing educational and job training opportunities; and

(iii) Describe the extent to which your proposed activities will occur within a federally designated Renewable Community (RC), Empowerment Zone (EZ), or Enterprise Community designated by USDA in round II (EC-II) as defined in the General Section.

(2) Approach for Managing the Project (9 points). Considering your project goals and objectives, describe how you will manage the project. Provide information on the general management approach including a management plan that:

(a) Incorporates appropriate project objectives, major tasks/activities, responsible entities, performance goals, and the process that you will utilize to assign, track and monitor the performance of major tasks and activities. (All specific activities necessary to complete the proposed project must be included in the task.)

(b) Provides a schedule of milestones and deliverables for the completion of major tasks and activities, and the delivery of interim and final products.

(c) Discusses coordination with sub-recipients, partners and staff.

(d) Describes all quality assurance activities and associated corrective actions.

(3) Budget Justification (5 points). HUD will not review any grant application with an award request greater than $1,000,000. Your proposed budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the project management plan and intended use of program funds. HUD is not required to

approve or fund all proposed activities. Your detailed budget should be submitted using Form ''HUD–CBW.'' An electronic copy is available at: *www.grants.gov.* You must thoroughly document and justify all budget categories and costs and all major tasks for yourself, sub-recipients, partners, major subcontractors, joint venture participants, or others contributing resources to the project. Include a *2-page (maximum) narrative* that describes clearly and in detail your budgeted costs for each required program element (major task) included in your overall plan. (You may include this narrative along with the budget forms; it will not count toward the 25-page limit.) Include a separate, detailed budget for any sub-grantee who would receive 10% or more of the grant funding.

d. Rating Factor 4: Leveraging Resources (5 Points). This factor addresses your ability to secure other community resources (e.g., financing, supplies, or services) that can be combined with HUD's resources to achieve project purposes. These community resources may be contributions from organizations such as the applicant, partners, or other organizations not directly involved in the project. Resources may also be provided by state and local governmental entities.

(1) HUD will consider the extent to which you have developed partnerships or consortia to secure additional resources to increase the effectiveness of your proposed project. Describe how other organizations will participate in or support your project. Resources may include funding or in-kind contributions (e.g., labor, fringe benefits, services, supplies, or equipment) budgeted for your proposed project. Include in the narrative the details of the commitment, the amount being leveraged, or if the commitment is in-kind, the specific names, percent of time, supplies and other resources, and value of each commitment.

(2) The signature of the authorized official on the Form SF–424 commits matching or other contributed resources of the applicant organization. The applicant must obtain a letter of commitment from each organization other than itself that is providing a match, whether cash or in-kind. The letter must describe the contributed resource(s) that will be used in your project and the dollar value of each contribution. Staff and in-kind contributions should be given a market-based monetary value. Each letter of commitment, memorandum of understanding, or agreement to participate shall include the organization's name and the proposed level of commitment and responsibilities as they relate to the proposed project. The commitment must be signed by an official legally able to make commitments on behalf of the organization and dated prior to the deadline date for this NOFA application.

(3) Include information to address the following elements. (i) The extent to which you have coordinated your activities with other known organizations that are not directly participating in your proposed work activities, but with which you share common goals and objectives.

(A) Describe your plan for integrating and coordinating housing-based health hazard interventions with other housing-related activities (e.g., rehabilitation, weatherization, correction of code violations, and other similar work).

(B) Describe your plans to generate and use public subsidies or other resources, such as loan funds, to finance future interventions to prevent and control housing-based health hazards, particularly in families with children under the age of six years (72 months) living in low- and very low-income housing.

(ii) The extent to which your project exhibits the potential to be financially self-sustaining by decreasing dependence on federal funding and relying more on state, local and private funding to continue healthy homes activities after the funding period is completed.

Applicants are to complete the Factor 4 table, Leveraging Resources that is posted at *www.hud.gov/offices/adm/grants/fundsavail.cfm/offices/adm/grants/fundsavail.cfm.*

e. Rating Factor 5: Achieving Results and Program Evaluation (15 points). This rating factor reflects HUD's goal to embrace high standards of ethics, management and accountability. HUD is committed to ensuring that applicants keep promises made in their applications and assess their performance to ensure that performance goals are met. In your response to this rating factor, you are to discuss the performance goals for your project, and identify specific outcome measures. Identify and discuss the specific methods you will use to measure progress towards your goals, track and report results of assessments and remediations, and evaluate the effectiveness of remediations; identify important project milestones (e.g., the end of specific phases in a multi-phased project) and deliverables specific to your project timeline; and identify milestones that are critical to achieving project objectives (e.g., developing questionnaires or protocols, hiring staff, recruitment of participants, and IRB approval and/or HIPAA Authorization, if applicable); identify benchmarks such as number of units that received intervention, percent of remediations that occurred in high-risk communities, etc., that you will use to track the progress of your project.

Identify how your project will be held accountable for meeting project goals, objectives, and the actions undertaken in implementing the program. Provide assurances that work plans and performance measures developed for your project will be achieved in a timely and cost-effective manner.

Your project should focus particular attention on identifying specific resident, or program participant, health outcomes and describe how these outcomes will be measured. Resident health outcomes do not necessarily require medical testing, such as spirometry or documenting blood lead levels, and may be assessed using questionnaires or other tools. Careful attention should be given to the relationship between the program's remediations (e.g., physical changes in the environment, changes to cleaning protocols, in-home training or provision of education materials) and the effect on resident health.

In evaluating Rating Factor 5, HUD will consider how you have described the benefits and outcome measures of your program. HUD will also consider the proposed objectives and performance objectives relative to cost and achieving the purpose of the program, as well as the evaluation plan, to ensure the project is on schedule and within budget.

You must complete and return the Form HUD–96010. HUD is moving to a standardized ''Master'' Logic Model with drop down menus from which you can select needs, activities, and outcomes appropriate to your program. See the General Section for detailed information on use of the ''Master'' Logic Model. HUD is requiring grantees to use program-specific questions to self-evaluate the management and performance of their program. For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment statement. HUD will be publishing a separate notice on the ROI concept. Training on HUD's logic model will be provided via satellite broadcast.

B. Reviews and Selection Process

The review and selection process is provided in the General Section. The General Section also provides the procedures for correcting deficient applications.

VI. Award Administration Information

A. Award Notices

1. Applicants Selected for Award

Successful applicants will receive a letter from the Office of Healthy Homes and Lead Hazard Control Grant Officer providing details regarding the effective start date of the cooperative agreement and any additional data and information to be submitted to execute a cooperative agreement. This letter is not an authorization to begin work or incur costs under the cooperative agreement or grant.

HUD may require that all the awardees participate in negotiations to determine the specific terms of the cooperative agreement or grant and budget. Should HUD not be able to successfully conclude negotiations with a selected applicant, an award will not be made. If the applicant accepts the terms and conditions of the cooperative agreement, a signed cooperative agreement must be returned by the date specified. Instructions on how to have the cooperative agreement account entered into HUD's Line of Credit Control System (LOCCS) payment system will be provided. Other forms and program requirements will be provided. In accordance with OMB Circular A–133 (Audits of States, Local Governments and Nonprofit Organizations), awardees will have to submit their completed audit-reporting package along with the Data Collection Form (SF–SAC) to the Single Audit Clearinghouse. The address can be obtained from their Web site. The SF–SAC can be downloaded at: *http://harvester.census.gov/sac/.*

2. *Debriefing.* The General Section provides the procedures for applicants to request a debriefing.

B. Administrative and National Policy Requirements

1. Environmental Requirements

Under the Consolidated Appropriations Act, 2006, the provisions of section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994, implemented by HUD regulations at 24 CFR part 58, ''Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities,'' are applicable to properties assisted with Healthy Homes Demonstration Grant funds. In accordance with part 58, applicants under this NOFA that are States, units of general local governments or Indian Tribes must act as the responsible entity and assume the environmental review responsibilities for activities funded under this NOFA. Other applicants must arrange for the unit of general local government or Indian Tribe to act as the responsible entity. Under 24 CFR 58.11, if a non-recipient responsible entity objects to performing the environmental review, or if a recipient that is not a responsible entity objects to the local or tribal government performing the environmental review, HUD may designate another responsible entity to perform the review or may perform the environmental review itself under the provisions of 24 CFR part 50. Healthy Homes Demonstration grant applicants and other participants in activities under this NOFA may not undertake, or commit or expend federal or non-federal funds (including HUD-leveraged or match funds) for housing interventions, related rehabilitation or other physical activities until the responsible entity completes an environmental review and the applicant submits and obtains HUD approval of a request for release of funds and the responsible entity's environmental certification in accordance with part 58 (or until HUD has completed an environmental review under part 50). The results of environmental reviews on individual projects may require that proposed activities be modified or proposed sites rejected. For assistance, contact Karen Choi, the Office of Healthy Homes and Lead Hazard Control Environmental Officer at (213) 534–2458 (this is not a toll-free number) or the HUD Environmental Review Officer in the HUD Field Office serving your area. If you are a hearing- or speech-impaired person, you may reach the telephone number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339. Recipients of a cooperative agreement under this NOFA will be given guidance in these responsibilities.

2. Executive Order 13202

''Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally-Funded Construction Projects.'' See General Section for information concerning this requirement.

3. Procurement of Recovered Materials

See the General Section for information concerning this requirement.

4. Relocation

Any person (including individuals, partnerships, corporations, or associations) who moves from real property or moves personal property from real property directly (1) because of a written notice to acquire real property, in whole or in part, or (2) because of the acquisition of the real property, in whole or in part, for a HUD-assisted activity, is covered by federal relocation statutes and regulations. Specifically, this type of move is covered by the acquisition policies and procedures and the relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended, and the implementing government wide regulation at 49 CFR part 24. The relocation requirements of the URA and the government wide regulations cover any person who moves permanently from real property or moves personal property from real property directly because of acquisition, rehabilitation or demolition for an activity undertaken with HUD assistance. While the Healthy Homes Demonstration Grant Program is not HUD assistance, the grantee must relocate families to decent, safe and sanitary housing, and should use the URA as guidance for doing so. If families or individuals are temporarily relocated in a project which utilizes Community Development Block Grant funds, the guidance and requirements of 24 CFR 570.606(b)(2)(i)(D)(1)–(3) must be met. HUD recommends you review these regulations when preparing your proposal. (They can be downloaded from the Government Printing Office Web site at *http://www.gpoaccess.gov/cfr/* by entering ''24 CFR 570.606'' in quotes without any spaces in the Quick Search box.) See Section III.C of the General Section for additional information about relocation.

5. Davis-Bacon Act

The Davis-Bacon Act does not apply to this program. However, if program funds are used in conjunction with other federal programs in which Davis-Bacon prevailing wage rates apply, then Davis-Bacon provisions would apply to the extent required under the other federal programs.

6. Audit Requirements

Any grant recipient that spends $500,000 or more in federal financial assistance in a single year must meet the audit requirements established in 24 CFR part 84 or 85, as applicable, in accordance with OMB Circular A–133.

C. Reporting

Successful applicants will be required to submit quarterly and final program and financial reports according the requirements of the Office of Healthy Homes and Lead Hazard Control. Specific guidance and additional details will be provided to successful applicants. The following items are a part of OHHLHC reporting requirements.

1. Final Work Plan and Budget are due prior to the effective start of the cooperative agreement.

2. Quality Assurance Plan (QAP). Successful Healthy Homes Demonstration applicants that will be collecting housing, demographic or environmental data in a formalized manner for use in assessing effectiveness of the approaches being demonstrated under the cooperative agreement or grant will be required to submit a Quality Assurance Plan (QAP) to HUD prior to initiating work under the cooperative agreement or grant. This is a streamlined version of the format used by some other federal agencies, and is intended to help ensure the accuracy and validity of the data that you will collect under the cooperative agreement or grant. (See the HUD Office of Healthy Homes and Lead Hazard Control's Internet site, *www.hud.gov/offices/lead,* for the QAP template). Your proposed project activities should include developing this QAP. The QAP will be submitted to HUD as a part of your work plan.3. Progress reports are due on a quarterly basis. Project benchmarks and milestones will be tracked using a benchmark spreadsheet that uses the benchmarks and milestones identified in the Logic Model form (HUD–96010) approved and incorporated into your award agreement. For specific reporting requirements, see policy guidance: *www.hud.gov/offices/lead.*

4. A final report is due at the end of the project period, which includes final project benchmarks and milestones achieved against the proposed benchmarks and milestones in the Logic Model (HUD–96010) approved and incorporated into your award agreement. Specific information on all reporting requirements will be provided to successful applicants.

5. Racial and Ethnic Beneficiary Data. HUD does not require Healthy Homes Demonstration Grantees to report ethnic and racial beneficiary data as part of their initial application package. However, such data must be reported on an annual basis, at a minimum, during the implementation of your cooperative agreement. You must use the Office of Management and Budget's Standards for the Collection of Racial and Ethnic Data to report these data, using Form HUD–27061, Racial and Ethnic Data Reporting Form, found on *www.grants.gov*, along with instructions for its use.

VII. Agency Contacts

For questions related to the application process, you may contact the Grants.gov helpline at 800–518–GRANTS. For programmatic questions, you may contact by writing: Emily Williams, Director; Healthy Homes Division; Department of Housing and Urban Development; Office of Healthy Homes and Lead Hazard Control; 451 Seventh Street, SW., Room P3206; Washington, DC 20410–3000; or by telephone by calling (336) 547–4002, extension 2067 (this is not a toll-free number); or via e-mail at: *Emily_E._Williams@hud.gov.* For administrative questions, you may contact Curtissa L. Coleman, Grants Officer, at the address above or by telephone at: (202) 755–1785, extension 7580 (this is not a toll-free number) or via e-mail at: *Curtissa_L._Coleman@hud.gov.* If you are hearing or speech-impaired, you may reach the above telephone numbers via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

VIII. Other Information

A. HUD Reform Act

The provisions of the HUD Reform Act of 1989 that apply to this NOFA are discussed in the General Section. Refer to the General Section for details regarding other information on submitting a complete application that meets HUD requirements. For additional general, technical, and program information pertaining to the Office of Healthy Homes and Lead Hazard Control, visit: *http://www.hud.gov/healthyhomes.*

B. 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 2539–0015. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. Public reporting burden for the collection of information is estimated to average 80 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application, semi-annual reports, and final report. The information will be used for awardee selection and monitoring the administration of funds. Response to this request for information is required in order to receive the benefits to be derived.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ECONOMIC DEVELOPMENT PROGRAMS

BROWNFIELDS ECONOMIC DEVELOPMENT INITIATIVE (BEDI)

Billing Code 4210-01-C

Brownfields Economic Development Initiative (BEDI)

Overview Information

A. Federal Agency Name: Department of Housing and Urban Development, Office of Community Planning and Development.

B. Funding Opportunity Title: Brownfields Economic Development Initiative.

C. Announcement Type: Initial announcement.

D. Funding Opportunity Number: The Federal Register number is FR–5030–N–14. The OMB approval number is 2506–0153.

E. Catalog of Federal Domestic Assistance (CFDA) Number(s): Brownfields Economic Development Initiative (BEDI), 14.246.

F. Dates: The application deadline date is June 14, 2006. Applications must be received and validated by *http://www.grants.gov* no later than 11:59:59 p.m. on the application deadline date. Please see the General Section for information on electronic deadline and timeliness requirements.

G. Optional, Additional Overview Content Information: BEDI funds are used to enhance the security of a loan guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974, as amended, for the same brownfields economic development project, or to improve the viability of a brownfields economic development project financed with the Section 108-guaranteed loan, in order to stimulate economic development by local governments and private sector parties at brownfields sites and to return those sites to productive, economic reuse. All BEDI grants must be used in conjunction with a new Section 108-guaranteed loan commitment.

HUD encourages brownfields economic development projects that propose the redevelopment of a brownfield site through new investments by identified private sector parties in addition to BEDI/Section 108 financing and that will directly result in new business or job creation, increases in the local tax base or other near-term, measurable economic benefits.

Those interested in applying for funding under this program should review carefully the General Section and the following additional information.

Full Text of Announcement

I. Funding Opportunity Description

A. Authority

BEDI is authorized pursuant to Section 108(q), Title I, Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301); 24 CFR part 570.

B. Program Description

BEDI is designed to help local governments redevelop brownfields, defined in this NOFA as abandoned, idled, or underutilized real property, including industrial and commercial facilities, where expansion or redevelopment is complicated by the presence or potential presence of environmental contamination. A BEDI grant award will be conditioned upon, and must be used in conjunction with, a new (i.e., not previously approved) Section 108-guaranteed loan commitment. Both Section 108 loan guarantee proceeds and BEDI grant funds are initially made available by HUD to units of general local government eligible for assistance under HUD's Community Development Block Grant (CDBG) program (specifically, the Entitlement and State programs, certain jurisdictions in the state of Hawaii under the Small Cities program, and the insular areas of Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands). A local government may re-loan the Section 108 loan proceeds and provide BEDI funds to a business or other public entity eligible to carry out a specific approved brownfields economic development project, or the public entity may carry out the eligible project itself. In either case, BEDI grant funds and the Section 108 proceeds must be used to support the same eligible BEDI project.

Under this program, CDBG entitlement and non-entitlement grantees (and states for state-assisted non-entitlement jurisdictions) pledge their continuing CDBG allocations as security for the Section 108 loans guaranteed by HUD. BEDI grant funds are intended to reduce grantees' potential loss of future CDBG allocations by:

1. Strengthening the economic feasibility of a project financed with Section 108 funds (and thereby increasing the probability that the project will generate enough cash to repay the guaranteed loan);
2. Directly enhancing the security of the Section 108-guaranteed loan; or
3. Employing a combination of these or other risk mitigation techniques.

BEDI funds must be used as the stimulus for local governments and/or private sector parties to commence redevelopment or continue phased redevelopment efforts of brownfields sites where contamination is present or potentially present and a redevelopment plan exists. HUD desires to see BEDI and Section 108 funds used to finance projects and activities that involve investment in the brownfields site by an identified private sector party that will provide near-term results and measurable economic benefits, such as job creation and increases in the local tax base.

C. Program Definitions

Unless otherwise defined herein, terms defined in this NOFA shall have the same respective meanings as provided for in 24 CFR part 570.

Act means Title I Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*).

Application means a single set of documents, including a request for Section 108 loan guarantee assistance, submitted by an eligible applicant for BEDI grant funds, in accordance with the provisions of this NOFA to finance a brownfields economic development project. Section IV.B.1(c) of this NOFA provides additional information on the nature and forms of Section 108 loan guarantee requests that must be submitted to HUD along with each BEDI application.

Brownfields means abandoned, idled, or under-used real property (including industrial and commercial facilities) where expansion or redevelopment is complicated by the presence or potential presence of contamination.

Brownfields Economic Development Initiative (BEDI) funds means the appropriated funds made available for the competition under this NOFA from any available appropriation.

Brownfields Economic Development Initiative (BEDI) project or brownfields economic development project means a single activity, or a group of activities constituting a planned, continuous, single undertaking, that is eligible under Section 108(q) of the Act and under 24 CFR 570.703 and projected to create or retain businesses or jobs, provide area or housing benefit to low- and moderate-income persons, redevelop blighted areas or sites, or otherwise lead to measurable economic benefits from redevelopment of one or more brownfields sites within five years.

CDBG funds means those funds collectively so defined at 24 CFR 570.3, including grant funds received pursuant to Section 108(q) and this NOFA.

Economic Development Initiative (EDI) grant means the provision of economic development grant assistance under Section 108(q) of the Act, as authorized by Section 232 of the Multifamily Housing Property Disposition Reform Act of 1994 (Pub. L. 103–233, approved April 11, 1994).

EPA means the U.S. Environmental Protection Agency.

Firm Commitment means either a written agreement or letter of understanding by which an applicant or a third party:

(1) Agrees to perform an activity or provide resources as specified in the application, and demonstrates their relationship to the proposed BEDI/Section 108 project;

(2) Specifies the dollar value of the commitment and demonstrates that it has the financial and organizational capacity to deliver the resources necessary to successfully complete the activity; and

(3) Irrevocably commits the resources to the activity either through cash or in-kind services or contributions; if any portion is to be financed through a grant or loan from another public or private organization, that institution's grant or loan commitment must be firmly committed as well.

Any such agreement or letter of understanding shall be understood as being contingent upon receipt of the BEDI grant. Funds expended prior to the submission of the BEDI application will not be considered as firmly committed funds for purposes of this NOFA.

Additional information related to firm commitments of other resources is provided in Section V.A.1 of this NOFA, Rating Factor 4 (Leveraging of Other Financial Resources). See Section IV.F.3.d. of the General Section for instructions on how third party documents are to be submitted electronically.

Showcase Community means an applicant chosen by the federal government's Brownfields National Partnership for inclusion in the federal government's Brownfields Showcase Communities program. A list of the federally designated Brownfield Showcase Communities is provided on the HUD website, at *http://www.hud.gov.*

Strategic Plan means a strategy or course of action developed and agreed to by the nominating local government(s) and state(s) and submitted in partial fulfillment of the application requirements for an Empowerment Zone, Enterprise Community, or a Renewal Community, designated pursuant to 24 CFR parts 597, 598 or 599.

D. Program Background

HUD has multiple programs that are intended to stimulate economic and community development and promote economic revitalization of distressed areas, and which can be effectively employed to address and remedy brownfields conditions. Primary among HUD's resources are the Community Development Block Grant (CDBG) program and the Section 108 loan guarantee program.

1. *CDBG.* The CDBG program provides grant funds by formula to local governments (either directly or through states) to carry out community and economic development activities ($3.7 billion appropriated in FY 2006). The Section 108 loan guarantee program provides CDBG-eligible communities with a source of financing for economic development, public facilities, and other eligible large-scale physical development projects. HUD is authorized pursuant to Section 108 to guarantee notes issued by CDBG entitlement communities and non-entitlement units of general local government eligible to receive funds under the CDBG States' program, as well as certain non-entitlement units of general local government in the state of Hawaii funded under 24 CFR part 570, subpart F. The Section 108 program is subject to the regulations applicable to the CDBG program at 24 CFR part 570 as described in 24 CFR part 570, subpart M.

2. *Section 108 Loan Guarantees.* The loan guarantee authority for the Section 108 program is estimated at $225 million including $135 million in loan guarantee authority for FY 2006 and loan guarantee authority that is still available under the FY 2005 appropriation.

Under this program, communities (states and insular areas, as applicable) are required to pledge their continuing CDBG allocations as security for loans guaranteed by HUD. The Section 108 program, however, does not require CDBG funds to be escrowed for loan repayment (unless such an arrangement is specifically negotiated as loan security and included in the applicable ''Contract for Loan Guarantee Assistance''). This means that a community can ordinarily continue to spend its existing allocation for other CDBG purposes, unless needed for loan repayment.

3. *Additional Security for Section 108 Loan Guarantees.* Applicants should be aware of the need to provide additional security for the Section 108 loan guarantee pursuant to 24 CFR 570.705(b)(3). Although a public entity (and the corresponding state for a state-assisted non-entitlement entity) is required by the Act to pledge its current and future CDBG allocations as security for the Section 108 loan guarantee, it will usually be required to furnish additional collateral. In most cases, the additional collateral consists (in whole or in part) of the asset financed with the Section 108 loan funds (*e.g.*, a loan made to a business as part of an economic development project and the related mortgage from the business). Applications proposing uses for BEDI funding that directly enhance the value of the assets securing the Section 108 loan will help ensure that the project-based asset(s) will satisfy the additional collateral requirements.

4. *Integration of Other Government Economic Development and Brownfields Programs.* HUD encourages local governments which are assisted by (a) other federal or state economic development programs, (b) other federal brownfields programs (*e.g.*, the federal Brownfields Showcase Community program, EPA's Assessment, Revolving Loan Fund Cleanup or Grant programs), or (c) state-supported brownfields programs, to integrate efforts arising from those programs in developing projects for assistance under HUD's BEDI and Section 108 programs. Applicants should elaborate upon these ties in their response to the rating factors, where appropriate, in Section V.A.1 of this NOFA (*e.g.*, ''Capacity of the Applicant,'' ''Soundness of Approach,'' or ''Leveraging Resources,''—Rating Factors 1, 3, and 4, respectively.)

II. Award Information

A. Available Funds

HUD has available approximately $10 million for grant awards under this BEDI NOFA, consisting of $10 million through appropriations under the FY2006 Consolidated Appropriations Act (Pub. L. 109–115, approved December 1, 2005. These funds are authorized by Section 108(q) of the Act (as described above). If any additional funds become available for the BEDI program during FY2006, including through the deobligation and recapture of previous BEDI awards, HUD may either fund additional applicants in accordance with this NOFA, or may add these funds to funds available for future competitions pursuant to Section 108(q) of the Act.

B. Maximum Award

The maximum amount of a BEDI award under this competition is $1 million per project. An application in excess of $1 million will be reduced to the extent HUD determines that such a reduction is appropriate and the project remains feasible.

C. Limitations on Grant Amounts

1. *Ratio of Section 108-Guaranteed Loan to BEDI Grant.* HUD expects to

approve BEDI grant amounts for approvable applications with a range of ratios of BEDI grant funds awarded to new Section 108-guaranteed loan commitments for the same project, but the minimum ratio must be $1.00 of Section 108-guaranteed loan commitments for every $1.00 of BEDI grant funds in order to receive consideration for funding. Section V.A.1, Rating Factor 4 (Leveraging of Resources), provides additional information on the required ratio of BEDI to Section 108 funds.

2. *Reduction or Deobligation of BEDI Grant Award.*

a. After selection, but prior to grant award, if HUD determines that an application can be funded at a lesser BEDI grant amount than requested and still be feasible and consistent with the proposed plan and the purposes of the Act, it reserves the right to reduce the amount of the BEDI award and/or increase the required Section 108 loan guarantee commitment.

b. In the event a BEDI grant is awarded and has been reduced below the original request (*e.g.*, the application contained some activities that were ineligible, exceeded the $2 million cap, or there were insufficient funds to fund the last competitive application at the full amount requested), the applicant will be required to modify the project plans and application to conform to the terms of HUD approval before HUD will execute a grant agreement.

c. HUD also may proportionately reduce or deobligate the BEDI award if a grantee does not submit an approvable Section 108 loan guarantee application, issue Section 108-guaranteed obligations, and receive loan guarantee proceeds on a timely basis, (including any extension authorized by HUD), in the amount required by the BEDI/108 leveraging ratio, which will be approved by HUD as a special condition of the BEDI grant award (see Section IV.B.1(c)(2) of this NOFA).

3. *Increased Request for Section 108 Loan Guarantee Assistance.* In the case of a requested increase in guarantee assistance for a project with a previously approved Section 108 loan guarantee commitment (as further discussed in Section IV.B.1(c)(4)), the BEDI assistance approved will be based only on the additional amount of Section 108 loan guarantee assistance requested.

III. Eligibility Information

A. Eligible Applicants

Any public entity eligible to apply for Section 108 loan guarantee assistance in accordance with 24 CFR 570.702, including Guam, the Northern Marianas, American Samoa, and the Virgin Islands for FY 2006, may apply for BEDI grant assistance under Section 108(q). Eligible applicants are CDBG entitlement units of general local government and non-entitlement units of general local government eligible to receive loan guarantees under 24 CFR part 570, subpart M. Urban Counties, as defined at 24 CFR 570.3 and 570.307, are eligible applicants for BEDI funds; units of general local government that participate in an Urban County program are not independently eligible applicants. For non-entitlement applicants other than those subject to 24 CFR part 570, subpart F (which applies only to the state of Hawaii), applicants are required to provide evidence in the BEDI application from an authorized official of the state agency responsible for administering the State CDBG program stating that it supports the related Section 108 loan with a pledge of its CDBG allocations pursuant to the requirements of 24 CFR 570.705(b)(2). Such evidence must be provided by form HUD–40122, titled ''SECTION 108 LOAN GUARANTEE: State Certifications Related to Non-entitlement Public Entities.'' This form may be downloaded as part of the application package from the Internet at *www.grants.gov/.* Non-entitlement public entities in 49 states and Puerto Rico are eligible to participate in the Section 108 and BEDI programs, with assistance of the state's or commonwealth's pledge of CDBG allocations. The non-entitlement entities in Hawaii are able to make their own repayment pledge since they now receive a fixed amount of annual CDBG funding.

B. Cost Sharing or Matching

As described further in Section V.A.1 of this NOFA, under Rating Factor 4 (Leveraging of Resources), applications which evidence a greater level of other funds firmly committed to the BEDI project will receive more points under Rating Factor 4. In addition, a BEDI grant must be used with at least an equal amount of Section 108 loan guarantee proceeds for the same brownfields economic development project.

C. Program Threshold Requirements

1. Eligible Activities and National Objectives

a. Applicants for BEDI grant funds and Section 108 loan guarantee funds must demonstrate that funds will be used for activities listed at 24 CFR 570.703 and carried out as part of a BEDI project as defined in this NOFA and meet the CDBG requirements at 24 CFR Sections 570.200, 570.208 and 570.209, as applicable. All applicants must clearly identify in their narrative response to Rating Factor 3 (Soundness of Approach) in Section V.A.1 of this NOFA each of the eligible activities that will be carried out under 24 CFR 570.703.

With respect to BEDI projects that include a housing component, applicants are cautioned that the eligible activities at 24 CFR 570.703 do not allow BEDI and Section 108 funds to be used to finance the costs of the construction of housing, unless such construction is undertaken by a Community Based Development Organization (CBDO) or a not-for-profit organization serving the development needs of a community in a non-entitlement area as part of a community economic development project, in accordance with 24 CFR 570.703(i)(2) and 24 CFR 570.204(a)(2). Provisions of 24 CFR 570.703(j) that authorized the use of BEDI or Section 108 funds for housing construction have expired and are no longer applicable, as the statute referenced therein is no longer in effect. For projects that include the construction of housing, BEDI and Section 108 funds may be used to finance activities necessary to construct such housing, such as acquisition and related demolition and clearance on the acquired site, site improvements, public facilities and other eligible activities subject to each of the eligible activity provisions at 24 CFR 570.703; and

b. Applicants must demonstrate that each activity assisted with Section 108 loan guarantee or BEDI funds will meet a national objective of the CDBG program as described in 24 CFR 570.208. All applicants must clearly identify in their narrative response to Rating Factor 3 (Soundness of Approach) in Section V.A.1 of this NOFA, the CDBG national objective to be achieved by the proposed project and provide the appropriate CDBG national objective regulatory citation found at 24 CFR 570.208. Applicants must also address, when applicable, how the proposed activities will comply with the public benefit standards of the CDBG program as reflected in the regulation at 24 CFR 570.209.

c. A grantee's aggregate use of its CDBG funds, including any Section 108 loan guarantee proceeds and Section 108(q) (BEDI) funds provided pursuant to this NOFA, must comply with the CDBG primary objective requirements as described in Section 101(c) of the Act and 24 CFR 570.200(a)(3) for entitlement grantees, or 24 CFR 570.484

in the case of a recipient under a state's program, requiring that, over the period of time specified in the applicant's (or State's) CDBG certification, not less than 70 percent of the aggregate expenditures of CDBG funds be expended for activities benefiting low- and moderate-income persons under the criteria of 24 CFR 570.208(a) or 570.208(d)(5) or (6).

2. Brownfields Redevelopment

As described further in Section V.A.1 of this NOFA, in the narrative response to Rating Factor 3 (Soundness of Approach) applicants must: (1) Describe the nature and extent of the brownfields problem(s) actually or potentially affecting the site and/or structure(s) already on the site; and (2) how the proposed activities will contribute to redevelopment of the site and/or structures.

3. General Section Threshold Requirements

a. Applicants should carefully review the threshold requirements found in Section III.C of the General Section that could result in the failure to receive funding under this program. Applicants for BEDI grant funds must comply with the statutory, regulatory, threshold, and public policy requirements listed in the General Section, except as otherwise specifically provided in this NOFA. In particular, applicants should carefully review those provisions that could result in the failure to receive funding, including the DUNS Number Requirement, Compliance with Fair Housing and Civil Rights Laws, provisions relating to Delinquent Federal Debts, and the Name Check Review.

b. The Dun and Bradstreet Universal Numbering System (DUNS) Number Requirement. Refer to the General Section for information regarding the DUNS requirement. You will need to obtain a DUNS number to receive an award from HUD. You will also need a DUNS number to complete your electronic application as it is a mandatory field on the electronic application. The Grants.gov registration also requires use of the DUNS number, and Grants.gov registration.

c. The maximum number of points to be awarded under this NOFA is 104. To be eligible for funding, a BEDI application must obtain a total score of at least 75 points. All applications meeting program and General Section threshold requirements will be rated under the selection criteria provided in Section V.A.1 below.

4. Other Program Requirements

a. *BEDI Funding Request.* A single BEDI application must contain a request for funds for a single BEDI/108 project. The application must propose activities expected to result in redevelopment of one or more brownfields sites. An applicant may submit an additional application for each additional unrelated BEDI/108 project, but in no event will HUD rate and rank more than one BEDI project per application.

b. *Related Section 108 Loan Guarantee Request.* The request for Section 108 Loan Guarantee assistance must provide for a minimum ratio of $1.00 of requested Section 108 loan guarantee commitments for every $1.00 of BEDI grant funds requested, or a higher ratio, as needed for the project.

c. *Nonentitlement Applications.* Applications submitted by nonentitlement public entities (except for those in Hawaii and the insular areas which now receive fixed amounts of CDBG funds annually) must provide for the state or commonwealth's certification agreeing to pledge its CDBG allocations to receive funding consideration, as evidenced by form HUD–40122. See the General Section instructions for submission of third party documents.

d. *Narrative Response to Rating Factors.* Each BEDI application must provide narrative statements in response to each of the rating factors below in Section V.A.1 of this NOFA.

e. *Time Frame for Submission of Section 108 Applications.* All applications for Section 108 Loan Guarantee Assistance required for approved BEDI projects must be submitted within 60 days of written notice of BEDI selection, as provided for in Section IV.B.1(c)(2) of this NOFA.

f. *HUD Environmental Requirements.* Beginning with the submission of a BEDI application through and after HUD's award of BEDI grant funds, pursuant to 24 CFR 570.604, each project or activity assisted under this program is subject to the provisions of 24 CFR part 58. This includes limitations on the commitment of HUD and non-HUD funds by the BEDI grantee and Section 108 public entity, as well as other participants in the development process, prior to the completion of environmental review, notification, and release of funds. Neither grant nor loan funds can be disbursed by HUD until a request for release of funds is submitted and the requirements of 24 CFR part 58 have been met. All public entities, including non-entitlement public entities, shall submit the request for release of funds and related certification, required pursuant to 24 CFR part 58, to the appropriate HUD field office for each project to be assisted.

g. *Compliance with Environmental and Other Laws.* An award of BEDI funding does not, in any way, relieve the applicant or third party users of BEDI funds from compliance with all applicable federal, state, and local laws and regulations, particularly those addressing the environment. Applicants are further advised that HUD may require evidence that any project involving remediation has been or will be carried out in accordance with applicable law, including voluntary clean up programs.

h. *CDBG Program Regulations.* In addition to 24 CFR 570.701 (Definitions), 570.702 (Eligible applicants), and 570.703 (Eligible activities), the CDBG regulatory requirements cited in 24 CFR 570.707, including subparts J (Grant Administration), K (Other Program Requirements), and O (Performance Reviews), also govern the use of BEDI funds, as applicable.

i. *Obligation to Affirmatively Further Fair Housing.* All BEDI grantees are obliged to affirmatively further fair housing, even when the proposed activities do not appear to be directly related to housing. Therefore, applicants that propose to use BEDI funds must include in their applications an explanation of how they propose to further fair housing opportunities for persons on the basis of race, color, national origin, sex, religion, familial status, or disability. Applicants should respond to this requirement in Section V.A.1 of this NOFA, under Rating Factor 3, subfactor (1)(b). Affirmative activities include, but are not limited to: initial and periodic assessments of the extent to which affordable and accessible housing opportunities are provided or denied to persons by race, color, national origin, sex, religion, familial status, or disability; outreach to persons in underserved population groups or advocacy organizations representing such persons; affirmative fair marketing of job or housing opportunities; furthering housing choice; addressing environmental justice concerns; or ensuring that employment, housing and other benefits of the BEDI grant are made available to those individuals and families living at or near the brownfields site prior to its redevelopment.

j. *Policy Priorities.* Applicants are reminded of the Department's Policy Priorities for FY 2006 found in Section V.B. of the General Section, several of which apply to this NOFA, as described

in Section V.A.1 below, under Rating Factor 5 (Achieving Results and Program Evaluation).

k. *Ineligible Sites.* Applicants must propose sites that currently meet the definition of brownfields in this program section. Applicants may not propose projects on sites which are: (i) Listed or proposed to be listed on EPA's National Priority List (NPL); (ii) subject to unilateral administrative orders, court orders, administrative consent orders or judicial consent decrees issued or entered into by parties under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA); or (iii) subject to the jurisdiction, custody, or control of the United States Government. In order to be eligible to receive an award under this program, applicants will be required in Section V.A.1, Rating Factor 3, Soundness of Approach, to indicate that the proposed BEDI project will not be undertaken at an ineligible site as provided herein.

l. *Prior Approved Section 108—Guaranteed Loans.* BEDI grant assistance cannot be used to leverage a Section 108 loan guarantee approved prior to the date of HUD's announcement of a BEDI grant pursuant to this SuperNOFA, unless the applicant requests to deobligate previously approved commitment authority as provided in Section IV.B.1(c)(5) of this NOFA. In no event, however, may a previously approved Section 108 commitment to be used with a prior BEDI or EDI award be subject to such deobligation. In an instance where a pending application for Section 108 assistance is to be leveraged by the proposed BEDI grant, the BEDI grant may be awarded before HUD approval of the Section 108 commitment if HUD determines that such award will further the purposes of the Act.

m. *Use of Section 108 Solely for Security.* A BEDI award will not be made if the Section 108 request contained in the application (See Section IV.B.1(c) of this NOFA) calls for the use of the Section 108-guaranteed obligation solely as security for other financing on the project.

IV. Application and Submission Information

A. Addresses To Request Application Package

1. Copies of the published NOFAs and application forms for HUD programs announced through NOFA may be downloaded from the Grants.gov Web site at *http://www.grants.gov/Find;* if you have difficulty accessing the information you may receive customer support from Grants.gov by calling their Support Desk at (800) 518–GRANTS, or sending an e-mail to *support@grants.govsupport@grants.gov.* The operators will assist you in accessing the information. The hours of the Support Desk are 7 a.m. to 9 p.m. Eastern time.

2. *Satellite Broadcasts.* HUD will hold informational broadcasts via satellite for potential applicants to learn more about the BEDI program and the preparation of BEDI application(s). For more information about the date and time of the broadcast, consult the Web site *http://www.hud.gov.*

B. Content and Form of Application Submission

1. Content of Application

A complete application for a BEDI grant under this NOFA must contain the items listed below. The standard forms that are required for the BEDI application can also be found in the General Section. Applicants by signing the SF–424 are also agreeing to the Certifications and Assurances found in the General Section and this NOFA. Additional program forms, excluding such items as narratives or letters, etc. also referred to as the ''non-standard forms'', HUD–40122 and HUD–40123, are included with this NOFA. All forms required for application submission can be found in the application package and instructions on *http://www.grants.gov* for the BEDI program.

a. *Checklist and Submission Table of Contents* indicating the submission items included in the application can be found in Section VIII, Appendix A, of this NOFA. Applicants are not required to submit the Checklist but are encouraged to review it to ensure that they have submitted a complete application.

b. *EDI/BEDI/Section 108 Funding Eligibility Statement.* A completed EDI/BEDI/Section 108 Funding Eligibility Statement (Exhibit D of form HUD–40123).

c. *Request for Loan Guarantee Assistance.* A request for loan guarantee assistance under Section 108, with the project name clearly identified (and the same name of the BEDI project being applied for), as further described below. Full application requirements for the Section 108 program are found at 24 CFR 570.704. Non-entitlement applicants (except those in Hawaii and the insular areas) must accompany this request with the State Certifications Related to Nonentitlement Public Entities (form HUD–40122) in order to be considered for BEDI funding.

The request for loan guarantee assistance may take any of the five forms defined in paragraphs (1), (2), (3), (4), or (5) below. Notwithstanding the form of the request for new Section 108 loan guarantee assistance, the applicant must include citations to the specific regulatory subsection supporting activity eligibility and National Objectives compliance for the Section 108 funds described in the application. (See Section III.C.1 of this NOFA.) Both the BEDI and Section 108 funds must be used in conjunction with the same BEDI project. Applicants are encouraged to consult with HUD's Financial Management Division in Headquarters CPD, at (202) 708–1871, before submission of 108 and/or BEDI applications if unsure of CDBG national objectives, eligibility of activities, program benefits citations and the tests thereof. The request for new Section 108 guarantee assistance may be presented in any of the following ways:

(1) Concurrent Application Submitted Under Separate Cover. A complete application for a new Section 108 loan guarantee(s), including the documents listed at 24 CFR 570.704(b), submitted under separate cover in accordance with the procedures in Section IV.F.3 below. Any full application for loan guarantee assistance under Section 108 must also be submitted to the appropriate HUD field office concurrently with its submission to Headquarters. As described further in Section V.A.1, in Rating Factor 3 (Soundness of Approach), two points will be awarded for the submission of a full Section 108 loan guarantee application with a BEDI application.

(2) Subsequent Application. A brief description (not to exceed three pages) of the project to be applied for in a subsequent new Section 108 loan guarantee application(s). Such a 108 application(s) shall be submitted within 60 days of written notice of BEDI selection, with HUD reserving the right to extend such period on a case-by-case basis where HUD determines there is evidence of good cause. BEDI awards will be conditioned on approval of actual Section 108 loan commitments and loan guarantee proceeds in a specific ratio of BEDI funds to Section 108 funds as approved by HUD in the BEDI award. The description provided in the BEDI application must be sufficient to support the basic eligibility of the proposed project and activities for Section 108 assistance. (See Section III.C.1 of this NOFA.)

(3) Pending, Unapproved Application. A request to use the BEDI grant award in conjunction with a pending, unapproved Section 108 loan guarantee

application. The request must identify the project name associated with the pending application and the date of submission. Any proposed amendment to the pending Section 108 application must be submitted under separate cover, as provided for in Section IV.F.3 below. An applicant's request to use the BEDI award in conjunction with a pending application shall be deemed by HUD to constitute a request to suspend separate processing of the Section 108 application. The Section 108 application will not be approved until, on, or after the date of the related BEDI award.

(4) Increase to a Project Assisted Under a Previously Approved Application. A request for Section 108 loan guarantee assistance (analogous to Section IV.B.1(c)(1) or (2) above of this section) may propose new Section 108 guarantee assistance in addition to the amount of Section 108 assistance for a project assisted under a previously approved Section 108 application. However, any amount of Section 108 loan guarantee authority approved before HUD's announcement of a BEDI grant for the same project is not eligible to be used in conjunction with a BEDI grant under this NOFA.

(5) Deobligation of Previously Approved Section 108 Authority Plus a New Request. A request to deobligate a previous commitment of Section 108 loan guarantee authority to the applicant that is no longer to be used by the applicant (except for an amount required as a condition of a previously approved BEDI or EDI award), combined with a new request or application for Section 108 loan guarantee assistance. Such request or application may be a full application as provided for in paragraph (1) above, a request for 108 assistance submitted within 60 days as provided for in paragraph (2) above, a pending unapproved application as provided for in paragraph (3) above, or an increase to a project assisted under a previously approved application as provided in paragraph (4) above.

(6) In no event may a Section 108 loan guarantee amount that is required to be used in conjunction with a previously approved BEDI or EDI grant award as of the date of the submission of the application, whether or not the Section 108 loan guarantee has been approved as of the date of this NOFA, be used in conjunction with a new BEDI award under this NOFA. For example, if a public entity has a previously approved Section 108 loan guarantee commitment of $12 million, even if none of the funds have been utilized, or if the public entity had previously been awarded a BEDI grant of $1 million and had agreed to submit a Section 108 loan application for $10 million in support of that BEDI grant, the public entity's application under this NOFA must propose to increase the amount of its total Section 108 loan guarantee commitments beyond those amounts to which it has previously agreed (i.e., the $12 million or $10 million Section 108 loan guarantee commitments in this example).

d. *Narrative Responses to Factors for Award* (not to exceed 15 double-spaced, 8½ x 11 inch single-sided pages, with one-inch margins on all sides, for all responses):

(1) Rating Factor 1: Capacity and Relevant Organizational Experience. Provide a narrative indicating the capacity of the applicant's organization and staff and any known third parties to perform the work for which it is requesting funding.

(2) Rating Factor 2: Need Statement Identifying the level of Distress/Extent of the Problem. Provide a narrative statement including any documentation supporting the statement of need, accompanied by a completed Exhibit A of form HUD–40123. (See the General Section for instructions for submitting documentation found in the download instructions.)

(3) Rating Factor 3: Soundness of Approach. Include the CDBG eligible activities, the CDBG National Objective, the source and nature of the present or potential environmental contamination, the budget, and the time frame for conducting activities and providing project benefits to address the needs identified in Rating Factor 2 in the narrative response, accompanied by Exhibits B and C of form HUD–40123.

(4) Rating Factor 4: Leveraging Resources. The response to this factor should include any letters of firm commitment as defined in Section I.C of this NOFA, and any evidence of financial capacity or CDBG resolutions, as appropriate. Such letters, evidence or resolution must be submitted under the procedures provided for in Section IV.F of the General Section.

(5) Rating Factor 5: Achieving Results and Program Evaluation. Provide a narrative response to this factor, accompanied by the logic model provided in the General Section (Form HUD–96010) and, if applicable, form HUD–27300, relating to the removal of regulatory barriers to affordable housing, with required documentation.

2. Forms, Certifications, and Assurances

a. In addition to any forms submitted in response to Section IV.B.1 above, the following forms and certifications must also be submitted in accordance with the General Section and may be found in the General Section:

(1) Application for Federal Assistance (SF–424);

(2) Applicant/Recipient Disclosure/Update Report, HUD–2880; and, if applicable,

(3) Certification of Consistency With RC/EZ/EC–II Strategic Plan, HUD–2990, if applicable;

(4) Certification of Consistency with the Consolidated Plan (HUD–2991) if applicable;

(5) Disclosure of Lobbying Activities (SF–LLL); if applicable;

(6) Acknowledgement of Application Receipt (HUD–2993) (For use with paper application submissions);

(7) You Are Our Client Grant Applicant Survey (HUD–2994–A) (Optional);

(8) Program Outcome Logic Model (HUD–96010);

(9) Questionnaire for HUD's Initiative on Removal of Regulatory Barriers (HUD–27300) with supporting documentation or URL references;

(10) Facsimile Transmittal (HUD–96011) (For use with electronic applications to provide third-party letters and other documentation in accordance with the instructions found in the General Section;

(11) Section 108 Loan Guarantee (State Certifications Related to Non-entitlement Public Entities) (HUD–40122), if applicable, and

(12) Responses to BEDI Application Rating Factors (HUD–40123, Exhibits A through D).

C. Submission Dates and Times

1. Application Submission Date

Applications submitted through *http://www.grants.gov* must be received and validated by Grants.gov no later than 11:59:59 p.m. Eastern time on the application deadline date. If an applicant receives a waiver of the electronic application requirement, the paper application must be received by the application deadline date. The approval to submit a paper copy application will provide detailed submission instructions. Please see the General Section for further information on application submission and timely receipt requirements.

Be sure to provide a Project Name in Line 11 of the SF–424 (Application for Federal Assistance), and all references to the related Section 108 application should use the same project title. Be sure to complete the SF–424 cover page first and then download the rest of the forms, as the information from the cover page will be pre-populated. In addition a brief (one or two paragraph)

description of all the activities (not just those to be funded with BEDI and 108 funds) comprising the proposed project should be provided, preceding the narrative statements in response to the Rating Factors. This project description does not count against the 15-page overall limitation.

2. Proof of Timely Submission

Please see Section IVF. of the General Section for information regarding proof of timely submission.

D. Intergovernmental Review

BEDI is not subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

E. Funding Restrictions

1. Repayment of Section 108 Principal

The planned use of BEDI funds for the specific purpose of repayment of the principal amount of a Section 108-guaranteed loan is not an eligible activity under 24 CFR 570.703 and therefore should not be proposed in a BEDI application. Under the ''debt service reserve'' eligible activity at 24 CFR 570.703(k), however, the planned use of a limited amount of BEDI funds for the repayment of the principal of a Section 108-guaranteed loan is permissible if justified and approved by HUD under a particular application. Such a debt service reserve may be justified in the context of a loan loss reserve set up to support a ''loan pool'' consisting of a number of smaller third party loans. For example, the corresponding principal amount of the Section 108 loan might be repaid from a debt service reserve when a third party loan defaults and liquidation of security for the third party loan by or on behalf of the Section 108 borrower/BEDI grantee does not yield enough cash to redeem or defease the amount of Section 108 principal corresponding to the defaulted third party loan. A debt service reserve may also be proposed and set up in an amount reasonable to pay principal and/or interest on a Section 108-guaranteed loan for a limited period, such as the start up period for an assisted business, or a construction period, when the cash flow resulting from the primary Section 108 or BEDI-funded activity would not be sufficient to support repayment. HUD requires the applicant to provide information sufficient to support the reasonableness of the amount of a debt reserve in relation to its purpose. For any Section 108- and BEDI-assisted project, HUD will have rights under the Section 108 Contract for Loan Guarantee Assistance to use undisbursed BEDI funds to make payment on, or to defease, the Section 108 loan if HUD deems that action necessary in order to avoid the need for HUD to make a payment under its Section 108 loan guarantee from non-CDBG funds.

2. Subordination of Section 108 Obligations

Section 108 loan obligations may not be subordinated, directly or indirectly, to federally tax-exempt obligations. Pursuant to Office of Management and Budget (OMB) Circular A–129 (Rev.) Appendix A, Sections II.2.c. and d., (Policies for Federal Credit Programs and Non-Tax Receivables), Section 108-guaranteed loan funds may not, directly or indirectly, support federally tax-exempt obligations.

3. Remediation by Responsible Parties

BEDI grant funds shall not be used in any manner by grantees to provide public or private sector entities with funding to remediate conditions caused by their own actions, where the public entity (or other known prospective beneficiary of the proposed BEDI grant) has been determined responsible for causation and remediation by order of a court or a federal, state, or local regulatory agency, or is responsible for the remediation as part of a settlement approved by such a court or agency. Applicants will be required under Rating Factor 3, Soundness of Approach, to indicate that the proposed BEDI project will not be used to provide assistance.

4. Denial of Funding for Lack of Prior Performance

HUD may deny funding consideration to all applicants that fail to submit a full and complete Section 108 loan application pursuant to 24 CFR 570.704(b) in connection with a prior award of BEDI or competitive EDI grants on or before the application submission deadline under this NOFA.

F. Other Submission Requirements

1. Application Submission and Receipt Procedure

HUD requires applicants to submit applications electronically through *http://www.grants.gov*. Applicants must submit their applications electronically via the website *http://www.grants.gov* unless you request and are granted a waiver to the electronic submission requirements. This site has easy to follow step-by-step instructions that will enable you to apply for HUD assistance.

Please read the General Section carefully and completely for the submission and receipt procedures for all applications because failure to comply may disqualify your application.

2. Wavier of Electronic Submission Requirements

Please refer to Section IV.F of the General Section for instructions on how to seek a waiver to the electronic submission requirement.

3. Submission of Concurrent Section 108 Application Under Separate Cover

Applicants that apply via Grants.gov should submit the Section 108 Loan Guarantee application using the mailing instructions below.

a. The Section 108 Loan Guarantee application should have the Project Title in Box 11 of the SF–424 as the related BEDI project.

b. Concurrent Section 108 Application deadline date. Applicants choosing to submit a concurrent and complete Section 108 application as provided for in Section IV.B.1(c) of this NOFA above, must be received no later than the BEDI application deadline date, to the addresses shown below, in order to receive points under Section V.A.1, Rating Factor 3, of this NOFA.

The concurrent Section 108 application must be received no later than 11:59:59 p.m. by the United States Postal Service in accordance with the instructions in the General Section. The required number of copies should be sent to the locations indicated below. If HUD receives at least one completed concurrent Section 108 application at either HUD Headquarters or the appropriate HUD Field Office, HUD will utilize the complete application for its review purposes, provided it meets the deadline and timely submission requirements.

c. Proof of Timely Submission. Proof of timely submission of a concurrent Section 108 application shall be determined under the provisions of the General Section related to mailed applications.

d. Address for Submitting Concurrent Section 108 Applications to HUD Headquarters. Submit the concurrent Section 108 application to: HUD Headquarters; Robert C. Weaver Federal Building; 451 Seventh Street, SW., Room 7251; Washington, DC 20410, Attention: BEDI/Section 108 Application.

When submitting the concurrent Section 108 application, please specify BEDI/Section 108 Application on any label or mailing container, and include the applicant's name, mailing address (including zip code), street address (if different from mailing address), and zip

code, and voice and facsimile telephone numbers (including area code), along with the contact person's name, and voice and facsimile telephone numbers (including area code), and email address, if available.

e. Concurrent Section 108 Applications to HUD Field Offices. At the same time the concurrent Section 108 application is submitted to HUD Headquarters, an additional copy should be submitted to the Community Planning and Development Division of the appropriate HUD field office for the applicant's jurisdiction. A listing of CPD Offices and mailing addresses can be found on HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

f. Concurrent Section 108 Application Submission Procedures. A concurrent Section 108 application submitted pursuant to this NOFA shall be subject to the application submission procedures for other mailed applications provided for in Section IV.F of the General Section. Subsequent and pending Section 108 applications are not subject to the above submission procedures.

V. Application Review Information

A. Criteria

1. Factors for Award Used to Evaluate and Rate Applications

a. Response to Factors for Award. The applicant must provide in narrative form responses to each of the rating factors below. HUD will evaluate all applications for funding assistance based on the following factors, the responses to which demonstrate the quality of the proposed project or activities, and the applicant's capacity and commitment to use the BEDI funds in accordance with the purposes of the Act. As part of the application review, HUD reserves the right to contact its local field offices for the purpose of verifying information submitted by the applicant.

b. Responses to Rating Factors 1–5. Responses to Rating Factors 1–5 below shall not exceed 15 double-spaced, 8½ x 11 inch single-sided pages, with one-inch margins on all sides, for all responses.

2. Rating Factors for Award

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (20 Points Maximum)

This Factor addresses the extent to which the applicant has the organizational resources necessary to successfully implement the proposed activities in a timely manner. The rating of the applicant will include any subcontractors, consultants, and sub-recipients that are firmly committed to participate in the activities described in the application. In responding to subfactors (1) and (2) of this Factor, applications that merely summarize the amount of funds received, spent, or managed will receive fewer points than those providing specific measurable information on program activities undertaken, outcomes of these activities and their accomplishments. In rating this Factor, HUD will consider the following:

(1) Applicant Capacity (Up to 10 points). The applicant should demonstrate that it has the organization, the staff, and the financial resources in place to implement the specific steps required to successfully carry out its proposed BEDI/Section 108 project. The applicant should offer evidence of this capacity through a description that includes:

(a) Performance in the administration of its CDBG, HOME, or other HUD programs, including a description of successfully completed projects and other outcomes or accomplishments under these programs. In addition to citing specific projects, outcomes, or accomplishments, CDBG entitlement recipients must also indicate the extent to which the applicant has met the HUD standard that the total amount of its undisbursed entitlement grant funds may not be more than 1.5 times the entitlement grant amount for the current program year (see 24 CFR 570.902(a)(1)(i). All applicants must also identify any unresolved monitoring or audit findings by HUD with respect to the applicant's administration of HUD programs.

(b) Performance, if any, in carrying out economic development projects similar to that proposed, including brownfields economic development or redevelopment projects, if any, and if applicable, the ability to conduct prudent underwriting;

(c) If an applicant has received a federal Renewal Community/Empowerment Zone/Enterprise Community designation (including Enhanced Enterprise Community (EEC) designation), it must provide information on the status of its capacity to achieve state and local commitments identified in its local implementation plan, including maximizing the federal tax benefits made available. Applicants that have been designated as a Renewal Community (RC), Empowerment Zone (EZ), or Enterprise Community (EC/EEC) must respond to this subfactor even if the proposed brownfields economic development project is not to be located within the boundaries of the designated RC/EZ/EC–II; and

(d) An applicant that has previously received a BEDI or a competitive EDI grant award or, within the past five years, a Section 108-guaranteed loan commitment, must describe the status of the implementation of those project(s) assisted with any BEDI or competitive EDI funds or with any Section 108-guaranteed loan funds so approved within the last five years. An applicant must address any delays that have been encountered and the actions it is taking to overcome any such delays in carrying out the project(s) in a timely manner.

If HUD has not applied the performance standard applicable to all previous BEDI grantees referenced in Section III.C.1.(c), then for any such previously funded BEDI or competitive EDI grant projects, or for those Section 108-guaranteed loan projects committed within the past five years, HUD will award more rating points for applications providing evidence of achievement of specific measurable outcomes in carrying out approved activities funded with such guaranteed loan or grant funds.

If any of the rating criteria listed under (a) through (d) above do not apply to an application, the rating for this subfactor (1) shall be based solely upon the other applicable criteria. If the applicant has no prior relevant experience, the rating for this Factor shall be based on the capacity of its partner(s), if any, as stated below.

(2) Partner Capacity (Up to 10 points). In response to this subfactor (2), the applicant should describe the experience and performance of subrecipients, private developers and other businesses, nonprofit organizations (including grassroots faith-based and other community-based organizations), and other entities, if any, that have a role in implementing the proposed BEDI/108 program. Applicants are encouraged to identify specific economic development or other projects undertaken by each entity, which reflect the capacity of each entity to fulfill its responsibilities under the proposed brownfields economic development project, including the location, scale, and timeframe for completion of other relevant projects. If there are no third parties participating with the applicant in the proposed project, the 10 points available under this subfactor (2) will be added to the 10 points available under subfactor (1), with a maximum of 20 possible points then available under subfactor (1).

Experience will be judged in terms of recent (*i.e.*, within the past 5 years) and successful performance of activities

relevant to those proposed in the BEDI application. The more recent and extensive the positive experience, the greater the number of points that will be awarded for this Factor.

In addition to the application, HUD also may rely on information at hand or available from public sources such as newspapers, from performance and/or monitoring reports, Inspector General or Government Accounting Office reports or findings, hotline complaints that have been proven to have merit, audit reports, and other reliable public information in rating this Factor.

Rating Factor 2: Distress/Extent of the Problem (15 Points Maximum)

This Factor addresses the extent to which there is need for funding the proposed activities based on levels of distress in both the jurisdiction of the public entity that is the applicant *and* the geographic or target area that will benefit from the project. Applications will be evaluated on the extent to which the level of distress for the target area is documented and compared with national data and data for the jurisdiction.

In applying this Factor, HUD will consider current levels of distress in the target area, as defined in standard geographic terms by the applicant. This may be Census Tract(s) or Block Groups immediately surrounding the project site up to a radius of one-half mile, or it may be the target area to be served by the proposed project. HUD will also consider the current levels of distress in the applicant public entity's jurisdiction, if different from the target area. The applicant should describe the nature of the distress that the project is designed to address and the rationale for its definition of the area to be benefited. Examples of project beneficiaries may include: (a) those receiving or using products or services produced by the project, and (b) those employed by the project.

Notwithstanding the above, an applicant proposing a project to be located outside the applicant's jurisdiction or the target area for which benefits are claimed could still receive points under this Factor if a clear rationale is provided linking the proposed project location and the benefits to be derived by persons living in the target area or the applicant jurisdiction.

To the extent that the applicant's Consolidated Plan, its Analysis of Impediments to Fair Housing choice (AI), and/or its Anti-Poverty Strategy found therein identify the level of distress in the jurisdiction and the target area in which the project is to be carried out, references to such documents should be included in preparing the response to this Factor. Applications that fail to reference these sources will receive fewer points under this Factor.

Applicants should provide data that address the following specific indicators of distress:

(1) Poverty Rate (Up to 5 points). Data should be provided in both absolute and percentage form (i.e., whole numbers and percents) for both the target area and the applicant's jurisdiction as a whole; an application that compares the local poverty rate in the following manner to the national average at the time of submission will receive points under this section as follows:

(a) A poverty rate in the target area that is less than the national average, but that is greater than the rate for the applicant's jurisdiction: (2 points);

(b) A poverty rate in the target area that is at least equal to, but less than twice, the national average: (3 points);

(c) A poverty rate in the target area that is twice or more the national average: (5 points).

(2) Unemployment Rate (Up to 5 points). An application that compares the local unemployment rate for the applicant's jurisdiction and the target area in the following manner to the national average at the time of submission will receive points under this subfactor as follows:

(a) An unemployment rate in the target area that is less than the national average, but that is greater than the rate for the applicant's jurisdiction: (2 points);

(b) An unemployment rate in the target area that is at least equal to, but less than twice, the national average: (3 points);

(c) An unemployment rate in the target area that is twice or more the national average: (5 points).

(3) Other Indicators of Social and/or Economic Decline (Up to 5 points). Applicants should provide other indicators of social or economic decline that best capture the applicant's local situation. Examples that could be provided under this section include information demonstrating the target area and the jurisdiction's stagnant or falling tax base, including recent (within the last three years) commercial or industrial closings, downturns or layoffs; housing conditions, such as the number and percentage of substandard and/or overcrowded units; rent burden (defined as average housing cost divided by average income) for both the target area and jurisdiction; local crime statistics. The response to this subfactor (3) should paint a picture of the extent of need and distress in the target area and jurisdiction.

HUD requires use of sound and reliable data (e.g., U.S. Census data, state statistical reports, university studies/reports that are verifiable) to support distress levels cited in each application. A source for all information along with the publication or origination date must also be provided. Updated Census data are available as follows for the listed indicators:

Unemployment rate: Unemployment rates are estimated monthly for counties, with a two-month lag by the Bureau of Labor Statistics, while census tract unemployment rates are available through the 2000 U.S. Census;

Poverty rate: Poverty rates are provided through the 2000 U.S. Census and are estimated every two years, with a three-year lag. Census and other relevant data can be accessed through *http://www.ffiec.gov/*. In rating applications under this Factor, HUD reserves the right to consider sources of available objective data other than, or in addition to, those provided by applicants, in order to compare such data to those provided by applicants.

Rating Factor 3: Soundness of Approach (35 Points Maximum)

This Factor addresses the quality and cost-effectiveness of the proposed plan for the brownfields economic development project. Applications that do not propose the productive reuse of a specific, identified site or sites and that do not result in near-term, measurable economic benefits, such as projects that involve only the preparation of a site for potential future reuse by an unidentified party, or the capitalization of a loan pool for loans to unidentified borrowers, will receive fewer points under this Factor. The relationship between the proposed site or sites, the proposed eligible activities and the community needs and purposes of the program funding must be clearly described, as set forth below, in order to receive points for this Factor. In rating this Factor, HUD will consider the following:

(1) Consistency/Appropriateness of Proposed Activities With Identified Needs (Up to 3 points). In response to this subfactor, the applicant should describe:

(a) the extent to which the proposed plan for use of BEDI grant/Section 108-guaranteed loan funds will address the needs described in Rating Factor 2 above regarding the distress and extent of the problem in the target area or area to be benefited and the long-term benefit for current residents of the target area. The applicant should provide a clear

and quantified explanation of this relationship;

(b) any unmet needs identified in the jurisdiction's Consolidated Plan and pursuant to Section III.C.4(j) of this NOFA, any impediments to fair housing identified in the jurisdiction's Analysis of Impediments to Fair Housing Choice, that will be directly addressed by the proposed project. See Section III.C.4(j) of this NOFA for examples of general affirmative fair housing actions that may be undertaken to address a jurisdiction's Analysis of Impediments to Fair Housing Choice; and

(c) the activities that will be carried out with the BEDI grant funds, and the nature and extent of the brownfields problem(s) actually or potentially affecting the site and/or structure(s) already on the site. This response must also indicate that the proposed assistance will not be used to provide funding to parties to remediate conditions caused by their own actions for which they have been determined to be legally responsible, and that the proposed brownfields site is not ineligible, as provided in Section IV.E.4 of this NOFA. This information relates to a threshold factor as well as a rating factor, as described in Section III.C.2 of this NOFA. Applications that fail to respond satisfactorily to this subfactor (c) shall not receive funding consideration.

(2) Eligible Activities and CDBG National Objectives (Up to 8 points). The applicant must describe how the proposed uses of BEDI funds will qualify as eligible activities under 24 CFR 570.703 governing the Section 108-guaranteed loan program, and also will meet the National Objectives of the CDBG program under 24 CFR 570.208. In describing how the proposed uses will meet the National Objectives of the CDBG program and the activity eligibility requirements of the Section 108 program, *applications must also include citations to the specific regulatory subsections supporting eligibility of activities and compliance with National Objectives.* (See Section III.C.1 of this NOFA). This information relates to a threshold factor as well as a rating factor, as described in Section III.C.1 of this NOFA. Applications that fail to respond satisfactorily to this subfactor (2) shall not receive funding consideration.

(3) Project Readiness (12 points overall, with (a)–(d) worth up to 10 points collectively, and (e) up to 2 points). In responding to this subfactor (3), the applicant should demonstrate the extent to which the redevelopment plan for the brownfields site is logical, feasible, and likely to achieve its stated purpose and the extent to which the project will directly result in the productive reuse of the site and the delivery of near-term, measurable economic benefits. The applicant's response should demonstrate the extent to which the project is likely to be completed within a maximum of five years from the date of the BEDI award and will produce near-term, measurable economic benefits. Points for this subfactor will be awarded based upon the extent to which the following critical benchmarks for the redevelopment plan have been met or are approaching completion.

(a) Environmental Investigation. This subfactor (a) will consider the extent to which the presence or potential presence of environmental contamination of the project site is known or understood. Proposed projects on sites where the nature and degree of environmental contamination is not well-quantified, where no environmental investigation has commenced, or that are the subject of on-going litigation or environmental enforcement actions will receive fewer points under this subfactor (a). Similarly, fewer points will be awarded to proposed projects at sites with exceptionally expensive contamination problems that may be beyond the scope of the BEDI and Section 108 programs' financial resources or other resources firmly committed to the project as described in the application, and sites subject to pending and current litigation that may not be available for remediation and development or redevelopment in a time frame that will produce near-term and measurable economic benefits through the use of BEDI and Section 108 funds. Alternatively, any applicant indicating the completion of environmental assessment or review and the issuance of HUD approval for a Request for Release of Funds for the project under 24 CFR part 58 will receive more points under this subfactor.

(b) Site Control. This subfactor (b) will consider the extent to which control of the proposed project site has been secured or is being sought. Points for this subfactor (b) will be awarded based upon the degree of site control secured by the applicant or its development partner. Projects, for instance, in which negotiation or litigation related to site control are underway or continuing are eligible, but will receive fewer points than projects in which an option to purchase has been secured. Projects in which the applicant or its development partner has secured site control through acquisition, long-term lease, eminent domain or other means at the time of application will receive full points under this subfactor (b). In responding to this subfactor (b), applicants are encouraged to accompany their narrative response with a map indicating the boundaries of the proposed site or sites on which BEDI-assisted improvements are proposed. Any map included as part of the application must be submitted in accordance with the submission procedures provided for in the General Section and will not be counted in the fifteen page limitation on the narrative response to the Rating Factors as provided in Section V.A.1(b) of this NOFA.

(c) Legislative, Regulatory, and Other Approvals. This subfactor (c) will consider the extent to which any required local legislative approvals, regulatory permits, zoning classifications, environmental regulatory approvals, waivers, general, and special use permits, assessment district designations, public easements or rights-of-way, or other similar approvals have been secured or are being sought. The greater the number of outstanding legislative, regulatory, or other approvals required and not yet secured, the fewer points will be awarded. In the case of a CDBG entitlement unit of general local government, such as a county, proposing to undertake a BEDI project within the jurisdiction of another CDBG entitlement unit of general local government, such as a city or other jurisdiction within that county, the applicant should also include a letter of support from the jurisdiction in which the BEDI project would be located.

(d) User Agreements. This subfactor (d) will consider the extent to which any development agreements, tenant leases, memoranda of understanding, or other agreements integral to returning the site to productive reuse and producing near-term measurable economic benefits, have been secured or are being sought. Applicants proposing projects that do not provide for new investment by an identified, committed private entity and the return of a brownfields site to productive reuse, with accompanying near-term, measurable economic benefits, will receive fewer points under this subfactor (d).

(e) Delivery of Economic Benefits. The response to this subfactor (e) must include the time frame in which the measurable economic benefits are to be delivered. For multi-phase projects, the response to this subfactor (e) must clearly delineate the different phases of the project and indicate whether or not they are to be funded by BEDI/Section

108 funds. Brownfields economic development projects that provide near-term, measurable economic benefits directly through the creation or retention of jobs will receive a greater number of points under this subfactor (e).

(1) *Timeframe for Delivery of Economic Benefits.* In response to this subfactor (3), the applicant should also provide a specific schedule (with both beginning and end dates) for carrying out the project and identify all interim measurable benchmarks (acquisition, demolition, site improvements, relocation, construction, provision of jobs mandated under Section 3, as described in (2) below, etc.) to be accomplished. The applicant should also include a proposed schedule for drawing down all funds necessary to complete the project, including BEDI and Section 108 funds.

(2) *Intent to Meet Section 3 Requirements.* To the extent possible, applicants must ensure 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 business concerns that provide economic opportunities to low- and very low-income persons, as required under Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low- and Very Low-Income Persons).

(4) Section 108 Application (Up to 2 points). BEDI applications accompanied by a request for new Section 108 Loan Guarantee assistance as evidenced by a full *and* complete Section 108 application as provided for in 24 CFR 570.704, and submitted concurrently under separate cover as provided for in Section IV.F.3 of the NOFA, will receive up to two points for this subfactor (4). BEDI applications accompanied by a request to use the BEDI grant award in conjunction with a currently pending but unapproved Section 108 loan guarantee application (together with any amendments needed for consistency with the BEDI application) for the same project described in the BEDI application, will also receive up to two points under this subfactor (4).

(5) Financial Feasibility/Need (Up to 10 points). The applicant should demonstrate the economic necessity of the proposed BEDI and Section 108 funds and the extent to which the project is not financially feasible in the absence of such funds. In responding to this subfactor (5), applicants are encouraged to accompany their narrative response, as appropriate, with development and operating ''pro formas'' or similar analyses of the proposed project financing. Such pro forma or other financial analysis will not be counted in the fifteen-page limitation on the narrative response to the Rating Factors as provided in Section V.A.1(b) of this NOFA. In the narrative response, applicants must clearly address the question of why the BEDI funds are critical to the success of this project by providing the following items:

(a) Use of BEDI and Section 108 Funds to Fill Financing Gaps. The applicant must provide an economic rationale that demonstrates how the use of the BEDI and Section 108 funds will directly impact the financial feasibility of the proposed project. The response should discuss the critical gaps that exist in financing the proposed project, why those gaps exist and how the BEDI and Section 108 funds will be used to fill those gaps. The narrative response, including any pro forma or similar analysis, should demonstrate how the proposed BEDI and Section 108 financing will yield economic benefits critical to the success of the project, including, for example, increased rates of return or debt coverage ratios, reduced rents or other similar financial outcomes necessary to attract private investment.

(b) Project Costs and Financial Requirements. A funding sources and uses statement must also be provided that specifies the source of funds for each identified use or activity (Exhibit C of form HUD–40123), along with the derivation of project costs.

Rating Factor 4: Leveraging Resources (15 Points Maximum)

In evaluating this Factor, HUD will consider the extent to which the response demonstrates the likelihood that the project will leverage both Section 108 loan and other public or private funds as part of the total project resources. Points for this Factor will be awarded in two parts, for the following:

(1) Leverage of Section 108 funds (Up to 8 points). The minimum ratio of Section 108 funds to BEDI funds in any project may not be less than 1:1. Points will be awarded based upon the extent to which the proposed project leverages an amount of Section 108 funds greater than a 1:1 ratio. If the application has a ratio of 1:1, it will not receive any points under this subfactor. The higher the ratio of additional new Section 108 funds to BEDI funds proposed in an application, the more points it will receive under this subfactor. (See Sections II.C.1 and Section VI.B.1(a) of this NOFA regarding the conditioning of BEDI awards on achievement of a specific BEDI/Section 108 leveraging ratio.)

(2) Leverage of Other Financial Resources (Up to 7 points). HUD will evaluate the extent to which other funds (public or private) are leveraged by BEDI grant funds, and the extent to which such other funds are firmly committed to the project. This could include the use of CDBG funds, other federal or state grants or loans, local government general funds, project equity or commercial financing provided by private sources or funds from nonprofit organizations or other sources. In order to receive points for other public and privately committed funds under this subfactor (2), letters of firm commitment, evidence of financial capacity and, for CDBG funds, the resolution of the local governing body, must be submitted for the proposed BEDI project in accordance with the submission procedures for third party documents provided in Section IV.F. of the General Section. In addition:

(a) Applicants must provide evidence that there is a firm commitment for such funds as defined in Section I.C. of this NOFA.

(b) If a commitment is to be self-financed, such as a commitment by a private developer to provide a specified amount of equity investment in the project, the party making that commitment must evidence its financial capacity through the submission of a corporate or personal financial statement or other appropriate means in order to receive points under this subfactor (2).

(c) For Applicants Committing CDBG Funds: In order for an applicant's commitment of CDBG funds to be accepted by HUD as additional financing for a BEDI project, a resolution from the local governing body (e.g., city/borough council) authorizing the amount and permitted uses of the funds must be provided.

All such funds may also be committed subject to completion of a satisfactory environmental review required under 24 CFR Part 58 for the project for purposes of this section.

Rating Factor 5: Achieving Results and Program Evaluation (15 Points Maximum)

This Factor emphasizes HUD's commitment to ensuring that applicants maintain commitments made in their applications and assess their performance to ensure that performance goals are met. This Factor also evaluates the extent to which the results of the proposed BEDI project will address the policy priorities of the Department. In

addition to a narrative response, applicants must complete the logic model provided in the General Section (form HUD–96010) in order to receive points under this Factor. Applicants seeking policy priority points for the removal of regulatory barriers to affordable housing as provided for in subfactor (2)(v) of this Factor, must also complete form HUD–27300.

(1) Performance Measurement Plan (Up to 12 points). HUD requires applicants to develop an effective, quantifiable, outcome oriented performance measurement plan for assessing performance and determining that BEDI project goals have been met. The applicant's response to this subfactor (1) should identify: (a) Each of the specific project outcomes for the proposed BEDI project; (b) all interim benchmarks or outputs of the project and the associated time frames for meeting each interim benchmark or output, i.e., the near-term measurable economic benefits to be achieved, such as the number of jobs created or retained and the time frame for creation or retention; and (c) the performance indicators selected by the applicant to measure its achievement of the identified project outputs and project outcomes. The performance indicators selected by the applicant should be objectively quantifiable and measure actual achievements against anticipated results. The response to this subfactor (1) should identify what will be measured, how it will be measured, and the procedures or plans that are in place to make adjustments to the project redevelopment plan if performance targets are not met within established time frames.

In response to this subfactor (1), applicants should address any of the applicable outcomes or ultimate goals identified for the BEDI project. Examples of such outcomes or goals include increased property values, or home sales prices, as a result of a series of coordinated neighborhood activities; the amount of increased wages resulting from the creation or retention of jobs; increased business sales volume in revitalized neighborhoods; or the amount of any increased land value that results from the BEDI project. Applicants should propose quantifiable outcomes or goals related to the benefits expected for the neighborhood or for persons assisted, as part of the evaluation plan.

(2) Policy Priorities (Up to 3 points). The applicant's response to this subfactor (2) should address how the project will address any of the following policy priorities of the Department, as further detailed in Section V.B. of the General Section. A maximum of three points shall be awarded to applicants that demonstrate how the proposed BEDI project addresses two or more of the following policy priorities, with the number of points afforded to each policy priority indicated below:

(a) The extent to which the proposed project will improve the quality of life in the nation's communities, by bringing private capital to distressed communities (1 point);

(b) The extent to which the proposed project will finance business investments that will grow new businesses or maintain and expand existing businesses (1 point);

(c) The extent to which the proposed project will create decent jobs for low-income persons (1 point);

(d) The extent to which the project will increase affordable housing and homeownership opportunities in environmentally healthy and revitalized neighborhoods for low- and moderate-income persons, persons with a disability, the elderly, minorities, and persons with limited English proficiency (1 point);

(e) The extent to which the project will assist in breaking down regulatory barriers that impede the availability of affordable housing, accompanied by form HUD–27300). To receive points for this factor the applicant must submit the required documentation or reference to a URL(s) where the information can be found. (up to 2 points); and,

(f) The extent to which the project will utilize energy-efficient solutions in the design or operating phases, including the purchase and use of Energy Star-labeled products and/or combined heat and power (CHP, or cogeneration) in buildings, where applicable.) (See Section V.B of the General Section, Promoting Energy Efficiency and Adopting Energy Star, for more information (1 point).

3. Bonus Points

An application may receive up to four bonus points, until the maximum of four points are achieved. Two bonus points may be awarded for each of the following:

a. HUD will award two bonus points to each application that includes a valid form HUD–2990 certifying that the proposed activities/projects in the application are consistent with the strategic plan for an empowerment zone (EZ) designated by HUD or the United States Department of Agriculture (USDA), the tax incentive utilization plan for an urban or rural renewal community designated by HUD (RC), or the strategic plan for an enterprise community designated in Round II by USDA (EC–II), and that the proposed activities/projects will be located within the RC/EZ/EC–II mentioned above and are intended to serve the residents of the Zone. A listing of the RC/EZ/EC–IIs is available on the Internet at *http://www.hud.gov/cr*;

b. Two bonus points will also be awarded for projects that are located in Brownfields Showcase Communities designated by EPA. A list of the federally designated Brownfields Showcase Communities is available from the SuperNOFA Information Center or through the HUD website, *http://www.hud.gov.*

B. Reviews and Selection Process

1. *Reviews and Selection Process.* All applications meeting BEDI program and other threshold requirements will be rated under the selection criteria in Section V.A. of this NOFA. Applications will be selected for funding as follows:

a. Fundable BEDI grant applications must meet the program threshold and submission requirements of this NOFA and the other threshold requirements stipulated in Section III.C. of the General Section or they will not be ranked.

b. All BEDI grant applications that meet threshold requirements will be ranked separately in order of points assigned with the applications receiving more points ranked above those receiving fewer points.

c. In the event two or more applications are given the same score, but there are insufficient funds to fund all of the tied applications, the application(s) with the highest score(s) on Rating Factor 3 shall be selected. If there is still a tie, the following Factors will be considered sequentially, with the application having the high score on each Factor in the following order taking precedence until the tie is broken: Rating Factor 1, Rating Factor 2, Rating Factor 4, and Rating Factor 5.

d. Fundable BEDI applications will be funded in rank order until the total aggregate amount of the approvable applications funded is equal to the maximum amount available in the competition (subject to the limitations described in Section II.C above).

e. In the event an insufficient number of applications meeting the program thresholds are received to award the full amount of BEDI funds appropriated and available under this NOFA, HUD may consider for funding those applications that did not meet the performance standards found in Section III.C.1.(c) above.

2. *Corrections to Deficient Applications.* Section V.B. of the

General Section provides the procedures for corrections to deficient applications.

C. Anticipated Announcement and Award Dates

Historically, BEDI awardees have been notified of the approval of BEDI applications within approximately 90 days of the application deadline.

VI. Award Administration Information

A. Award Notices

1. Notice of Award and Obligation

BEDI award recipients will receive written notice of approval of their applications and the related terms and conditions of the award. An authorized official of the applicant receiving a BEDI award will be required to sign and return an acceptance of the BEDI award. BEDI funds shall be obligated for an approved application upon the return of a signed acceptance of the award to HUD and a countersignature of that acceptance by an authorized HUD official.

2. Award Disbursements and Amendments

a. Timing of Section 108 Approval and BEDI Grant Disbursements.

(1) To the extent a full and complete Section 108 application is submitted with the BEDI grant application, HUD will evaluate the Section 108 application immediately following the competition for BEDI grant funds. Note that for those applicants that are granted a waiver to the electronic submission process, the 108 application must be submitted to the appropriate HUD field office concurrently with submission to Headquarters.

(2) Notwithstanding any earlier obligation or award of BEDI funds to a grantee, or execution of a grant agreement, HUD will not permit the grantee to draw down BEDI funds before the issuance and at least partial funding of the obligations evidencing the related Section 108-guaranteed loan.

(3) Pursuant to the Consolidated Appropriations Act, 2005 (under the ''Brownfields Redevelopment'' heading) and 31 U.S.C. 1552, FY 2006 BEDI funds must be obligated (i.e., awarded) by HUD by September 30, 2007, and must be disbursed by HUD to the grantee by September 30, 2012. HUD reserves the right, however, to require earlier disbursement under a BEDI grant agreement. Accordingly, a BEDI awardee must ensure the timely submission of its Section 108 Loan Guarantee application, the execution of the Section 108 Contract for Loan Guarantee Assistance and BEDI Grant Agreement, and the issuance of the Section 108 Loan Guarantee Note.

3. Applicant Debriefing

Section VI.A. of the General Section provides information on applicant requests for a debriefing. Applicants requesting to be debriefed must send a written request to the contact person for the BEDI program, Mr. William Seedyke, at the address listed in Section VII of this NOFA.

B. Administrative and National Policy Requirements

1. Terms and Conditions

a. Ratio of BEDI to Section 108 Loan Guarantee Funds. Because the proposed ratio of BEDI funds to Section 108 funds presented in an approved BEDI application represents an applicant's financial commitment to a BEDI project, HUD will condition the BEDI grant award on the grantee's achievement of that specific ratio. The failure of the grantee to meet that condition by obtaining timely HUD approval of a commitment for, and issuance of, the required Section 108 guaranteed obligations ratio may result in the cancellation and recapture of all or a proportionate share of the BEDI grant award.

b. Approval of Section 108 Loan Guarantee Application and Disbursement of Funds. As a condition of any award under this NOFA, if the related Section 108 application has not been submitted and approved within 10 months of written HUD notification of selection for potential funding under this NOFA, HUD may deobligate the BEDI funds. BEDI grant awards and grant agreements will contain conditions requiring grantees to adhere to time frames mutually agreed on by the applicant/grantee and HUD for implementing proposed projects and drawing Section 108 and BEDI funds. If BEDI grant funds and Section 108 loan proceeds are not disbursed to the applicant within the time frames specified in the BEDI grant agreement, HUD reserves the right to cancel the award and recapture all or a portion of the BEDI funds, as applicable under the grant agreement.

c. BEDI Application Amendments. Any modifications or amendments to an application approved pursuant to this NOFA, whether requested by the applicant or by HUD, must be within the scope of the approved original BEDI application in all respects material to rating the application, unless HUD determines that the revised application remains within the competitive range and is otherwise approvable under this NOFA. In addition, if the applicant proposes an amendment after the period during which appropriated funds are available for obligation (for FY2006 BEDI funds, after September 30, 2007), HUD will be unable to approve any amendment which materially changes the scope, purpose, or need for the original award, as determined by HUD. In such a case, the unused BEDI funds must be deobligated and returned to the U.S. Treasury.

2. Environmental Justice

a. Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) directs federal agencies to develop strategies to address environmental justice. Environmental justice seeks to rectify the disproportionately high burden of environmental pollution that is often borne by low-income, minority, and other disadvantaged communities, and to ensure community involvement in policies and programs addressing this issue.

b. HUD expects that projects presented for BEDI funding will integrate environmental justice concerns and provide measurable economic benefits for affected communities and their current residents for the long term.

3. Economic Opportunities for Low- and Very Low-Income Persons (Section 3)

Recipients of assistance under this NOFA must comply with Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 (Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects) and the HUD regulations at 24 CFR part 135, including the reporting requirements at subpart E. Section 3 requires recipients to ensure that, to the greatest extent feasible, 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 business concerns that provide economic opportunities to low- and very low-income persons.

4. Other National Requirements

BEDI applicants are directed to the Section III.C of the General Section, which provides the statutory, regulatory, threshold, and public policy requirements applicable to all HUD grantees. In particular, BEDI applicants should carefully review provisions relating to Executive Order 13202 (Preservation of Open Competition and Government Neutrality Toward Government Contractors' Labor

Relations on Federal and Federally Funded Construction Projects) and federal laws governing the procurement of recovered materials.

C. Reporting

CDBG regulations at 24 CFR 570.507 (for metropolitan city and urban counties) and 24 CFR 570.491 (for state grantees) require the submission of a Consolidated Annual Performance Evaluation Report (CAPER) describing the use of CDBG funds during the program year. 24 CFR 570.3 defines CDBG funds to include BEDI grants, and accordingly, grantees must report specifically on the use of BEDI grant funds and Section 108 loan guarantee proceeds in the CAPER. CAPER requirements for the collection and reporting of racial and ethnic data also apply to the use of BEDI and Section 108 guaranteed loan proceeds. These data are to be reported in the CAPER using the Race and Ethnic Data Reporting form (HUD–27061). For each reporting period, as part of the required report to HUD, grant recipients must also include a completed Logic Model (form HUD–96010), which identifies output and outcome achievements and responses to the management questions.

For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment statement. HUD will be publishing a separate notice on the ROI concept.

VII. Agency Contact

For technical assistance in completing your registration with Grants.gov or in using the electronic application, please contact the Grants.gov Support Desk by calling 800–518–GRANTS or by sending an email to *Support@Grants.gov*. For assistance with program related questions, please contact William Seedyke, BEDI Program Coordinator; Office of Economic Development; U.S. Department of Housing and Urban Development; 451 Seventh Street, SW, Room 7140; Washington, DC 20410; telephone (202) 708–3484, extension 4445 (this is not a toll-free number). Hearing or speech challenged persons may call the Federal Information Relay Service at 800–877–8339 (this is a toll-free number). Before the application submission date, HUD staff will be available to provide general guidance and assistance about this BEDI NOFA. However, HUD staff is not permitted to assist in preparing a BEDI application. Following selection of applicants, but before awards are made, HUD staff are available to assist in clarifying or confirming information that is a prerequisite to the offer of an award by HUD. In addition, the Section 108 Loan Guarantee program is not a competitive program and therefore is not subject to those provisions of the HUD Reform Act pertaining to competitions that do not permit HUD staff to assist in the preparation of applications. HUD staff are available to provide advice and assistance to develop Section 108 loan applications.

VIII. Other Information

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 2506–0153. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to, a collection of information unless the collection displays a current OMB control number. Public reporting burden for the collection of information is estimated to average 2000 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing and reporting the data for the application and for the annual report. The information will be used for grantee selection and monitoring and the administration of funds. Response to this request for information is required in order to receive the benefits to be derived.

BILLING CODE 4210–01–P

APPENDIX A

BEDI CHECKLIST AND SUBMISSION TABLE OF CONTENTS

This checklist identifies application submission requirements. Applicants are requested to use this checklist when preparing an application to ensure submission of all required elements. Applicants filing electronically do not need to submit this checklist. Applicants receiving a waiver of the electronic submission must submit the checklist and place the application in the order listed in the checklist. Standard forms and required certifications are found in the **General Section**. All forms can be downloaded from the application and instructions at www.grants.gov/Apply for the BEDI NOFA

Check Off

☐ Application for Federal Assistance (form SF-424)

☐ BEDI Checklist and Submission Table of Contents

☐ BEDI/Section108/CDBG Funding Eligibility Statement, Pages 1 and 2, (form HUD 40123-Exhibit D)

☐ **Request for Loan Guarantee Assistance** (check one of five options)

- ☐ Concurrent Application Submitted Under Separate Cover
- ☐ Subsequent Application
- ☐ Pending, Unapproved Application
- ☐ Increase to a Project Assisted Under Previously Approved Application
- ☐ Deobligation of Previously Approved Section 108 Authority

Response to Rating Factors

☐ 1. Capacity of the Applicant and Relevant Organizational Experience

☐ 2. Distress/Extent of the Problem

☐ Distress/Extent of Problem (form HUD-40123-Exhibit A)

☐ 3. Soundness of Approach

☐ Project Timeline (form HUD-40123-Exhibit C)

☐ Financial Feasibility (form HUD-40123-Exhibit B)

☐ 4. Leveraging of Resources/Financial Need

☐ 5. Achieving Results and Program Evaluation

☐ Logic Model (form HUD-96010)

☐ America's Affordable Communities Initiative (form HUD-27300) with required documentation or URL references, if applicable.

Application Forms and Certifications

☐ Applicant/Recipient Disclosure Update Report (HUD-2880)

☐ Certification and Disclosure Form Regarding Lobbying (SF-LLL) (if applicable)

☐ RC/EZ/EC-II Certification of Consistency with Strategic Plan (HUD-2990) (if applicable)

☐ Section 108 Certifications (if submitting full 108 application)

Certification of Consistency with the Consolidated Plan (HUD-2991), (if applicable)

☐ Client Comments and Suggestions (HUD-2994) (optional)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ECONOMIC DEVELOPMENT PROGRAMS

YOUTHBUILD

Billing Code 4210-01-C

Youthbuild

Overview Information

A. Federal Agency Name: Department of Housing and Urban Development, Office of Community Planning and Development.

B. Funding Opportunity Title: Youthbuild.

C. Announcement Type: Initial announcement.

D. Funding Opportunity Number: The OMB approval number is 2506–0142. The Federal Register number is FR–5030–N–07.

E. Catalog of Federal Domestic Assistance (CFDA) Number(s): 14.243, Youthbuild Program.

F. Dates: The application deadline date is on or before June 9, 2006. Please see the General Section of the SuperNOFA (the General Section) for application submission and receipt procedures. Please note that this year, all applications must be submitted electronically using *http://www.grants.gov*, as described in Section IV.F of the General Section.

G. Additional Overview Content Information: 1. *Purpose of the Program.* The purpose of the Youthbuild program is to assist disadvantaged young adults between the ages of 16 and 24 years of age in distressed communities to: (1) Complete their high school education; (2) provide on-site construction training experiences which result in the rehabilitation or construction of housing for homeless persons and low- and very low-income families; (3) foster leadership skills; (4) further opportunities for placement in apprenticeship programs; and (5) promote economic self-sufficiency for program participants.

2. *Available Funds.* Approximately $46,035,000 in appropriated funds and carry over is available for Fiscal Year (FY) 2006, plus any funds available through recapture, minus any amount needed to correct errors.

3. *Eligible Applicants.* Eligible applicants are public or private nonprofit organizations that include grassroots community-based organizations inclusive of faith-based organizations, state or local housing agencies or authorities, state or units of local government, or any entity eligible to provide education and employment training under other federal employment training programs, as further defined in HUD's regulation at 24 CFR 585.4.

4. *Match.* None.

Full Text of Announcement

I. Funding Opportunity Description

A. Program Description

The purposes of the Youthbuild Program are to:

1. Provide economically disadvantaged young adults with opportunities to obtain an educational experience that will enhance their employment skills, as a means to achieving self-sufficiency;
2. Foster the development of leadership skills and commitment to community;
3. Expand the supply of permanent affordable housing for homeless and low- and very low-income persons by providing implementation grants;
4. Provide disadvantaged young adults with meaningful on-site training experiences in housing construction and rehabilitation that will enable them to render a service to their communities by helping to meet the housing needs of homeless persons and low-income families; and
5. Give to the greatest extent possible, job training, employment, contracting, and other economic opportunities to low-income young adults.

B. Desirable Elements of a Youthbuild Program

You should document the extent to which HUD's initiatives are furthered by the proposed activities including:

1. Providing increased homeownership and rental opportunities for low- and moderate-income persons, persons with disabilities, the elderly, minorities, and families with limited English proficiency;
2. Improving our nation's communities;
3. Encouraging accessible design features;
4. Providing full and equal access to grassroots faith-based and other community based organizations in HUD program implementation; and
5. Ending chronic homelessness.

C. Definitions

1. *Rural Area.* A rural area is defined in one of five ways:

a. A non-urban place having fewer than 2,500 inhabitants (within or outside of metropolitan areas).

b. A county or parish with an urban population of 20,000 inhabitants or fewer.

c. Territory, including its persons and housing units, in rural portions of ''extended cities.'' The Census Bureau identifies the rural portions of extended cities.

d. Open country, which is not part of or associated with an urban area. The United States Department of Agriculture (USDA) describes ''open country'' as a site separated by open space from any adjacent densely populated urban area. Open space includes undeveloped land, agricultural land or sparsely settled areas but does not include physical barriers (such as rivers and canals), public parks, commercial and industrial developments, small areas reserved for recreational purposes, and open space set aside for future development.

e. Any place with a population not in excess of 20,000 and not located in a Metropolitan Statistical Area.

2. *Underserved Area.* An underserved area is defined as an area comprised of census tracts with the following economic distress criteria:

a. A census tract where the unemployment remains high (50 percent or more above the nation's unemployment rate) and

b. A census tract where high rates of poverty (50 percent or more above the national average) persist.

II. Award Information

A. Available Funds

Approximately $ 46,035,000 in funding is made available for this FY 2006 Youthbuild NOFA, which includes any carry over from previous appropriated funds, plus any FY 2006 funds appropriated by Congress, plus any funds available through recapture, minus any amount needed to correct errors.

B. Authority

This program is authorized under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as added by section 164 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, 106 Stat. 3723, 42 U.S.C. 12899). The Youthbuild Program regulations are found in 24 CFR part 585.

C. Funding Categories

HUD will award up to $ 46,035,000 on a competitive basis. Funds will be divided among three categories of grants as described below. Pursuant to section 402 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12870), in each fiscal year, the Secretary shall reserve five percent of the amounts available for activities for technical assistance, as described in section 458 (42 U.S.C. 12899g).

1. *Category 1 Grants. New Applicants.* HUD will award up to $4,800,000 for new applicants that have not previously received implementation grants since

the inception of the Youthbuild Program and that have elected not to apply under Category 2 or 3.

2. *Category 2 Grants. Grants up to $700,000.* HUD will award up to $37,275,000. Any eligible applicant can apply in Category 2.

3. *Category 3 Grants. Underserved and Rural Areas.* HUD will award approximately $3,960,000 for grants to organizations serving clients in underserved and rural areas as defined in this NOFA.

4. *Selection of Category.* You must indicate in your project abstract which funding category you are applying for. Category 3 applicants must designate which definition(s) under Section I.C. is (are) applicable.

5. *Grant Period.* You must expend funds awarded within 30 months of the effective date of the grant agreement.

6. *Maximum Awards.* The maximum award for a Youthbuild grant is $700,000 for Category 2 grants. The maximum amount of award for Categories 1 and 3 grants is $400,000.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants are public or private nonprofit organizations which include grassroots community-based organizations inclusive of faith-based organizations, state or local housing agencies or authorities, states or units of local government, or any entity eligible to provide education and employment training under other federal employment training programs as further defined in HUD's regulation at 24 CFR 585.4.

B. Cost Sharing or Matching

No match required.

C. Other

1. Eligible Activities

a. Work and activities associated with the acquisition, architectural design and engineering, rehabilitation or construction of housing, as defined in HUD's regulations at 24 CFR 585.305.

b. Relocation payments and other assistance required to comply with HUD's regulation at 24 CFR 585.308;

c. Costs of ongoing training and technical assistance needs related to carrying out a Youthbuild program and in-house staff training;

d. Education, job training, counseling, employment, leadership development services, and optional activities that meet the needs of the participants including entrepreneurial training, driver education, apprenticeship opportunities, financial literacy, credit counseling, and assistance programs for those with learning disabilities;

e. Outreach to potential participants;

f. Wages, benefits, and need-based stipends for participants; and

g. Administrative costs must not exceed eight percent of the grant award, as required by the FY 2006 Consolidated Appropriations Act. HUD encourages you to use grant funds for outreach, recruitment, training, and other services for the participants that facilitate program implementation. Please refer to HUD's regulation at 24 CFR 585.305 for further details on eligible activities.

2. Threshold Requirements

All applicants must comply with the threshold requirements defined in the General Section and the requirements listed below to receive an award. Applications that do not meet these requirements will be considered ineligible for funding.

a. Eligible Participants. Participants in a Youthbuild program must be very low-income high school dropouts between the ages of 16 and 24, inclusive, at the time of enrollment. Up to 25 percent of participants may be above very low-income, or may be high school graduates (or equivalent), but must have educational needs (such as lack of reading, writing, and communication skills) that justify their participation in the program.

b. Youthbuild Program Components. Applications that receive assistance under this program must contain the three components described as follows:

(1) Educational and job training services;

(2) Leadership training, counseling, and other support activities; and

(3) On-site training through actual housing rehabilitation and/or new construction work.

c. Identification of and Access to Property. Your application must identify the location of the site(s) or property(ies) (*e.g.*, addresses, parcel numbers, etc.) that will be used for on-site construction. Your application MUST contain a letter from the property owner or property management company or companies allowing access to the housing site(s) for on-site construction training. HUD will deem ineligible any application that fails to specifically identify the location of the on-site construction, including evidence of site access. Guidance on evidence of site access is as follows:

(1) If the applicant has a contract or option to purchase the property, you should include a copy of the contract or option; and

(2) If a third party owns the property or has a contract or option to purchase, that third party must provide a letter to you stating the nature of the ownership and specifically providing you with access to the property for the purposes of the program and the time frame in which the property will be available. In the case of a contract or option, include a copy of the document.

d. Minimum Score. In order to be considered eligible for funding, your application must receive a minimum score of 75, including a minimum of 10 points in Factor 1.

e. DUNS Requirement. Refer to the General Section for information regarding the DUNS requirement. You will need to obtain a DUNS number to submit your application on line using *http://www.grants.gov* and to receive an award from HUD.

f. Civil Rights Threshold Requirement. Applicants must meet all of the applicable threshold requirements of Section III.C.2.c of the General Section regarding Fair Housing and Civil Rights laws, statutes, regulations and Executive orders as enumerated in 24 CFR 5.105(a).

g. Potential Environmental Disqualification. HUD reserves the right to disqualify an application where one or more environmental thresholds identified in the instructions section of the Youthbuild NOFA located at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm* are exceeded if HUD determines that it cannot conduct the environmental review and satisfactorily complete the review within the HUD application review period. (See 24 CFR 585.307.) You must indicate, as part of your application package if your project will, or will not, include construction, rehabilitation, leasing or acquisition activities that will require an environmental compliance review as detailed in the instructions section of the Youthbuild NOFA. Environmental thresholds that are explained in the instructions section require that forms 2C13a, 2C13b, or 2C13c and 2C15 be completed if you are proposing construction, rehabilitation, leasing or acquisition activities with HUD funds.

h. Consistency with Consolidated Plan. You must provide the required certification that the proposed activities are consistent with the HUD-approved Consolidated Plan in accordance with 24 CFR part 91.

i. If you have received a Youthbuild grant and it is greater than 24 months old and you have not drawn down at least 50 percent of the total HUD grant funds as of the application submission date for this NOFA, you will not be eligible to receive a FY 2006 Youthbuild grant.

3. Program Requirements

In addition to the program requirements listed below, applicants must comply with the program requirements in Section III.C of the General Section.

a. Locational Limitations. You may submit more than one application in the current competition if your program's participant recruitment and housing areas are in different jurisdictions. Each application you submit may only propose activities to carry out one Youthbuild program, *i.e.*, to start a new Youthbuild program or to fund new classes of Youthbuild participants for an existing program.

b. Site Selection. In determining the site or the location of a federally assisted facility, you may not select sites that will exclude or have the effect of excluding qualified persons with disabilities, or otherwise subject them to discrimination.

c. New Construction, Substantial Alterations, or Other Alterations. If you undertake New Construction, Substantial Alterations, or Other Alterations, it must conform to the accessibility standards outlined in the regulations implementing the Rehabilitation Act of 1973 at 24 CFR part 8, specifically §§ 8.22, 8.23(a) and § 8.23(b). In addition, if you undertake construction of multifamily housing with four or more dwelling units, you must also meet the design and construction requirements of the Fair Housing Act. See 24 CFR part 100, at § 100.205.

d. Training Requirement. Each program must be structured so that 50 percent of each participant's time is spent in on-site training and the other 50 percent in educational training.

e. Economic Opportunities for Low- and Very Low-Income Persons (Section 3). Section 3 of the Housing and Urban Development Act of 1968, (12 U.S.C. 1701u) is applicable. Section 3 requires recipients to ensure that, to the greatest extent feasible, 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 business concerns which provide economic opportunities to low- and very low-income persons. The regulations are at 24 CFR part 135.

f. Participation in Local Workforce Investment Act One-Stop Center. Youthbuild grantees are mandatory partners in one-stop centers authorized by the Workforce Investment Act of 1998 (Pub.L. 105–220).

g. First time applicants. If you are a first-time applicant applying for funding under Category 1, you must have a graduating class of not more than 20 participants.

h. Environmental Reviews. Environmental procedures apply when you propose to use Youthbuild funds to cover any costs for the lease, acquisition, rehabilitation, or new construction of real property proposed for housing development costs. Environmental procedures do not apply to your application when you propose to use Youthbuild funds solely to cover costs for classroom and/or on-the-job construction training and support services.

You must indicate, as part of your application package if your project will, or will not, include construction, rehabilitation, leasing or acquisition activities that will require an environmental compliance review as detailed in the instructions section at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* If your project is subject to an environmental compliance review, you must submit the relevant information in the required forms as part of your application package to facilitate HUD's decisionmaking in accordance with the environmental procedures and standards set forth in HUD's regulation at 24 CFR 585.307. The Website link contains the detailed description and relevant forms of all environmental laws and rules that apply—the National Environmental Policy Act, the National Historic Preservation Act, the Clean Water and Clean Air Acts, the Endangered Species Act, the Scenic Rivers Act, national floodplain and wetland policies, national flood insurance requirement, Coastal Barriers Resource Act, and HUD noise and explosive hazards policies.

IV. Application and Submission Information: (See the General Section)

A. Addresses To Request Application Package

There is no application kit for the FY2006 Youthbuild NOFA. This NOFA clearly describes the requirements for completing a successful application and all forms and certifications needed to complete your application are included in the General and Youthbuild Sections of the SuperNOFA, which can be downloaded from *http://www.Grants.gov/Apply.*

B. Content and Form of Application Submission

Be sure to read the application submission instructions in the General Section and below carefully.

1. Response to NOFA Page Limitation

The narrative responses to all factors identified in Section V of this NOFA must not exceed 15 single sided pages of text based on an 8.5 by 11 inch paper, using a standard 12 point font, with lines double-spaced. Submitting pages in excess of the page limit will not disqualify your application. However, HUD will not review or consider information on any excess pages.

2. Application Items

Your application must contain the items listed below including the standard forms, certifications, and assurances listed in the General Section that are applicable to this funding. The standard forms and the program specific forms or information needed to evaluate your application can be found at Grants.gov or *http://www.hud.gov.* General letters of support not associated with specific cash or in-kind commitments have no bearing on the rating of your application.

What to submit	Required content	Required form or format	When to submit
Project abstract	Category applying for (if Category 3, specify which definition(s) under "rural and underserved" is(are) applicable); Amount of funds requested; Location of project, including census tract(s); Number of participants to be trained; Number of houses to be constructed; Number of houses to be rehabbed; Major partners.	Narrative	Application deadline date.
Application		SF–424	Application deadline date.

What to submit	Required content	Required form or format	When to submit
Survey on Ensuring Equal Opportunity for Applicants.	.....	SF–424 supplement	Application deadline date.
Budget information	Total Youthbuild Grant Budget	Youthbuild Form 4A (HUD–40211.6).	Application deadline date.
Rating Factors: Narrative addressing 5 rating factors.	Described in Section V of this announcement.	Narrative and Youthbuild Form 4B (HUD–40211.7).	Application deadline date.
Non-Housing Program Resources and accompanying letters of commitment for non-housing program resources.	Described in Section V of this announcement.	Youthbuild Form 4B (HUD–40211.7).	Application deadline date.
Logic Model Form	Described in Section V of this announcement and form instructions.	HUD–96010	Application deadline date.
Applicant/Recipient Disclosure/Update Form.	Required for all applicants	HUD–2880	Application deadline date.
Disclosure of Lobby Activities (if applicable).	Required if applicant has lobbied	SF–LLL (use SF–LLL–A Continuation Sheet if needed).	Application deadline date.
Certification of Consistency with RC/EZ/EC–II Plan.	If applying for RC/EZ/EC Round II bonus points.	HUD–2990	Application deadline date.
Certification of Consistency with Consolidated Plan.	Required	HUD–2991	Application deadline date.
Acknowledgment of Application Receipt.	Optional if applicant has been granted a waiver of the mandatory electronic submission and is submitting a paper application.	HUD–2993	Application deadline date.
You Are Our Client Grant Applicant Survey.	Optional, to help HUD improve its NOFA process.	HUD–2994–A	Application deadline date.
Youthbuild Program Specific Forms/information (required for all applications)			
Exhibit 2C (Housing Site Description).	.....	HUD–40211	Application deadline date.
Exhibit 2C10 (Individual Housing Project Site) Estimate.	.....	HUD–40211.1	Application deadline date.
Accompanying letters of commitment to cover costs of lease, acquisition, rehabilitation or new construction of real property Site Access Letter(s).	.....	.....	Application deadline date.
Youthbuild Program Specific Forms (only if applicant proposes to use Youthbuild funds for lease, acquisition, rehabilitation, or new construction of real property)			
Exhibit 2C13a (Housing Project Certifications for Residential Rental Units.	.....	HUD–40211.2	Application deadline date.
Exhibit 2C13b (Housing Project Certifications for Transitional Housing).	.....	HUD–40211.3	Application deadline date.
Exhibit 2C13c (Housing Project Certifications for Homeownership).	.....	HUD–40211.4	Application deadline date.
Exhibit 2C15 (Environmental Threshold Information for a Property Proposed for YB Funding).	.....	HUD–40211.5	Application deadline date.
Questionnaire for HUD's Initiative on Removal of Regulatory Barriers.	.....	HUD–27300	Application deadline date.
Facsimile Transmittal	To be used when submitting third party letters or other documents that you cannot attach as an electronic file to your application.	HUD–96011	On or before the application deadline date.

C. Submission Dates and Times

Applications must be received and validated by Grants.gov no later than 11:59:59 p.m. Eastern time on the application deadline date of June 9, 2006. HUD must receive paper copy applications from applicants that received a waiver no later than 11:59:59 p.m. on the application deadline date. See the General Section for application submission and timely receipt procedures.

D. Intergovernmental Review

The Youthbuild program is subject to Intergovernmental Review under Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' See the General Section for further discussion of the Executive

Order and HUD's implementing regulations.

E. Funding Restrictions

Administrative costs must not exceed eight percent of the grant award.

V. Application Review Information

The factors for rating and ranking applicants are provided below. The maximum number of points for the program is 102. This includes two bonus points, as described in Section V. F below.

A. Rating Factor 1. Capacity of the Applicant and Relevant Organizational Experience (20 Points, Minimum 10 Points)

This factor addresses the qualifications and experience of the applicant and participating parties to implement a successful Youthbuild program in accordance with your work plan as further described in Factor 3. HUD will evaluate information provided documenting recent capability. Experience within the last 5 years is considered recent. HUD will take into account the applicant's past performance and may deduct points for previous inability to demonstrate performance. HUD will evaluate the following sub-factors:

1. *Team Member Composition and Experience (5 points).* Your experience and the experience of your project director, core staff competencies including your day-to-day program manager, consultants, and contractors. You must demonstrate that your program manager has the background, experience, and capacity to implement all of the program components of the proposed work plan, as evidenced by recent work experience in managing projects of the same or similar size, dollar amount, types of activities, and beneficiaries as those proposed in your work plan. If any gaps exist in your experience or organizational structure to carry out the program, describe how you will fill those gaps including the hiring of consultants or other outside parties.

2. *Organizational Structure (5 points).* You should provide a clear description of how your organizational structure will operate to carry out your work plan. You should describe the structure of your organization (include an organizational chart), management structure, including reporting relationships of key staff, a system for coordinating with outside contractors or third party service providers, a mechanism for an internal and external auditing relationship, in accordance with OMB Circular (No. A–133), ''Audits of State and Local Governments and Non-Profit Organizations,'' and an accounting system which meets federal accounting system requirements.

3. *Achievement of Performance Outcomes (10 points).* The objectives and accomplishments of your past experience in conducting similar activities. You must describe your past project objectives and accomplishments that are similar to those of your proposed work plan to show your effectiveness and timeliness in managing similar projects. If you have received similar grants including previous Youthbuild grants, you must describe the effectiveness of your administration, including timeliness and meeting performance results from performance reports. In addressing timeliness of reports, you must compare when your reports were due with when they were actually submitted. You must describe your achievements, including specific measurable outcome objectives: Number of youths recruited, trained, and received GEDs; number of youths obtaining jobs (i.e., those that are a part of a career path or apprenticeship program) and job retention statistics; number of youths participating in apprenticeships and number of housing units rehabilitated or constructed and made available for low- and very low-income persons. Previously generated outcomes should include the following: (1) Percent that entered employment or enrolled in education and/or training first quarter after program exit, (2) percent of participants that earned a diploma, GED, or certificate, (3) percent that have attained literacy and numeracy skills by participants, (4) annual cost per participant.

Also, you must describe the extent to which you or participating partners have been successful in past education, training and employment programs and activities, including federally funded Youthbuild programs. In applying the rating criteria, HUD will take into consideration your performance (including meeting target dates and schedules) as reported.

The more recent, relevant, and successful the experience of the proposed team members, organization and other participating entities in relation to the work plan, the greater the number of points you will receive. For previous and existing Youthbuild grantees, applicants that can demonstrate a closer and greater linkage between the expected outcomes and the previously generated outcomes will receive a higher score for this Factor. Applicants that have been slow to draw funds and therefore appear not to be making progress in completing their program activities will receive lower rating points than applicants that have a pattern and practice of drawing funds in a timely manner consistent with timely progress in meeting program activity goals and objectives.

B. Rating Factor 2: Need/Extent of the Problem (21 Points)

This Factor addresses the extent to which there is need for funding the proposed activities based on levels of distress and an indication of the urgency of meeting the need/distress in the applicant's target area. Applications will be evaluated on the extent to which the level of need for the proposed activity and the urgency in meeting the need are documented and compared to the target area and national data.

1. HUD will consider current levels of distress for the area (i.e., Census Tract(s) or Block Groups) immediately surrounding the project site or the target area to be served by the proposed project, and in the nation. This means that an application that provides data that show levels of distress in the target area expressed as a percent greater than the national average will be rated higher.

Notwithstanding the above, an applicant proposing a project to be located outside the target area could still receive points under the Distress Factor if a clear rationale and linkage is provided linking the proposed project location and the benefits to be derived by persons living in more distressed area(s) of the applicant's target area.

2. Applicants should provide data that address indicators of distress, as follows:

a. Poverty (5 points)—data should be provided in both whole numbers and percentages for the target area(s); an application that compares the local poverty rate in the following manner to the national average at the time of submission will receive points under this section as follows:

(1) Less than the national average—0 point
(2) Equal to but less than twice the national average—1 point
(3) Twice but less than three times the national average—3 points
(4) Three or more times the national average—5 points

b. Unemployment (5 points)—for the project area;

(1) Less than the national average—0 point
(2) Equal to but less than twice the national average—1 point
(3) Twice but less than three times the national average—2 points
(4) Three but less than four times the national average—3 points

(5) Four but less than five times the national average—4 points
(6) Five or more times the national average—5 points

c. High School Dropouts (8 points)—for the project area;

(1) Less than the national average—0 point
(2) Equal to but less than twice the national average—2 points
(3) Twice but less than three times the national average—4 points
(4) Three but less than four times the national average—6 points
(5) Four but less than five times the national average—7points
(6) Five or more times the national average—8 points

d. Concrete examples of social and/or economic decline that best capture the applicant's local situation (3 points). Examples that could be provided are information on the community's stagnant or falling tax base, including recent commercial or industrial closings, housing conditions, such as the number and percentage of substandard and/or overcrowded units, rent burden (defined as average housing cost divided by average income) for the target area and urgency in addressing problems facing youth, local crime statistics, etc.

3. When rating applications HUD reserves the right to consider sources of available objective data, such as the U.S. Census, in addition to those provided by applicants, and to compare such data to those provided by applicants and local crime statistics for the project site.

HUD requires use of sound and reliable data (e.g., U.S. Census data, state statistical reports, university studies/reports that are verifiable) to support distress levels cited in each application. A source for all information including the publication or origination date must be provided. Updated Census data are available as follows for the listed indicators: a. Unemployment rate—estimated monthly, with a two-month lag; b. High School Dropout rate using the status rate—2000 data; c. Poverty rate—2000 Census data at the tract level.

C. Rating Factor 3: Soundness of Approach (37 Points)

This Factor addresses your proposed workplan and budget and the extent to which your proposed program is coordinated with other ongoing and related activities in the area you propose to serve and how well your program outcomes result in increased independence and empowerment to your beneficiaries at the conclusion of the grant period. HUD will evaluate the extent to which your application meets the following elements:

1. Youthbuild Program Work Plan: For each component, HUD will consider the overall quality and feasibility of your proposed work plan and budget that must be consistent with the Youthbuild program as measured by your specific activities and outcomes. You will receive a greater number of points if the program components are consistent with the purpose of the Youthbuild program, your project goals and the resources provided. Letters describing specific resources or services to be contributed by non-applicant organizations must be included in your application.

Specifically, HUD will consider the following categories when assessing your proposed work plan:

a. *Program Components.* (15 points)

(1) Outreach strategy, recruitment strategy, and selection activities. Points will be awarded based upon overall quality and feasibility of the outreach, recruitment and selection activities, the number and types of outreach activities, number of youths to be recruited including eligible participants who are harder to reach and comprehensiveness of the local selection process.

In evaluating this category, HUD will consider your selection strategies and your specific outreach efforts to recruit or contact:

(a) Potential eligible participants who are unlikely to be aware of this program (because of race, color, national origin, religion, ethnicity, sex, or disability);

(b) Young women, young women with dependent children, and persons receiving public assistance; and

(c) Public agencies, courts, homeless shelters, local school systems, local workforce development systems, one-stop centers and community-based organizations, etc.

(2) Educational and job training services and activities. Points will be awarded based upon the qualifications of instructors and proposed wages and stipends for youth participants. In evaluating this category, HUD will consider:

(a) The types of in-class academic and vocational instruction you will provide;

(b) The number and qualifications of program instructors and ratio of instructors to participants;

(c) Scheduling plan for classroom and on-the-job training needed to meet program requirements and ensure timely completion of your program; and

(d) Reasonable payments to participants of wages, stipends, and incentives. Wages or stipends for on-site construction training must be at least federal minimum wage.

(3) Leadership development. Points will be awarded based upon your proposed leadership curriculum, qualifications of instructors, and the impact of the proposed leadership activities on the target area. You must describe the leadership development training you will offer to participants and strategies for providing the training to build group cohesion and peer support.

(4) Support services. You must assess the need for counseling and referral services during each stage of program implementation: Outreach strategy, recruitment strategy, youths interviewed and not selected for the program, program participants, youths who drop out of the program, and graduates of the program. Describe how the participant needs will be addressed, document counseling and referral services to be offered to participants, the type of counseling, social services, and/or need-based stipends you will provide.

(5) Follow-up assistance and support activities to program graduates. You must describe the type of proposed assistance and support which should be based upon an assessment of the needs of the program graduates and should include continued linkage to the local Youthbuild program, counseling, and social service referral services.

(6) On-site training. Points will be awarded based upon the experience of proposed instructors, number of youth to be trained, and wages or stipends for participants. HUD will consider:

(a) The housing construction or rehabilitation activities participants will undertake at the site(s) to be used for the on-site training component of the program as provided in the training curriculum and methodology for carrying out on-site training;

(b) Qualification and number of on-site supervisors;

(c) Ratio of trainers to participants;

(d) Number of participants per site; and

(e) Amounts, wages, and/or stipends you will pay to participants during on-site work. Amounts must be at least federal minimum wage.

b. *Strategy for Job Placement.* (2 points).

(1) For applicants that have not received a prior Youthbuild award. HUD will evaluate the quality and feasibility of your proposed strategy to place youth participants in permanent jobs. You will be rated on the following factors: (a) Proposed number of youth to obtain jobs that promote economic self-sufficiency (i.e., those that are a part of career paths or apprenticeship programs); (b) proposed number of youths who will continue post-

secondary or secondary education; and (c) proposed number of youths to receive entrepreneurship training.

(2) For Youthbuild grantees who have grants that are at least 24 months old. In addition to the information in section V.C.2.b(1) above, provide the actual number of program participants that met each criterion in section V.C.2.b(1)(a), V.C.2.b(1)(b) and V.C.2.b(1)(c) as a percent of the total program participants served.

2. Coordination Elements:—5 points as distributed below.

a. *Coordination of activities* (2 points). The extent to which you have coordinated your activities with other known organizations that are not directly in your proposed work activities, but with which you share common goals and objectives and are working toward meeting these objectives in a holistic and comprehensive manner. The goal of coordination is to ensure that programs do not operate in isolation. The more your activities are coordinated with other agencies in your service area, the more points you will receive. An example of coordination of activities would be the applicant's partnership with an existing child day care facility (which is not funded by program) that provides day care services to the Youthbuild participants during the hours they are being trained.

b. *Self-Sufficiency (1 point).* Describe how your program will provide participants the ability to achieve: Independent living, economic empowerment, educational opportunities, housing choice or an improved environment that is free from environmental hazards such as lead hazards, brownfields, overcrowded housing, etc.

c. *Sustainability (2 points).* For applicants that have not received a prior Youthbuild award, describe how your program will be financially self-sustaining by decreasing dependence on Youthbuild funding and relying more on state, local, and private funding so your activities can be continued after your grant award is complete. For previous Youthbuild grantees, describe how your program demonstrates a progression of reduced reliance on HUD's Youthbuild funds, as either a reduced Youthbuild grant amount or increased overall program level with Youthbuild as a declining share of the total.

c. *Housing Program Priority* (10 points). HUD will assign Housing Program Priority points to all applications that contain evidence that housing resources from other federal, state, local, or private sources are available and firmly committed to cover all costs, *in full,* for the following housing activities for the proposed Youthbuild program: Acquisition, architect and engineering fees, construction, and rehabilitation. Forms 2C, Housing Site Description, and 2C10, Youthbuild Grant Individual Housing Project Site Estimate, must be completed to receive the Housing Program Priority points. Applications that do not include proper documentation of firm financial commitments of non-Youthbuild resources or propose to use Youthbuild grant funds, in whole or in part, or do not evidence site control, for any one of the housing activities listed above will not receive housing program priority points. For an applicant to receive the housing program priority points, each letter of commitment to cover the costs of the above activities must include the following:

(1) The organization's name;

(2) The applicant's name;

(3) The proposed program;

(4) The proposed amount of commitment and which housing activity(ies) (i.e., acquisition, architect and engineering fees, construction, and rehabilitation) the commitment represent(s);

(5) A signature by an official of the organization legally able to make commitments on behalf of the organization with a statement confirming that the authority remains in effect for a period stated in the commitment;

(6) If the contribution is cash, the applicant, the applicant's partner(s) or contributing entity must evidence its financial capability through a corporate or personal financial statement or other appropriate means. If any portion of the committed activity is to be financed through a lending institution, the participant must evidence the institution's commitment to fund the commitment;

(7) Affirm that its investment is contingent only upon receipt of FY2006 Youthbuild funds and state a willingness on the part of the signatory to sign a legally binding commitment not earlier than the date this NOFA is published and (conditioned on HUD's environmental review and approval of a property, where applicable) upon award of the grant.

d. *Policy Priorities* (5 points). Policy Priorities are further defined in the General Section. Applicants should document the extent HUD's policy priorities for Youthbuild listed below are enhanced by the proposed activities. Applicants that include activities that can result in the achievement of these departmental policy priorities, will receive higher rating points. The four departmental policy priorities for Youthbuild are:

(1) Ending chronic homelessness (1 point);

(2) Removal of regulatory barriers to affordable housing (up to 2 points) You must complete Form HUD–27300, Questionnaire for HUD's Initiative on Removal of Regulatory Barriers and provide the requested documentation to receive points for this policy priority. See the General Section for a discussion of how points are allocated.

(3) Participation in Energy Star (1 point). Applicants must state how they incorporate this priority into their application in order to receive the one point.

(4) Encouraging Accessible Design Features—Visitability and Universal design. (1 point). Applicants must state the extent to which the proposed design incorporates visitability standards and universal design in projects involving construction or rehabilitation. See the General Section for further information about this policy priority.

D. Rating Factor 4: Leveraging of Non-Housing Resources (10 Points)

This Factor addresses the ability of the applicant to secure non-housing resources from its program partners. HUD will evaluate the extent to which firm commitments of resources are obtained from federal, state, local, private, and nonprofit sources. The applicant will receive points based upon the ratio of committed non-HUD resources for non-housing activities compared to the amount of Youthbuild funds requested in the application. (Exhibit 4B Non-Housing Program Resources must be completed and you must provide letters of firm commitment from the donor with the amount of cash or in-kind contribution). Applicants submitting letters of commitment without the Exhibit 4 completed will not receive points for this Rating Factor. Each commitment described on Exhibit 4B for this Factor must have a firm commitment letter. In addition, the amount of the commitment in each letter must match the amount listed on the Form 4B.

HUD will consider the level of resources obtained for cash or in-kind contributions to cover the following kinds of areas:

- Social services (i.e., counseling and training);
- Use of existing vocational, adult, and bilingual educational courses;
- Donation of labor, resource personnel, supplies, teaching materials, classroom, and/or meeting space.

1. Firm commitment for non-housing resources. Each letter of commitment to cover the costs of the above activities must include the following:

a. The organization's name;

b. The applicant's name;

c. The proposed program;

d. The proposed amount of commitment and which non-housing activity(ies) the commitment represent(s);

e. A signature by an official of the organization legally able to make commitments on behalf of the organization with a statement confirming that the authority remains in effect for a period stated in the commitment;

f. An affirmation that its investment is contingent only upon receipt of FY2005 Youthbuild funds and a statement of willingness on the part of the signatory to sign a legally binding commitment not earlier than the date this NOFA is published.

2. Resources from other federal, state, local governments, or private entities. HUD encourages use of existing federal, state, local governments, or private and nonprofit housing programs as part of your Youthbuild program. In addition, HUD encourages use of other non-Youthbuild funds available for vocational, adult, and bilingual education programs, or for job training under the Workforce Investment Act and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (48 U.S.C. *1601 et seq.*).

E. Rating Factor 5: Achieving Results and Program Evaluation (12 Points)

This factor emphasizes HUD's commitment to ensure that applicants keep promises made in their application to rigorously assess their performance and ensure performance goals are met. Achieving results means you, the applicant, have clearly identified the benefits, or outcomes of your program. Outcomes are ultimate goals. Performance indicators are the quantifiable measures of proposed and actual achievements. Benchmarks or outputs are interim activities or products that lead to the ultimate achievement of your goals. Performance measurement requires that you identify program outcomes, interim products or benchmarks, and performance indicators that will allow you to assess your performance. Performance indicators must be quantified and measure actual achievements against anticipated achievements. You should identify what you are going to measure, how you are going to measure it, and the steps you have in place to make adjustments to your work plan if performance targets are not met within established timeframes. Applicants are required to complete the Logic Model form HUD–96010 to receive any points under this factor. This rating factor reflects HUD's goal to embrace high standards of ethics, management and accountability.

The highest rated applications under this factor will have a clear plan with measurable performance indicators to address the Youthbuild program's outcome goals—to provide economically disadvantaged youth with opportunities to attain an educational experience that will enhance their employment skills as a means of achieving self-sufficiency. The application may also optionally address other related indicators of relevant outcomes.

At a minimum, your Logic Model must include the following program output measures:

- Number of participants enrolled in the program;
- Number of participants that graduate;
- Number of housing units constructed;
- Number of housing units rehabilitated;
- Number and percent of GEDs or certificates attained by participants (for percentage calculation, numerator: the number of participants who attain a diploma, GED or certificate; denominator: Those who are participating in the Youthbuild program).
- Number and percent of graduates placed in employment or education (for percentage calculation, numerator: The number of graduates who have entered employment or enrolled in post secondary education; denominator: the number of graduates from the Youthbuild program); and
- Number and percentage of participants who made literacy and numeracy gains (measures the increase in literacy and numeracy skills of participants through a common assessment tool administered at program registration and regular intervals thereafter); for percentage calculation, numerator: the number of Youthbuild program participants who increase one or more education functioning levels; denominator: the number of Youthbuild program participants who have completed a year in the program).
- Efficiency or annual cost per participant (numerator: grant amount; denominator: number of Youthbuild participants.)

An applicant should agree to cooperate with any HUD-approved evaluation by making staff available for interview, providing lists of participants and their contact information, and making available files under appropriate assurance of confidentiality of records.

For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment statement. HUD will be publishing a separate notice on the ROI concept.

F. Bonus Points (2 Points)

HUD will award two bonus points to each application that includes a valid form HUD–2990 certifying that the proposed activities/projects in the application are consistent with the strategic plan for an empowerment zone (EZ) designated by HUD or the United States Department of Agriculture (USDA), the tax incentive utilization plan for an urban or rural renewal community designated by HUD (RC), or the strategic plan for an enterprise community designated in round II by USDA (EC–II) and that the proposed activities/projects will be located within the RC/EZ/EC–II identified above and are intended to serve the residents. A listing of the RC/EZ/EC–IIs is available on the Internet at *http://www.hud.gov/cr*. Your application must contain the completed certification form HUD–2990 to be considered for RC/EZ/EC–II bonus points.

VI. Reviews and Selection Process

A. Rating and Ranking

1. *General.* To review and rate applications, HUD may establish panels including officials from other federal agencies and outside experts or consultants to obtain certain expertise and outside points of view.

2. *Rating.* All applications for funding will be evaluated against the rating factors described in Section V. of this NOFA.

3. *Ranking.* Applications will be ranked separately within each of the three funding categories. Applications will be selected for funding in accordance with their rank order in each category.

4. *Eligibility for Selection.* To be eligible for funding, an application must have an overall minimum score of 75 points, including a minimum score of 10 points in Factor 1. If two or more applications are rated fundable and have the same score, but there are insufficient funds to fund all of them, HUD will select the application(s) with the highest score for Rating Factor 3 (Soundness of Approach). If two or more applications still have the same score, the highest score in the following factors will be selected sequentially

until one highest score can be determined: Rating Factor 1 (Capacity of the Applicant and Relevant Organization); Rating Factor 4 (Leveraging of Resources) and Rating Factor 2 (Need/Extent of the Problem).

5. *Adjustments to Funding.* Any available funds that remain after all applications within funding range have been selected or obligated will be reallocated between categories 1 and 2 by rank order between applications at the discretion of the selecting official or designee. Category 3 funds are appropriated as a set-aside, and can not be reallocated.

6. *Corrections to Deficient Applications.* The General Section provides the procedures for corrections to deficient applications.

B. Anticipated Announcement and Award Dates

HUD anticipates making award announcements no later than four months after the application submission deadline date.

VII. Award Administration Information

A. Award Notices

1. *Notification of Approval or Disapproval.* HUD will notify you whether or not you have been selected for an award. If you are selected, HUD's notice to you of the amount of the grant award based on the approved application will constitute HUD's CONDITIONAL approval, subject to negotiation and execution of the grant agreement by HUD.

2. *Application Debriefing.* Applicants who wish to have a debriefing of their application must send a written request to: Youthbuild Program Office; Office of Economic Development; Office of Community Planning and Development; 451 Seventh Street, SW., Room 7136; Washington, DC 20410–7000. Debriefing information can be found in the General Section of the SuperNOFA.

B. Administrative and National Policy Requirements

1. Applicable OMB Circulars. Please refer to the General Section.

2. Applicable Executive Orders and Statutes. Please note that Executive Order 13202, ''Preservation of Open Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Contracts'' and Section 6002 of the Solid Waste Disposal Act covering the procurement of recovered materials may be applicable (see the General Section.)

3. Executive Order 13166, Improving Access To Services For Persons With Limited English Proficiency (LEP). Consistent with Executive Order 13166, ''Improving Access to Services for Persons with Limited English Proficiency,'' issued on August 11, 2000, all HUD recipients should take reasonable steps to provide certain materials and information available in languages other than English. The determination as to what materials, languages, and modes of translation/interpretation services should be used shall be based upon:

a. The specific needs and capabilities of the LEP populations among the award recipient's program beneficiaries and potential beneficiaries of assistance (e.g. tenants, community residents, counselees, trainees, etc.);

b. The recipient's primary and major program purposes;

c. Resources of the recipient and size of the program; and

d. Local housing, demographic, and community conditions and needs. HUD's LEP recipient Guidance was published in the **Federal Register** (68 FR 70967) on December 19, 2003 and further guidance may be found at *http://www.lep.gov*.

4. Reporting Requirements:

a. Progress reports and Logic Model reporting. Youthbuild grantees are required to submit progress reports to the appropriate HUD field office in accordance with 24 CFR Part 585.403, using HUD Form 40201. If you receive a FY 2006 Youthbuild award, you will be required to update your Logic Model periodically, addressing the time schedule, accomplishments to date and results and submit it to HUD in conjunction within the timeframes established for the Youthbuild progress reports. See Logic Model information in the General Section.

b. Racial and Ethnic Data reporting. HUD requires that funded recipients collect racial data and ethnic beneficiary data. HUD has adopted the Office of Management and Budget's Standards for the Collection of Racial and Ethnic Data. In view of these requirements, you should use form HUD–27061, Racial and Ethnic Data Reporting Form (instructions for its use), found on *http://www.HUDclips.org*, a comparable program form, or a comparable electronic data system for this purpose.

VIII. Agency Contact(s)

For technical assistance in downloading an application package from Grants.gov/Apply, contact the Grants.gov help desk at 800–518–Grants or send an e-mail to *support@grants.gov.*

For programmatic information concerning the Youthbuild program, contact Ms. Phyllis Williams, Community Planning and Development Specialist; Office of Economic Development; Office of Community Planning and Development; U.S. Department of Housing and Urban Development; 451 Seventh Street, SW., Room 7149; Washington, DC 20410–7000; telephone (202) 708–2035 (this is not a toll-free number). Persons with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339. Prior to the application deadline, HUD's staff will be available to provide general guidance on the application submission process and location of information, but not guidance in preparing your application.

A. Satellite Broadcast

HUD will hold an information broadcast via satellite for potential applicants to learn more about the program and preparation of an application. For more information about the date and time of this broadcast, you should consult the HUD Web site at *http://www.hud.gov.*

B. 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 2506–0142. 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 45 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application, semi-annual reports, and final report. 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.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ECONOMIC DEVELOPMENT PROGRAMS

HOUSING CHOICE VOUCHER FAMILY SELF SUFFICIENCY (FSS) PROGRAM COORDINATORS

Billing Code 4210-01-C

Housing Choice Voucher Family Self-Sufficiency Program Coordinators

Overview Information

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

B. Funding Opportunity Title: Housing Choice Voucher (HCV) Family Self-Sufficiency (FSS) Program Coordinators.

C. Announcement Type: Initial announcement.

D. Funding Opportunity Number: The Federal Register number is FR–5030–N–14. The OMB approval number for this program is 2577–0178.

E. Catalog of Federal Domestic Assistance (CFDA) Number: 14.871, Section 8 Housing Choice Vouchers.

F. Dates: The application deadline date is May 16, 2006. Please see the General Section for timely receipt requirements.

G. Additional Overview Content Information: The purpose of the HCV FSS program is to promote the development of local strategies to coordinate the use of assistance under the HCV program with public and private resources to enable participating families to increase earned income, reduce or eliminate the need for welfare assistance, and make progress toward economic independence and self-sufficiency. The FSS program and this FSS NOFA support the Department's strategic goal of helping HUD-assisted renters make progress toward self-sufficiency. The FSS program provides critical tools that can be used by communities to support welfare reform and help families develop new skills that will lead to economic self-sufficiency. As a result of their participation in the FSS program, many families have achieved stable, well-paid employment. An FSS program coordinator assures that program participants are linked to the supportive services they need to achieve self-sufficiency.

Full Text of Announcement

I. Funding Opportunity Description

A. Authority and Program Description

Public Law 109–115, 119 Stat. 2396, approved November 30, 2005, allows funding for program coordinators under the HCV FSS program. Through annual NOFAs, HUD has provided funding to public housing agencies (PHAs) that are operating HCV FSS programs to enable those PHAs to employ program coordinators to support their HCV FSS programs. In the Fiscal Year (FY) 2006 HCV FSS Program Coordinator NOFA, HUD is again making funding available to PHAs to employ FSS program coordinators and FSS homeownership program coordinators for one year. Funding priority under this NOFA will be provided to applicants with Public Housing Information Center (PIC) data confirming that their FSS families have purchased homes and to applicants whose PIC data demonstrate program accomplishments such as increased HCV FSS program size, increased earned income of program participants, and families successfully completing their FSS contracts. HUD will accept applications from both new and renewal PHAs that have HUD approval to administer an HCV FSS program. PHAs funded under the HCV FSS NOFA in FY2005 are considered ''renewal'' PHAs in this NOFA. These renewal PHAs are invited to apply for funds to continue previously funded HCV FSS program coordinator and FSS homeownership coordinator positions that they have filled.

Because of the importance of the FSS program in helping families increase earned income and develop assets, HUD will also accept applications from ''new'' PHAs, PHAs that do not qualify as renewal PHAs as defined under this FSS NOFA. The maximum number of positions that a new applicant PHA, including new PHA joint applicants, may receive is one full-time FSS program coordinator.

To support the Department's initiatives on Colonias, a selection preference is again included in this NOFA for ''new'' applicant PHAs that provide services and support to rural under-served communities in the Southwest Border regions of Arizona, California, New Mexico, and Texas. See Section III.C.3.c. of this NOFA for requirements that must be met to qualify for the Colonias preference.

PHAs are encouraged to outreach to persons with disabilities who are HCV program participants and might be interested in participating in the FSS program and to include agencies on their FSS Program Coordinating Committee (PCC) that work with and provide services for families with disabilities.

Applicants must administer the FSS program in accordance with HUD regulations and requirements in 24 CFR Part 984 which govern the HCV FSS Program and must comply with the existing HCV program requirements, notices and guidebooks.

B. Number of Positions for Which Eligible PHAs May Apply

Eligible PHAs may apply for funding for HCV FSS program coordinator positions under this NOFA as follows:

1. *Renewal PHA Applicants.* PHAs that qualify as eligible renewal PHA applicants under this NOFA may apply for continuation of each FSS coordinator position, including homeownership coordinator positions, awarded under the HCV FSS NOFA in FY2005 that has been filled by the PHA.

2. *New PHA Applicants.* New PHA applicants may apply for HCV FSS program coordinator positions as follows: (a) Up to one full-time HCV FSS coordinator position for a PHA applicant with HUD approval to administer a HCV FSS program of 25 or more FSS slots. (b) Up to one full-time HCV FSS coordinator position per application for joint PHA applicants that together have HUD approval to administer a total of at least 25 HCV FSS slots.

C. Definitions

The following definitions apply to the funding available under this NOFA.

1. *Renewal PHA Applicant.* A PHA or PHAs that received funding under the HCV FSS NOFA in FY2005.

2. *New PHA Applicant.* PHAs that did not receive funding under the HCV FSS NOFA in FY2005 that have HUD approval to administer a HCV FSS program of at least 25 slots or that fulfill the 25 slot minimum by applying jointly with one or more other PHAs.

3. *FSS Program Size.* The total number of HCV FSS program slots identified in the PHA's HUD-approved FSS Action Plan, or if requested by Moving to Work (MTW) PHA applicants, the number of slots in the applicant's MTW agreement. The total may include both voluntary and mandatory HCV FSS program slots. This number is used in determining the eligibility of new applicant PHAs under this NOFA.

4. *Qualifying FSS Homeownership Program.* Qualifying homeownership programs include the HCV Homeownership Program and other programs administered by the PHA or other entities that prepare HCV program FSS participants for making the transition from renting to homeownership.

5. *The Number of HCV FSS Program Participants.* The total number of families shown in HUD's PIC data system or applicable MTW report as enrolled in the applicant's HCV FSS program at the end of a calendar year plus those families that successfully

completed their FSS contracts, during that calendar year.

6. *Percentage of Families with Positive FSS Escrow Balances.* A percentage that will be computed by HUD and used to determine funding order of priority 2 applicants under this NOFA. It is the sum of the number of HCV FSS families with positive escrow balances and the number of families that successfully completed their FSS contracts as a percentage of HCV FSS families with FSS progress reports. This calculation will be made using data for the period from December 31, 2004 through December 31, 2005 that has been submitted to HUD on the Form HUD–50058. For MTW applicants, a comparable reporting source may be used.

7. *HCV Program Size.* The number of HCVs in a PHA's program as determined by HUD using Voucher Management System (VMS) data.

8. *HCV FSS Program Size Increase Percentage.* A percentage calculated for renewal PHA applicants whose number of HCV FSS participants in calendar year 2005 is higher than their calendar year 2004 number of participants.

II. Award Information

A. Available Funds

This NOFA announces the availability of approximately $47 million in FY2006 to employ FSS program and FSS homeownership coordinators for the HCV FSS program. If additional funding becomes available during FY2006, HUD may increase the amount available for coordinators under this NOFA. A maximum of $65,000 is available for each full-time coordinator position funded. Salaries are to be based on local comparables. The funding will be provided as a one-year HCV funding increment under the PHA's Annual Contributions Contract (ACC). HUD reserves the right to adjust funding for renewal positions in order to ensure a fair and reasonable distribution of funding.

III. Eligibility Information

A. Eligible Applicants.

PHAs eligible to apply for funding under this NOFA are:

1. *Renewal PHA Applicants.* Those PHAs that received funding under the HCV FSS NOFA in FY2005. To continue to qualify as renewal PHAs, the FY2006 application of joint applicants must include at least one PHA applicant that meets this standard. Joint applicants can change the lead PHA in their FY2006 application. A PHA that was originally funded as part of a joint application that wishes to now apply separately would continue to be considered a renewal PHA applicant for funding purposes, but must be able to meet the FSS minimum program size requirement of a HUD-approved HCV FSS program of at least 25 slots that applies to new applicant PHAs.

2. *New PHA Applicants.* PHAs that were not funded under the HCV FSS NOFA in FY2005. The new applicant PHA must be authorized through its HUD-approved FSS Action Plan to administer an HCV FSS program of at least 25 slots, or be a PHA with HUD approval to administer an HCV FSS program of fewer than 25 slots that applies jointly with one or more other PHAs so that together they have HUD approval to administer at least 25 HCV FSS slots. Joint applicants must specify a lead co-applicant that will receive and administer the FSS program coordinator funding.

3. *MTW PHAs.* New and renewal PHAs that are under MTW agreements with HUD may qualify for funding under this NOFA if the PHA administers an FSS program. When determining the size of a new applicant MTW PHA's HUD-approved FSS program, the PHA may request that the number of FSS slots reflected in the PHA's MTW agreement be used instead of the number in the PHA's FSS Action Plan.

4. *Troubled PHAs.* a. A PHA that has been designated by HUD as a troubled PHA under the Section Eight Management Assessment Program (SEMAP), or that has serious program management findings from Inspector General audits or serious outstanding HUD management review or Independent Public Accountant (IPA) audit findings for the PHA's HCV or Moderate Rehabilitation programs that are resolved prior to this NOFA's application due date is eligible to apply under this NOFA. Serious program management findings are those that would cast doubt on the capacity of the PHA to administer its HCV FSS program in accordance with applicable HUD regulatory and statutory requirements.

b. A PHA whose SEMAP troubled designation has not been removed by HUD or whose major program management findings or other significant program compliance problems have not been resolved by the application due date may apply if it meets the requirements stated in Section III.C.3.e. of this NOFA.

B. Cost Sharing or Matching

None required.

C. Other

1. *Eligible Activities.* Funds awarded to PHAs under this FSS NOFA may only be used to pay salaries and fringe benefits of HCV FSS program staff. Funding may be used to employ or otherwise retain for one year the services of HCV FSS program coordinators and HCV FSS homeownership coordinators. FSS coordinator support positions funded under previous FSS NOFAs that made funding available for such FSS positions may be continued. A part-time program coordinator may be retained where appropriate.

2. *Threshold Requirements.*

a. All Applicants.

(1) Each applicant must qualify as an eligible PHA under Section III.A. of this NOFA and must have submitted their FSS application by the application due date and in the format required in Section IV. of this NOFA.

(2) All applications must include a Dun and Bradstreet Universal Numbering System (DUNS) number. (See the General Section for further information about the DUNS number requirement.)

(3) Civil Rights Thresholds, Non-discrimination, Affirmatively Furthering Fair Housing. A copy of each applicant PHA's most recent plan for Affirmatively Furthering Fair Housing for the HCV program must be on file at the PHA's local HUD field office by the application due date of this NOFA. All applicants must comply with these requirements and with Section III.C. of the General Section. Section 3 of the Housing and Urban Development Act of 1968 does not apply to this program.

(4) The PHA must have a financial management system that meets federal standards. See the General Section regarding those applicants that may be subject to HUD's arranging for a pre-award survey of an applicant's financial management system.

(5) Applicants must comply with the requirements for funding competitions established by the HUD Reform Act of 1989 (42 U.S.C. 3531 *et seq.*) and other requirements as defined in the General Section.

b. Renewal Applicants.

(1) *Continued funding for existing coordinator positions.* In addition to meeting the requirements of Section III.A. of this FSS NOFA, renewal PHA applicants must continue to operate an HCV FSS program, have filled eligible FSS program coordinator positions for which they are seeking renewal funding, executed FSS contracts of participation with HCV FSS program families and submitted reports on participant

families to HUD via the form HUD–50058.

c. *New Applicants.* New applicants must meet the requirements of Section III.A. and Section III. C.2.a of this FSS NOFA.

3. *Program Requirements.*

a. *Salary Comparables.* For all positions requested under this NOFA, evidence of salary comparability to similar positions in the local jurisdiction must be kept on file in the PHA office.

b. *FSS Action Plan.* The requirements for the FSS Action Plan are stated in 24 CFR 984.201. For a new PHA applicant to qualify for funding under this NOFA, the PHA's initial FSS Action Plan or amendment to change the number of HCV FSS slots in the PHA's previously HUD-approved FSS Action Plan must be submitted to and approved by the PHA's local HUD field office prior to the application due date of this FSS NOFA. An FSS Action Plan can be updated by means of a simple one-page addendum that reflects the total number of HCV FSS slots (voluntary and /or mandatory slots) the PHA intends to fill. New PHA applicants with previously approved HCV FSS Action Plans may wish to confirm the number of HUD-approved slots their local HUD field office has on record for the PHA. A new applicant MTW PHA may request that the number of FSS slots in its MTW agreement be used instead of the number of slots in the PHA's FSS Action Plan.

c. *Colonias Preference.* New applicant PHAs claiming the Colonias preference must meet the requirements of Sections III.A., III.C.2.a. and III.C.2.c. of this FSS NOFA and must operate in a Southwest border area that contains Colonia communities and administer programs that include outreach to members of those Colonia communities. Attachment A of this NOFA provides a listing of PHAs in Arizona, California, New Mexico, and Texas that HUD has identified as operating in areas containing Colonia communities. PHAs not listed in Attachment A that are claiming the Colonias preference will be required to submit a written request that HUD determine their eligibility for the preference. The request must be submitted prior to the application due date and must be sent to Lorenzo ''Larry'' Reyes, Coordinator, SW Border Colonias and Migrant Farmworker Initiative, Office of Departmental Operations and Coordination, Room 3120, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

d. *Homeownership Preferences.* See priority funding categories in Section V.B.2. of this FSS NOFA. Reported HCV FSS home purchase numbers will be subject to post audit.

e. *Troubled PHAs.* A PHA whose SEMAP troubled designation has not been removed by HUD or that has major program management findings or other significant program compliance problems that have not been resolved by the application due date, may apply if the PHA submits an application that designates another organization or entity that is acceptable to HUD and that:

(1) Includes an agreement by the other organization or entity to administer the FSS program on behalf of the PHA; and

(2) In the instance of a PHA with unresolved major program management findings, includes a statement that outlines the steps the PHA is taking to resolve the program findings.

Immediately after the publication of this NOFA, the Office of Public Housing in the local HUD field office will notify, in writing, those PHAs that have been designated by HUD as troubled under SEMAP, and those PHAs with unresolved major program management findings or other significant program compliance problems that are not eligible to apply without such an agreement. Concurrently, the local HUD field office will provide a copy of each such written notification to the Director of the Grants Management Center.

f. *Conducting Business in Accordance with Core Values and Ethical Standards.* To reflect core values, all PHAs shall develop and maintain a written code of conduct in the PHA administrative plan that:

(1) Requires compliance with the conflict of interest requirements of the HCV Program at 24 CFR 982.161; and

(2) Prohibits the solicitation or acceptance of gifts or gratuities, in excess of a nominal value, by any officer or employee of the PHA, or any contractor, subcontractor, or agent of the PHA. The PHA's administrative plan shall state PHA policies concerning PHA administrative and disciplinary remedies for violation of the PHA code of conduct. The PHA shall inform all officers, employees, and agents of its organization of the PHA's code of conduct. See General Section for additional information on the Code of Conduct requirement.

IV. Application and Submission Information

A. Addresses To Request Application Package

1. *Web site.* A copy of this funding announcement for the HCV FSS Program may be downloaded from the following Web site: *www.grants.gov.*

2. *Further Information.* When requesting information, please refer to the name of the program you are interested in. The NOFA Information Center opens for business simultaneously with the publication of the SuperNOFA. You can also obtain information on this NOFA and download application information for this NOFA through the Web site, *www.grants.gov.*

3. *Technical Assistance.* See Section VII. of this FSS funding announcement.

B. Content and Form of Application Submission

1. *Content of Application.* Each new and renewal PHA must complete the form SF–424, the SF–LLL, if appropriate, and the Form HUD–52651, the HCV FSS application form. In addition, the application must include a completed Logic Model (form HUD 96010) showing proposed performance measures applicable to the one-year term of the funding requested under this NOFA. See the General Section for information on, and a copy of, the Logic Model. A copy of the HUD–52651 is available at *www.Grants.gov/Apply,* Download Instructions for the Housing Choice Voucher FSS program or at HUD's website at *www.hud.gov/offices/adm/grants/fundsavail.cfm.* In completing the SF–424, renewal PHAs should select the continuation box on question 2, type of application. Both new and renewal PHA applicants should enter the proposed Annual Contributions Contract (ACC) amendment effective and ending dates for the FSS coordinator funding in section 17 of the SF–424. In section 18 of SF–424, estimated funding, complete only 18.a., which will be the amount requested from HUD in the FY2006 FSS application, and 18.g., Total.

C. Submission Date and Time

Your completed application must be received and validated by Grants.gov no later than 11:59:59 p.m. eastern time on the application deadline date of May 16, 2006. Applicants should carefully read the section titled ''APPLICATION and SUBMISSION INFORMATION'' in the General Section.

D. Intergovernmental Review

This NOFA is not subject to Executive Order (EO) 12372, Intergovernmental Review of Federal Programs.

E. Funding Restrictions

1. *Salary Cap.* Awards under this NOFA are subject to a cap of $65,000 per year per full time coordinator position funded. Under this NOFA, if PHAs apply jointly, the $65,000

maximum amount that may be requested per position applies to up to one full time coordinator position for the application as a whole, not to each PHA separately.

2. *Limitation on Renewal Funding Increases.* For renewal coordinator positions, PHAs will be limited to a one percent increase above the amount of the most recent award for the position unless a higher increase is approved by the local HUD field office after review of the PHA's written justification and at least three comparables that must be submitted to the field office by the application due date of this NOFA. Examples of acceptable reasons for increases above one percent would be need for a coordinator with higher level of skills or to increase the hours of a part time coordinator to full time. Total positions funded cannot exceed the maximum number of positions for which the PHA is eligible under this NOFA.

3. *Ineligible Activities.* a. Funds under this NOFA may not be used to pay the salary of an FSS coordinator for a public housing FSS program. An HCV FSS program coordinator may only serve HCV families while the public housing FSS program serves only public housing residents. In FY2006, funding for public housing FSS program coordinators is being made available through the Public Housing Resident Opportunities and Self-Sufficiency (ROSS) NOFA for Public Housing FSS Program Coordinators that is included in the FY2006 SuperNOFA.

b. Funds under this FSS NOFA may not be used to pay for services for FSS program participants.

F. Other Submission Requirements

1. Application Submission and Receipt Procedures. See the General Section. Electronic application submission is mandatory unless an applicant requests, and is granted, a waiver to the requirement. Procedures for obtaining a waiver are contained in the General Section. If an applicant is granted a waiver, then the approval will provide instructions for submitting paper copies to the appropriate HUD Office(s). All paper applications must be received by the application deadline date to meet the requirements for timely submission.

V. Application Review Information

A. Criteria

The funds available under this NOFA are being awarded based on demonstrated performance. Applications are reviewed by the local HUD field office and Grants Management Center (GMC) to determine whether or not they are technically adequate based on the NOFA requirements. Field offices will provide to the GMC in a timely manner, as requested, information needed by the GMC to make its determination, such as the HUD-approved HCV FSS program size of new PHA applicant and information on the administrative capabilities of PHAs. Categories of applications that will not be funded are stated in Section V.B.6.of this FSS NOFA.

B. Review and Selection Process

1. *Technically Acceptable Applications.* All technically adequate applications will be funded to the extent funds are available.

2. *Funding Priority Categories.* If HUD receives applications for funding greater than the amount made available under this NOFA, HUD will divide eligible applications into priority categories as follows:

Funding Category 1—Applications from eligible renewal PHAs with qualifying homeownership programs with a minimum of ten (10) HCV FSS program participants or graduates that purchased homes between October 1, 2000 and the publication date of this FSS NOFA and an increase of at least ten (10) percent in the number of participants in the applicant's HCV FSS program from calendar year 2004 to calendar year 2005. Both the number of home purchases and the percentage increase in the number the HCV FSS program participants will be determined by HUD using PIC data from form HUD–50058 or as otherwise reported for MTW PHAs.

Funding Category 2—Eligible renewal PHA applicants with programs that have families with positive escrow balances and/or families that successfully completed their FSS contracts between December 31, 2004 and December 31, 2005.

Funding Category 3—Eligible renewal PHA applicants with qualifying homeownership programs and an increase in the number of HCV FSS program participants of at least ten (10) percent from calendar year 2004 to calendar year 2005.

Funding Category 4—New PHA applicants with HUD approval to implement an FSS program of at least 25 slots.

3. *Order of Funding.* Starting with Funding Category 1, HUD will first determine whether there are sufficient monies to fund all eligible positions requested in the funding category. If available funding is not sufficient to fund all positions requested in the category, HUD will fund applications in the following order:

a. *Funding Category 1.* HUD will calculate the Percentage Increase of HCV FSS Program Participants for each eligible applicant and will use this percentage in making funding decisions. HUD will fund eligible applicants in order starting with those that have the highest Percentage Increase of HCV FSS Program Participants . If funding is not sufficient to fund all applicants with the same Percentage Increase of HCV FSS Program Participants, HUD will select among eligible applicants by HCV program size starting with eligible applicants with the smallest HCV program size.

b. *Funding Category 2.* If funds remain, HUD will process requests of eligible Funding Category 2 applicant PHAs. HUD will first calculate the Percentage of Families with Positive FSS Escrow Balances for all eligible Funding Category 2 applicants. If there are not sufficient monies to fund all eligible funding category 2 applicants, HUD will fund eligible applications starting with those with the highest positive escrow percentage. If there are not sufficient monies to fund all applications with the same positive escrow percentage, HUD will select eligible applicants in order by HCV program size starting with eligible applicants with the smallest HCV program size.

c. *Funding Category 3.* If funds remain, HUD will process eligible Funding Category 3 applications. If there is not enough funding for all applicants, HUD will use the Percentage Increase of HCV FSS Participants to determine selection order, starting with applicants with the highest Percentage Increase of HCV FSS Participants. If funds are not sufficient for all applicants with the same Percentage Increase of HCV FSS Participants, HUD will fund eligible applicants by HCV program size starting with eligible applicants with the smallest HCV program size.

d. *Funding Category 4.* If funds remain after all Category 1 through 3 applicants have been funded, HUD will process applications from eligible Category 4 new PHA applicants. If there are not sufficient monies to fund all eligible Category 4 PHA applicants, HUD will first fund eligible applications from those PHAs qualifying for the Colonias preference. If there are not sufficient monies to fund all eligible Colonias PHA applicants, HUD will fund them starting with the smallest HCV program size first. If funding remains after funding all eligible Category 4 Colonias PHA applicants,

HUD will then begin funding eligible non-Colonias applicants by HCV program size starting with eligible applicants with the smallest HCV program size first.

4. Based on the number of applications submitted, the GMC may elect not to process applications for a funding priority category where it is apparent that there are insufficient funds available to fund *any* applications within the priority category.

5. *Corrections to Deficient Applications.* The General Section provides the procedures for corrections to deficient applications.

6. *Unacceptable Applications.* After the technical deficiency correction period (as provided in the General Section), the GMC will disapprove PHA applications that it determines are not acceptable for processing. Applications from PHAs that fall into any of the following categories are ineligible for funding under this NOFA and will not be processed:

a. An application submitted by an entity that is not an eligible PHA as defined under Section III.A. and Section III.C. of this FSS NOFA or an application that does not comply with the requirements of Section IV.B., IV.C., and IV.F. of this FSS NOFA.

b. An application from a PHA that does not meet the fair housing and civil rights compliance requirements of the General Section.

c. An application from a PHA that does not comply with the prohibition against lobbying activities of the General Section.

d. An application from a PHA that as of the application due date has not made progress satisfactory to HUD in resolving serious outstanding Inspector General audit findings, or serious outstanding HUD management review or IPA audit findings for the HCV program and/or Moderate Rehabilitation program or has a ''troubled'' rating under SEMAP, and has not designated another organization acceptable to HUD to administer the FSS program on behalf of the PHA as required in Section III.C.3.e. of this FSS NOFA.

e. An application from a PHA that has been debarred or otherwise disqualified from providing assistance under the program.

f. An application that did not meet the application due date and timely receipt requirements as specified in this NOFA and the General Section.

g. Applications will not be funded which do not meet the Threshold requirements identified in this NOFA and the General Section.

C. Anticipated Announcement and Award Dates

It is anticipated that award announcements will take place during either the month of July or August 2006.

VI. Award Administration Information

A. Award Notices

Successful applicants will receive an award letter from HUD. Funding will be provided to successful applicants as an amendment to the ACC of the applicant PHA. In the case of awards to joint applicants, the funding will be provided as an amendment to the ACC of the lead PHA that was identified in the application.

Unsuccessful applicants will receive a notification of rejection letter from the GMC that will state the basis for the decision. The applicant may request an applicant debriefing. Beginning not less than 30 days after the awards for assistance are publicly announced in the **Federal Register** and for at least 120 days after awards for assistance are announced publicly, HUD will, upon receiving a written request, provide a debriefing to the requesting applicant. (See the General Section for additional information regarding a debriefing.) Applicants requesting to be debriefed must send a written request to: Iredia Hutchinson, Director; Grants Management Center; U. S. Department of Housing and Urban Development, 501 School Street, SW., Suite 800; Washington, DC 20024.

B. Administrative and National Policy Requirements

1. *Environmental Impact.* No environmental review is required in connection with the award of assistance under this NOFA, because the NOFA only provides funds for employing a coordinator that provides public and supportive services, which are categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and not subject to compliance actions for related environmental authorities under 24 CFR 50.19(b)(4) and (12).

2. *HUD's Strategic Goals.* HUD is committed to ensuring that programs result in the achievement of HUD's strategic mission. The FSS program and this FSS NOFA support the Department's strategic goals of increasing homeownership activities and helping HUD-assisted renters make progress toward self-sufficiency by giving funding preference to PHAs whose FSS programs show success in moving families to self-sufficiency and homeownership. You can find out about HUD's Strategic Framework and Annual Performance Plan at *http://www.hud.gov/offices/cfo/reports/cforept.cfm.*

3. *HUD Policy Priorities.* This NOFA supports HUD's policy priorities of providing increased homeownership opportunities and increased self-sufficiency of low-income families through employment. Consequently, funding priority in this NOFA will be given to those PHA applicants that demonstrate that a minimum of 10 of their FSS families have become homeowners that have increased their FSS program size by at least 10 percent in calendar year 2005 and to applicants with program participants who have increased their earned income since enrolling in FSS and/or have families that completed their FSS contracts in the last calendar year. See the General Section for a full discussion of HUD's policy priorities.

C. Reporting

Successful applicants must report activities of their FSS enrollment, progress and exit activities of their FSS program participants through required submissions of the Form HUD–50058. HUD's assessment of the accomplishments of the FSS programs of PHAs funded under this NOFA will be based primarily on PIC system data obtained from the Form HUD–50058. MTW PHAs that do not report to HUD on the Form HUD–50058 will be asked to submit an annual report to HUD with the same information on FSS program activities that is provided to HUD by non-MTW PHAs via the Form HUD–50058. An applicant is also required to submit a completed Logic Model showing accomplishments against proposed outputs and outcomes as part of their annual reporting requirement to HUD. Applicants shall use quantifiable data to measure performance against goals and objectives outlined in their Logic Model. An annual Performance Report consisting of the updated Logic Model must be submitted to the Public Housing Director in the applicant's local HUD field office no later than 30 days after the ending date of the one-year funding increment provided to the applicant under this NOFA. For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment (ROI) statement. HUD will be publishing a separate notice on the ROI concept. In addition, HUD requires that funded recipients collect racial and ethnic beneficiary data. It has adopted the Office of Management and Budget's Standards for the Collection of Racial and Ethnic Data. In view of these

requirements, funded recipients should use Form HUD–27061, Racial and Ethnic Data Reporting Form. The form HUD–50058, which provides racial and ethnic data to HUD's PIC data system, is a comparable program form.

VII. Agency Contacts

A. For Technical Assistance

For answers to your questions, you may contact the Public and Indian Housing Resource Center at 800–955–2232. Persons with hearing or speech impairments may access this number via TTY (text telephone) by calling the Federal Information Relay Service at 800–877–8339. (These are toll-free numbers). Prior to the application deadline, staff at the numbers given above will be available to provide general guidance, but not guidance in actually preparing the application. Following selection, but prior to award, HUD staff will be available to assist in clarifying or confirming information that is a prerequisite to the offer of an award by HUD.

B. Satellite Broadcast

HUD will hold an information broadcast via satellite for potential applicants to learn more about the HCV FSS program and preparation of an application. For more information about the date and time of this broadcast, you should consult the HUD Web site at *http://www.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 2577–0178. 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 one hour per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application and other required reporting. 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. Public Access, Documentation, and Disclosure

See Section VIII. F. of the General Section.

ATTACHMENT A.—PHAs That Operate in Areas Containing Colonia Communities

ARIZONA PHAs	
City of Douglas Housing Authority	City of Nogales Housing Authority
City of Eloy Housing Authority	City of Yuma Housing Authority.
Cochise County Housing Authority	Yuma County Housing Authority.
Pinal County Housing Authority	Section 8 Housing for Graham County, Arizona Department of Housing.
CALIFORNIA PHAs	
City of Calexico Housing Authority	Housing Authority of the County of Riverside
Imperial Valley Housing Authority.	
NEW MEXICO PHAs	
City of Alamogordo Housing Authority	City of Las Cruces/Dona Ana County Housing Authority
City of Truth or Consequences Housing Authority	City of Socorro Housing Authority.
Eddy County—Region VI	Housing Authority of the Village of Santa Clara.
Lordsburg Housing Authority	Otero County—Region VI.
Silver City Housing Authority—Region V	Sunland Park Housing Authority.
Town of Baynard Housing Authority.	
TEXAS PHAs	
Alamo Housing Authority	Asherton Housing Authority
Bracketville Housing Authority	Brownsville Housing Authority.
Cameron County Housing Authority	Carrizo Housing Authority.
Del Rio Housing Authority	Dona Housing Authority.
Eagle Pass Housing Authority	Ed Couch Housing Authority.
Edinburg Housing Authority	Elsa Housing Authority.
Harlingen Housing Authority	Hidalgo County Housing Authority.
Laredo Housing Authority	La Joya Housing Authority.
Los Fresnos Housing Authority	McAllen Housing Authority.
Mercedes Housing Authority	Mission Housing Authority.
Pharr Housing Authority	Port Isabel Housing Authority.
San Benito Housing Authority	San Juan Housing Authority.
Starr County Housing Authority	Weslaco Housing Authority.
Willacy County Housing Authority	Uvalde Housing Authority.
Zapata County Housing Authority.	

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ECONOMIC DEVELOPMENT PROGRAMS

RURAL HOUSING & ECONOMIC DEVELOPMENT PROGRAM (RHED)

Billing Code 4210-01-C

Rural Housing and Economic Development Program

Overview Information

A. Federal Agency Name: Department of Housing and Urban Development, Community Planning and Development, Office of Rural Housing and Economic Development.

B. Funding Opportunity Title: Rural Housing and Economic Development (RHED) program.

C. Announcement Type: Initial Announcement.

D. Funding Opportunity Number: The Federal Register number is FR 5030–N–04. The OMB approval number is 2506–0169.

E. Catalog of Federal Domestic Assistance (CFDA) Number: 14.250 Rural Housing and Economic Development.

F. Application Due Date: The application deadline date is May 12, 2006.

G. Optional Additional Overview Information: 1. The purpose of the Rural Housing and Economic Development program is to provide support for innovative housing and economic development activities in rural areas. The funds made available under this program will be awarded competitively through a selection process conducted by HUD in accordance with the HUD Reform Act.

Full Text of Announcement

I. Funding Opportunity Description

A. Background

There has been a growing national recognition of the need to provide support for local rural nonprofit organizations, community development corporations, federally recognized Indian tribes, state housing finance agencies (HFAs) and state economic development and community development agencies to expand the supply of affordable housing and to engage in economic development activities in rural areas. A number of resources are available from the federal government to address these problems, including programs of the United States Department of Agriculture (USDA), the Economic Development Administration (EDA), the Appalachian Regional Commission (ARC), the Department of Interior (for Indian tribes), and HUD. The Rural Housing and Economic Development program was developed to supplement these resources and to focus specifically on promoting innovative approaches to housing and economic development in rural areas. In administering these funds, HUD encourages you to coordinate your activities with those supported by any of the agencies listed above.

B. Definitions

1. *Appalachia's Distressed Counties* means those counties in Appalachia that the Appalachian Regional Commission (ARC) has determined to have unemployment and poverty rates that are 150 percent of the respective U.S. rates and a per capita income that is less than 67 percent of the U.S. per capita income, and have counties with 200 percent of the U.S. poverty rate and one other indicator, such as the percentage of overcrowded housing. Refer to *http://www.arc.gov* for a list of ARC distressed counties and more information.

2. *Colonia* means any identifiable, rural community that:

a. Is located in the state of Arizona, California, New Mexico, or Texas;

b. Is within 150 miles of the border between the U.S. and Mexico; and

c. Is determined to be a Colonia on the basis of objective need criteria, including a lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, sanitary, and accessible housing.

3. *Farm Worker* means a farm employee of an owner, tenant, labor contractor, or other operator raising or harvesting agricultural or aquacultural commodities; or a worker in the employment of a farm operator, handling, planting, drying, packing, grading, storing, delivering to storage or market, or carrying to market agricultural or aquacultural commodities produced by the operator. Seasonal farm workers are those farm employees who typically do not have a constant year-round salary.

4. *Firm Commitment* means a letter of commitment from a partner by which an applicant's partner agrees to perform an activity specified in the application, demonstrates the financial capacity to deliver the resources necessary to carry out the activity and commits the resources to the activity, either in cash or through in-kind contributions. It is irrevocable, subject only to approval and receipt of a FY2006 Rural Housing and Economic Development grant. Each letter of commitment must include the organization's name and applicant's name, reference the Rural Housing and Economic Development program, and describe the proposed total level of commitment and responsibilities, expressed in dollar value for cash or in-kind contributions, as they relate to the proposed program. The commitment must be written on the letterhead of the participating organization, must be signed by an official of the organization legally able to make commitments on behalf of the organization, and must be dated no earlier than the date of publication of this NOFA. In documenting a firm commitment, the applicant's partner must:

a. Specify the authority by which the commitment is made, the amount of the commitment, the proposed use of funds, and the relationship of the commitment to the proposed investment. If the committed activity is to be self-financed, the applicant's partner must demonstrate its financial capability through a corporate or personal financial statement or other appropriate means. If any portion of the activity is to be financed through a lending institution, the participant must provide evidence of the institution's commitment to fund the loan; and

b. Affirm that the firm commitment is contingent only upon the receipt of FY2006 Rural Housing and Economic Development funds and state a willingness on the part of the signatory to sign a legally binding agreement (conditioned upon HUD's environmental review and approval of a property where applicable) upon award of the grant.

5. *Federally Recognized Indian tribe* means any tribal entity eligible to apply for funding and services from the Bureau of Indian Affairs by virtue of its status as an Indian tribe. The list of federally recognized Indian tribes can be found in the notice published by the Department of the Interior on December 5, 2003 (68 FR 68180) and is also available from HUD.

6. *Innovative Housing Activities* means projects, techniques, methods, combinations of assistance, construction materials, energy efficiency improvements, or financing institutions or sources new to the eligible area or to its population. The innovative activities can also build upon and enhance a model that already exists.

7. *Local Rural Nonprofit Organization or Community Development Corporation* means either of the following:

a. Any private entity with tax-exempt status recognized by the Internal Revenue Service (IRS) which serves the eligible rural area identified in the application (including a local affiliate of a national organization that provides technical assistance in rural areas); or

b. Any public nonprofit entity such as a Council of Governments that will serve specific local nonprofit organizations in the eligible area.

8. *Lower Mississippi Delta Region* means the eight-state, 240-county/parish region defined by Congress in the Lower Mississippi Delta Development Act,

Public Law 100–460. Refer to *http://www.dra.gov* for more information.

9. *Eligible Rural Area* means one of the following:

a. A non-urban place having fewer than 2,500 inhabitants (within or outside of metropolitan areas).

b. A county or parish with an urban population of 20,000 inhabitants or less.

c. Territory, including its persons and housing units, in the rural portions of ''extended cities.'' The U.S. Census Bureau identifies the rural portions of extended cities.

d. Open country that is not part of or associated with an urban area. The USDA describes ''open country'' as a site separated by open space from any adjacent densely populated urban area. Open space includes undeveloped land, agricultural land, or sparsely settled areas, but does not include physical barriers (such as rivers and canals), public parks, commercial and industrial developments, small areas reserved for recreational purposes, or open space set aside for future development.

e. Any place with a population not in excess of 20,000 and not located in a Metropolitan Statistical Area.

10. *State Community and/or Economic Development Agency* means any state agency that has promotion of economic development statewide or in a local community as its primary purpose.

11. *State Housing Finance Agency* means any state agency created to assist local communities and housing providers with financing assistance for development of housing in rural areas, particularly for low- and moderate-income people.

II. Award Information

A. Amount Allocated

1. *Available Funds.* Approximately $17 million in Fiscal Year (FY) 2006 funding (plus any additional funds available through recapture) are being made available through this NOFA.

2. *Funding Award Amount.* HUD will award up to approximately $17 million on a competitive basis for Support for Innovative Housing and Economic Development Activities to federally recognized Indian tribes, state housing finance agencies (HFAs), state community and/or economic development agencies, local rural nonprofit organizations or community development corporations to support innovative housing and economic development activities in rural areas throughout the nation. The maximum amount awarded to a successful applicant will be $300,000.

B. Grant Amount

In the event, you, the applicant, are awarded a grant that has been reduced (e.g., the application contained some activities that were ineligible or budget information did not support the request), you will be required to modify your project plans and application to conform to the terms of HUD's approval before execution of the grant agreement.

HUD reserves the right to reduce or de-obligate the award if suitable modifications to the proposed project are not submitted by the awardee within 90 days of the request. Any modifications must be within the scope of the original application. HUD reserves the right to not make awards under this NOFA.

C. Grant Period

Recipients will have 36 months from the date of the executed grant agreement to complete all project activities.

D. Notification of Approval or Disapproval

HUD will notify you whether or not you have been selected for an award. If you are selected, HUD's notice to you concerning the amount of the grant award (based on the approved application) will constitute HUD's conditional approval, subject to negotiation and execution of a grant agreement by HUD.

III. Eligibility Information

A. *Eligible Applicants.* Eligible applicants for the Rural Housing and Economic Development program are local rural nonprofit organizations and community development corporations, federally recognized Indian tribes, state housing finance agencies and state community and/or economic development agencies. Also, you must meet all of the applicable eligibility requirements described in Section III.C of the General Section.

B. *Cost Sharing or Matching.* There is no match required under the Rural Housing and Economic Development program. Applicants that submit evidence of leveraging dollars under Rating Factor 4 will receive points according to the scale under that factor.

C. *Other.* 1. *Eligible Activities.* The following are examples of eligible activities under the Rural Housing and Economic Development program.

Permissible activities may include, but are not limited to the following:

a. Cost of using new or innovative construction, energy efficiency, or other techniques that will result in the design or construction of innovative housing and economic development projects;

b. Preparation of plans or of architectural or engineering drawings;

c. Preparation of legal documents, government paperwork, and applications necessary for construction of housing and economic development activities to occur in the jurisdiction;

d. Acquisition of land and buildings;

e. Demolition of property to permit construction or rehabilitation activities to occur;

f. Purchase of construction materials;

g. Homeownership counseling, including fair housing counseling, credit counseling, budgeting, access to credit, and other federal assistance available;

h. Conducting conferences or meetings with other federal or state agencies tribes, tribally designated housing entities (TDHE) or national or regional housing organizations, to inform residents of programs, rights, and responsibilities associated with homebuying opportunities;

i. Establishing Community Development Financial Institutions (CDFIs), lines of credit, revolving loan funds, microenterprises, and small business incubators; and

j. Provision of direct financial assistance to homeowners/businesses/developers, etc. This can be in the form of default reserves, pooling/securitization mechanisms, loans, grants, funding existing individual development accounts or similar activities.

2. *Statutory and Regulatory Requirements.* To be eligible for funding under HUD NOFAs issued during FY2006, you, the applicant, must meet all statutory and regulatory requirements applicable to this NOFA as described in the General Section. HUD may also eliminate ineligible activities from funding consideration and reduce funding amounts accordingly.

3. *General HUD Threshold Requirements.* You must meet all threshold requirements described in the General Section.

a. *Ineligible Applicants.* HUD will not consider an application from an ineligible applicant.

b. *Economic Opportunities for Low- and Very Low-Income Persons (Section 3).* Recipients of assistance under this NOFA must comply with Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects) and the HUD regulations at 24 CFR part 135, including the reporting requirements at subpart E. Section 3 requires recipients to ensure that, to the greatest extent

feasible, 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 business concerns that provide economic opportunities to low- and very low-income persons.

4. Program-Specific Threshold Requirements.

a. The application must receive a minimum rating score of 75 points to be considered for funding.

b. HUD will only fund eligible applicants as defined in this NOFA under Section III.A.

c. Applicants must serve an eligible rural area as defined in section I. of this NOFA.

d. Proposed activities must meet the objectives of the Rural Housing and Economic Development program.

e. Applicants must demonstrate that their activities will continue to serve populations that are in need and that beneficiaries will have a choice of innovative housing and economic development opportunities as a result of the activities.

IV. Application and Submission Information

A. Address To Request Application Package

This section describes how you may obtain application forms. Copies of the published Rural Housing and Economic Development NOFA and application forms may be downloaded from the Grants.gov Web site at *http://www.grants.gov/Apply.* You may call the Grants.gov support desk at 800–518-GRANTS, or email the support desk at *Support@Grants.gov* for assistance in downloading the application. Applicants may request a waiver of the electronic submission requirement. Paper applications will not be accepted unless the applicant has received a waiver to the electronic submission requirement. Instructions regarding the number of copies to submit and where will be contained in the approval to the waiver request. Paper submissions must be received at the appropriate HUD office(s) no later than the deadline date. See Section IV of the General Section for further information.

B. Content and Form of Application Submission

1. *Application Submission Requirements.* Be sure to read and follow the application submission requirements carefully.

a. *Page Numbering.* All pages of the application must be numbered sequentially if you are submitting a paper copy application. For electronic application submission you should follow the directions in the General Section.

b. *Application Items.* Your application must contain the items listed below.

(1) An abstract that must include the dollar amount requested, the category under which you qualify for demographics of distress special factor under Rating Factor 2 ''Need and Extent of the Problem,'' which of the five definitions of the term ''rural area'' set forth in Section I B.9 of this NOFA applies to the proposed service area, and accompanying documentation as indicated on the form.

(2) Table of Contents.

(3) A signed SF–424 (application form).

(4) SF–424 Supplement Survey on Equal Opportunity for Applicants (optional submission).

(5) Facsimile Transmittal (HUD–96011). (This must be used as the cover page to transmit third party documents as part of your electronic application.)

(6) Disclosure of Lobbying Activities (SF–LLL).

(7) Applicant/Recipient Disclosure/Update Report (HUD–2880).

(8) You Are Our Client Grant Applicant Survey (HUD 2994–A) (Optional).

(9) Program Outcome Logic Model (HUD–96010).

(10) A budget for all funds (federal and non-federal including HUD–424CB and HUD 424–CBW).

(11) Certification of Consistency with RC/EZ/EC-II Strategic Plan (HUD–2990), if applicable.

(12) Certification of Consistency with the Consolidated Plan (HUD–2991), if applicable.

(13) Documentation of funds pledged in support of Rating Factor 4—''Leveraging Resources'' (which will not be counted in the 15-page limitation). Documentation must be in the form of a ''firm commitment'' as defined in Section I.B.4 of this NOFA.

(14) If you are a private nonprofit organization, a copy of your organization's IRS ruling providing tax-exempt status under section 501 of the Internal Revenue Code of 1986, as amended.

(15) Narrative response to Factors for Award. The total narrative response to all factors should not exceed 15 pages and should be submitted in a format that is equal to 8.5 x 11-inch single sided paper, with 12-point font and double lined spacing. Please note that although submitting pages in excess of the page limit will not disqualify your application, HUD will not consider or review the information on any excess pages, which may result in a lower score or failure to meet a threshold requirement. In addition, applicants should be aware that additional pages increase the size of the application and the length of time it will take to electronically submit the document and have it electronically received by Grants.gov. Large files result in slower delivery to Grants.gov.

(16) Questionnaire for HUD's Initiative on Removal of Regulatory Barriers (HUD 27300). To get the points for this policy priority, you must include the documentation or references to URLs where the information can be found.

All applicants are required to use the following format in their 15-page narrative responses to the rating factors included in the program NOFA:

Factor 1—Relevant Organizational Experience;

Factor 2—Need and Extent of the Problem;

Factor 3—Soundness of Approach;

Factor 4—Leveraging Resources; and

Factor 5—Achieving Results and Program Evaluation.

See Section V. of this NOFA for further details.

C. Submission Dates and Times.

1. Electronic Application Submission. Applications for the Rural Housing and Economic Development program must be received and validated by Grants.gov no later than 11:59:59 p.m. eastern time on the application deadline date. You will receive an acknowledgement of receipt from Grants.gov when your application has been successfully received. You will receive an acknowledgement from Grants.gov that your application has been validated or rejected. Please see the General Section for more detailed information. If you do not receive the validation or rejection notice within 24–48 hours, contact the Grants.gov help desk.

2. Applicants are advised to carefully read the application submission and timely receipt requirements in the General Section as they have changed from previous years.

3. Only one application will be accepted from any given organization. If more than one application is submitted electronically, the last application submitted prior to the due date and time will be the one reviewed by HUD. HUD will not accept application addendums after the deadline unless HUD has specifically asked the applicant for a correction to a technical deficiency in the application. Responses to technical deficiencies must be received by HUD within the time allocated to cure the

deficiency. Corrections to technical deficiencies are submitted directly to HUD in accordance with the information provided by the program office in their cure notification.

D. Intergovernmental Agency Review

Intergovernmental agency review is not required for this program.

E. Funding Restrictions

1. *Administrative Costs.* Administrative costs for assistance under the Rural Housing and Economic Development program may not exceed 15 percent of the total HUD Rural Housing and Economic Development grant award.

2. *Ineligible Activities.* RHED funds cannot be used for the following activities:

a. Income payments to subsidize individuals or families;

b. Political activities;

c. General governmental expenses other than expenses related to the administrative cost of the grant; or

d. Projects or activities intended for personal gain or private use.

HUD reserves the right to reduce or deobligate the award if suitable modifications to the proposed project are not submitted by the awardee within 90 days of the request. Any modification must be within the scope of the original application. HUD reserves the right not to make awards under this NOFA.

F. Other Submission Requirements

Carefully review the procedures presented in Section IV of the General Section FY 2006, HUD will only accept electronic applications submitted through *http://www.grants.gov.*

V. Application Review Information

A. Criteria

Carefully review all the Application Review procedures in Section V of the General Section. In addition, the following Rating Factors will be used to review, evaluate, and rate your application.

1. Rating Factor 1—Capacity of the Applicant and Relevant Organizational Experience (25 Points)

This rating factor addresses the extent to which you have the organizational resources necessary to successfully implement your proposed work plan, as further described in Rating Factor 3, within the 36-month award period.

a. *Team members, composition, and experience* (10 points). HUD will evaluate the experience (including its recentness and relevancy) of your project director, core staff, and any outside consultant, contractor, subrecipient, or project partner as it relates to innovative housing and economic development and to the implementation of the activities in your workplan. HUD also will assess the services that consultants or other parties will provide to fill gaps in your staffing structure to enable you to carry out the proposed workplan; the experience of your project director in managing projects of similar size, scope, and dollar amount; the lines of authority and procedures that you have in place for ensuring that workplan goals and objectives are being met, that consultants and other project partners are performing as planned, and that beneficiaries are being adequately served. In judging your response to this factor, HUD will only consider work experience gained within the last seven years. When responding, please be sure to provide the dates, job titles and relevancy of the past experience to work to be undertaken by the employee or contractor under your proposed Rural Housing and Economic Development award. The more recent, relevant, and successful the experience of your team members are in relationship to the workplan activities, the greater the number of points that you will receive.

b. *Organizational structure and management capacity* (5 points). HUD will evaluate the extent to which you can demonstrate your organization's ability to manage a workforce composed of full-time or part-time staff, as well as any consultant staff, and your ability to work with community-based groups or organizations in resolving issues related to affordable housing and economic development. In evaluating this subfactor, HUD will take into account your experience in working with community-based organizations to design and implement programs that address the identified housing and economic development issues. The more recent, relevant, and successful the experience of your organization and any participating entity, the greater the number of points you will receive.

c. *Experience with performance based funding requirements* (10 points). HUD will evaluate your performance in any previous grant program undertaken with HUD funds or other federal, state, local, or nonprofit or for-profit organization funds. In assessing points for this sub-factor, HUD reserves the right to take into account your past performance in meeting performance and reporting goals for any previous HUD award, in particular whether the program achieved its outcomes. HUD will deduct one point for each of the following activities related to previous HUD grant programs for which unsatisfactory performance has been verified: (1) Mismanagement of funds, including the inability to account for funds appropriately; (2) untimely use of funds received either from HUD or other federal, state, or local programs; and (3) significant and consistent failure to measure performance outcomes. Among the specific outcomes to be measured are the increases in program accomplishments as a result of capacity building assistance and the increase in organizational resources as a result of assistance.

d. *Past Rural Housing and Economic Development program performance.* The past performance of previously awarded Rural Housing and Economic Development grantees will be taken into consideration when evaluating Rating Factor 1 ''Capacity of the Applicant and Relevant Organizational Experience.'' Applicants who have been awarded Rural Housing and Economic Development program funds prior to FY2006 should indicate fiscal year and funding amount. HUD local field offices may be consulted to verify information submitted by the applicant as a part of the review of applications.

2. Rating Factor 2—Need and Extent of the Problem (20 Points)

The Rural Housing and Economic Development program is designed to address the problems of rural poverty, inadequate housing and lack of economic opportunity. This factor addresses the extent to which there is a need for funding the proposed activities based on levels of distress and the urgency of meeting the need/distress in the applicant's target area. In responding to this factor, applications will be evaluated on the extent to which the level of need for the proposed activity and the urgency in meeting the need are documented and compared to target area and national data.

a. In applying this factor, HUD will compare the current levels of need in the area (*i.e.*, Census Tract(s) or Block Group(s) immediately surrounding the project site or the target area to be served by the proposed project and the national levels of need. This means that an application that provides data that show levels of need in the project area expressed as a percent greater than the national average will be rated higher under this factor. Applicants should provide data that address indicators of need as follows:

(1) *Poverty Rate* (5 points)—Data should be provided in both absolute and percentage form (*i.e.*, whole numbers and percents) for the target area(s). An application that compares the local poverty rate in the following manner to

the national average at the time of submission will receive points under this section as follows:

(a) Less than the national average = 0 point;

(b) Equal to but less than twice the national average = 1 points;

(c) Twice but less than three times the national average = 3 points;

(d) Three or more times the national average = 5 points.

(2) *Unemployment* (5 points)—for the target area:

(a) Less than the national average = 0 point;

(b) Equal to but less than twice the national average = 1 points;

(c) Twice but less than three times the national average = 2 points;

(d) Three but less than four times the national average = 3 points;

(e) Four but less than five times the national average = 4 points;

(f) Five or more times the national average = 5 points.

(3) *Other indicators of social or economic decline that best capture the applicant's local situation* (5 points).

(a) Data that could be provided under this section are information on the community's stagnant or falling tax base, including recent commercial or industrial closings; housing conditions, such as the number and percentage of substandard or overcrowded units; rent burden (defined as average housing cost divided by average income) for the target area; local crime statistics, falling property values, etc. To the extent that the applicant's statewide or local Consolidated Plan, its Analysis of Impediments to Fair Housing Choice (AI), its Indian housing plan or its anti-poverty strategy identify the level of distress in the community and the neighborhood in which the project is to be carried out, references to such documents should be included in preparing the response to this factor.

(b) In rating applications under this factor, HUD reserves the right to consider sources of available objective data other than or in addition to those provided by applicants, and to compare such data to those provided by applicants for the project site. These may include U.S. Census data.

(c) HUD requires use of sound, verifiable, and reliable data (*e.g.*, U.S. Census data, state statistical reports, university studies/reports, or Home Mortgage Disclosure Act or Community Reinvestment Act databases) to support distress levels cited in each application. See *http://www.ffiec.gov/* or *http://www.ffiec.gov/webcensus/ffieccensus.htm* for census data. A source for all information along with the publication or origination date must also be provided.

(d) Updated Census data are available for the following indicators:

(i) Unemployment rate—estimated monthly for counties, with a two-month lag;

(ii) Population—estimated for incorporated places and counties, through 2000;

(iii) Poverty rate—through 2000.

(4) *Demographics of Distress—Special Factors* (5 points). Because HUD is concerned with meeting the needs of certain underserved areas, you will be awarded a total of five points if you are located in or propose to serve one or more of the following populations, or if your application demonstrates that 100 percent of the beneficiaries supported by Rural Housing and Economic Development funds are in one or more of the following populations. You must also specifically identify how each population will be served and that the proposed service area meet the definition of ''eligible rural area'' in Section I of this NOFA:

(a) Areas with very small populations in non-urban areas (2,500 population or less);

(b) Seasonal farm workers;

(c) Federally recognized Indian tribes;

(d) Colonias;

(e) Appalachia's Distressed Counties; or

(f) The Lower Mississippi Delta Region (8 states and 240 counties/parishes).

For these underserved areas, you should ensure that the populations that you serve and the documentation that you provide are consistent with the information described in the above paragraph under this rating factor.

3. Rating Factor 3—Soundness of Approach (21 Points)

This factor addresses the overall quality of your proposed workplan, taking into account the project and the activities proposed to be undertaken; the cost-effectiveness of your proposed program; and the linkages between identified needs, the purposes of this program, and your proposed activities and tasks. In addition, this factor addresses your ability to ensure that a clear linkage exists between innovative rural housing and economic development. In assessing cost-effectiveness, HUD will take into account your staffing levels; beneficiaries to be served; and your timetable for the achievement of program outcomes, the delivery of products and reports, and any anticipated outcome or product. You will receive a greater number of points if your workplan is consistent with the purpose of the Rural Housing and Economic Development program, your program goals, and the resources provided.

a. *Management Plan* (13 points). A clearly defined management plan should be submitted that identifies each of the projects and activities you will carry out to further the objectives of this program; describes the linkage between rural housing and economic development activities; and addresses the needs identified in Factor 2, including needs that previously were identified in a statewide or local Analysis of Impediments to Fair Housing Choice (AI) or Consolidated Plan. The populations that were described in Rating Factor 2 for the purpose of documenting need should be the same populations that will receive the primary benefit of the activities, both immediately and over the long term. The benefits should be affirmatively marketed to those populations least likely to apply for and receive these benefits without such marketing. Your timetable should address the measurable short-term and long-term goals and objectives to be achieved through the proposed activities based on annual benchmarks; the method you will use for evaluating and monitoring program progress with respect to those activities; and the method you will use to ensure that the activities will be completed on time and within your proposed budget estimates. Your management plan should also include the budget for your program, broken out by line item. Documented projected cost estimates from outside sources are also required. Applicants should submit their workplan on a spreadsheet showing each project to be undertaken and the tasks (to the extent necessary or appropriate) in your workplan to implement the project with your associated budget estimate for each activity/task. Your workplan should provide the rationale for your proposed activities and assumptions used in determining your project timeline and budget estimates. Failure to provide your rationale may result in your application receiving fewer points for lack of clarity in the proposed management plan.

This subfactor should include information that indicates the extent to which you have coordinated your activities with other known organizations (*e.g.*, through letters of participation or coordination) that are not directly participating in your proposed work activities, but with which you share common goals and objectives and that are working toward

meeting these objectives in a holistic and comprehensive manner. The goal of this coordination is to ensure that programs do not operate in isolation. Additionally, your application should demonstrate the extent to which your program has the potential to be financially self-sustaining by decreasing dependence on Rural Housing and Economic Development funding and relying more on state, local, and private funding. The goal of sustainability is to ensure that the activities proposed in your application can be continued after your grant award is complete.

b. *Policy Priorities* (8 Points). Policy priorities are outlined in detail in the General Section. You should document the extent to which HUD's policy priorities are furthered by the proposed activities. Applicants that include activities that can result in the achievement of these departmental policy priorities will receive higher rating points in evaluating their application for funding. Seven departmental policy priorities are listed below. When policy priorities are included, describe in brief detail how those activities will be carried out.

The point values for policy priorities are as follows:

(1) Providing increased homeownership and rental opportunities for low- and moderate-income persons, persons with disabilities, the elderly, minorities, and families with limited English proficiency = 1 point;

(2) Improving our Nation's communities = 1 point;

(3) Encouraging accessible design features = 1 point;

(4) Providing full and equal access to grassroots faith-based and other community-based organizations in HUD program implementation = 1 point;

(5) Ending chronic homelessness within ten years = 1 point;

(6) Removal of barriers to affordable housing = 2 points; and

(7) Promoting Energy Efficiency and Adopting Energy Star = 1 point.

4. Rating Factor 4—Leveraging Resources (10 Points)

This factor addresses the extent to which applicants have obtained firm commitments of financial or in-kind resources from other federal, state, local, and private sources. For every Rural Housing and Economic Development program dollar anticipated, you should provide the specific amount of dollars leveraged. In assigning points for this criterion, HUD will consider the level of outside resources obtained in the form of cash or in-kind goods or services that support activities proposed in your application. HUD will award a greater number of points based upon a comparison of the extent of leveraged funds with the requested Rural Housing and Economic Development award. The level of outside resources for which commitments are obtained will be evaluated based on their importance to the total program. Your application must provide evidence of leveraging in the form of letters of firm commitment from any entity, including your own organization, which will be providing the leveraging funds to the project. Each commitment described in the narrative of this factor must be in accordance with the definition of ''firm commitment,'' as defined in this NOFA. The commitment letter must be on letterhead of the participating organization, must be signed by an official of the organization legally able to make commitments on behalf of the organization, and must not be dated earlier than the date this NOFA is published.

Points for this factor will be awarded based on the satisfactory provisions of evidence of leveraging and financial sustainability, as described above, and the ratio of leveraged funds to requested HUD Rural Housing and Economic Development funds as follows:

a. 50% or more of requested HUD Rural Housing and Economic Development funds = 10 points;

b. 49–40% of requested HUD Rural Housing and Economic Development funds = 8 points;

c. 39–30% of requested HUD Rural Housing and Economic Development funds = 6 points;

d. 29–20% of requested HUD Rural Housing and Economic Development funds = 4 points;

e. 19–9% of requested HUD Rural Housing and Economic Development funds = 2 points;

f. Less than 9% of HUD requested Rural Housing and Economic Development funds = 0 points.

See the General Section for instructions for submitting third party letters and other documents with your electronic application.

5. Rating Factor 5—Achieving Results and Program Evaluation (24 Points)

This factor emphasizes HUD's commitment to ensure that applicants keep promises made in their application. This factor assesses their performance to ensure that rigorous and useful performance measures are used and goals are met. Achieving results means you, the applicant, have clearly identified the benefits or outcomes of your program. Outcomes are ultimate project end goals. Benchmarks or outputs are interim activities or products that lead to the ultimate achievement of your goals. Program evaluation requires that you, the applicant, identify program outcomes, interim products or benchmarks, and performance indicators that will allow you to measure your performance. Performance indicators should be objectively quantifiable and measure actual achievements against anticipated achievements. Your evaluation plan should identify what you are going to measure, how you are going to measure it, and the steps you have in place to make adjustments to your work plan if performance targets are not met within established time frames.

Applicants must also complete the ''Logic Model'' HUD Form (HUD–96010) included in the application instructions at *http://www.Grants.gov,* and submit the completed form with their application. This year, in response to client concerns that the Logic Model was difficult to complete due to the need to write text into the appropriate columns, HUD has provided an electronic Logic Model that will enable applicants to select from lists the appropriate needs statement(s), activities/outputs and outcomes that the applicant is proposing in the application submission. The listing of the activities is referred to as the Master Logic Model List and each list is unique to the program funding opportunity. The application instructions found on *http://www.Grants.gov/Apply* include the eLogic Model™ that you can complete and attach to your electronic application submission. For applicants who do not have Microsoft Excel software, HUD has provide the Master Logic model list on its Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm*, where applicants may select the items in each column that reflect their activity outputs and outcomes and copy and paste them into the appropriate column in the Logic Model form. The form can be printed and sent to HUD via facsimile using form HUD–96011 as the cover page to the Transmittal. In completing the Logic Model, applicants are expected to select from the lists of appropriate outputs and outcomes for their proposed workplan. The eLogic Model™ and Master Logic Model listing also identify the unit of measure that HUD is interested in collecting for the outputs and outcomes selected. In making the selections, for each output and outcome, applicants are to complete the appropriate proposed number of units of measure to be accomplished. The space next to the output and outcome is to capture the

anticipated units of measure. Multiple outputs and outcomes may be selected per project. For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment statement. HUD will be publishing a separate notice on the ROI concept.

Under this rating factor, applicants will receive a maximum of 24 points based on how the applicant proposes to effectively address program goals and performance measures. HUD will evaluate and analyze how well the applicant implemented the required Rural Housing and Economic Development output and outcome goals and identified other stated benefits or outcomes of their program. In order to receive the highest number of points, applicants should present a clear plan to address the RHED output and outcome measures.

1. *Output Measures* are quantifiable. RHED outputs include: Number of housing units constructed; number of housing units rehabilitated; Number of jobs created; number of participants trained; number of new businesses created; and number of existing businesses assisted.

2. *Outcomes Measures* are benefits accruing to the program participants and/or communities during or after participation in the RHED program. RHED outcomes include: Number of housing units rehabilitated that will be made available to low-to-moderate-income participants; percentage change in earnings as a result of employment for those participants; percent of participants trained who find a job; annual estimated savings for low-income families as a result of energy efficiency improvements; and increase in organizational resources as a result of assistance (e.g., dollars leveraged).

You must clearly identify the outcomes to be achieved and measured. Proposed program benefits should include program activities, benchmarks, and interim activities or performance indicators with timelines. Applications should include an evaluation plan that will effectively measure actual achievements against anticipated achievements.

3. *Logic Model*. HUD requires RHED applicants to develop an effective, quantifiable, outcome-oriented evaluation plan for measuring performance and determining whether goals have been met using the Master Logic Model for RHED, which can be found in the download instructions portion of the application at www.Grants.gov. In preparing your logic model first open the form HUD–96010 and go to the instruction tab and follow the directions in the tab. Your application must include the Logic Model form (HUD–96010) to receive any points under this factor.

This rating factor reflects HUD's goal to embrace high standards of ethics, management, and accountability. HUD will hold a training broadcast via satellite for potential applicants to learn more about Rating Factor 5. For more information about the date and time of the broadcast, consult the HUD Web site at *http://www.hud.gov/grants/index.cfm.*

Although the following list is not all inclusive, program outcomes for the Rural Housing and Economic Development program must include where applicable:

a. Total number of housing units constructed;

b. Total number of housing units rehabilitated;

c. Number of Housing units rehabilitated that will be made available to low-to-moderate income participants;

d. Number of Housing units constructed that will be made available to low-to-moderate income participants;

e. Number of jobs created;

f. Percentage change in earnings as a result of employment for those participants;

g. Number of participants trained;

h. Percent of participants trained who find a job;

i. Number of new businesses created;

j. Number of existing businesses assisted; and

k. Annual estimated savings for low-income families as a result of energy efficiency improvements.

l. Increase in program accomplishments as a result of capacity building assistance (e.g. number of employees hired or retained, efficiency or effectiveness of services provided); and

m. Increase in organizational resources as a result of assistance (e.g., dollars leveraged). If you receive an award of funds, you will be required to use the logic model to report progress against the proposed outcomes in your approved application and award agreement.

The applicant's proposed budget must reflect a breakdown of estimated dollar amount of the Rural Housing and Economic Development grant to be expended on each of the activities/outputs and the anticipated results included on the HUD–96010 ''Logic Model'' and under the Rating Factor 5 section of your application.

6. RC/EZ/EC–II Bonus Points (2 Points)

HUD will award two bonus points to all applications that include documentation stating that the proposed eligible activities/projects will be located in and serve federally designated renewal community (RCs), empowerment zone (EZs), or enterprise communities (ECs) designated by the United States Department of Agriculture (USDA) in round II RC/EZ/EC. A listing of federally designated RC/EZ/EC–II is available on the Internet at *http://www.hud.gov/crlocator.*

This notice contains a certification (HUD–2990) that must be completed for the applicant to be considered for Rural EZ/Round II EC bonus points.

B. Review and Selection Process

1. Application Selection Process

a. *Rating and Ranking.*

(1) *General.* To review and rate applications, HUD may establish panels which may include outside experts or consultants to obtain certain expertise and outside points of view, including views from other federal agencies.

(2) *Rating.* All applicants for funding will be evaluated against applicable criteria. In evaluating applications for funding, HUD will take into account an applicant's past performance in managing funds, including the ability to account for funds appropriately; its timely use of funds received either from HUD or other federal, state or local programs; its success in meeting performance targets for completion of activities; and the number of persons to be served or targeted for assistance. HUD may use information relating to these items based on information at hand or available from public sources such as newspapers, Inspector General or Government Accounting Office reports or findings, hotline complaints that have been found to have merit, or other such sources of information. In evaluating past performance, HUD will deduct points from rating scores as specified under Rating Factor 1.

(3) *Ranking.* Applicants will be selected for funding in accordance with their rank order. An application must receive a minimum score of 75 points to be eligible for funding. If two or more applications are rated fundable and have the same score, but there are insufficient funds to fund all of them, the application(s) with the highest score for Rating Factor 2 will be selected. If applications still have the same score, the highest score in the following factors will be selected sequentially until one highest score can be determined: Rating Factor 3, Rating Factor 1, Rating Factor 5, and Rating Factor 4.

a. *Initial screening.* During the period immediately following the application deadline, HUD will screen each

application to determine eligibility. Applications will be rejected if they:

(1) Are submitted by ineligible applicants;

(2) Do not serve an eligible rural area as defined in Section III of this NOFA;

(3) Do not meet the objectives of the Rural Housing and Economic Development program; or

(4) Propose a project for which the majority of the activities are ineligible.

b. *Rating Factors for Award Used to Evaluate and Rate Applications.* The factors for rating and ranking applicants and the maximum points for each factor are provided above. The maximum number of points for this program is 102. This includes 100 points for all five rating factors and two RC/EZ/EC–II bonus points, as described above.

c. *Environmental Review.* Each application constitutes an assurance that the applicant agrees to assist HUD in complying with the provisions set forth in 24 CFR part 50. Selection for award does not constitute approval of any proposed site. Following selection for award, HUD will perform an environmental review of activities proposed for assistance under this part, in accordance with 24 CFR part 50. The results of the environmental review may require that proposed activities be modified or that proposed sites be rejected. Applicants are particularly cautioned not to undertake or commit HUD funds for acquisition or development of proposed properties (including establishing lines of credit that permit financing of such activities or making commitments for loans that would finance such activities from a revolving loan fund capitalized by funds under this NOFA) prior to HUD approval of specific properties or areas. Each application constitutes an assurance that you, the applicant, will assist HUD in complying with part 50; will supply HUD with all available relevant information to perform an environmental review for each proposed property; will carry out mitigating measures required by HUD or select alternate property; and will not acquire, rehabilitate, convert, demolish, lease, repair, or construct property, or commit or expend HUD or local funds for these program activities with respect to any eligible property until HUD approval of the property is received. In supplying HUD with environmental information, grantees must use the guidance provided in Notice CPD 05–07, entitled ''Field Environmental Review Processing for Rural Housing and Economic Development (RHED) Grants,'' issued August 30, 2005, which can be found at *http://www.hud.gov/offices/cpd/energyenviron/environment/lawsandregs/notices.cfm.* HUD's funding commitment is contingent upon HUD's site approval following an environmental review.

d. *Adjustments to Funding.*

(1) HUD will not fund any portion of your application that is ineligible for funding and does not meet the requirements of this NOFA, or is duplicative of other funded programs or activities from prior year awards or other selected applicants. Only the eligible non-duplicative portions of your application may be funded.

(2) HUD reserves the right to utilize this year's funding to fund previous years' errors prior to rating and ranking this year's applications.

(3) If a balance remains, HUD reserves the right to utilize those funds toward the following year's awards.

(4) Please see the Section VI.A.3 of the General Section for more information about funding.

(5) Performance and Compliance Actions of Funding Recipients. HUD will measure and address the performance and compliance actions of funding recipients in accordance with the applicable standards and sanctions of the Rural Housing and Economic Development program.

e. *Corrections to Deficient Applications.* After the application due date, HUD may not, consistent with its regulations in 24 CFR part 4, subpart B, consider any unsolicited information you, the applicant, may want to provide. HUD may contact you to clarify an item in your application or to correct technical deficiencies. See Section V.B. of the General Section for more detailed information on this topic.

VI. Award Administration Information

A. *Award Notice.* Successful Rural Housing and Economic Development program applicants will be notified of grant award and will receive post-award instructions by mail.

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

1. *Lead-Based Paint Hazard Control.* All property assisted under the Rural Housing and Economic Development program is covered by the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and HUD's implementing regulations at 24 CFR part 35.

2. *Procurement of Recovered Materials.* See the General Section for further information.

3. *Executive Order 13202,* ''Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.'' (See the General Section for further information.)

4. *Audit Requirements.* Any grantee that expends $500,000 or more in federal financial assistance in a single year (this can be program year or fiscal year) must meet the audit requirements established in 24 CFR parts 84 and 85 in accordance with OMB A–133.

5. *Accounting System Requirements.* The Rural Housing and Economic Development program requires that successful applicants have in place an accounting system that meets the policies, guidance, and requirements described in the following applicable OMB Circulars and Code of Federal Regulations:

a. OMB Circular A–87 (Cost Principles for State, Local and Indian Tribal Governments);

b. OMB Circular A–122 (Cost Principles for Non-Profit Organizations);

c. OMB Circular A–133 (Audits of States, Local Governments, and Non-Profit Organizations);

d. 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations); and

e. 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally recognized Indian tribal governments).

C. *Reporting.* Reporting documents apply to the award, acceptance and use of assistance under the Rural Housing and Economic Development program and to the remedies for noncompliance, except when inconsistent with HUD's Appropriation Act, or other federal statutes or the provisions of this NOFA.

For each reporting period, as part of your required report to HUD, grantees must include a completed Logic Model (Form HUD 96010), which identifies output and outcome achievements. The Return on Investment concept will be addressed further in a subsequent notice (see section V., Rating Factor 5 of this NOFA for further information). If you are reporting race and ethnic data, you must use Form HUD–27061, Race and Ethnic Data Reporting Form.

D. *Debriefing.* See the General Section for information on how to obtain a debriefing on your application review and evaluation.

VII. Agency Contact(s)

Further Information and Technical Assistance. For information concerning the HUD Rural Housing and Economic Development program, contact Mr. Thann Young, Community Planning and Development Specialist, or Ms. Linda L.

Streets, Community Planning and Development Specialist, Office of Rural Housing and Economic Development, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7137, Washington, DC 20410–7000; telephone 202–708–2290 (this is not a toll-free number). Persons with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

Prior to the application deadline, Mr. Young or Ms. Streets will be available at the number above to provide general guidance and clarification of the NOFA, but not guidance in actually preparing your application. Following selection, but prior to award, HUD staff will be available to assist in clarifying or confirming information that is a prerequisite to the offer of an award by HUD.

VIII. Other Information

A. *Satellite Broadcast.* HUD will hold an information webcast via satellite for potential applicants to learn more about the program and preparation of an application. For more information about the date and time of this webcast, consult the HUD Web site at *http://www.hud.gov.*

B. *The 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 2506–0169. 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 it displays a currently valid OMB control number. Public reporting burden for the collection of information is estimated to average 100 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing and reporting the data for the application, semi-annual reports, and final report. The information will be used for grantee selection and monitoring the administration of funds.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC HOUSING RESIDENT OPPORTUNITY AND SELF-SUFFICIENCY (ROSS)

RESIDENT OPPORTUNITY AND SELF-SUFFICIENCY (ROSS) ELDERLY/PERSONS WITH DISABILITIES PROGRAM

Billing Code 4210-01-C

Resident Opportunity and Self-Sufficiency (ROSS) Elderly/Persons With Disabilities Program

Overview Information

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

B. Funding Opportunity Title: Resident Opportunity and Self-Sufficiency (ROSS)—Elderly/Persons with Disabilities Program (formerly known as Resident Services Delivery Model—Elderly/Persons with Disabilities).

C. Announcement Type: Initial announcement.

D. Funding Opportunity Number: The Federal Register number for this NOFA is FR–5030–N–30. The OMB approval number is 2577–0229.

E. Catalog of Federal Domestic Assistance (CFDA) Number(s): Resident Opportunity and Self Sufficiency, 14.876.

F. Dates: The application deadline date is July 13, 2006. Applications submitted through *http://www.grants.gov* must be received and validated by grants.gov no later than 11:59:59 Eastern time on the application deadline date.

G. Additional Overview Content Information: 1. *Purpose of Program:* The purpose of the ROSS—Elderly/Persons with Disabilities Program is to provide grants to public housing agencies (PHAs), tribes/tribally designated housing entities (TDHEs), Resident Associations (RAs), and nonprofit organizations (including grassroots, faith-based and other community-based organizations), for the delivery and coordination of supportive services and other activities designed to help improve the living conditions of public and Indian housing residents who are elderly and/or disabled. Applicants should be aware that receipt of grant funds in no way guarantees further funding beyond the three-year grant term and should be sure that services commenced pursuant to this grant will be sustained independently in the future or that the cessation of these activities will not negatively impact residents. This is especially important for any meal programs to meet residents' nutritional needs.

2. *Funding Available:* A total of approximately $10 million is available for ROSS—Elderly/Persons with Disabilities grants in fiscal year 2006.

3. *Award Amounts:* Awards, depending on the grant category, unit count and type of grantee, will range from $100,000 to $300,000. Grant awards must be used in two ways: one portion for the salaries and fringe benefits of a Project Coordinator; and one portion for direct delivery of a supportive service to the targeted elderly/disabled resident population. Please see the funding breakdown chart below.

4. *Eligible Applicants.* Eligible applicants are PHAs; tribes/TDHEs; nonprofit organizations including grassroots faith-based and other community-based organizations that have resident support or the support of tribes; and RAs. The term ''resident association'' or ''RA'' will be used to refer to all types of eligible resident organizations. Please see the section on ''Definition of Terms'' for a complete definition of each type of eligible resident organization.

5. *Cost Sharing/Match Requirement:* At least 25 percent of the requested grant amount is required as a match. The match may be in cash and/or in-kind donations. The match is a threshold requirement.

6. *Grant term.* The grant term is three years from the execution date of the grant agreement.

Grant program	Total funding	Eligible applicants	Maximum grant amount (units refers to the number of units occupied by elderly/disabled, as indicated on ROSS Fact Sheet (HUD–52751))
ROSS—Elderly/ Persons with Disabilities.	$10 million	PHAs	$180,000 for PHAs with 1–217 units. $240,000 for PHAs with 218–1,155 units. $300,000 for PHAs with 1,156 or more units.
		Resident Associations	$100,000
		Non-profit entities	$100,000 per RA; Maximum award is $300,000.
		Tribes/TDHEs	$180,000 for Tribes/TDHEs with 1–217 units. $240,000 for Tribes/TDHEs with 218–1,155 units. $300,000 for Tribes/TDHEs with 1,156 or more units.

Grant awards must be used in two ways: one portion for the salaries and fringe benefits of a Project Coordinator; and one portion for direct delivery of high priority supportive services to the targeted elderly/disabled resident population. The applicant may use up to $50,000 maximum per year and in accordance with local wage standards (see Funding Restrictions) for the salary and fringe benefits of a Project Coordinator. Additionally, the applicant may use funds for delivery of services. The application must demonstrate (in rating factor 2) that these services are of a high priority for the targeted elderly/disabled residents and that another funding source is not available, therefore meriting funding under this grant.

Full Text of Announcement

I. Funding Opportunity Description

A. Purpose

The purpose of the ROSS—Elderly/Persons with Disabilities Program is to provide grants to public housing agencies (PHAs), Tribes/Tribally Designated Housing Entities (TDHEs), Resident Associations (RAs), and nonprofit organizations (including grassroots, faith-based and other community-based organizations) for the delivery and coordination of supportive services and other activities designed to help improve the living conditions of public and Indian housing residents who are elderly and/or disabled. Please note that no elderly individual or person with a disability may be required to take services.

B. Definition of Terms

1. *City-Wide Resident Organization* consists of members from Resident Councils, Resident Management Corporations, and Resident Organizations who reside in public housing developments that are owned and operated by the same PHA within a city.

2. *Community Facility* means a non-dwelling structure that provides space for multiple supportive services for the benefit of public and/or Indian housing residents eligible for the services provided.

3. *Contract Administrator* (CA) means an overall grant administrator and/or a financial management agent that oversees the implementation of the grant and/or the financial aspects of the grant. (See the ''Threshold

Requirements'' and ''Program Requirements'' sections for more information.) All nonprofit applicants, all RAs, and PHAs that are troubled at time of application must have a CA and are required, per the Threshold Section, to submit a signed Contract Administrator Partnership Agreement. The agreement must be for the entire grant term. The CA must assure that the financial management system and procurement procedures that will be in place during the grant term will fully comply with either 24 CFR part 84 or 85, as appropriate. CAs are expressly forbidden from accessing HUD's Line of Credit Control System (LOCCS) and submitting vouchers on behalf of grantees. CAs must also assist PHAs to meet HUD's reporting requirements. CAs may be: Local housing agencies; community-based organizations such as community development corporations (CDCs), churches, temples, synagogues, mosques; nonprofit organizations; state/regional associations and organizations. Troubled PHAs are not eligible to be contract administrators. Grant writers who assist applicants in preparing their ROSS applications are also ineligible to be contract administrators. Organizations that the applicant proposes to use as the CA must not violate or be in violation of other conflicts of interest as defined in 24 CFR part 84 and 24 CFR part 85.

4. *Elderly person* means a person who is at least 62 years of age.

5. *Jurisdiction-Wide Resident Organization* means an incorporated nonprofit organization or association that meets the following requirements:

a. Most of its activities are conducted within the jurisdiction of a single housing authority;

b. There are no incorporated resident councils or resident management corporations within the jurisdiction of the single housing authority;

c. It has experience in providing start-up and capacity-building training to residents and resident organizations; and

d. Public housing residents representing unincorporated resident councils within the jurisdiction of the single housing authority must comprise a majority of the board of directors.

6. *Tribally Designated Housing Entity (TDHE)* is an entity authorized or established by one or more Indian tribes to act on behalf of each such tribe authorizing or establishing the housing entity.

7. *Indian Tribe* means any tribe, band, nation, or other organized group of a community of Indians, including any Alaska native village, regional, or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, and that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self Determination and Education Act of 1975 or any state-recognized tribe eligible for assistance under section 4(12)(C) of NAHASDA.

8. *Intermediary Resident Organizations* means jurisdiction-wide resident organizations, citywide resident organizations, statewide resident organizations, regional resident organizations, and national resident organizations.

9. *NAHASDA-assisted resident* means a resident of tribal housing (as defined above) who has been assisted by the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996.

10. *National Resident Organization (NRO)* is an incorporated nonprofit organization or association for public housing that meets each of the following requirements:

a. It is national in that it conducts activities or provides services in at least two HUD areas or two states;

b. It has the capacity to provide start-up and capacity-building training to residents and resident organizations; and

c. Public housing residents representing different geographical locations in the country are members of the board of directors.

11. *Nonprofit organization* is an organization that is exempt from federal taxation. A nonprofit organization can be organized for the following purposes: charitable, religious, educational, scientific, or other similar purposes in the public interest. In order to qualify, an organization must be a corporation, community chest, fund, or foundation. An individual or partnership will not qualify. To obtain nonprofit status, qualified organizations must file an application with the Internal Revenue Service (IRS) and receive designation as such by the IRS. For more information, go to *http://www.irs.gov.* Applicants who are in the process of applying for nonprofit status, but have not yet received nonprofit designation from the IRS, will not be considered nonprofit organizations. All nonprofit applicants must submit their IRS determination letter to prove their nonprofit (*e.g.*, 501(c)(3)) status. Please see the section on ''Threshold Requirements'' for more information. Nonprofit applicants must also provide letters of support as described in the ''Threshold Requirements'' section.

12. *National nonprofit organizations* work on a national basis and have the capacity to mobilize resources on both a national and local level. All nonprofit applicants must submit their IRS determination letter to prove their nonprofit (*e.g.*, 501(c)(3)) status. National nonprofit applicants must also provide letters of support as outlined in the ''Threshold Requirements'' section.

13. *Past Performance* is a threshold requirement. Using Rating Factor 1, HUD's field offices will evaluate applicants for past performance to determine whether an applicant has the capacity to manage the grant for which they are applying. The area Office of Native American Programs (ONAP) will review past performance for tribal/TDHE submissions. Field offices will evaluate the past performance of contract administrators for applicants required to have one.

14. *Person with disabilities:* This NOFA uses the definition of person with disabilities found at 24 CFR 5.403.

15. *Project Coordinator* is responsible for coordinating the grantee's approved activities to ensure that grant goals and objectives are met. A qualified Project Coordinator is someone with experience managing projects and preferably has experience working with supportive services. Project Coordinators and grantees are responsible for ensuring that all federal requirements are followed.

16. *Resident Association (RA)* means any or all of the forms of resident organizations as they are defined elsewhere in this Definitions section and includes Resident Councils (RCs), Resident Management Corporations (RMCs), City-Wide Resident Organizations, Regional Resident Organizations (RROs), Statewide Resident Organizations (SROs), Jurisdiction-Wide Resident Organizations, and National Resident Organizations (NROs), Resident Organization (RO) for tribal entities, Site-Based Resident Associations, and Tribal/TDHE Resident Groups. The NOFA will use ''Resident Association'' or ''RA'' to refer to all eligible types of resident organizations. See 24 CFR 964.115 for more information.

17. *Regional Resident Organization (RRO)* means an incorporated nonprofit organization or association for public housing that meets each of the following requirements:

a. The RRO is regional *i.e.*, not limited to HUD-defined regions);

b. The RRO has experience in providing start-up and capacity-building training to residents and resident organizations; and

c. Public housing residents representing different geographical locations in the region must comprise the majority of the board of directors.

18. *Resident Management Corporation (RMC)* means an entity that proposes to enter into, or enters into a contract to conduct one or more management activities of a PHA and meets the requirements of 24 CFR 964.120.

19. *Resident Organization (RO)* for tribal entities means an incorporated or unincorporated nonprofit tribal organization or association that meets each of the following criteria:

a. Consists of residents only, and only residents may vote;

b. If it represents residents in more than one development or in all of the developments of the tribal/TDHE community, it shall fairly represent residents from each development that it represents;

c. Adopts written procedures providing for the election of specific officers on a regular basis; and

d. Has an elected governing board.

20. *Secretary* means the Secretary of Housing and Urban Development.

21. *Site-Based Resident Associations* means resident councils or resident management corporations representing a specific public housing development.

22. *Supportive Services* means activities including but not limited to:

a. Meal services adequate to meet nutritional need;

b. Assistance with activities of daily living (ADLs);

c. Wellness programs; and

d. Congregate services.

23. *Statewide Resident Organization (SRO)* is an incorporated nonprofit organization or association for public housing that meets the following requirements:

a. The SRO is statewide;

b. The SRO has experience in providing start-up and capacity-building training to residents and resident organizations; and

c. Public housing residents representing different geographical locations in the state must comprise the majority of the Board of Directors.

24. *Tribal/TDHE Resident Group* means tribal/TDHE resident groups that are democratically elected groups such as IHA-wide resident groups, area-wide resident groups, single development groups, or resident management corporations (RMCs).

C. Regulations Governing the ROSS Grant

ROSS-Elderly/Persons with Disabilities is governed by 24 CFR part 964.

II. Award Information

A. Performance Period and Award Type

1. *Grant Period.* Three years. The grant period shall begin the day the grant agreement and the form HUD–1044, ''Assistance Award/Amendment,'' are signed by both the grantee and HUD.

2. *Grant Extensions.* Requests to extend the grant term beyond the grant term must be submitted in writing to the local HUD field office or area ONAP at least 90 days prior to the expiration of the grant term. Requests must explain why the extension is necessary, what work remains to be completed, and what work and progress has been accomplished to date. Extensions may be granted only once by the field office or area ONAP for a period not to exceed six months and may be granted for a further six months by the Headquarters Program Office at the request of the Field Office or Area ONAP.

3. *Type of Award.* Grant agreement.

4. *Subcontracting.* Subcontracting is permitted. Grantees must follow federal procurement regulations found in HUD regulations at 24 CFR Part 84.40–84.48 and 24 CFR 85.36.

B. Funding Amounts

1. *Total Funding.* The Department expects to award approximately $10,000,000 under this funding category of ROSS.

Awards will be made as follows:

a. PHAs must use the number of conventional public housing units occupied by elderly and disabled residents as of September 30, 2005, per their budget to determine the maximum grant amount they are eligible for in accordance with the categories listed below. PHAs should clearly indicate the number of conventional public housing units occupied by elderly and disabled residents under their Annual Contributions Contract on the Fact Sheet.

Number of conventional units occupied by elderly and persons with disabilities	Maximum funding
1–217 units	$180,000
218–1,155 units	240,000
1,156 or more units	300,000

b. The maximum grant award is $100,000 for each RA.

c. Nonprofits are eligible applicants if they are representing or acting at the behest of an RA. Accordingly, nonprofit applicants must show support from that RA. Nonprofit organizations that have support from an RA are limited to $100,000 for each RA. A nonprofit organization may submit a single application for no more than three different RAs from the same PHA. A nonprofit organization may not receive more than $300,000 in FY 2006 ROSS-Elderly/Disabled grant funding. Nonprofit organizations may submit more than one application provided they target residents of distinct PHAs or tribes/TDHEs. In cases where nonprofit applicants are not able to obtain support from RAs, they must obtain letters of support from PHAs and/or tribes/TDHEs and they may also submit a letter of support from one or more of the following: Resident Advisory Boards (RABs), local civic organizations, or units of local government.

Note: All nonprofit applicants that do not include a letter of support from an RA must include a letter of support from a PHAs. or tribes/TDHEs. Please see Threshold Requirements for more information Support letters must indicate the developments to be served by the nonprofit organization. Funding for nonprofit applicants that do not receive letters of support from RAs will be determined as follows. Support letters must indicate the developments to be served by the nonprofit organization as well as the number of conventional public housing units occupied by elderly and persons with disabilities.

Number of conventional units occupied by elderly/disabled residents	Maximum funding
1–217 units	$180,000
218–1,155 units	240,000
1,156 or more units	300,000

Applicants should see the General Section of the SuperNOFA for instructions on submitting support letters and other documentation with their electronic application.

d. Tribes/TDHEs should use the number of units occupied by elderly and persons with disabilities counted as Formula Current Assisted Stock for Fiscal Year 2005 as defined in 24 CFR part 1000.316. Tribes/TDHEs are eligible for the same amounts as PHAs within each category in (a) above. Tribes that have not previously received funds from the Department under the 1937 Housing Act should count housing units under management that are owned and operated by the Tribe, identified in their housing inventory as of September 30, 2005, and occupied by elderly/disabled residents. Tribes should clearly indicate the number of units under management occupied by elderly/disabled residents on the Fact Sheet.

III. Eligibility Information

A. Eligible Applicants

PHAs, tribes/TDHEs, RAs, and nonprofit organizations (including those nonprofit organizations supported by

resident organizations or PHAs, tribes/TDHEs and RABs). PHAs that are recipients of the Elderly/Disabled Renewal Service Coordinator funding through Operating Subsidy are not eligible to apply for this ROSS funding category. If you are unsure if your organization falls into this category, please contact the Public and Indian Housing Information and Resource Center at 800–955–2232.

B. Cost Sharing or Matching

Information for All Applicants: Match is a threshold requirement. Applicants who do not demonstrate that they have a match of 25% of the total requested grant amount will fail the threshold requirement and will not receive further consideration for funding.

C. Other

1. *Eligible Activities.* Applicants should propose implementing comprehensive programs within the three-year grant term, which will result in improved living conditions for the elderly/persons with disabilities population. Improved living conditions may mean, but is not limited to, aging-in-place or assistance to live independently. Proposals should involve partnerships with organizations that will help grantees provide enhanced services to the elderly/persons with disabilities they will serve. All applicants must complete a descriptive narrative and work plan and a Logic Model covering the three-year grant term. Proposed grant activities should build on the foundation created by previous ROSS grants or other federal, state, and local efforts to assist these populations. Eligible activities include but are not limited to the following:

a. Hiring of a qualified Project Coordinator to run the grant program. A qualified Project Coordinator should have at least two years of experience managing programs and have experience working with supportive services. The Project Coordinator is responsible for:

(1) Assessing participating residents' needs for supportive services (*e.g.*, Medicaid, Medicare, physician care, food stamps, rehabilitation services, veterans disability, state-funded programs such as nurse case management, housekeeping, Meals-on-Wheels, transportation, etc.);

(2) Designing, coordinating, referring to and delivering, as relevant, grant activities based on residents' needs, such as those activities listed below;

(3) Monitoring the progress of program participants and evaluating the overall success of the program. A portion of grant funds should be reserved to ensure that evaluations can be completed for all participants who received assistance through this program. Project Coordinators and grantees are responsible for ensuring that all federal requirements are followed.

b. Coordination, referral to, and delivery of meal services adequate to meet nutritional needs (*i.e.*, not related to entertainment activities);

c. Coordination, referral to, and delivery of transportation services including purchase, rental or lease of a vehicle for the grantee and limited in use for program purposes;

d. Coordination, set-up and referral to assistance with daily activities (ADLs);

e. Coordination, set-up and referral to housekeeping assistance;

f. Coordination, referral to, and delivery of wellness programs including but not limited to health and nutrition programs, preventive health education, referral to rehabilitation services, structured programs to build social support, services for the disabled, and other community resources;

g. Coordination, set-up and referral to personal emergency response;

h. Coordination, referral to, and delivery of congregate services—includes supportive services provided in a congregate setting at a conventional public housing development; and

i. Coordination, referral to, and delivery of case management;

j. Coordination and referral to health services (*e.g.*, medical and dental check-ups);

k. Coordination, referral, and delivery of job training opportunities under Section 3 of the Housing and Urban Development Act of 1968;

l. Coordination and referral of residents to employment opportunities under Section 3 of the Housing and Urban Development Act of 1968;

m. Salary and fringe benefits of direct services staff;

n. Lease or rental of space for program activities, but only under the following conditions:

(1) The lease must be for existing facilities not requiring rehabilitation or construction;

(2) No repairs or renovations of the property may be undertaken with Federal funds; and

(3) Properties in the Coastal Barrier Resources System designated under the Coastal Barrier Resources Act (16 U.S.C. 3501) cannot be leased or rented with Federal Funds.

o. Administrative Costs, for all applicants, may include, but are not limited to, purchase of furniture, office equipment and supplies, local travel, utilities, printing, postage and lease or rental of space for program activities (subject to the lease restrictions in the preceding paragraph). To the maximum extent practicable, when leasing space or purchasing equipment or supplies, business opportunities should be provided to businesses under Section 3 of the Housing and Urban Development Act of 1968. Administrative costs must not exceed 10 percent of the total grant costs;

p. Staff training;

q. Long-distance travel (subject to funding restrictions); and

r. Evaluation costs for the grant program.

2. *Threshold Requirements.* The criteria below apply to all applicants unless otherwise indicated. Additional information about threshold requirements may also be found in the General Section. Applicants must respond to each threshold requirement clearly and thoroughly by following the instructions below. If the application fails any threshold requirement it will be considered a failed application and will not receive consideration for funding.

a. *Match.* All applicants are required to have in place firm match commitments, either in cash or in-kind, for 25 percent of the requested grant amount, as defined in this NOFA. Joint applicants must together have at least a 25 percent match of the requested grant amount. Applicants who do not demonstrate the minimum 25 percent match of the requested grant amount will fail this threshold requirement and will not receive further consideration for funding. If you are applying for more than one category of ROSS grant (*i.e.*, ROSS-Family & Homeownership), you must use different sources of match donations for each grant application. Additionally, you must indicate which other ROSS grant(s) you are applying for by attaching a page to HUD budget form 424-CBW stating the sources and amounts of each of your match contributions for this application as well as any other HUD programs to which you are applying. Match donations must be firmly committed, which means that the amount of match resources and their dedication to ROSS-funded activities must be explicit, in writing, and signed by a person authorized to make the commitment. Letters of commitment, memoranda of understanding (MOUs), or tribal resolutions must be on organization letterhead, and signed by a person authorized to make the stated commitment, whether it be in cash or in-kind services. The letters of commitment/MOUs/tribal resolutions

must indicate the total dollar value of the commitment and be dated between the publication date of this NOFA and the application deadline published in this NOFA, or the amended deadline and indicate how the commitment will relate to the proposed program. The commitment must be available at time of award. Match that is proposed for ineligible activities will not be accepted. Although ineligible as a use of grant funds for applicants, the direct delivery of ADLs, housekeeping, and personal emergency response will be accepted as match if provided by a partner. Applicants proposing to use their own non-ROSS grant funds to meet the match requirement in whole or in part, must also include a letter of commitment indicating the type of match (cash or in-kind) and how the match will be used. Please see the General Section for instructions for submitting the required letters with your electronic application.

Committed amounts in excess of the 25 percent of the requested grant amount may be considered as leveraged funds for higher points under Rating Factor 4.

(1) The value of volunteer time and services shall be computed by using the normal professional rate for the local area or the national minimum wage rate of $5.15 per hour (**Note:** applicants may not count their staff time toward the match);

(2) In order for HUD to determine the value of any donated material, equipment, staff time, building, or lease, your application must provide a letter from the organization making the donation stating the value of the contribution.

(3) Other resources/services that can be committed include: In-kind services provided to the applicant; funds from federal sources (not including ROSS funds) as allowed by statute, including for example Community Development Block Grant (CDBG) funds or Indian Housing Block Grant (IHBG) funds; funds from any state or local government sources; and funds from private contributions. Applicants may also partner with other program funding recipients to coordinate the use of resources in the target area.

b. *Past Performance.* HUD's field offices will evaluate data provided by applicants under Rating Factor 1 as well as applicants' past performance to determine whether applicants have the capacity to manage the grant for which they are applying. The area Offices of Native American Programs (ONAPs) will review past performance for tribal and TDHE submissions. Field offices will evaluate the contract administrators' past performance for applicants required to have a contract administrator. In evaluating past performance, HUD will look at the applicant's record of completing grant activities on time, within budget, and the results achieved. Using Rating Factor 1, the field office/area ONAP will evaluate applicants' past performance. Applicants should carefully review and respond to Rating Factor 1 to ensure their applications address each of the criteria. If applicants fail to address what is requested in Rating Factor 1, their applications will fail this threshold and will not receive further consideration.

c. *Contract Administrator Partnership Agreement.* All nonprofit applicants, all RAs, and troubled PHAs (troubled as of the application deadline) are required to submit a signed Contract Administrator Partnership Agreement. The agreement must be for the entire grant term. Applicants required to have a Contract Administrator Partnership Agreement that fail to submit one will fail this threshold requirement and will not receive further consideration for funding. See the Definitions, and Program Requirements Sections of this NOFA more information on Contract Administrators. See the General Section for instructions on submitting the information electronically.

Troubled PHAs are not eligible to be contract administrators. Grant writers who assist applicants in preparing their ROSS applications are also ineligible to be contract administrators.

d. *Letters of Support for Nonprofit Applicants.*

(1) All nonprofit applicants must include one or more letters of support from RAs, Resident Advisory Boards (RABs), local civic organizations, or units of local government. If the RAs are inactive, or applicants submit letters of support from other organizations such as RABs, then a nonprofit applicant must also submit an accompanying letter of support from the PHA or tribe/TDHE. indicating support for their application. All letters of support must be signed by an authorized representative of the supporting organization and dated within two months of the application deadline published in this NOFA. Please note that in the event that the deadline date changes, the letters may be dated within two months of either the original or the amended deadline date.

(2) Nonprofit applicants that do receive support from RAs must also submit form HUD–52754 ''List of Resident Associations Supporting Nonprofit Applicants.'' Submitting this form is not applicable where RAs are inactive or where applicants do not submit letters of support from RAs.

(3) In cases where nonprofit organizations are applying to serve tribes/TDHEs, nonprofit applicants must submit letters of support from tribes/TDHEs. Nonprofit organizations must also use form HUD–52754 to list which tribes/TDHEs support their application.

(4) Letters of support from RAs or RABs must describe to what extent they are familiar with the nonprofit applicant and indicate their support and understanding of the nonprofit organization's application. Letters from RAs/RABs must include contact information and the name and title of the person authorized to sign for the organization and should, whenever possible, be on RA/RAB letterhead. If RA/RAB letterhead is not available, the letter may be submitted on PHA letterhead.

(5) Letters of support from civic organizations or units of local government must describe to what extent they are familiar with the nonprofit applicant and which programs the nonprofit applicant has operated or managed in the community that are similar to the applicant's application. Such letters of support must include contact information and the name and title of the person authorized to sign for the organization. The letter should be on organization letterhead.

(6) All nonprofit applicants that do not provide letters of support from RAs or RABs must provide letters of support from PHAs or tribes/TDHEs with jurisdiction over the developments the applicant proposes to serve. Letters from PHAs or tribes/TDHEs must describe the extent to which the nonprofit applicant is familiar with the needs of the community to be served, which programs the nonprofit applicant has operated or managed in the community that are similar to the applicant's proposal, and whether the nonprofit organization has the capacity to implement its proposed program. Letters from PHAs or tribes/TDHEs must also list the names of the developments to be served, certify the number of conventional units occupied by elderly/persons with disabilities in those developments, and identify the ROSS funding category to which the nonprofit organization is applying. PHA or tribe/TDHE letters of support must be signed by the Executive Director, tribal leader, or authorized designee and must be on PHA or tribe/TDHE letterhead. Please see the General Section of the SuperNOFA for instructions for submitting the required letters with your electronic application.

(7) Applications from nonprofit organizations that do not submit the information requested in this section will fail this threshold requirement and will not be considered for funding.

e. *Nonprofit status.* All nonprofit applicants must submit their IRS determination letter to prove their nonprofit (*e.g.*, 501(c)(3)) status. Applicants that fail to submit this letter will fail this threshold requirement and will not be considered for funding. Please see the General Section of the SuperNOFA for instructions for submitting the required documentation with your electronic application.

f. *Minimum Score for All Fundable Applications.* Applications that pass all threshold requirements and go through the ranking and rating process must receive a minimum score of 75 in order to be considered for funding.

g. *General Section Thresholds.* All applicants will be subject to all Thresholds requirements listed in the General Section.

h. *The Dun and Bradstreet Universal Numbering System (DUNS) Number Requirement.* Refer to the General Section for information regarding the DUNS requirement. You will need to obtain a DUNS number to receive an award from HUD. See the General Section for a discussion of the Grants.gov registration process.

3. *Program Requirements*

a. *Contract Administrator.* The contract administrator must assure that the financial management system and procurement procedures that will be in place during the grant term will fully comply with either 24 CFR part 84 or 85, as appropriate. CAs are expressly forbidden from accessing HUD's Line of Credit Control System (LOCCS) and submitting vouchers on behalf of grantees. Contract administrators must also assist grantees to meet HUD's reporting requirements. Contract administrators may be: Local housing agencies; community-based organizations such as community development corporations (CDCs), churches, temples, synagogues, mosques; nonprofit organizations; state/regional associations and organizations. Troubled PHAs are not eligible to be contract administrators. Grant writers who assist applicants to prepare their applications are also ineligible to be contract administrators. Organizations that the applicant proposes to use as the contract administrator must not violate or be in violation of other conflicts of interest as defined in 24 CFR part 84 and 24 CFR part 85.

b. *Requirements for All Applicants.* All applicants, lead and non-lead, should refer to ''Other Requirements and Procedures Applicable to All Programs'' of the General Section for requirements pertaining specifically to procurement of recovered materials and for information regarding other requirements to which they may be subject.

4. *Number of Applications Permitted.* Applicants may desire to provide a broad range of services supported by grants from a number of ROSS funding categories. Applicants may submit more than one application only based on the criteria below:

a. *General.* Applicants may submit up to one application for each ROSS funding category (*i.e.*, one application for ROSS-Elderly/Persons with Disabilities, one application for ROSS-Family, etc.), except for nonprofits. Nonprofit organizations may submit more than one application per ROSS funding category provided they will be serving residents of distinct PHAs or Tribes/TDHEs.

b. *More than one application per development.* Only one application per funding category will be funded for a particular development. For example, if multiple applicants apply for ROSS-Elderly/Persons with Disabilities for the same development, only the highest scoring application will be considered for award. If multiple applicants are interested in providing services to a development and the services are funded under the same ROSS funding category, it is suggested the applicants work together to submit one application on behalf of the development.

c. *Joint applications.* Two or more applicants may join together to submit a joint application for proposed grant activities. Joint applications must designate a lead applicant. The lead applicant must be registered with Grants.gov and submit the application using the Grants.gov portal. Lead applicants are subject to all threshold requirements. Non-lead applicants are subject to the following threshold requirements as applicable:

(1) Letters of support for nonprofit applicants;

(2) Evidence of nonprofit status as outlined under the section covering threshold requirements; and

(3) Threshold requirements outlined in Section III. C. of the General Section. Joint applications may include PHAs, RAs, Tribes/TDHEs, and nonprofit organizations on behalf of resident organizations. Joint applications involving nonprofit organizations must also provide evidence of resident support (the RA) or, if the RA is inactive, the RAB. (If the support letter is from the RAB, the applicant must also provide a support letter from the PHAs or tribes/TDHEs.) The PHA, tribe/TDHE, or RA that are part of a joint application may not also submit separate applications as sole applicants under this NOFA.

Note: The number of conventional public housing units occupied by the elderly/disabled of the lead applicant will determine the funding amount category for which the applicants are eligible.

5. *Eligible Participants.* All ROSS-Elderly/Persons with Disabilities program participants must be residents of conventional public housing or NAHASDA-assisted housing and must be elderly or disabled. See the Definitions Section for more information.

6. *Eligible Developments.* Only conventional public and Indian housing developments or NAHASDA-assisted housing may be served by ROSS grant funds. Other housing/developments, including but not limited to private housing, federally insured housing, federally subsidized or assisted (*i.e.*, assisted under Section 8, Section 202, Section 811, or Section 236), and others are not eligible to participate in ROSS.

7. *Energy Star.* HUD has adopted a wide-ranging energy action plan for improving energy efficiency in all program areas. As a first step toward implementing the energy plan, HUD, the Environmental Protection Agency (EPA) and the Department of Energy (DoE) have signed a joint partnership to promote energy efficiency in HUD's affordable housing efforts and programs. The purpose of the Energy Star partnership is to promote energy efficiency in the affordable housing stock, and also to help protect the environment. Applicants providing housing assistance or counseling services are encouraged to promote Energy Star materials and practices, as well as buildings constructed to Energy Star standards, to both homebuyers and renters. Program activities can include developing Energy Star promotional and information materials, outreach to low- and moderate-income renters and buyers on the benefits and savings when using Energy Star products and appliances, and promoting the designation of community buildings and homes as Energy Star compliant. For further information about Energy Star, see *http://www.energystar.gov* or call 888–STAR–YES (888–782–7937) or for the hearing-impaired, 888–588–9920 (TTY).

IV. Application and Submission Information

A. Application Components

Copies of the published NOFAs and application forms for HUD programs announced through NOFA may be downloaded from the grants.gov Web site at *http://www.grants.gov/Find*; if you have difficulty accessing the information you may receive customer support from Grants.gov by calling their Support Desk at (800) 518–GRANTS, or sending an e-mail to *support@grants.gov.* You may request general information from the NOFA Information Center (800–HUD–8929) or 800–HUD–2209 (TTY) between the hours of 10 a.m. and 6:30 p.m. (eastern time) Monday through Friday, except on federal holidays. When requesting information, please refer to the name of the program you are interested in. The NOFA Information Center opens for business simultaneously with the publication of the SuperNOFA. You can also obtain information on this NOFA *from* HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* Applicants should make sure to include all requested information, according to the instructions found in this NOFA and where applicable, in the General Section. This will help ensure a fair and accurate review of your application.

B. Content and Form of Application Submission

1. *Application Format Information for All Applicants.* Before preparing an application for any ROSS funding, applicants should carefully review the program description, ineligible activities, program and threshold requirements, and the General Section. Applicants should also review each rating factor found in the ''Application Review Information'' section before writing a narrative response. Applicants' narratives should be as descriptive as possible, ensuring that every requested item is addressed. Applicants should make sure to include all requested information, according to the instructions found in this NOFA and where applicable, in the General Section. This will help ensure a fair and accurate review of your application.

2. *Content and Format for Submission*

a. *Content of Application.* Applicants must write narrative responses to each of the rating factors, which follow this section. Under some Sections, applicants are also asked to complete and include provided forms. Applicants will be evaluated on whether their responses contained in the narratives and on the forms demonstrate that they have the necessary capacity to successfully manage the proposed program. Applicants should ensure that their narratives are written clearly and concisely so that reviewers, who may not be HUD staff, may fully understand their proposal. Also, if information provided on one of the grant forms is not self-explanatory, narrative should be provided to clarify.

b. *Format of Application.* (1) Applications may not exceed 35 narrative pages. Narrative pages must be typed, double-spaced, numbered, use Times New Roman font style, font size 12, and 1″ margins. Supporting documentation, required forms, and certifications will not be counted toward the 35 narrative page limit. However, applicants should make every effort to submit only what is necessary in terms of supporting documentation. Please see the General Section for instructions on how to submit supporting documentation with your electronic application.

(2) A checklist is provided to help applicants ensure that they submit all required forms and information is provided here. Applicants are not required to submit the checklist but should review it to ensure that they have submitted a complete application. (**Note:** Applicants who receive a waiver to submit paper applications must submit their applications in a three-ring binder, with TABS dividing the sections as indicated below. When submitting electronically, you do not need to submit these in TABS. Be sure to name each attachment clearly.) Copies of the forms may be downloaded with the application package and instructions from *www.Grants.gov/Apply* of from the following Web site: *http://www.hud.gov/offices/adm/grants/nofa06/snofaforms.cfm.*

TAB 1: Required Forms from the General Section and other ROSS forms:

1. Acknowledgement of Application Receipt (HUD–2993), for paper application submissions only
2. Application for Federal Financial Assistance (SF–424);
3. SF–424 Supplement, Survey on Ensuring Equal Opportunity for Applicants;
4. Questionnaire for HUD's Initiative on Removal of Regulatory Barriers (HUD–27300);
5. ROSS Fact Sheet (3 pages) (HUD–52751);
6. Grant Application Detailed Budget (HUD–424–CB);
7. Grant Application Detailed Budget Worksheet (HUD–424–CBW);
8. Applicant/Recipient Disclosure/Update Report (HUD–2880);
9. Certification of Consistency with RC/EZ/EC–II Strategic Plan (HUD–2990) if applicable;
10. Certification of Consistency with the Consolidated Plan (HUD–2991) if applicable;
11. Certification of Consistency with the Indian Housing Plan if applicable (HUD–52752);
12. Certification of Resident Council Board of Election (not required for tribes/nonprofit organizations working on behalf of tribes) (HUD–52753);
13. Disclosure of Lobbying Activities (SF–LLL), if applicable;
14. Disclosure of Lobbying Activities Continuation Sheet (SF–LLL–A), if applicable;
15. You Are Our Client Grant Applicant Survey (HUD–2994-A) (optional)
16. Facsimile Transmittal Sheet (HUD–96011). (For use with electronic applications as the cover page to provide third party documentation.)

TAB 2: Threshold Requirements:

1. Letters from partners attesting to match;
2. Letter from applicant's organization attesting to match (if applicant is contributing to match);
3. Letters of support from RAs/PHAs/tribes/TDHEs/Resident Advisory Boards (Threshold requirement for all nonprofit applicants);
4. List of Resident Organizations Supporting Nonprofit Applicants (required for nonprofit applicants but not applicable to applications from tribes/TDHEs) (HUD–52754);
5. IRS nonprofit determination letter proving 501(c)(3) status (Threshold requirement for all nonprofit applicants); and
6. Contract Administrator Partnership Agreement (required for nonprofit organizations, RAs, and PHAs troubled at the time of application submission) (HUD–52755).

TAB 3: Narrative for Rating Factor 1 and ROSS Program Forms

1. Narrative for Rating Factor 1;
2. Chart A: Program Staffing (HUD–52756);
3. Chart B: Applicant/Contract Administrator Track Record (HUD–52757);
4. Resumes/Position Descriptions.

TAB 4: Narrative for Rating Factor 2.

TAB 5: Narrative and work plan for Rating Factor 3. See Sample ROSS Work Plan (HUD–52764).

TAB 6: Narrative for Rating Factor 4.

TAB 7: Narrative for Rating Factor 5 and ROSS Program Forms

1. Narrative;
2. Logic Model (HUD–96010);

C. Submission Dates and Times

1. *Due Dates.*

a. The application must be received and validated by Grants.gov no later than 11:59:59 p.m. eastern time on July 13, 2006. See the General Section for instructions for requesting a waiver of the electronic application submission requirement. If you receive a waiver of the electronic application submission, your application must be received by the application deadline date. See the General Section for waiver and mailing requirements.

D. Intergovernmental Review

Not applicable.

E. Funding Restrictions

1. *Reimbursement for Grant Application Costs.* Grantees are prohibited from using ROSS grant funds to reimburse any costs incurred in conjunction with preparation of their ROSS grant application.

2. *Covered Salaries.* Applicable to all applicants:

a. *Types of Salaries.* ROSS-Elderly/Persons with Disabilities funds may only be used for the types of salaries described in this section according to the restrictions described herein.

b. *Project Coordinator.* All applicants may propose to hire a qualified Project Coordinator to run the grant program. The ROSS-Elderly/Persons with Disabilities program will fund up to $50,000 in combined annual salary and fringe benefits for a full-time Project Coordinator. Applicants may propose a part-time Project Coordinator at a lesser salary. However, the difference in salary may not be transferred to the funds for services. For audit purposes, applicants must have documentation on file demonstrating that the salary and fringe benefits of the Project Coordinator are comparable to similar professions in their local area.

c. ROSS funds may only be used to pay for salaries of staff that provide direct services to residents. Direct services staff, for purposes of this NOFA, are defined as applicant personnel or subcontractors who, as their primary responsibility, provide services directly to residents that participate in the activities described in this application (*e.g.*, case managers, and wellness program staff, among other positions.) ROSS funds may not be used to pay for salaries for any other kind of staff.

3. *Administrative Costs.* Administrative costs may include, but are not limited to, purchase of furniture, office equipment and supplies, local travel, utilities, printing, postage and lease or rental of space for program activities (subject to lease restrictions—See Eligible Activities section of this NOFA). Administrative costs may not be used to pay for salaries or benefits of any kind. Administrative costs must not exceed 10 percent of the total grant amount requested from HUD. Administrative costs must adhere to OMB Circular A–87 or A–122 as appropriate. Please use HUD–424–CBW to itemize your administrative costs.

4. *Funding Requests in Excess of Maximum Grant Amount.* Applicants that request funding in excess of the maximum grant amount which they are eligible to receive will be given consideration only for the maximum grant for which they are eligible. If awarded a grant, the grantee will work with the Field Office to re-apportion the grant funds for eligible activities.

5. *Ineligible Activities/Costs.* Grant funds may not be used for ineligible activities. Match will not be counted if it is proposed to be used for ineligible activities. Two points will be deducted for each ineligible activity proposed in the application. For example, you will lose 2 points if you propose costs that exceed the limits identified in the NOFA for a Project Coordinator; or you will lose 2 points if you propose paying for salaries for staff that are not direct services staff. The following are ineligible activities/costs:

a. Payment of wages and/or salaries to participants for receiving supportive services and/or training programs;

b. Purchase, lease, or rental of land;

c. Purchase of space;

d. New construction, costs for construction materials;

e. Rehabilitation or physical improvements;

f. Entertainment costs;

h. Payment of wages and/or salaries to doctors, nurses or other staff (including health aids or companions) in relation to medical services provided to residents;

i. Purchase of non-prescription or prescription medications;

j. Costs, which exceed limits, identified in the NOFA for the following: Project Coordinator, administrative expenses, and long distance travel;

k. Cost of application preparation;

l. Vehicle insurance and/or maintenance;

m. Salaries for staff that are not direct services staff. Direct services staff, for purposes of this NOFA, are defined as applicant personnel or their subcontractors who, as their primary responsibility, provide services directly to residents that participate in the activities described in this application (*e.g.*, case managers, and wellness program staff, among other positions).

6. ROSS funds cannot be used to hire or pay for the services (salary, fringe benefits, etc.) of a Contract Administrator.

7. *Other Budgetary Restrictions.* Some long distance travel may be necessary during the term of the grant in order for professional grant staff to attend training conferences for ROSS grantees Long distance travel costs for grant program staff may not exceed $5,000 for the life of the grant and must receive prior approval from the grantee's local HUD field office or area ONAP.

F. Other Submission Requirements

1. All applicants are required to submit their applications electronically via Grants.gov, unless they request and are approved by HUD for a waiver of that requirement. Please refer to the General Section for information on how to submit your application and all attachments electronically via Grants.gov.

2. *Proof of Timely Submission.* Please see the General Section for this information. Applicants that fail to meet the deadline for application receipt will not receive funding consideration.

3. *For Waiver Recipients Only.* Applicants who have received waivers to submit paper applications (see the General Section for more information), must submit their applications to: HUD Grants Management Center, Mail Stop: ROSS-Elderly/Persons with Disabilities, 501 School Street, SW., 8th floor, Washington, DC 20024. The waiver approval will provide detailed instructions.

4. *Number of Copies.* Only applicants receiving a waiver to the electronic submission requirement may submit a paper copy application. Paper applications must be submitted in triplicate (one original and two identical copies). For all applicants with a waiver (including tribal and TDHE applicants), the original and one identical copy must be sent to the Grants Management Center and an identical copy must be sent to your local Field Office or Area ONAP in accordance with the submission and timely receipt requirements described in the General Section.

V. Application Review Information

A. Criteria

1. *Factors for Award Used to Evaluate and Rate Applications to the ROSS program.* The factors for rating and ranking applications and maximum points for each factor are provided below. The maximum number of points available for this program is 102. This includes two RC/EZ/EC–II bonus points.

The SuperNOFA contains a certification that must be completed in order for the applicant to be considered for the RC/EZ/EC–II bonus points. A listing of federally designated RCs, EZs, and EC–IIs, is available at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm*. The agency certifying to RC/EZ/EC–II status must be contained in the listing of RC/EZ/EC–II organizations on HUD's Web site at: *http://www.hud.gov/offices/adm/grants/fundsavail.cfm*.

Note: Applicants should carefully review each rating factor before writing a response and completing forms. Applicants' narratives and forms should be as descriptive as possible, ensuring that every requested item is addressed. Applicants should make sure their narratives and forms thoroughly address the Rating Factors below. Applicants should include all requested information according to the instructions found in this NOFA. This will help ensure a fair and accurate application review.

a. Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (25 Points)

This factor addresses whether the applicant has the organizational resources necessary to successfully implement the proposed activities within the grant period. In rating this factor HUD will consider the extent to which the proposal demonstrates that the applicant will have qualified and experienced staff dedicated to administering the program.

(1) *Proposed Program Staffing* (7 Points).

(a) *Staff Experience* (4 Points). The knowledge and experience of the proposed Project Coordinator, staff, and partners in planning and managing programs for which funding is being requested. Experience will be judged in terms of recent, relevant, and successful experience of proposed staff to undertake eligible program activities. In rating this factor, HUD will consider experience within the last 5 years to be recent; experience pertaining to the specific activities being proposed to be relevant; and experience producing specific accomplishments to be successful. The more recent the experience and the more experience proposed staff members who work on the project have in successfully conducting and completing similar activities, the greater the number of points applicants will receive for this rating factor. The following information should be provided in order to provide HUD an understanding of proposed staff's experience and capacity:

(i) The number of staff years (one staff year = 2080 hours) to be allocated to the proposed program by each employee or expert as well as each of their roles in the program;

(ii) The staff's relevant educational background and/or work experience; and

(iii) Relevant and successful experience running programs whose activities are similar to the eligible program activities described in the grant application.

(b) *Organizational Capacity* (3 Points). Applicants will be evaluated based on whether they or their partners have sufficient qualified personnel to deliver the proposed activities in a timely and effective fashion. In order to enhance or supplement capacity, applicants should provide evidence of partnerships with nonprofit organizations or other organizations that have experience providing supportive services to typically underserved populations. Applicants' narratives must describe their ability to immediately begin the proposed work program. Provide resumes and position descriptions (where staff is not yet hired) for all key personnel. (Resumes/position descriptions do not count toward the 35-page limit.)

(2) *Past Performance of Applicant/Contract Administrator* (6 Points).

(a) Applicants' past experience may include, but is not limited to, running and managing programs aimed at improving living conditions for the targeted elderly/persons with disabilities population. Improved living conditions may mean, but is not limited to, aging-in-place or assistance to live independently.

(b) Applicants' narrative must indicate past grants they received and managed, the grant amounts, and grant terms (years) of the grants, which they are counting toward past experience.

(c) Applicants' narrative must describe how they (or their *Contract Administrator*) successfully implemented past grant programs designed to assist elderly/persons with disabilities meet their daily living needs and enhance their access to needed services so they can continue to reside comfortably and productively in their current living environment.

(d) Applicants will be evaluated according to the following criteria:

(i) Achievement of specific measurable outcomes and objectives in terms of benefits gained by participating residents. Applicants should describe results their programs have obtained, such as Impact on emergency care, improved health conditions of assisted population, and access to greater number of social services.

(ii) Description of success in attracting and keeping residents involved in past grant-funded training programs. HUD wants to see that applicants' grant-funded programs benefited significant numbers of residents;

(iii) Description of timely expenditure of program funding throughout the term of past grants. Timely means drawdowns made commensurate with the level of activities completed and per the approved application. Timely expenditure also refers to fully expending all grant funds by the end of the grant term;

(iv) Description of Past Leveraging. Applicants must describe how they have created leveraging partnerships for funding or in-kind services for previous projects, the extent of the leveraging partnerships, and how the leveraging and partnerships benefited participants..

(3) *Program Administration and Fiscal Management* (12 Points).

(a) *Program Administration and Accountability* (6 Points). Applicants should describe how they will manage the program; how HUD can be sure that there is program accountability; and provide a description of proposed staff's roles and responsibilities. Applicants should also describe how grant staff and partners will report to the Project Coordinator and other senior staff.

(b) *Fiscal Management* (6 Points). In rating this sub-factor, applicants' skills and experience in fiscal management will be evaluated. If applicants have had any audit or material weakness findings in the past five years, they will be evaluated on how well they have addressed them. Applicants must provide the following:

(i) A complete description of their fiscal management structure, including fiscal controls currently in place including those of a Contract Administrator for applicants required to have a Contract Administrator (*i.e.*, troubled PHAs, resident associations, and nonprofit applicants);

(ii) Applicants must list any audit findings in the past five years (HUD Inspector General, management review, fiscal, etc.), material weaknesses, and what has been done to address them;

(iii) For applicants who are required to have a Contract Administrator, describe the skills and experience the Contract Administrator has in managing federal funds.

b. Rating Factor 2: Need/Extent of the Problem (20 Points)

This factor addresses the extent to which there is a need for funding the proposed program. In responding to this factor, applicants will be evaluated on the extent to which they describe and document the level of need for their

proposed activities and the urgency for meeting the need.

(1) *Socioeconomic Profile* (5 points). A thorough socioeconomic profile of the eligible residents to be served by the program, including education levels, income levels, health statistics, economic statistics for the local area, etc.

(2) *Demonstrated Link Between Proposed Activities and Local Need* (15 points). Applicants' narrative must demonstrate a clear relationship between proposed activities, community needs and the purpose of the program funding in order for points to be awarded for this factor. Grant awards must be used in two ways: One portion for the salaries and fringe benefits of a Project Coordinator; and one portion for direct delivery of high priority supportive services to the targeted elderly/disabled resident population. As indicated in the chart at the beginning of the NOFA, applicants must not propose to use more than the specified amount of funds for delivery of services. Accordingly, the applicant must, in the narrative for this rating factor, describe the service needs of the targeted residents, show which service needs are already being met by local resources and which service needs the applicant is unable to meet using existing resources, and demonstrate that these services are of a high priority for the targeted elderly/disabled residents and that another funding source is not available, thereby meriting funding under this program. The applicant may also indicate a need for a Project Coordinator, which it may pay up to the $50,000 maximum per year from grant funds for salary and fringe in accordance with local wage standards (see Funding Restrictions).

c. Rating Factor 3: Soundness of Approach (30 Points)

This sub-factor addresses both the quality and cost-effectiveness of applicants' proposed program and/or work plan. The narrative and work plan must indicate a clear relationship between proposed activities, the targeted population's needs, and the purpose of the program funding. Applicants' proposed program must address HUD's policy priorities outlined in this Rating Factor.

In rating this factor HUD will consider:

(1) *Quality of the Work Plan* (20 points). This factor evaluates both the applicant's proposed program and/or work plan and budget, which will be evaluated based on the following criteria:

(a) *Specific Services and/or Activities* (10 points). Applicants' narrative must describe the proposed program (*i.e.*, specific services, course curriculum, and activities) they plan to offer and who will be responsible for each. In addition to the narrative, applicants may also provide a work plan, which should list the specific services, activities, and outcomes they expect. The proposed program narrative and work plan must show a logical order of activities and must tie to the outcomes and outputs applicants identify in the Logic Model (see Rating Factor 5). Applicants' narrative must explain how their proposed activities will:

(i) Involve community partners in the delivery of services (5 points);

(ii) Offer comprehensive services (versus a small range of services) geared toward achieving the enhancement of the residents' quality of life. If the proposed program activities are part of a more comprehensive plan funded through other resources, please provide a description of the comprehensive program clearly delineating those proposed activities to be funded by the ROSS-Elderly/Persons with Disabilities grant category (5 points).

(b) *Feasibility and Demonstrable Benefits* (5 points). This subfactor examines whether applicants' work plan is logical, feasible and likely to achieve its stated purpose during the term of the grant. HUD's desire is to fund applications that will quickly produce demonstrable results and advance the purposes of the ROSS program.

(i) *Timeliness.* This subfactor evaluates whether applicants' work plan demonstrates that their project is ready to be implemented shortly after grant award, but not to exceed three months following the execution of the grant agreement. The work plan must indicate time frames and deadlines for accomplishing major activities.

(ii) *Description of the problem and solution.* The work plan will be evaluated based on how well applicants' proposed activities address the needs described in Rating Factor 2.

(c) *Budget Appropriateness/Efficient Use of Grant* (5 Points). The score in this sub-factor will be based on the following:

(i) *Justification of expenses.* Applicants will be evaluated based on whether their expenses are reasonable and thoroughly explained and support the objectives of their proposal.

(ii) *Budget Efficiency.* Applicants will be evaluated based on whether their application requests funds commensurate with the level of effort necessary to accomplish their goals and anticipated results.

(iii) *Timeliness.* This sub-factor evaluates whether applicants' proposed program timeline and/or work plan demonstrates that their proposal is ready to be implemented within three months following the execution of the grant agreement. The proposed program narrative and work plan must indicate time frames and deadlines for accomplishing major activities.

(d) Ineligible Activities. Two points will be deducted for each ineligible activity proposed in the application, as identified in Section IV(E). For example, you will lose 2 points if you propose costs that exceed the limits identified in the NOFA for a Project Coordinator; or you will lose 2 points if you propose paying for salaries for staff that are not direct services staff.

(2) *Addressing HUD's Policy Priorities* (8 points). HUD wants to improve the quality of life for those living in distressed communities. HUD's grant programs are a vehicle through which long-term, positive change can be achieved at the community level. Applicants' narrative and work plan will be evaluated based on how well they meet HUD's policy priorities listed below.

(a) *Improving the Quality of Life in Our Nation's Communities* (2 points). The applicants' narrative and work plan must indicate the types of activities, service, and training programs applicants will offer which can help residents to continue to live independently.

(b) *Providing Full and Equal Access to Grassroots Faith-Based and Other Community-Based Organizations in HUD Program Implementation* (4 points). HUD encourages applicants to partner with grassroots organizations, *e.g.*, civic organizations, grassroots faith-based and other community-based organizations that are not usually effectively utilized. These grassroots organizations have a strong history of providing vital community services and other supportive services. In order to receive points under this sub-factor, applicants' narrative and work plan must describe how applicants will work with these organizations and what types of services they will provide.

(c) *Policy Priority for Increasing the Supply of Affordable Housing Through the Removal of Regulatory Barriers to Affordable Housing (up to 2 points).* Under this policy priority, higher rating points are available to (1) governmental applicants that are able to demonstrate successful efforts in removing regulatory barriers to affordable housing, and (2) nongovernmental applicants that are associated with jurisdictions that have undertaken successful efforts in

removing barriers. For applicants to obtain the policy priority points for efforts to successfully remove regulatory barriers, applicants must complete form HUD 27300, ''Questionnaire for HUD's Initiative on Removal of Regulatory Barriers.'' A copy of HUD's Notice entitled ''America's Affordable Communities Initiative, HUD's Initiative on Removal of Regulatory Barriers: Announcement of Incentive Criteria on Barrier Removal in HUD's 2004 Competitive Funding Allocations'' can be found on HUD's Web site at *http://www.hud.gov/grants/index.cfm*. The information and requirements contained in HUD's regulatory barriers policy priority apply to this FY 2006 NOFA. A description of the policy priority and a copy of form HUD–27300 can be found in the application package posted on *http://www.Grants.gov*. Applicants are encouraged to read the Notice as well as the General Section to obtain an understanding of this policy priority and how it can impact their score. A limited number of questions expressly request the applicant to provide brief documentation with their response. Other questions require that for each affirmative statement made, the applicant must supply a reference, URL, or a brief statement indicating where the back-up information may be found, and a point of contact, including a telephone number and/or e-mail address. The electronic copy of the HUD 27300 has space to identify a URL or reference that the material is being scanned and attached to the application as part of the submission or faxed to HUD following the facsimile submission instructions.

(3) Economic Opportunities for Low- and Very Low-Income Persons (Section 3) (2 Points).

You will receive 2 points if your application demonstrates that you will implement Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Economic Opportunities for Low- and Very Low-Income Persons in Connection with assisted Projects) and its implementing regulations at 24 CFR part 135 in connection with this grant, if awarded. Information about Section 3 can be found at HUD's Section 3 Web site at *http://www.hud.gov/fhe/sec3over.html*. Your application must describe how you will implement Section 3 through the proposed grant activities. You must state that you will, to the greatest extent feasible, direct training, employment, and other economic opportunities to:

(a) Low- and very low-income persons, particularly those who are recipients of government assistance for housing, and

(b) Business concerns which provide economic opportunities to low- and very low-income persons.

d. Rating Factor 4: Leveraging Resources (10 Points)

This factor addresses the applicant's ability to secure community resources that can be combined with HUD's grant resources to achieve program purposes. Applicants are required to create partnerships with organizations that can help achieve their program's goals. PHAs are required by section 12(d)(7) of the U.S. Housing Act of 1937 entitled ''Cooperation Agreements for Economic Self-Sufficiency Activities'' to make best efforts to enter into such agreements with relevant state or local agencies. Additionally, applicants must have at least a 25 percent cash or in-kind match. The match is a threshold requirement. Joint applicants must together have at least a 25 percent match. Leveraging in excess of the 25 percent of the grant amount will receive a higher point value. In evaluating this factor HUD will consider the extent to which applicants have partnered with other entities to secure additional resources, which will increase the effectiveness of the proposed program activities. The additional resources and services must be firmly committed, must support the proposed grant activities and must, in combined amount (including in-kind contributions of personnel, space and/or equipment, and monetary contributions) equal at least 25 percent of the grant amount requested in this application. Match will not be accepted if it is proposed to be used for ineligible activities. Please see the section on Threshold Requirements in this NOFA for more information.

Points for this factor will be awarded based on the documented evidence of partnerships and firm commitments and the ratio of requested ROSS funds to the total proposed grant budget.

Points will be assigned based on the following scale:

Percentage of Match Points Awarded

25—4 points (with partnerships) 2 points (without partnerships);
26–50—6 points (with partnerships) 4 points (without partnerships);
51–75—8 points (with partnerships) 6 points (without partnerships);
76 or above—10 points (with partnerships) 8 points (without partnerships).

e. Rating Factor 5: Achieving Results and Program Evaluation (15 Points)

(1) An important element in this year's NOFA is the development and reporting of performance measures and outcomes. This factor emphasizes HUD's determination to ensure that applicants meet commitments made in their applications and grant agreements and that they assess their performance so that they realize performance goals. Applicants must demonstrate how they propose to measure their success and outcomes as they relate to the Department's Strategic Plan.

(2) HUD requires ROSS applicants to develop an effective, quantifiable, outcome-oriented plan for measuring performance and determining that goals have been met. Applicants must use the Logic Model form HUD–96010 for this purpose.

(3) Applicants must establish interim benchmarks, or outputs, for their proposed program that lead to the ultimate achievement of outcomes. ''Outputs'' are the direct products of a program's activities. Outputs should produce outcomes for your program. Examples of outputs are the number of elderly persons referred to for social or health care services, the number of persons equipped with emergency response resources, etc. ''Outcomes'' are benefits accruing to the residents, families and/or communities during or after participation in the ROSS program. Applicants must clearly identify the outcomes to be achieved and measured. Outcomes are not the development or delivery of services or program activities but the results of the services delivered or program activities—the ultimate results of the program. Examples of outcomes are: The number of persons able to live independently and have avoided long term care placement, the number of persons that have had improved living conditions or quality of life as a result of receiving increased social services, etc.

(4) This rating factor requires that applicants identify program outputs, outcomes, and performance indicators that will allow applicants to measure their performance. Performance indicators should be objectively quantifiable and measure actual achievements against anticipated achievements. Applicants' narrative, work plan, and Logic Model should identify what applicants are going to measure, how they are going to measure it, and the steps they have in place to make adjustments to their work plan and management practices if performance targets begin to fall short of established benchmarks and time frames. Applicants' proposal must also show how they will measure the performance of partners and affiliates. Applicants must include the standards, data sources, and measurement methods they will use to measure performance.

Applicants will be evaluated based on how comprehensively they propose to measure their program's outcomes.

B. Review and Selection Process

1. *Review Process.* Four types of reviews will be conducted: a screening to determine if you are eligible to apply for funding under the ROSS-Elderly/Persons with Disabilities grant; a review of whether your application submission is complete, on time and meets threshold; a review by the field office (or area ONAP office) to evaluate past performance; and a technical review to rate your application based on the five rating factors provided in this NOFA.

2. *Selection Process for All Grant Categories and All Applicants.* Twenty-five percent (25%) of funds will be set aside for Resident Associations and all qualifying Resident Association applications will be funded first, up to 25% of the funding amount. The selection process is designed to achieve geographic diversity of grant awards throughout the country. For each grant category, HUD will first select the highest ranked application from each of the ten federal regions and DPONAP for funding. After this ''round,'' HUD will select the second highest ranked application in each of the ten federal regions and DPONAP for funding (the second round). HUD will continue this process with the third, fourth, and so on, highest ranked applications in each federal region and DPONAP until the last complete round is selected for funding. If available funds exist to fund some but not all eligible applications in the next round, HUD will make awards to those remaining applications in rank order (by score) regardless of region and DPONAP and will fully fund as many as possible with remaining funds. If remaining funds in one program are too small to make an award, they may be transferred to another ROSS program.

3. *Tie Scores.* In the event of a tie score between two applications in the ROSS-Elderly/Persons with Disabilities funding category which target the same developments, HUD will select the application that was received first.

4. *Deficiency Period.* Applicants will have 14 calendar days in which to provide missing information requested from HUD. For other information on correcting deficient applications, please see the General Section.

VI. Award Administration Information

A. Award Notices

HUD will make announcements of grant awards after the rating and ranking process is completed. Grantees will be notified by letter and will receive instructions on what steps they must take in order to access funding and begin implementing grant activities. Applicants who are not funded will also receive letters via U.S. postal mail.

B. Debriefings

Applicants who are not funded may request a debriefing. Applicants requesting to be debriefed must send a written request to: Iredia Hutchinson, Director, Grants Management Center, 501 School Street, SW., Suite 800, Washington, DC 20024.

C. Administrative and National Policy Requirements

1. *Environmental Impact.* In accordance with 24 CFR 58.34(a)(3) or (a)(9), 58.35(b)(2), (b)(4) or (b)(5), 50.19(b)(3), (b)(9), (b)(12), (b)(14), or (b)(15), activities under this ROSS program are categorically excluded from the requirements of the National Environmental Policy Act of 1969 and are not subject to environmental review under related laws and authorities.

2. *Applicable Requirements.* Unless specifically enumerated in this NOFA, all lead and non-lead applicants are subject to the requirements specified in Section III.C. of the General Section. Grantees are subject to regulations and other requirements found in:

a. 24 CFR Part 84 ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations'';

b. 24 CFR Part 85 ''Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments'';

c. 24 CFR Part 964 ''Tenant Participation and Tenant Opportunities in Public Housing'';

d. OMB Circular A–87 ''Cost Principles for State, Local, and Indian Tribal Governments'';

e. OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations'';

f. OMB Circular A–122, ''Cost Principles for Non-Profit Organizations''; and

g. OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations''.

3. *Economic Opportunities for Low- and Very Low-Income Persons (Section 3).* Applicants and grantees must also comply with Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u and ensure that training, employment, and other economic opportunities shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

4. *Fair Housing and Civil Rights Laws.* Applicants and their subrecipients must comply with all Fair Housing and Civil Rights laws, statutes, regulations, and Executive Orders as enumerated in 24 CFR 5.105(a), as applicable. Please see the General Section for more information.

D. Reporting

1. *Semi-Annual Performance Reports.* Grantees must submit semi-annual performance reports to the field office or area ONAP. These progress reports must include financial reports (SF–269A), a Logic Model (HUD–96010) showing achievements to date against outputs and outcomes proposed in the application and approved by HUD, and a narrative describing milestones, program and/or work plan progress, and problems encountered and methods used to address the problems. Grantees must use quantifiable data to measure performance against goals and objectives outlined in their program and/or work plan. Applicants that receive awards from HUD should be prepared to report on additional measures that HUD may designate at time of award. Performance reports are due to the field office or Area ONAP on July 30 and January 31 of each year. If reports are not received by the due date, grant funds will be suspended until reports are received. For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment (ROI) statement. HUD will be publishing a separate notice on the ROI concept.

2. *Final Report.* All grantees must submit a final report to their local field office or area ONAP that will include a financial report (SF–269A), a final Logic Model, and a narrative evaluating overall results achieved against their program and/or work plan. Grantees must use quantifiable data to measure performance against goals and objectives outlined in their program and/or work plan. The financial report must contain a summary of all expenditures made from the beginning of the grant agreement to the end of the grant agreement and must include any unexpended balances. The final narrative, Logic Model, and financial report are due to the field office 90 days after the termination of the grant agreement.

3. *Final Audit.* Grantees that expend $500,000 in federal funds in a given program or fiscal year are required to obtain a complete final close-out audit of the grant's financial statements by a Certified Public Accountant (CPA), in accordance with generally accepted government audit standards. A written report of the audit must be forwarded to HUD within 60 days of issuance. Grant recipients must comply with the requirements of 24 CFR part 84 or 24 CFR part 85 as stated in OMB Circulars A–87, A–110, and A–122, as applicable.

4. *Racial and Ethnic Data.* HUD requires that funded recipients collect racial and ethnic beneficiary data. HUD has adopted the Office of Management and Budget's Standards for the Collection of Racial and Ethnic Data. In view of these requirements, applicants should use form HUD–27061, Racial and Ethnic Data Reporting Form.

VII. Agency Contact(s)

For questions and technical assistance, you may call the Public and Indian Housing Information and Resource Center at 800–955–2232. For persons with hearing or speech impairments, please call the toll-free Federal Relay Service at 800–877–8339. In the case of tribes/TDHEs, please contact HQONAP at 800–561–5913 or (303) 675–1600 (this is not a toll-free number).

VIII. Other Information

A. *Code of Conduct.* Please see the General Section for more information.

B. *Transfer of Funds.* If transfer of funds from any of the ROSS programs does become necessary, HUD will consider the amount of un-funded qualified applications in deciding to which program the extra funds will be transferred.

C. *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 2577–0229. 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 49.5 hours per respondent for the application. This includes the time for collecting, reviewing, and reporting the data for the application. The information will be used for grantee selection and monitoring the administration of funds. Response to this request for information is required in order to receive the benefits to be derived.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC HOUSING RESIDENT OPPORTUNITY AND SELF-SUFFICIENCY (ROSS)

RESIDENT OPPORTUNITY AND SELF-SUFFICIENCY (ROSS) FAMILY AND HOMEOWNERSHIP PROGRAM

Billing Code 4210-01-C

Resident Opportunity and Self-Sufficiency (ROSS) Family and Homeownership Program

Overview Information

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

B. *Funding Opportunity Title:* ROSS Family and Homeownership, under the Resident Opportunity and Self-Sufficiency (ROSS) program.

C. *Announcement Type:* Initial announcement.

D. *Funding Opportunity Number:* The Federal Register number is FR–5030–N–31. The OMB approval number is 2577–0229.

E. *Catalog of Federal Domestic Assistance (CFDA) Number(s):* Resident Opportunity and Self Sufficiency, 14.870.

F. *Dates:* The application deadline date is August 8, 2006. Applications submitted through *http://www.grants.gov* must be received and validated by grants.gov no later than 11:59:59 Eastern time on the application deadline date.

G. *Additional Overview Content Information:*

1. Purpose of Program

The purpose of the Public and Indian Housing Resident Opportunity and Self Sufficiency (ROSS) program is to provide grants to public housing agencies (PHAs), tribes/tribally designated housing entities (TDHEs), Resident Associations (RAs), and nonprofit organizations, including grassroots, faith-based and other community-based organizations for the delivery and coordination of supportive services and other activities designed to help public and Indian housing residents attain economic and housing self-sufficiency.

2. Funding Available

A total of approximately $18 million is available for ROSS in fiscal year 2006.

3. Award Amounts

Awards, depending on the unit count and type of grantee, will range from $100,000 to $600,000. Please see the program description for more specific information about funding amounts.

4. Eligible Applicants

Eligible applicants are PHAs; tribes/TDHEs; nonprofit organizations including grassroots faith-based and other community-based organizations that have resident support or the support of tribes; RAs; resident councils (RCs); resident organizations (ROs); City-Wide Resident Organizations (CWROs); Intermediary Resident Organizations (IROs); Jurisdiction-Wide Resident Organizations; Regional Resident Organizations; Resident Management Corporations (RMCs); Site-Based Resident Organizations; Statewide Resident Organizations (SROs); and Tribal/TDHE resident groups. The term ''resident association'' or ''RA'' will be used to refer to all types of eligible resident organizations. Please see the section on ''Definition of Terms'' for a complete definition of each type of eligible resident organization.

5. Cost Sharing/Match Requirement

At least 25 percent of the requested grant amount is required as a match. The match may be in cash and/or in-kind donations. The match is a threshold requirement.

6. Grant Term

The grant term for each funding category is three years from the execution date of the grant agreement.

Grant program	Total funding	Eligible applicants	Maximum grant amount (units refer to the number of family-occupied units as indicated on ROSS Fact Sheet (HUD–52751)
ROSS—Family and Homeownership.	$18 million	PHAs/Tribes/TDHEs	$150,000 for 1–780 units; $250,000 for 781–2,500 units; $350,000 for 2,501–7,300 units; $600,000 for 7,301 or more units.
		Resident associations	$100,000
		Non-profit entities	$100,000 per RA; Maximum award is $300,000.

Full Text of Announcement

I. Funding Opportunity Description

A. ROSS Family and Homeownership

The purpose is to provide funding to assist PHAs, tribes/TDHEs, RAs, nonprofit organizations which include grassroots community based organizations, inclusive of faith-based organizations, create programs which will help residents achieve economic self-sufficiency. Applicants must submit proposals that will link residents with services such as job training, and educational opportunities that facilitate economic and housing self-sufficiency. The Homeownership component provides funds to recipients to deliver homeownership training, counseling and supportive services for residents of Public and Indian housing who are participating or have participated in self-sufficiency programs, such as ROSS, Public Housing Family Self-Sufficiency (FSS) or other Federal, state, or local self-sufficiency programs ROSS-Elderly/Persons with Disabilities funding and Public Housing Neighborhood Networks funding are being offered under separate Notices in the 2006 SuperNOFA.

B. Definition of Terms

1. *City-Wide Resident Organization* consists of members from Resident Councils, Resident Management Corporations, and Resident Organizations who reside in public housing developments that are owned and operated by the same PHA within a city.

2. *Community Facility* means a non-dwelling structure that provides space for multiple supportive services for the benefit of public or Indian housing residents and others eligible for the services provided. Supportive services may include but are not limited to:

a. Job-training;

b. After-school activities for youth;

c. Neighborhood Networks (formerly Twenty/20 Education Communities (TECs), Campus of Learners activities);

d. English as a Second Language (ESL) classes; and

e. Child care.

3. *Contract Administrator* means an overall grant administrator or a financial management agent (or both) that oversees the implementation of the grant and/or the financial aspects of the grant.

4. *Elderly person* means a person who is at least 62 years of age.

5. *Jurisdiction-Wide Resident Organization* means an incorporated

nonprofit organization or association that meets the following requirements:

a. Most of its activities are conducted within the jurisdiction of a single housing authority;

b. There are no incorporated resident councils or resident management corporations within the jurisdiction of the single housing authority;

c. It has experience in providing start-up and capacity-building training to residents and resident organizations; and

d. Public housing residents representing unincorporated resident councils within the jurisdiction of the single housing authority must comprise a majority of the board of directors.

6. *Tribally Designated Housing Entity (TDHE)* is an entity authorized or established by one or more Indian tribes to act on behalf of each such tribe authorizing or establishing the housing entity.

7. *Indian Tribe* means any tribe, band, nation, or other organized group of a community of Indians, including any Alaska Native village, regional, or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, and that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self Determination and Education Act of 1975 or any state-recognized tribe eligible for assistance under section 4(12)(C) of NAHASDA.

8. *Intermediary Resident Organizations* means jurisdiction-wide resident organizations, citywide resident organizations, statewide resident organizations, regional resident organizations, and national resident organizations.

9. *NAHASDA-assisted resident* means a member of a tribe (as defined above) who has been assisted by the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996.

10. *National Resident Organization (NRO)* is an incorporated nonprofit organization or association for public housing that meets each of the following requirements:

a. It is national (*i.e.*, conducts activities or provides services in at least two HUD areas or two states);

b. It has the capacity to provide start-up and capacity-building training to residents and resident organizations; and

c. Public housing residents representing different geographical locations in the country are members of the board of directors.

11. *Nonprofit organization* is an organization that is exempt from federal taxation. A nonprofit organization can be organized for the following purposes: charitable, religious, educational, scientific, or other similar purposes in the public interest. In order to qualify, an organization must be a corporation, community chest, fund, or foundation. An individual or partnership will not qualify. To obtain nonprofit status, qualified organizations must file an application with the Internal Revenue Service (IRS) and receive designation as such by the IRS. For more information, go to *http://www.irs.gov.* Applicants who are in the process of applying for nonprofit status, but have not yet received nonprofit designation from the IRS, will not be considered nonprofit organizations. All nonprofit applicants must submit their IRS determination letter to prove their nonprofit (e.g. 501(c)(3)) status. Please see the section on ''Threshold Requirements'' for more information. Nonprofit applicants must also provide letters of support as described in the ''Threshold Requirements'' section.

12. *National nonprofit organizations* work on a national basis and have the capacity to mobilize resources on both a national and local level. All nonprofit applicants must submit their IRS determination letter to prove their nonprofit (*e.g.* 501(c)(3)) status. National nonprofit applicants must also provide letters of support as outlined in the ''Threshold Requirements'' section.

13. *Past Performance* is a threshold requirement. Using Rating Factor 1 (described in the ''Application Review Information'' section of this NOFA), HUD's field offices will evaluate applicants for past performance to determine whether an applicant has the capacity to manage the grant for which they are applying. The area Office of Native American Programs (ONAP) will review past performance for tribal/TDHE submissions. Field offices will evaluate the past performance of contract administrators for applicants required to have a contract administrator.

14. *Person with disabilities* means a person who:

a. Has a condition defined as a disability in section 223 of the Social Security Act; or

b. Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance Bill of Rights Act.

The term ''person with disabilities'' does not exclude persons who have acquired immunodeficiency syndrome (HIV/AIDS) or any conditions arising from the etiologic agent for AIDS. In addition, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing, solely on the basis of any drug or alcohol dependence.

The definition of a person with disabilities contained in section 504 of the Rehabilitation Act of 1973 and its implementing regulations must be used for purposes of reasonable accommodations and program accessibility. Please see 24 CFR § 5.403.

15. *Project Coordinator* is responsible for coordinating the grantee's approved activities to ensure that grant goals and objectives are met. A qualified project coordinator is someone with experience managing projects and preferably has experience working with supportive services. The project coordinator and grantees are responsible for ensuring that all federal requirements are followed.

16. *Resident Association (RA)* means any or all of the forms of resident organizations as they are defined elsewhere in this Definitions section and includes Resident Councils (RC), Resident Management Corporations (RMC), Regional Resident Organizations (RRO), Statewide Resident Organizations (SRO), Jurisdiction-Wide Resident Organizations, and National Resident Organizations (NRO). The NOFA will use ''Resident Association'' or ''RA'' to refer to all eligible types of resident organizations. See 24 CFR 964.115 for more information.

17. *Regional Resident Organization (RRO)* means an incorporated nonprofit organization or association for public housing that meets each of the following requirements:

a. The RRO is regional (i.e., not limited by HUD Areas);

b. The RRO has experience in providing start-up and capacity-building training to residents and resident organizations; and

c. Public housing residents representing different geographical locations in the region must comprise the majority of the Board of Directors.

18. *Resident Management Corporation (RMC)* means an entity that proposes to enter into, or enters into a contract to conduct one or more management activities of a PHA and meets the requirements of 24 CFR 964.120.

19. *Resident Organization (RO) for tribal entities* means an incorporated or unincorporated nonprofit tribal organization or association that meets each of the following criteria:

a. It shall consist of residents only, and only residents may vote;

b. If it represents residents in more than one development or in all of the developments of the tribal/TDHE community, it shall fairly represent

residents from each development that it represents;

c. It shall adopt written procedures providing for the election of specific officers on a regular basis; and

d. It shall have an elected governing board.

20. *Secretary* means the Secretary of Housing and Urban Development.

21. *Site-Based Resident Associations* means resident councils or resident management corporations representing a specific public housing development.

22. *Statewide Resident Organization (SRO)* is an incorporated nonprofit organization or association for public housing that meets the following requirements:

a. The SRO has statewide jurisdiction;

b. The SRO has experience in providing start-up and capacity-building training to residents and resident organizations; and

c. Public housing residents representing different geographical locations in the state must comprise the majority of the Board of Directors.

23. *Tribal/TDHE Resident Group* means tribal/TDHE resident groups that are democratically elected groups such as IHA-wide resident groups, area-wide resident groups, single development groups, or resident management corporations (RMCs).

C. Regulations Governing the ROSS Program

ROSS Family and Homeownership is governed by 24 CFR Part 964.

II. Award Information

A. Performance Period and Award Type

1. *Grant Period.* Three years. The grant period shall begin the day the grant agreement and the form HUD–1044, ''Assistance Award/Amendment'' are signed by both the grantee and HUD.

2. *Grant Extensions.* Requests to extend the grant term beyond the grant term must be submitted in writing to the local HUD field office or area ONAP at least 90 days prior to the expiration of the grant term. Requests must explain why the extension is necessary, what work remains to be completed, and what work and progress was accomplished to date. Extensions may be granted only once by the field office or area ONAP for a period not to exceed six months and may be granted for a further six months by the HUD Headquarters Program Office at the request of the Field Office or Area ONAP.

3. *Type of Award.* Grant agreement.

4. *Subcontracting.* Subcontracting is permitted. Grantees must follow federal procurement regulations found in HUD regulations at 24 CFR 84.40–84.48 and 24 CFR 85.36.

5. *Total Funding.* The Department expects to award $18,000,000 under this funding category of ROSS. Awards will be made as follows:

a. PHAs must use the number of occupied conventional family public housing units as of September 30, 2005, per their budget to determine the maximum grant amount they are eligible for in accordance with the categories listed below. (Use HUD–51751 ROSS Fact Sheet.) Applicants should clearly indicate on the Fact Sheet the number of eligible units under their Annual Contributions Contract.

Number of occupied family conventional units	Maximum funding for PHAs/tribes/TDHEs
1–780 units	$150,000
781–2,500 units	250,000
2501–7,300 units	350,000
7,301 or more units	600,000

b. The maximum grant award is $100,000 for each RA.

c. Nonprofit organizations that have resident support or the support of tribes or RAs are limited to $100,000 for each RA. A nonprofit organization may submit a single application for no more than three different RAs from the same PHA for a maximum grant award of $300,000. Nonprofit organizations may submit more than one application provided they target residents of distinct PHAs or tribes/TDHEs. The maximum funds that may be awarded to any nonprofit applicant is $300,000 overall. In cases where nonprofit applicants are not able to obtain support from RAs, they must obtain letters of support from PHAs or tribes/TDHEs and they may also submit letters from one or more of the following: Resident Advisory Boards (RABs), local civic organizations, or units of local government. **Note:** All nonprofit applicants that do not include letters of support from RAs must include a letter of support from PHAs or tribes/TDHEs. (Please see Threshold Requirements for more information). Support letters must indicate the developments to be served by the nonprofit organization.

Funding for nonprofit applicants that do not receive letters of support from RAs will be determined as follows (support letters from PHAs must indicate the developments to be served by the nonprofit organization as well as the number of occupied conventional family public housing units in those developments):

Number of conventional units	Maximum funding for non-profits with support letters from PHAs (not RAs)
1–2,500 units	$100,000
2501–7,300 units	200,000
7,301 or more units	300,000

Applicants should see the General Section for instructions on submitting support letters and other documentation with their electronic application.

d. Tribes/TDHEs should use the number of units counted as Formula Current Assisted Stock for Fiscal Year–2005 as defined in 24 CFR 1000.316. Tribes/TDHEs are eligible for the same amounts as PHAs within each category in (a) above. Tribes that have not previously received funds from the Department under the U.S. Housing Act of 1937 should count housing units under management that are owned and operated by the Tribe and are identified in their housing inventory as of September 30, 2005, for family units. Tribes should clearly indicate the number of units under management on the Fact Sheet.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants are PHAs, tribes/TDHEs, RAs, and nonprofit organizations (including those nonprofit organizations supported by resident organizations or PHAs, tribes/TDHEs and RABs).

B. Cost Sharing or Matching

The required Match is 25% of requested funds. The match is a threshold requirement. Applicants who do not demonstrate the minimum 25 percent match will fail the threshold requirement and will not receive further consideration for funding. Please see the section below on threshold requirements for more information on what is required for the match.

C. Other

1. Eligible Activities

a. Eligible Program Activities

Applicants should propose implementing comprehensive programs within the three year grant term which will result in improved housing and economic self-sufficiency for Public and Indian housing residents. Proposals should involve partnerships with organizations that will enhance grantees' ability to provide educational programs, housing counseling, fair housing counseling, job training and

other supportive services for residents. All applicants must complete a work plan (see sample work plans on HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm)* covering the three-year grant term.

The eligible activities are listed in five categories, from basic to advanced: (1) Life-Skills Training; (2) Job Training, Job Search and Placement Assistance; (3) Post-Employment Follow-up; (4) Activities to Support Career Advancement and Long-term Economic Self-Sufficiency; and (5) Homeownership. Applicants are not limited to choosing one category of activity, but rather should design their programs to address the specific needs of the population they are targeting. Only applicants proposing activities in Category 5, Homeownership, and able to show existing linkages to an existing homeownership program such as, for PHAs, Housing Choice Voucher-Homeownership, Section 32, or homeownership programs and resources offered by other organizations or state or local homeownership programs and for Tribes/TDHEs, programs such as the Mutual Help Homeownership Opportunity Program, the Section 184 Program, and homeownership programs developed under the Indian Housing Block Grant Program such as mortgage assistance, will be eligible for 2 points in Rating Factor 3, Soundness of Approach, under ''Addressing HUD's Policy Priorities—Providing Increased Homeownership and Rental Opportunities for Low-and-Moderate-Income Persons. * * *'' Funds may be used for, but are not limited to, the activities described below.

(Category 1) Life-skills Training (for Youth and Adults). Applicants' proposals can cover, but are not limited to, the following types of activities:

(a) Credit. The importance of having good credit and how to maintain good credit.

(b) Banking and Money Management. How to open a bank account; balance a checkbook; create a weekly spending budget and establish contingency plans for child care and transportation, etc.

(c) Real Life Issues. Information on tax forms; voter registration; leases; car insurance; health insurance; long-term care insurance; etc.

(d) Literacy training and GED preparation.

(e) College preparatory courses and information.

(f) Goal setting.

(g) Mentoring.

(h) Hiring residents to help with the implementation of this program. **Note:** Stipends and salaries serve different purposes. Resident salaries can only be used to hire residents to help program staff with the implementation of grant activities.

(Category 2) Job Training, Job Search and Placement Assistance. Eligible activities include but are not limited to:

(a) Skills Assessment of participating residents.

(b) Applying for a job. How to complete employment forms; highlighting skills employers are looking for; researching job opportunities in the area; calculating net wages.

(c) Soft skills training including problem solving and other cognitive skills; oral and written communication skills; workplace norms (appropriate dress, punctuality, respectful communication, etc.); work ethic; interpersonal and teamwork skills.

(d) Creating job training and placement programs.

(e) Resume writing.

(f) Interviewing techniques.

(g) Employer linkage and job placement. Working with local employers and job placement providers to design and offer training that addresses local employers' needs, create a job placement program that refers trained residents to participating employers and other local area employers.

(h) Career advancement and planning programs. Such programs should be designed to:

(i) Set career goals;

(ii) Provide strategies such as finding a strong professional mentor within an organization for which residents may be working and focusing on the organization's priorities.

(iii) Reinforce welfare-to-work programs and focus efforts on increasing residents' earning capacity. Activities can include job counseling, helping residents secure better paying jobs or jobs in better work environments, preparing for work in a new job category, obtaining additional job skills and other job-related or educational training.

(iv) Working with local employers to create opportunities that combine education and skills training with jobs. Strategies that promote work-based learning can offer the most effective method for giving new workers the tools they need to move on to a career ladder and achieve upward mobility.

(Category 3) Post-employment follow-up. After placing residents in jobs, providing follow-up and ongoing support to newly hired residents can have a significant positive impact on long-term job retention.

(Category 4) Activities to Support Career Advancement and Long-term Economic Self-Sufficiency.

(a) Individual Savings Accounts (ISAs). Applicants may create programs that encourage residents to save and contribute to match savings accounts such as Individual Development Accounts (IDAs). The programs should include financial counseling and education activities. ISAs may only be used for three purposes: (1) To purchase a first home that is existing or under construction when the purchase contract is signed; (2) to receive post-secondary education or training; or (3) to start a local business (other than acquiring, leasing, constructing, or rehabilitating real property in connection with the business). Applicants are encouraged to leverage funds by working with local financial organizations, which can also contribute to residents' ISAs. FSS escrow accounts may not be used as a match for ROSS-Family-Homeownership-funded ISAs. Grantees shall consult the Internal Revenue Service regarding possible tax consequences of the ISAs to participating residents.

(b) Housing Counseling to increase homeownership opportunities. This can include information to help residents move to market rate rental housing and/or ''pre-purchase'' homeownership counseling and training. This may include training on such subjects as credit and financial management; credit repair; housing search; how to finance the purchase of a home; fair housing; Individual Savings Accounts; Real Estate Settlement Procedures Act (RESPA); and home maintenance.

(Category 5) Homeownership. Applicants should be able to show existing linkages with HUD homeownership programs such as: The Housing Choice Voucher Homeownership Program, the PHA Homeownership Program also known as Section 32 (formerly the Section 5(h) Homeownership Program) or homeownership programs and resources offered by other organizations or state or local homeownership programs.

Tribes/TDHEs should be able to show existing linkages with programs such as the Mutual Help Homeownership Opportunity Program, the Section 184 Program, and homeownership programs developed under the Indian Housing Block Grant Program such as mortgage assistance. Proposals should involve partnerships with organizations that will enhance the services grantees will offer. Applicants are strongly encouraged to partner with HUD-approved housing counseling agencies. For a list of HUD-approved housing

counseling agencies, go to: *http://www.hud.gov/offices/hsg/sfh/hcc/hccprof14.cfm.*

Eligible Activities include but are not limited to:

(1) Training to include:

(a) Asset building;

(b) Credit counseling and credit scoring;

(c) Financial literacy and management;

(d) Selecting a real estate broker;

(e) Choosing a lender;

(f) Appraisals;

(g) Home inspections;

(h) Avoiding delinquency and predatory lending;

(i) Foreclosure prevention;

(j) Home maintenance and financial management for first-time homeowners;

(k) Real Estate Settlement Procedures Act (RESPA); and

(l) Fair Housing Counseling.

(2) Individual Savings Accounts (ISAs). You may create programs that encourage residents to save and contribute to match savings accounts such as Individual Development Accounts (IDAs). ISAs to be used solely for (a) escrow accounts, (b) down payment assistance and (c) closing costs, to assist the resident to purchase an existing dwelling unit or a dwelling unit under construction.

b. Eligible Other Activities

(1) Hiring of a qualified project coordinator to run the grant program. A qualified project coordinator must have at least two years of experience managing programs and should have experience working on supportive services programs. If Category 5 activities are being proposed, a qualified grant coordinator must have experience working on homeownership programs designed for typically underserved populations. The project coordinator should be hired for the entire three-year term of the grant. The project coordinator is responsible for:

(a) Marketing the program to residents;

(b) Assessing participating residents' skills and job-readiness;

(c) Assessing participating residents' needs for supportive services, *e.g.,* child care, transportation costs, etc.

(d) Assisting a tribe or TDHE to create a resident group to promote self-sufficiency efforts on the reservation;

(e) Designing coordinating and providing grant activities based on residents' needs and the local labor market; and

(f) Monitoring the progress of program participants and evaluating the overall success of the program. A portion of grant funds should be reserved to ensure that evaluations can be completed for all participants who received training through this program. For more information on how to measure performance, please see Rating Factor 5 in the ''Application Review Information'' section of this NOFA.

(2) Staff Training.

(3) Long Distance Travel subject to funding restrictions.

(4) Lease or rental of space for program activities, but only under the following conditions:

(i) The lease must be for existing facilities not requiring rehabilitation or construction;

(ii) No repairs or renovations of the property may be undertaken with Federal funds; and

(iii) Properties in the Coastal Barrier Resources System designated under the Coastal Barrier Resources Act (16 U.S.C. 3501) cannot be leased or rented with Federal Funds.

(5) Stipends. Stipends are an eligible use of grant funds. Stipends may be used for reasonable out-of-pocket costs. Stipends may be used to reimburse such things as local transportation to and from job training and job interviews, supplemental educational materials, and child care expenses. Stipends must be tied to residents' successful performance and regular attendance.

(6) Hiring of Residents. Grant funds may also be used to hire a resident(s) as program staff.

(7) Supportive Services.

(a) After school programs for school-age children to include tutoring, remedial training, educational programming using computers.

(b) Provision of information on the Earned Income Tax Credit Program, Food Stamps, Child Tax Credit Program, Medicaid, the State Child Health Insurance Program (SCHIP), Student Loan Interest Deduction, tribal welfare programs, and other benefit programs that can assist individuals and families to make a successful transition from welfare to work.

(c) Transportation costs as necessary to enable participating families to receive services or commute to training or employment including purchase, rental or lease of a vehicle for the grantee and limited in use for program purposes.

(d) Child-care while residents are participating in program-related activities.

(e) Parenting courses.

(f) Nutrition courses.

(g) Health care information and services including referrals to mental health providers, alcohol and other drug abuse treatment programs.

(h) English as a second language (ESL) classes.

(i) Housekeeping courses.

(j) Creating and maintaining linkages to local social service agencies, such as employment agencies, health departments, transportation agencies, economic/community development agencies, community colleges, recreational and cultural services, and other community organizations such as Boys & Girls Clubs, 4H-Clubs, Boy Scouts, Girl Scouts, etc.

(8) Hiring or otherwise retaining other direct services staff as necessary for program activities.

(9) Evaluation.

(10) Administrative Costs. Administrative costs may include, but are not limited to, purchase of furniture, office equipment and supplies, program outreach, printing and postage, local travel, utilities, and lease or rental of space for program activities (subject to lease restrictions above). Administrative costs may not be used to pay for salaries of any kind. To the maximum extent practicable, when leasing space or purchasing equipment or supplies, business opportunities should be provided to businesses under Section 3 of the Housing and Urban Development Act of 1968. Administrative costs must not exceed 10 percent of the total grant amount requested from HUD.

2. Threshold Requirements

Applicants must respond to each threshold requirement clearly and thoroughly by following the instructions below. If your application fails one threshold requirement (regardless of the type of threshold) it will be considered a failed application and will not receive consideration for funding.

a. *Match.* All applicants are required to have in place a firmly committed 25 percent match in cash or in-kind donations as defined in this NOFA. Joint applicants must together have at least a 25 percent match. Applicants who do not demonstrate the minimum 25 percent match will fail this threshold requirement and will not receive further consideration for funding. If you are applying for more than one ROSS grant (*i.e.* ROSS-Elderly), you must use different sources of match donations for each grant application and you must indicate which additional ROSS grant(s) you are applying for by attaching an additional page to HUD budget form 424–CBW stating the sources and amounts of each of your match contributions for this application as well as any other HUD programs to which you are applying. Match to be used for ineligible activities will not be accepted. Match donations must be firmly committed which means that the amount of match resources and their

dedication to ROSS-funded activities must be explicit, in writing, and signed by a person authorized to make the commitment. Letters of commitment, memoranda of understanding (MOU), or tribal resolution must be on organization letterhead, and signed by a person authorized to make the stated commitment whether it be in cash or in-kind services. The letters of commitment/MOUs/tribal resolutions must indicate the total dollar value of the commitment and be dated between the publication date of this NOFA and the application deadline published in this NOFA, or amended deadline, and indicate how the commitment will relate to the proposed program. If the commitment is in-kind, the letters should explain exactly what services or material will be provided. The commitment must be available at time of award. Applicants proposing to use their own, non-ROSS grant funds to meet the match requirement in whole or in part, must also include a letter of commitment indicating the type of match (cash or in-kind) and how the match will be used. Please see the General Section for instructions for submitting the required letters with your electronic application.

Committed amounts in excess of the 25 percent of the requested grant amount may be considered as leveraged funds for higher points under Rating Factor 4 (described in the ''Application Review Information'' section of this NOFA).

(1) The value of volunteer time and services shall be computed by using the normal professional rate for the local area or the national minimum wage rate of $5.15 per hour (Note: applicants may not count their staff time toward the match);

(2) In order for HUD to determine the value of any donated material, equipment, staff time, building, or lease, your application must provide a letter from the organization making the donation stating the value of the contribution.

(3) Other resources/services that can be committed include: In-kind services provided to the applicant; funds from Federal sources (not including ROSS funds) as allowed by statute, including, for example, Community Development Block Grant (CDBG) funds; Indian Housing Block Grant (IHBG) funds; funds from any state or local government sources; and funds from private contributions. Applicants may also partner with other program funding recipients to coordinate the use of resources in the target area.

b. *Past Performance*. HUD's field offices will evaluate data provided by applicants as well as applicants' past performance to determine whether applicants have the capacity to manage the grant for which they are applying. The area ONAP will review past performance for tribal and TDHE submissions. Field offices will evaluate the contract administrators' past performance for applicants required to have a contract administrator. In evaluating past performance HUD will look at the applicant's record of completing grant activities on time, within budget and the results achieved. Using Rating Factor 1, the field office/area ONAP will evaluate applicants' past performance. Applicants should carefully review Rating Factor 1 to ensure their application addresses each of the criteria requested therein. If applicants fail to address what is requested in Rating Factor 1, their application will fail this threshold and will not receive further consideration.

c. *Contract Administrator Partnership Agreement.* All nonprofit applicants, all RAs, and PHAS troubled PHAs (as of the application publication date) are required to submit a signed Contract Administrator Partnership Agreement. The agreement must be for the entire grant term. Applicants required to have a Contract Administrator Partnership Agreement that fail to submit one will fail this threshold requirement and will not receive further consideration for funding. See the Definitions and Program Requirements Sections of this NOFA for more information on Contract Administrators. Please see the General Section for instructions on submitting the information with your electronic application.

Troubled PHAs are not eligible to be contract administrators. Grant writers who assist applicants with preparing their ROSS applications are also ineligible to be contract administrators. For more information on contract administrators, see the section ''Program Requirements.''

d. *Letters of Support for Nonprofit Applicants*.

(1) All nonprofit applicants must include one or more letters of support from resident associations (RAs), Resident Advisory Boards (RABs), local civic organizations, or units of local government. In the event that RAs are inactive, or that applicants submit letters of support from other organizations such as RABs, nonprofit applicants must also submit letters from PHAs or tribes/TDHEs indicating support for their application. All letters of support must be signed by an authorized representative of the supporting organization and dated within two months of the application deadline published in this NOFA.

(2) Nonprofit applicants that do receive support from resident associations must submit form HUD–52754 ''List of Resident Associations Supporting Nonprofit Applicants.'' Submitting this form is not applicable where RAs are inactive or where applicants do not submit letters of support from RAs.

(3) In cases where nonprofit organizations are applying to serve tribes/TDHEs, nonprofit applicants must submit letters of support from tribes/TDHEs. Nonprofit organizations must also use form HUD–52754 to list which tribes/TDHEs support their application.

(4) Letters of support from RAs or RABs must describe to what extent they are familiar with the nonprofit applicant and indicate their support and understanding of the nonprofit organization's application. Letters from RAs/RABs must include contact information and the name and title of the person authorized to sign for the organization and should, whenever possible, be on RA/RAB letterhead. If RA/RAB letterhead is not available, the letter may be submitted on PHA letterhead.

(5) Letters of support from civic organizations or units of local government must describe to what extent they are familiar with the nonprofit applicant and which programs the nonprofit applicant has operated or managed in the community that are similar to the applicant's proposal. Such letters of support must include contact information and the name and title of the person authorized to sign for the organization. The letter should be on organization letterhead.

(6) All nonprofit applicants that do not provide letters of support from resident associations must provide letters of support from PHAs or tribes/TDHEs with jurisdiction over the developments the applicant proposes to serve. Letters from PHAs or tribes/TDHEs must describe the extent to which the nonprofit applicant is familiar with the needs of the community to be served, which programs the nonprofit applicant has operated or managed in the community that are similar to the applicant's proposal, and whether the nonprofit organization has the capacity to implement its proposed program. Letters from PHAs or tribes/TDHEs must also list the names of the developments to be served, the number of occupied conventional family or elderly/disabled public housing units (depending on the grant category) in those developments, certify that the units are conventional

public housing, and identify the ROSS grant category to which the nonprofit organization is applying. PHA or tribe/TDHE letters of support must be signed by the Executive Director, tribal leader, or authorized designee and must be on PHA or tribe/TDHE letterhead. Please see the General Section for instructions for submitting the required letters with your electronic application.

(7) Applications from nonprofit organizations, which do not submit the information requested in this section will fail this threshold requirement and will not be considered for funding.

e. *Nonprofit status.* All nonprofit applicants must submit their IRS determination letter to prove their nonprofit (e.g., 501(c)(3)) status. Applicants that fail to submit this letter will fail this threshold requirement and will not be considered for funding. Please see the General Section for instructions for submitting the required documentation with your electronic application.

f. *Minimum Score for All Fundable Applications.* Applications that pass all threshold requirements and go through the ranking and rating process, must receive a minimum score of 75 in order to be considered for funding.

g. General Section Thresholds. All applicants will be subject to all Thresholds requirements listed in the General Section.

h. *The Dun and Bradstreet Universal Numbering System (DUNS) Number Requirement.* Refer to the General Section for information regarding the DUNS requirement. You will need to obtain a DUNS number to receive an award from HUD.

3. Program Requirements

a. *Contract Administrator.* The contract administrator must assure that the financial management system and procurement procedures that will be in place during the grant term will fully comply with either 24 CFR part 84 or 85, as appropriate. CAs are expressly forbidden from accessing HUD's Line of Credit Control System (LOCCS) and submitting vouchers on behalf of grantees. Contract administrators must also assist grantees to meet HUD's reporting requirements. Contract administrators may be: Local housing agencies; community-based organizations such as community development corporations (CDCs), churches, temples, synagogues, mosques; nonprofit organizations; state/regional associations and organizations. Troubled PHAs are not eligible to be contract administrators. Grant writers who assist applicants prepare their applications are also ineligible to be contract administrators. Organizations that the applicant proposes to use as the contract administrator must not violate or be in violation of other conflicts of interest as defined in 24 CFR part 84 and 24 CFR part 85.

b. *Requirements Applicable to All Applicants.* All applicants, lead and non-lead, should refer to ''Other Requirements and Procedures Applicable to All Programs'' of the General Section for requirements pertaining specifically to procurement of recovered materials and for information regarding other requirements to which they may be subject.

4. Number of Applications Permitted

Applicants may desire to provide a broad range of services supported by grants from a number of ROSS funding categories. Applicants may submit more than one application only based on the criteria below:

a. *General.* Applicants may submit up to one application for each ROSS funding category (i.e., one application for ROSS-Elderly/Persons with Disabilities, one application for ROSS-Family-Homeownership, etc.), except in the case of nonprofits. Nonprofit organizations may submit more than one application per ROSS funding category provided they will be serving residents of distinct PHAs or Tribes/TDHEs.

b. *More than one application per development.* Only one application per funding category will be funded for a particular development. For example, if multiple applicants apply for ROSS-Family-Homeownership for the same development, only the highest scoring application will be considered for award. If multiple applicants are interested in providing services to a development and the services are funded under the same ROSS funding category, it is suggested the applicants work together to submit one application on behalf of the development.

c. *Joint applications.* Two or more applicants may join together to submit a joint application for proposed grant activities. Joint applications must designate a lead applicant. The lead applicant must be registered with Grants.gov and submit the application using the Grants.gov portal. Lead applicants are subject to all threshold requirements. Non-lead applicants are subject to the following threshold requirements as applicable:

(1) Letters of support for nonprofit applicants;

(2) Evidence of nonprofit status as outlined under the section covering threshold requirements; and

(3) Threshold requirements outlined in Section III. C. of the General Section.

Joint applications may include PHAs, RAs, Tribes/TDHEs, and nonprofit organizations on behalf of resident organizations. Joint applications involving nonprofit organizations must also provide evidence of resident support or support from local civic organizations or from units of local government. PHAs, tribes/TDHEs, and resident organizations that are part of a joint application may not also submit separate applications as sole applicants under this NOFA.

Note: The lead applicant will determine the maximum funding amount the applicants are eligible to receive.

5. Eligible Participants

All ROSS Family and Homeownership program participants must be residents of conventional public housing or NAHASDA-assisted housing. Participants in the Public Housing Family Self-Sufficiency (FSS) program (non-Housing Choice Voucher FSS Program) are also eligible to participate in activities funded under ROSS.

6. Eligible Developments

Only conventional Public and Indian housing developments and NAHASDA-assisted may be served by ROSS grant funds. Other housing/developments, including, but not limited to private housing, federally insured housing, federally subsidized or assisted (i.e., assisted under Section 8, Section 202, Section 811, Section 236), and others are not eligible to participate in ROSS.

7. Energy Star

HUD has adopted a wide-ranging energy action plan for improving energy efficiency in all program areas. As a first step toward implementing the energy plan, HUD, the Environmental Protection Agency (EPA) and the Department of Energy (DoE) have signed a joint partnership to promote energy efficiency in HUD's affordable housing efforts and programs. The purpose of the Energy Star partnership is to promote energy efficiency of the affordable housing stock, and to help protect the environment. Applicants providing housing assistance or counseling services are encouraged to promote Energy Star materials and practices, as well as buildings constructed to Energy Star standards, to both homebuyers and renters. Program activities can include developing Energy Star promotional and information materials, outreach to low- and moderate-income renters and buyers on the benefits and savings when

using Energy Star products and appliances, and promoting the designation of community buildings and homes as Energy Star compliant. For further information about Energy Star, see *http://www.energystar.gov* or call 888–STAR–YES (888–782–7937) or for the hearing-impaired, 888–588–9920 (TTY).

IV. Application and Submission Information

A. Address To Request an Application Package

Copies of the published NOFAs and application forms for HUD programs announced through NOFA may be downloaded from the grants.gov Web site at *http://www.grants.gov/Find*; if you have difficulty accessing the information you may receive customer support from Grants.gov by calling their Support Desk at (800) 518–GRANTS, or sending an email to *support@grants.gov*. You may request general information, from the NOFA Information Center (800–HUD–8929) or 800–HUD–2209 (TTY) between the hours of 10 a.m. and 6:30 p.m. (Eastern Time) Monday through Friday, except on federal holidays. When requesting information, please refer to the name of the program you are interested in. The NOFA Information Center opens for business simultaneously with the publication of the SuperNOFA. You can also obtain information on this NOFA from HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

B. Content and Form of Application Submission

1. *Application Format Information for All Applicants.* Applicants should make sure to include all requested information, according to the instructions found in this NOFA and where applicable, in the General Section. This will help ensure a fair and accurate review of your application.

2. *Content and Format for Submission*

a. *Content of Application.*

Applicants must write narrative responses to each of the rating factors, which follow this section. Applicants will be evaluated on whether their responses demonstrate that they have the necessary capacity to successfully manage the proposed program. Applicants should ensure that their narratives are written clearly and concisely so that HUD reviewers, who may not be familiar with the ROSS program, may fully understand your proposal.

b. *Format of Application.*

(1) Applications may not exceed 35 narrative pages. Narrative pages must be typed, double-spaced, numbered, use Times New Roman font style, one inch margins and font size 12. Supporting documentation, required forms, and certifications will not be counted toward the 35 narrative page limit. However, applicants should make every effort to submit only what is necessary in terms of supporting documentation. Please see the General Section for instructions on how to submit supporting documentation with your electronic application.

(2) A checklist is provided o ensure applicants submit all required forms and information. Applicants are not required to submit the checklist but should review it to ensure that they have submitted a complete application. (**Note:** Applicants who receive a waiver to submit paper applications, must submit their applications in a three-ring binder, with TABS dividing the sections as indicated below. When submitting electronically, you do not need to submit these in TABS. Be sure to name each attachment clearly.) Copies of the forms may be downloaded with the application package and instructions from *www.Grants.gov/Apply* of from the following Web site: *http://www.hud.gov/offices/adm/grants/nofa06/snofaforms.cfm.*

TAB 1: Required Forms from the General Section and other ROSS forms:

1. Acknowledgement of Application Receipt (HUD–2993), for paper application submissions only (you must have an approved waiver to submit a paper application);
2. Application for Federal Financial Assistance (SF–424);
3. SF–424 Supplement, Survey on Ensuring Equal Opportunity for Applicants;
4. Questionnaire for HUD's Initiative on Removal of Regulatory Barriers (HUD–27300);
5. ROSS Fact Sheet (HUD–52751);
6. Grant Application Detailed Budget (HUD–424–CB);
7. Grant Application Detailed Budget Worksheet (HUD–424–CBW);
8. Applicant/Recipient Disclosure/Update Report (HUD–2880);
9. Certification of Consistency with RC/EZ/EC–II Strategic Plan (HUD–2990) if applicable;
10. Certification of Consistency with the Consolidated Plan (HUD–2991) if applicable;
11. Certification of Consistency with the Indian Housing Plan if applicable (HUD–52752);
12. Certification of Resident Council Board of Election (not required for tribes/nonprofit organizations working on behalf of tribes) (HUD–52753); 13. Disclosure of Lobbying Activities (SF–LLL), if applicable;
13. Disclosure of Lobbying Activities Continuation Sheet (SF–LLL–A), if applicable;
14. You Are Our Client Grant Applicant Survey (HUD–2994–A) (Optional);
15. Facsimile Transmittal Sheet (HUD–96011) (For use with electronic applications as the cover sheet to provide third party documentation).

TAB 2: Threshold Requirements:

1. Letters from Partners attesting to match;
2. Letter from Applicant's organization attesting to match (if applicant is contributing to match);
3. Letters of Support from Resident Associations/PHAs/tribes/TDHEs/Resident Advisory Boards/local civic organizations and/or units of local government (Threshold requirement for all nonprofit applicants);
4. Chart of Resident Associations Participating (required for nonprofit applicants but not applicable to applications from tribes/TDHEs.) (HUD–52754);
5. IRS nonprofit determination letter proving 501(c)(3) status (Threshold requirement for all nonprofit applicants); and
6. Contract Administrator Partnership Agreement (required for nonprofit organizations, resident associations, and PHAS troubled PHAs) (HUD–52755).

TAB 3: Narrative for Rating Factor 1 and ROSS Program Forms:

1. Narrative;
2. Chart A: Program Staffing (HUD–52756);
3. Chart B: Applicant/Administrator Track Record (HUD–52757);
4. Resumes/Position Descriptions;
5. Statement attesting to Housing Choice Voucher Homeownership program, Section 32 or other program, if proposing activities in Category 5.

TAB 4: Narrative for Rating Factor 2.

TAB 5: Rating Factor 3:

1. Narrative;
2. Work plan (see relevant sample ROSS work plan HUD 52763).

TAB 6: Narrative for Rating Factor 4.

TAB 7: Rating Factor 5.

1. Narrative;
2. Logic Model (HUD–96010):

C. Submission Dates and Times

1. *Due Dates.* The application must be received and validated by Grants.gov no later than 11:59:59 p.m. eastern time on the deadline date of August 8, 2006. If your waiver request is approved, the notification of approval of the waiver request will provide instructions on where to submit the paper application. See the General Section for instructions

regarding waivers to the electronic application submission requirement. If an applicant receives a waiver to the electronic application submission requirement, the application must be received by the application deadline date.

D. Intergovernmental Review

Not applicable.

E. Funding Restrictions

1. *Reimbursement for Grant Application Costs.* Grantees are prohibited from using ROSS grant funds to reimburse any costs incurred in conjunction with preparation of their ROSS application.

2. *Covered Salaries.*

a. Project Coordinator. All applicants may propose to hire a qualified project coordinator to run the program. The ROSS Family and Homeownership program will fund up to $65,000 in combined annual salary and fringe benefits for a full-time project coordinator. Applicants may propose a part-time coordinator at a lesser salary. For audit purposes, applicants must have documentation on file demonstrating that the salary and fringe benefits of the project coordinator are comparable to similar professions in their local area.

b. *Resident Salaries.* No more than five percent of -ROSS-Family and Homeownership funds may be used to pay for resident salaries.

c. *Types of Salaries.* ROSS Family and Homeownership funds may only be used for the types of salaries described in this section according to the restrictions described herein. ROSS funds may only be used to pay for salaries of staff that provide direct services to residents. Direct services staff, for purposes of this NOFA, are defined as applicant personnel or subcontractors who, as their primary responsibility, provide services directly to residents that participate in the activities described in this application e.g., housing and credit counselors, case managers, job trainers, childcare providers, among other positions. ROSS funds may not be used to pay for salaries for any other kind of staff.

3. *Administrative Costs.* For all applicants, administrative costs may include, but are not limited to, purchase of furniture, office equipment and supplies, program outreach, printing and postage, local travel, utilities, and lease or rental of space for program activities (subject to restrictions on leasing—See Eligible Activities section of this NOFA.). Administrative costs may not be used to pay for salaries of any kind. Administrative costs must not exceed 10 percent of the total grant amount requested from HUD. Administrative costs must adhere to OMB Circular A–87 or A–122 as appropriate. Please use HUD–424-CBW to itemize your administrative costs.

4. *Individual Savings Accounts (ISAs).* ROSS Family and Homeownership funds can be used as matching funds for ISAs but no more than 20 percent of total grant funds may be used for this purpose.

5. *Stipends.* No more than $200 of the grant award may be used per participant per month for stipends for active trainees and program participants. Stipends may only be used to reimburse reasonable out-of-pocket expenses related to participation in training and other program-related activities. Receipts for such expenses must be provided by the resident in order to obtain reimbursement. Stipends are not considered an administrative expense and therefore are not subject to the 10 percent limitation on administrative costs.

6. *Funding Requests in Excess of Maximum Grant Amount.* Applicants that request funding in excess of the maximum grant amount which they are eligible to receive will be given consideration only for the maximum grant for which they are eligible. If a grant is awarded, the grantee will work with the Field Office or Area ONAP to re-apportion the grant funds for eligible activities.

7. *Ineligible Activities/Costs.* Grant funds may not be used for ineligible activities. The following are ineligible activities/costs:

a. Payment of wages and/or salaries to participants for receiving supportive services and/or training programs (this does not include stipends);

b. Purchase, lease, or rental of land;

c. New construction, costs for construction materials;

d. Rehabilitation or physical improvements;

e. Vehicle insurance and/or maintenance;

f. Entertainment costs;

g. Purchasing food;

h. Payment of wages and/or salaries to doctors, nurses or other staff (including health aids or companions) in relation to medical services provided to residents;

i. Purchase of non-prescription or prescription medications;

j. Down payment assistance (NOTE: Participants may use their ISAs for this purpose);

k. Revolving loan funds;

l. Costs which exceed limits identified in the NOFA, for the following: Project Coordinator, resident salaries, ISAs, stipends, administrative expenses, and long distance travel;

m. Cost of application preparation;

n. Scholarships for degree programs;

o. Salaries for staff that are not direct services staff. Direct services staff, for purposes of this NOFA, are defined as applicant personnel or subcontractors who, as their primary responsibility, provide services directly to residents that participate in the activities described in this application, e.g., case managers, job trainers, childcare providers, among other positions.

p. Purchase of space.

8. ROSS funds cannot be used to hire or pay for the services of a Contract Administrator.

9. *Other Budgetary Restrictions.* Some long distance travel may be necessary during the term of the grant in order for professional grant staff to attend training conferences for ROSS grantees. Long distance travel costs for grant program staff may not exceed $5,000 for the life of the grant and must receive prior approval from the grantee's local HUD field office or area ONAP.

F. Other Submission Requirements

1. All applicants are required to submit their applications electronically via Grants.gov unless they request and are approved by HUD for a waiver of that requirement. Please refer to the General Section for information on how to submit your application and all attachments electronically via Grants.gov.

2. *Proof of Timely Submission.* Please see the General Section for this information. Applicants that fail to meet the deadline for application receipt will not receive funding consideration.

3. *For Waiver Recipients Only.* Applicants who have received waivers to submit paper applications (see the General Section for more information) must submit their applications to: HUD Grants Management Center, Mail Stop: ROSS Family and Homeownership, 501 School Street, SW., 8th floor, Washington, DC 20024.

4. *Number of Copies.* Only applicants receiving a waiver to the electronic submission requirement may submit a paper copy application. Paper applications must be submitted in triplicate (one original and two identical copies). For all applicants with a waiver (including tribal and TDHE applicants), the original and one identical copy must be sent to the Grants Management Center and an identical copy must be sent to your local Field Office or Area ONAP in accordance with the submission and timely receipt requirements described in the General

Section. All paper applications must be received by the deadline date.

V. Application Review Information

A. Criteria

1. *Factors for Award Used to Evaluate and Rate Applications to the ROSS program.* The factors for rating and ranking applicants and maximum points for each factor are provided below. The maximum number of points available for this program is 102. This includes two RC/EZ/EC–II bonus points. The SuperNOFA contains a certification that must be completed in order for the applicant to be considered for the RC/EZ/EC–II bonus points. A listing of federally designated RCs, EZs, and EC–IIs is available at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* The agency certifying to RC/EZ/EC–II status must be contained in the listing of RC/EZ/EC–II organizations on HUD's Web site at: *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

Note: Applicants should carefully review each rating factor before writing a response. Applicants' narratives should be as descriptive as possible, ensuring that every requested item is addressed. Applicants should make sure their narratives thoroughly address the Rating Factors below. Applicants should include all requested information, according to the instructions found in this NOFA. This will help ensure a fair and accurate application review.

a. Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (25 Points)

This factor addresses whether the applicant has the organizational capacity and resources necessary to successfully implement the proposed activities within the grant period. In rating this factor HUD will consider the extent to which the proposal demonstrates that the applicant will have qualified and experienced staff dedicated to administering the program.

(1) *Proposed Program Staffing* (7 Points).

(a) *Staff Experience* (4 Points). The knowledge and experience of the proposed project coordinator, staff, and partners in planning and managing programs for which funding is being requested. Experience will be judged in terms of recent, relevant and successful experience of proposed staff to undertake eligible program activities. In rating this factor, HUD will consider experience within the last 5 years to be recent; experience pertaining to the specific activities being proposed to be relevant; and experience producing specific accomplishments to be successful. The more recent the experience and the more experience proposed staff members who work on the project have in successfully conducting and completing similar activities, the greater the number of points applicants will receive for this rating factor. The following information should be provided in order to provide HUD an understanding of proposed staff's experience and capacity:

(i) The number of staff years (one staff year = 2080 hours) to be allocated to the proposed program by each employee or expert as well as each of their roles in the program;

(ii) The staff's relevant educational background and/or work experience; and

(iii) Relevant and successful experience running programs whose activities are similar to the eligible program activities described in the grant application.

(b) *Organizational Capacity* (3 Points). Applicants will be evaluated based on whether they or their partners have sufficient qualified personnel to deliver the proposed activities in a timely and effective fashion. In order to enhance or supplement capacity, applicants should provide evidence of partnerships with nonprofit organizations or other organizations that have experience providing supportive services to typically underserved populations. Applicants' narratives must describe their ability to immediately begin the proposed work program. Provide resumes and position descriptions (where staff is not yet hired) for all key personnel. (Resumes/position descriptions do not count toward the 35-page limit.)

(2) *Past Performance of Applicant/Contract Administrator* (6 Points).

(a) Applicants' past experience may include, but is not limited to, running and managing programs aimed at assisting residents of low-income housing to achieve housing and economic self-sufficiency

(b) Applicants' narratives must indicate past grants they received and managed, the grant amounts, and grant terms (years) of the grants, which they are counting toward past experience.

(c) Applicants' narratives must describe how they (or their *Contract Administrator*) successfully implemented past grant programs designed to promote resident self-sufficiency, moving from welfare to work, and/or helping residents move to market rate rental housing or homeownership.

(d) Applicants will be evaluated according to the following criteria:

(i) Achievement of specific measurable outcomes and objectives in terms of benefits gained by participating residents. Applicants should describe results their programs have obtained, such as:

—Reduced welfare dependency, higher incomes, higher rates of employment, increased savings, moving from subsidized housing to market rate rental housing; and for Category 5,

—Number of families in homeownership counseling pipeline, rates of homeownership achieved through training programs.

(ii) Description of success in attracting and keeping residents involved in past grant-funded training programs. HUD wants to see that applicants' grant-funded programs benefited a significant numbers of residents;

(iii) Description of timely and accurate expenditure of program funding throughout the term of past grants. This means regular (i.e., quarterly) and accurate drawdowns throughout the life of the grant, with all funds expended by the end of the grant term;

(iv) Description of Past Leveraging. Applicants must describe how they have created leveraging partnerships for funding or in-kind services for previous projects, the extent of the leveraging partnership and how leveraging and partnerships benefited program participants.

(3) *Program Administration and Fiscal Management* (12 Points).

(a) *Program Administration and Accountability* (6 Points). Applicants should describe how they will manage the program; how HUD can be sure that there is program accountability; and provide a description of proposed staff's roles and responsibilities. Applicants should also describe how grant staff and partners will report to the project coordinator and other senior staff.

(b) *Fiscal Management* (6 Points). In rating this factor, applicants' skills and experience in fiscal management will be evaluated. If applicants have had any audit or material weakness findings in the past five years, they will be evaluated on how well they have addressed them. Applicants must provide the following:

(i) A complete description of their fiscal management structure, including fiscal controls currently in place including those of a Contract Administrator for applicants required to have a Contract Administrator (i.e., PHAS troubled PHAs, resident associations, and nonprofit applicants);

(ii) Applicants must list any audit findings or material weaknesses in the past five years (HUD Inspector General,

management review, fiscal, etc.), and what has been done to address them;

(iii) For applicants who are required to have a Contract Administrator, describe the skills and experience the Contract Administrator has in managing federal funds.

b. Rating Factor 2: Need/Extent of the Problem (10 Points)

This factor addresses the extent to which there is a need for funding the proposed program. In responding to this factor, applicants will be evaluated on the extent to which they describe and document the level of need for their proposed activities and the urgency for meeting the need.

In responding to this factor, applicants must include:

(1) *Socioeconomic Profile* (3 points). A thorough socioeconomic profile of the eligible residents to be served by the program, including education levels, income levels, the number of single-parent families, economic statistics for the local area, etc.

(2) *Demonstrated Link Between Proposed Activities and Local Need* (7 points). Applicants' narratives must demonstrate a clear relationship between proposed activities, community needs and the purpose of the program funding in order for points to be awarded for this factor.

c. Rating Factor 3: Soundness of Approach (30 Points)

This factor addresses both the quality and cost-effectiveness of applicants' proposed work plan. The narrative and work plan must indicate a clear relationship between proposed activities and intended outcomes, the targeted population's needs, and the purpose of the program funding. Applicants' proposed activities must address HUD's policy priorities outlined in this Rating Factor.

In rating this factor HUD will consider:

(1) *Quality of the Work Plan* (18 points). This factor evaluates both the applicant's work plan and budget, which will be evaluated based on the following criteria:

(a) *Specific Services and/or Activities* (10 points). Applicants' narratives must describe the specific services, course curricula, and activities they plan to offer and who will be responsible for each. In addition to the narrative, applicants must also provide a work plan, which must list the specific services, activities, and outcomes they expect. The proposed program narrative and work plan must show a logical order of activities and progress and must tie to the outcomes and outputs applicants identify in the Logic Model (see Rating Factor 5). Please see a sample work plan in the Appendix. Applicants' narratives must explain how their proposed activities will:

(i) Involve community partners in the delivery of services (4 points);

(ii) Offer comprehensive services (versus a small range of services) geared toward achieving the following (6 points):

—Enhancing economic opportunities for residents leading to economic self-sufficiency and homeownership or other housing self-sufficiency;

(b) *Feasibility and Demonstrable Benefits* (3 points). This factor examines whether applicants' work plan are logical, feasible and likely to achieve its stated purpose during the term of the grant. HUD's desire is to fund applications that will quickly produce demonstrable results and advance the purposes of the ROSS program.

(i) *Timeliness.* This subfactor evaluates whether applicants' work plans demonstrate that their projects are ready to be implemented shortly after grant award, but not to exceed three months following the execution of the grant agreement. The work plan must indicate time frames and deadlines for accomplishing major activities. (1 point).

(ii) *Description of the problem and solution.* The work plan will be evaluated based on how well applicants' proposed activities address the needs described in Rating Factor 2. (2 points).

(c) *Budget Appropriateness/Efficient Use of Grant* (5 Points). The score in this factor will be based on the following:

(i) *Justification of expenses.* Applicants will be evaluated based on whether their expenses are reasonable and thoroughly explained, and support the objectives of their proposal.

(ii) *Budget Efficiency.* Applicants will be evaluated based on whether their application requests funds commensurate with the level of effort necessary to accomplish their goals and anticipated results.

(d) Ineligible Activities. Two points will be deducted for each ineligible activity proposed in the application, as identified in Section IV(E). For example, you will lose 2 points if you propose costs that exceed the limits identified in the NOFA for a Project Coordinator; or you will lose 2 points if you propose paying for salaries for staff that are not direct services staff.

(2) *Addressing HUD's Policy Priorities* (10 points). HUD wants to improve the quality of life for those living in distressed communities. HUD's grant programs are a vehicle through which long-term, positive change can be achieved at the community level. Applicants' narratives and work plans will be evaluated based on how well they meet the following HUD policy priorities:

(i) *Improving the Quality of Life in Our Nation's Communities* (2 points). In order to receive points in this category, applicants' narrative and/or work plan must indicate the types of activities, service, and training programs applicants will offer which can help residents successfully transition from welfare to work and earn higher wages.

(ii) *Providing Increased Homeownership and Rental Opportunities for Low- and Moderate-Income Persons, Persons with Disabilities, the Elderly, Minorities, and Families with Limited English Proficiency* (**Note:** Only applicants proposing Category 5—Homeownership activities are eligible for these points.) (2 points). In order to receive points in this category, applicants' narratives and/or work plans must indicate the types of activities and training programs they will offer which can help residents successfully transition to homeownership. Applicants that indicate that they have existing linkages to an existing homeownership program such as, for PHAs, Housing Choice Voucher-Homeownership, Section 32, or homeownership programs and resources offered by other organizations or state or local homeownership programs or for Tribes/TDHEs, programs such as the Mutual Help Homeownership Opportunity Program, the Section 184 Program, and homeownership programs developed under the Indian Housing Block Grant Program such as mortgage assistance, must provide a specific statement attesting to these linkages and indicating the minimum number of homeownership opportunities (e.g,. number of HCV-Homeownership vouchers or number of homes in the Section 32 program that will be dedicated to ROSS participants) that will be provided annually to residents successfully completing the requirements of the programs funded by this NOFA.

(iii) *Providing Full and Equal Access to Grassroots Faith-Based and Other Community-Based Organizations in HUD Program Implementation* (4 points). HUD encourages applicants to partner with grassroots organizations, *e.g.*, civic organizations, grassroots faith-based and other community-based organizations that are not usually effectively utilized. These grassroots organizations have a strong history of providing vital community services

such as developing first-time homeownership programs, creating economic development programs, providing job training and other supportive services. In order to receive points under this factor, applicants' narratives and/or work plans must describe how applicants will work with these organizations and what types of services they will provide.

(iv) Policy Priority for Increasing the Supply of Affordable Housing Through the Removal of Regulatory Barriers to Affordable Housing (up to 2 points).

Under this policy priority, higher rating points are available to (1) governmental applicants that are able to demonstrate successful efforts in removing regulatory barriers to affordable housing, and (2) nongovernmental applicants that are associated with jurisdictions that have undertaken successful efforts in removing barriers. For applicants to obtain the policy priority points for efforts to successfully remove regulatory barriers, applicants would have to complete form HUD 27300, ''Questionnaire for HUD's Initiative on Removal of Regulatory Barriers.'' A copy of HUD's Notice entitled America's Affordable Communities Initiative, HUD's Initiative on Removal of Regulatory Barriers: Announcement of Incentive Criteria on Barrier Removal in HUD's 2004 Competitive Funding Allocations'' can be found on HUD's Web site at *http://www.hud.gov/grants/index.cfm*. The information and requirements contained in HUD's regulatory barriers policy priority apply to this FY-2006 NOFA. A description of the policy priority and a copy of form HUD–27300 can be found in the application package posted on *www.Grants.gov*. Applicants are encouraged to read the Notice as well as the General Section to obtain an understanding of this policy priority and how it can impact their score. A limited number of questions expressly request the applicant to provide brief documentation with their response. Other questions require that for each affirmative statement made, the applicant must supply a reference, URL, or a brief statement indicating where the back-up information may be found, and a point of contact, including a telephone number and/or email address. The electronic copy of the HUD 27300 has space to identify a URL or reference that the material is being scanned and attached to the application as part of the submission or faxed to HUD following the facsimile submission instructions.

Economic Opportunities for Low- and Very Low-Income Persons (Section 3) (2 Points)

You will receive 2 points if your application demonstrates that you will implement Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Economic Opportunities for Low- and Very Low-Income Persons in Connection with assisted Projects) and its implementing regulations at 24 CFR part 135 in connection with this grant, if awarded. Information about Section 3 can be found at HUD's Section 3 Web site at *www.hud.gov/fhe/sec3over.html*. Your application must describe how you will implement Section 3 through the proposed grant activities. You must state that you will, to the greatest extent feasible, direct training, employment, and other economic opportunities to:

(a) Low- and very low-income persons, particularly those who are recipients of government assistance for housing, and

(b) Business concerns which provide economic opportunities to low- and very low-income persons.

d. Rating Factor 4: Leveraging Resources (20 Points)

This factor addresses the applicant's ability to secure community resources that can be combined with HUD's grant resources to achieve program purposes. Applicants are required to create partnerships with organizations that can help achieve their program's goals. PHAs are required by section 12(d)(7) of the U.S. Housing Act of 1937 entitled ''Cooperation Agreements for Economic Self-Sufficiency Activities'' to make best efforts to enter into such agreements with relevant state or local agencies. In rating this factor, HUD will look at the extent to which applicants partner, coordinate and leverage their services with other organizations serving the same or similar populations.

Applicants must have at least a 25 percent cash or in-kind match. The match is a threshold requirement. Joint applicants must together have at least a 25 percent match. Applicants who do not demonstrate the minimum 25 percent match will fail the threshold requirement and will not receive further consideration for funding. Leveraging in excess of the 25 percent of the grant amount will receive a higher point value. In evaluating this factor HUD will consider the extent to which applicants have partnered with other entities to secure additional resources, which will increase the effectiveness of the proposed program activities. Match proposed to be used for ineligible activities will not be accepted. The additional resources and services must be firmly committed, must support the proposed grant activities and must, in combined amount (including in-kind contributions of personnel, space and/or equipment, and monetary contributions) equal at least 25 percent of the grant amount requested in the application. ''Firmly committed'' means that the amount of resources and their dedication to ROSS-funded activities must be explicit, in writing and signed by a person authorized to make the commitment. Please see the section on Threshold Requirements for more information.

Points for this factor will be awarded based on the documented evidence of partnerships and firm commitments and the ratio of requested ROSS funds to the total proposed grant budget.

Points will be assigned based on the following scale:

Percentage of Match Points Awarded

25—5 points (with partnerships) 3 points (without partnerships);
26–50—10 points (with partnerships) 8 points (without partnerships);
51–75—15 points (with partnerships) 13 points (without partnerships);
76 or above—20 points (with partnerships) 18 points (without partnerships).

e. Rating Factor 5: Achieving Results and Program Evaluation (15 Points)

(1) An important element in any supportive service program is the development and reporting of performance measures and outcomes. This factor emphasizes HUD's determination to ensure that applicants develop performance and outcome measures that are focused on residents' achieving economic and housing self-sufficiency—reducing and eliminating dependency on any type of subsidized housing or welfare assistance. Additionally, achieving outcomes and accurate evaluation will assist HUD in meeting its commitment to federal requirements for accountability. Applicants must demonstrate how they propose to measure their success and outcomes as they relate to the Department's Strategic Plan.

(2) HUD requires ROSS applicants to develop an effective, quantifiable, outcome-oriented plan for measuring performance and determining that goals have been met. Applicants must use the Logic Model form HUD–96010 for this purpose. The narrative describes how the measurement tools are used to collect and verify reported data and to modify the program if goals are not being met.

(3) Applicants must establish interim benchmarks, or outputs, for their proposed program that lead to the ultimate achievement of outcomes. ''Outputs'' are the direct products of a program's activities. Examples of outputs are: The number of eligible families that participate in supportive services, the number of new services provided, the number of residents receiving counseling, or the number of households using a technology center. Outputs should produce outcomes for your program. ''Outcomes'' are benefits accruing to the residents, families and/or communities during or after participation in the ROSS program. Outcomes are not the development or delivery of services or program activities but the results of the services delivered or program activities—the ultimate results of the program. Applicants must clearly identify the outcomes to be achieved and measured. Examples of outcomes are: Increasing homeownership rates, increasing residents' financial stability (e.g., increasing assets of a household through savings), or increasing employment stability (e.g., whether persons assisted obtain or retain employment for one or two years after job training completion).

(4) This rating factor requires that applicants identify program outputs, outcomes, and performance indicators that will allow applicants to measure their performance. Performance indicators should be objectively quantifiable and measure actual achievements against anticipated achievements. Applicants' narratives, work plans, and Logic Models should identify what applicants are going to measure, how they are going to measure it, and the steps they have in place to make adjustments to their work plan and management practices if performance targets begin to fall short of established benchmarks and time frames. Applicants' proposals must also show how they will measure the performance of partners and affiliates. Applicants must include the standards, data sources, and measurement methods they will use to measure performance.

(Applicants will be evaluated based on how comprehensively they propose to measure their program's outcomes.)

B. Review and Selection Process

1. Review Process

Four types of reviews will be conducted: A screening to determine if you are eligible to apply for funding under the ROSS Family and Homeownership grant program; whether your application submission is complete, on time and meets threshold; a review by the field office (or area ONAP office) to evaluate past performance; and a technical review to rate your application based on the five rating factors provided in this NOFA.

2. Selection Process for All Grant Categories and All Applicants

Twenty-five percent (25%) of funds will be set aside for Resident Associations and all qualifying Resident Association applications will be funded first, up to 25% of the funding amount. The selection process is designed to achieve geographic diversity of grant awards throughout the country. For each grant category, HUD will first select the highest ranked application from each of the ten federal regions and DPONAP for funding. After this ''round,'' HUD will select the second highest ranked application in each of the ten federal regions and DPONAP for funding (the second round). HUD will continue this process with the third, fourth, and so on, highest ranked applications in each federal region and DPONAP until the last complete round is selected for funding. If available funds exist to fund some but not all eligible applications in the next round, HUD will make awards to those remaining applications in rank order (by score) regardless of region and DPONAP and will fully fund as many as possible with remaining funds. If remaining funds in one grant category are too small to make an award, they may be transferred to another ROSS program. If there are remaining funds in any ROSS program after all qualifying applications have been awarded, those funds may be transferred to another ROSS program.

3. Tie Scores

In the event of a tie score between two applications which target the same developments, HUD will select the application that was received first.

4. Deficiency Period

Applicants will have 14 calendar days in which to provide missing information requested from HUD. For other information on correcting deficient applications, please see the General Section.

VI. Award Administration Information

A. Award Notices

HUD will make announcements of grant awards after the rating and ranking process is completed. Grantees will be notified by letter and will receive instructions on what steps they must take in order to access funding and begin implementing grant activities. Applicants who are not funded will also receive letters via U.S. postal mail.

B. Debriefings

Applicants who are not funded may request a debriefing. Applicants requesting to be debriefed must send a written request to: Iredia Hutchinson, Director, Grants Management Center, 501 School Street, SW., Suite 800, Washington, DC 20024.

C. Administrative and National Policy Requirements

1. Environmental Impact

In accordance with 24 CFR 58.34 (a)(3) or (a)(9), 58.35(b)(2), (b)(4) or (b)(5), 50.19(b)(3), (b)(9), (b)(12), (b)(14), or (b)(15), activities under this ROSS program are categorically excluded from the requirements of the National Environmental Policy Act of 1969 and are not subject to environmental review under related laws and authorities.

2. Applicable Requirements

Unless specifically enumerated in this NOFA, all applicants, lead and non-lead applicants, are subject to the requirements specified in Section III.C. of the General Section. Grantees are subject to regulations and other requirements found in:

a. 24 CFR 84 ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations'';

b. 24 CFR 85 ''Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments'';

c. 24 CFR 964 ''Tenant Participation and Tenant Opportunities in Public Housing'';

d. OMB Circular A–87 ''Cost Principles for State, Local, and Indian Tribal Governments'';

e. OMB Circular A–110 ''Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations'';

f. OMB Circular A–122 ''Cost Principles for Non-Profit Organizations''; and

g. OMB Circular A–133 ''Audits of States, Local Governments, and Non-Profit Organizations''.

3. Economic Opportunities for Low- and Very Low-Income Persons (Section 3)

Applicants and grantees must also comply with Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u and ensure that training, employment, and other economic opportunities shall, to the greatest extent feasible, be directed toward low and very low-income persons,

particularly those who are recipients of government assistance for housing and to business concerns which provide economic opportunities to low and very low-income persons.

4. Fair Housing and Civil Rights Laws

Applicants and their subrecipients must comply with all Fair Housing and Civil Rights laws, statutes, regulations, and Executive Orders as enumerated in 24 CFR 5.105(a), as applicable. Please see the General Section for more information.

D. Reporting

1. Semi-Annual Performance Reports

Grantees must submit semi-annual performance reports to the field office or area ONAP. These progress reports must include financial reports (SF–269A), and a Logic Model (HUD–96010) showing achievements to date against outputs and outcomes proposed in the application and approved by HUD. A narrative describing milestones, work plan progress, and problems encountered and methods used to address the problems to support the data in the logic model is optional. HUD anticipates that some of the reporting of financial status and grant performance will be through electronic or Internet-based submissions. Grantees must use quantifiable data to measure performance against goals and objectives outlined in their work plan. Applicants that receive awards from HUD should be prepared to report on additional measures that HUD may designate at time of award. Performance reports are due to the field office on July 30 and January 31 of each year. If reports are not received by the due date, grant funds will be suspended until reports are received. For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment (ROI) statement. HUD will be publishing a separate notice on the ROI concept.

2. Final Report

All grantees must submit a final report to their local field office or area ONAP that will include a financial report (SF–269A), a final Logic Model, and a narrative evaluating overall results achieved against their work plan. Grantees must use quantifiable data to measure performance against goals and objectives outlined in their work plan. The financial report must contain a summary of all expenditures made from the beginning of the grant agreement to the end of the grant agreement and must include any unexpended balances. The final Logic Model and financial report are due to the field office 90 days after the termination of the grant agreement.

3. Final Audit

Grantees that expend $500,000 in federal funds in a given program or fiscal year are required to obtain a complete final close-out audit of the grant's financial statements by a Certified Public Accountant (CPA), in accordance with generally accepted government audit standards. A written report of the audit must be forwarded to HUD within 60 days of issuance. Grant recipients must comply with the requirements of 24 CFR 84 or 24 CFR 85 as stated in OMB Circulars A–87, A–110, and A–122, as applicable.

4. Racial and Ethnic Data

HUD requires that funded recipients collect racial and ethnic beneficiary data. HUD has adopted the Office of Management and Budget's Standards for the Collection of Racial and Ethnic Data. In view of these requirements, applicants should use form HUD–27061, Racial and Ethnic Data Reporting Form.

VII. Agency Contact(s)

For questions and technical assistance, you may call the Public and Indian Housing Information and Resource Center at 800–955–2232. For persons with hearing or speech impairments, please call the toll-free Federal Relay Service at 800–877–8339. In the case of tribes/TDHEs, please contact HQ ONAP at 800–561–5913 or (303) 675–1600 (this is not a toll-free number).

VIII. Other Information

A. *Code of Conduct.* Please see the General Section for more information.

B. *Transfer of Funds.* If transfer of funds from any of the ROSS programs does become necessary, HUD will consider the amount of un-funded qualified applications in deciding to which program the extra funds will be transferred.

C. *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 2577–0229. 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 49.5 hours per respondent for the application. This includes the time for collecting, reviewing, and reporting the data for the application. The information will be used for grantee selection and monitoring the administration of funds. Response to this request for information is required in order to receive the benefits to be derived.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TECHNOLOGY FOR INCREASED RESIDENT SELF-SUFFICIENCY

PUBLIC HOUSING NEIGHBORHOOD NETWORKS

Billing Code 4210-01-C

Public Housing Neighborhood Networks Program

Overview Information

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

B. *Funding Opportunity Title:* Public Housing Neighborhood Networks program.

C. *Announcement Type:* Initial announcement.

D. *Funding Opportunity Number:* The Federal Register number for this NOFA is: FR–5030–N–33. The OMB approval number for this program is 2577–0229.

E. *Catalog of Federal Domestic Assistance (CFDA) Number(s):* 14.875.

F. *Dates:* The application deadline date is June 23, 2006.

G. *Optional, Additional Overview Content Information:*

1. *Purpose of Program*: The purpose of the Public Housing Neighborhood Networks (NN) program is to provide grants to public housing authorities (PHAs) to: (a) Update and expand existing NN/community technology centers; or (b) establish new NN centers. These centers offer comprehensive services designed to help public housing residents achieve long-term economic self-sufficiency. This program is authorized under § 9(d)(1)(E), § 9(e)(1)(K), § 9(h)(8), and § 24(d)(1)(G).

2. *Funding Available:* The Department plans to award approximately $7,500,000 under the Neighborhood Networks program in Fiscal Year 2006.

3. *Award Amounts:* Awards will range from $100,000 to $550,000.

4. *Eligible Applicants:* Eligible applicants are PHAs only.

Tribes and tribally designated housing entities (TDHEs), nonprofit organizations, and resident associations are not eligible to apply for funding under the Public Housing Neighborhood Networks program.

5. *Cost Sharing/Match Requirement:* PHAs are required to match at least 25 percent of the requested grant amount.

6. *Grant term.* The grant term is three years from the execution date of the grant agreement.

Grant program	Total funding	Eligible applicants	Maximum grant amount
Neighborhood Networks	$7.5 Million	PHAs—existing centers	$100,000 for PHAs with 1–780 units; $150,000 for PHAs with 781–2,500 units; $200,000 for PHAs with 2,501–7,300 units; $250,000 for PHAs with 7,301 units or more.
		PHAs—new centers	$250,000 for PHAs with 1–780 units; $350,000 for PHAs with 781–2,500 units; $450,000 for PHAs with 2,501–7,300 units; $550,000 for PHAs with 7,301 units or more.

Full Text of Announcement

I. Funding Opportunity Description

A. Definition of Terms

1. *Contract Administrator* is a grant administrator or financial management agent that oversees the implementation of the grant and/or the financial aspects of the grant.

2. *An existing computer center* is: (1) A computer lab, or technology center owned and operated by a PHA which serves residents of public housing and has not received prior NN funding and therefore is not officially designated a HUD Public and Indian Housing (PIH) NN center; (2) a computer lab designated as a HUD PIH NN center, which seeks to expand its services; or (3) a computer lab which needs funding under this program to become operational and serve residents of public housing.

3. *A new NN center* is one that will be established (i.e., there is no infrastructure, space, or equipment currently in use for this purpose) with NN grant funds. **Note:** An applicant previously funded under Neighborhood Networks may apply under the ''New Computer Center'' category only if it will develop a new center in a development which cannot be served by the applicant's existing NN center(s).

4. *Past Performance* is a threshold requirement. Using Rating Factor 1, HUD's field offices will evaluate applicants for past performance to determine whether an applicant has the capacity to manage the grant it is applying for. Field offices will evaluate the past performance of contract administrators for applicants that required one.

5. *Person with disabilities* means a person who:

a. Has a condition defined as a disability in section 223 of the Social Security Act;

b. Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance Bill of Rights Act; or

c. Is determined to have a physical, mental, or emotional impairment which:

(1) Is expected to be of long-continued and indefinite duration;

(2) Substantially impedes his or her ability to live independently; and

(3) Is of such a nature that such ability could be improved by more suitable housing conditions.

The term ''person with disabilities'' includes persons who have acquired immunodeficiency syndrome (HIV/AIDS) or any conditions arising from the etiologic agent for AIDS. In addition, no individual shall be considered a person with disabilities solely based on drug or alcohol dependence.

The definition provided above for persons with disabilities is the proper definition for determining program qualifications. However, the definition of a person with disabilities contained in section 504 of the Rehabilitation Act of 1973 and its implementing regulations must be used for purposes of providing reasonable accommodations and for program accessibility for persons with disabilities.

6. *Project Coordinator* is responsible for coordinating the grantee's approved activities to ensure that grant goals and objectives are met. A qualified Project Coordinator is someone with at least two years of experience working on supportive services designed specifically for underserved populations. The Project Coordinator and grantee are both responsible for ensuring that all federal requirements are followed.

7. *Secretary* means the Secretary of Housing and Urban Development.

8. *Senior person* means a person who is at least 62 years of age.

B. Program Description

1. The Public Housing Neighborhood Networks program provides grants to PHAs to (1) update and expand existing NN/community technology centers; or (2) establish new NN centers.

2. NN centers must be located within a public housing development, on PHA

land, or within reasonable walking distance to the PHA development(s).

3. HUD is looking for applications that implement comprehensive programs within the three-year grant term, which will result in improved economic self-sufficiency for public housing residents. HUD is looking for proposals that involve partnerships with organizations that will supplement and enhance the services offered to residents.

4. NN centers provide computer and Internet access to public housing residents and offer a full range of computer and job training services. Applicants should submit proposals that will incorporate computer and Internet use to: Provide job training for youths, adults and seniors; expand educational opportunities for residents; promote economic self-sufficiency and help residents transition from welfare to work; assist children with homework; provide guidance to high school students (or other interested residents) for post-secondary education (college or trade schools); and provide other services deemed necessary from resident input.

5. All applicants must complete a business plan (see sample HUD–52766 provided in the Appendix) covering the three-year grant term. The applicant's business plan and narrative must indicate how the center(s) will become self-sustaining after the grant term expires. Proposed grant activities should build on the foundation created by previous NN grants such as Resident Opportunities and Self-Sufficiency (ROSS) grants, or other federal, state and local self-sufficiency efforts.

C. Eligible Activities

1. *Hiring a Qualified Project Coordinator to Administer the Grant Program.* A qualified Project Coordinator must have project management and information technology experience. The Project Coordinator should be hired for the entire term of your grant. The Project Coordinator is responsible for ensuring that the center achieves its proposed goals and objectives. In addition, the Project Coordinator is responsible for the following activities:

a. Marketing the program to residents;

b. Assessing residents' needs, interests, skills, and job-readiness;

c. Assessing residents' needs for supportive services, *e.g.*, childcare, transportation;

d. Designing and coordinating grant activities based on residents' needs and interests; and

e. Monitoring the progress of program participants and evaluating the overall success of the program. For more information on how to measure performance, please see Rating Factor 5 in the ''Application Review Information'' section of this NOFA.

2. *Literacy training and GED preparation;*

3. *Computer training*, from basic to advanced;

4. *College preparatory* courses and information;

5. *Job Training and Activities Leading to Self-Sufficiency.* Job training for very low and low-income persons is a requirement under Section 3 of the Housing and Urban Development Act of 1968. Some examples of the job training skills encouraged are: oral and written communication skills; work ethic; interpersonal and teamwork skills; resume writing; interviewing techniques, creating job training and placement programs with local employers and employment agencies; tax preparation and submission assistance, including Earned Income Tax credits; other activities moving toward housing and economic self-sufficiency that utilize the computer center, such as financial literacy, credit repair, and homeownership training; and post-employment follow-up to assist residents who are new to the workplace.

6. *Physical improvements.* Physical improvements must relate to providing space for a Neighborhood Networks center. Renovation, conversion, wiring, and repair costs may be essential elements of physical improvements. In addition, architectural, engineering, and related professional services required to prepare plans or drawings, write-ups, specifications or inspections may also be part of the cost of implementing physical improvements.

a. Creating an accessible space for persons with disabilities is an eligible use of funds. Refer to Office of Management and Budget (OMB) Circular A–87, ''Cost Principles for State, Local and Indian Tribal Governments.''

b. The renovation, conversion, or joining of vacant units in a PHA development to create space for the equipment and activities of a NN center (computers, printers, and office space) are eligible activities for physical improvement.

c. The renovation or conversion of existing common areas in a PHA development to accommodate a NN center is eligible.

d. If renovation, conversion, or repair is done off-site, the PHA must provide documentation with its application that it has control of the proposed property and will continue to have control for at least five years. Control can be demonstrated through a lease agreement, ownership documentation, or other appropriate documentation.

7. *Maintenance and insurance costs.* Includes installing and maintaining the hardware and software as well as insurance coverage for the space and equipment.

8. *Purchase of computers, printers, software, other peripheral equipment, and furniture for the NN Center* are eligible expenses. Section 3 of the Housing and Urban Development Act requires funding recipients to provide business opportunities be directed to very low and low income persons. In addition, costs of computer hardware and software for the needs of persons with disabilities are eligible costs for this funding category;

9. *Distance Learning Equipment.* Distance learning equipment (including the costs for video casting and purchase/lease/rental of distance learning equipment) is an eligible use of funds. The proposal must indicate that the center will be working in a virtual setting with a college, university or other educational organization. Distance learning equipment can also be used to link one or more centers so that residents can benefit from courses being offered at only one site.

10. *Security and related costs.* Includes space and minor refitting, locks, and other equipment for safeguarding the center and other longer-term security measures, as needed.

11. *Hiring Residents.* Grantees may hire residents to help with the implementation of this grant program.

12. *Administrative Costs.* See Section IV.E for information on this topic.

13. *Staff Training and Long Distance Travel.* Funds may be used for applicant staff or subcontractors' training in program-relevant areas. This activity should not exceed $5,000. See Section IV.E for information on this topic.

D. Regulations Governing the Neighborhood Networks Grant

The Neighborhood Networks program is governed by regulations in 24 CFR parts 905 and 968.

II. Award Information

A. Total Funding

The Department expects to award approximately a total of $7,500,000 under the Neighborhood Networks program in Fiscal Year 2006. Awards will be made as follows:

1. Forty percent of available funding for Neighborhood Networks will be used for updating and expanding existing

computer technology centers. The other 60 percent will provide grants to establish and operate new Neighborhood Networks centers.

2. PHAs must use the number of occupied public housing units as of September 30, 2005 per their budget. This is required so the PHA can determine the maximum grant amount they are eligible for in accordance with the categories listed below. PHAs should clearly indicate on the Fact Sheet (HUD–52751) the number of units under management.

a. *Funding Levels For Existing Centers:*

Number of conventional units	Maximum funding
1–780 units	$100,000
781–2,500 units	150,000
2,501–7,300 units	200,000
7,301 or more units	250,000

b. *Funding Levels For New Centers:*

Number of conventional units	Maximum funding
1–780 units	$250,000
781–2,500 units	350,000
2,501–7,300 units	450,000
7,301 or more units	550,000

B. Grant Period

Three years. The grant period shall begin the day the grant agreement and the form HUD–1044, ''Assistance Award/Amendment'' are signed by the grantee and HUD.

C. Grant Extensions

Requests to extend the grant term must be submitted in writing by the grantee to the local HUD field office. Such requests must be done prior to grant termination and with at least 30 days notice to give the field office a reasonable amount of time to fully evaluate the request. Requests must explain why the extension is necessary, what work remains to be completed, and what work and progress was accomplished to date. Extensions may be granted one time only once by the field office or area ONAP for a period not to exceed six months and may be granted for a further six months by the HUD Headquarters Program Office at the request of the Field Office or area ONAP.

D. Type of Award

Grant agreement.

E. Subcontracting

Subcontracting is permitted. Grantees must follow the HUD federal procurement regulations found at 24 CFR 85.36.

III. Eligibility Information

A. Eligible Applicants

Public Housing Authorities are eligible to apply for this funding category. Tribes/TDHEs, nonprofit organizations, and resident associations are not eligible to apply for this funding category.

B. Cost Sharing or Matching

All applicants are required to obtain a 25 percent cash or in-kind match. The match is a threshold requirement. Applicants who do not demonstrate the minimum 25 percent match will fail the threshold requirement and will not receive further consideration for funding. Match proposed to be used for ineligible activities will not be accepted. Please see the section below on threshold requirements for more information on what is required for the match.

C. Other

1. Threshold Requirements

Applicants must respond to each threshold requirement clearly and thoroughly by following the instructions below. If your application fails one threshold requirement (regardless of the type of threshold) it will be considered a failed application. All applicants will be subject to all thresholds listed in the General Section.

a. *Match.* All applicants are required to commit a 25 percent match in cash or in-kind donations that are defined in this paragraph. Joint applicants must together have at least a 25 percent match. Applicants who do not demonstrate the minimum 25 percent match will fail this threshold requirement and will not receive further consideration for funding. If you are also applying for funding under the ROSS grant program, you must use different sources of match donations for each grant application and you must indicate which ROSS grant(s) you are applying for by attaching a narrative to your application. This narrative must state the sources and amounts of each of your match contributions for this application as well as any other HUD grant program to which you are applying.

Match donations must be firmly committed. Firmly committed means that the amount of match resources and their dedication to Neighborhood Networks-funded activities must be explicit, in writing and signed by a person authorized to make the commitment. Letters of commitment and memoranda of understanding (MOU) must be on organization letterhead, and signed by a person authorized to make the commitment. The letters of commitment/MOUs must indicate the total dollar value of the commitment, be dated between the publication date of this NOFA and the application deadline published in this NOFA or an amended deadline, and indicate how the commitment will relate to the proposed program. If the commitment is in-kind, the letters should explain exactly what services or material will be provided. The commitment must be available at time of award. Applicants proposing to use their own, non-HUD grant funds to meet the match requirement, must also include a letter of commitment indicating the type of match (cash or in-kind) and how the match will be used. Grant awards shall be contingent upon letters of commitment being submitted with your application. Match proposed to be used for ineligible activities will not be accepted. Please see the General Section for instructions for submitting the required letters with your electronic application.

(1) The value of volunteer time and services shall be computed using the professional rate for the local area or the national minimum wage rate of $5.15 per hour (**Note:** applicants may not count their staff time towards the match.) If grantees propose to use volunteers for development or operations work that would otherwise be subject to payment of Davis-Bacon or HUD-determined prevailing wage rates (including construction, rehabilitation or maintenance) their services must be computed using the appropriate methodology. Additional information on these wage rates can be found at *http://www.hud.gov/*, by contacting HUD Field Office Labor Relations staff, or from the PHA. Such volunteers must also meet the requirements of section 12(b) of the United States Housing Act of 1937 and 24 CFR part 70;

(2) In order for HUD to determine the value of any donated material, equipment, staff time, building, or lease, your application must provide a letter from the organization making the donation. The letter must state the value of the contribution.

(3) Other resources/services that can be committed include: In-kind services provided to the applicant; funds from federal sources that are allowed by statute, for example Community Development Block Grant (CDBG) funds; funds from any state or local government sources; and funds from private contributions. Applicants may also partner with other program funding

recipients to coordinate the use of resources in the target area.

b. *Past Performance.* HUD's field offices will evaluate data provided by applicants as well as their past performance to determine whether applicants have the capacity to manage the grants they are applying for. Field offices will evaluate the contract administrators' past performance for applicants required to have a contract administrator. Using Rating Factor 1, the field office will evaluate applicants' past performance. Applicants should carefully review Rating Factor 1 to ensure their applications address all of the criteria requested. If applicants fail to address what is requested in Rating Factor 1, their application will not receive further consideration.

c. *Contract Administrator Partnership Agreement.* PHAs that are troubled at time of application are required to submit a signed Contract Administrator Partnership Agreement. The agreement must be for the entire grant term. Grant awards must have a signed Contract Administrator Partnership Agreement included in the application. Applicants required to have a Contract Administrator Partnership Agreement that fail to submit one will fail this threshold requirement and will not receive further consideration for funding.

Troubled PHAs are not eligible to be contract administrators. Grant writers who assist in the preparation of their Neighborhood Networks applications are also ineligible to be contract administrators. Please see the General Section Definitions Section, and Program Requirements Section for instructions for more information.

d. *Minimum Score for All Fundable Applications.* Applications that pass all threshold requirements and go through the ranking and rating process, must receive a minimum score of 75 in order to be considered for funding.

e. *The Dun and Bradstreet Universal Numbering System (DUNS) Number Requirement.* Refer to the General Section for information regarding the DUNS requirement. You will need to have a DUNS number to receive an award from HUD.

f. *Off-site Physical Improvements.* Physical improvements that relate to providing space for a Neighborhood Networks center are eligible activities, including for off-site centers. If renovation, conversion or repair is done off-site, the PHA must describe this circumstance in their narrative and provide documentation with its application that it has control of the proposed property and will continue to have control for at least five years. Control can be demonstrated through a lease agreement, ownership documentation or other appropriate documentation.

2. Program Requirements

a. *Program Evaluations.* A portion of grant funds should be reserved to ensure that evaluations can be completed for all participants who received training through this program.

b. *Physical Improvements.* All renovations must meet appropriate accessibility requirements, including the requirements of Section 504 of the Rehabilitation Act of 1973 at 24 CFR part 8, Architectural Barriers Act at 24 CFR part 40, and the Americans with Disabilities Act. Design, construction, or alteration of buildings in conformance with the Uniform Federal Accessibility Standards (UFAS) shall be deemed to comply with the requirements of 24 CFR 8.21, 8.22, 8.23, and 8.25 with respect to those buildings.

c. *Contract Administrator.* The contract administrator must assure that the financial management system and procurement procedures that will be implemented during the grant term comply with 24 CFR part 85. CAs are expressly forbidden from accessing HUD's Line of Credit Control System (LOCCS) and submitting vouchers on behalf of grantees. Contract administrators must assist PHAs in meeting HUD's reporting requirements, see Section VI.C. ''Reporting'' for more information. Contract administrators may be: Local housing agencies; community-based organizations such as community development corporations (CDCs), local faith-based institutions; nonprofit organizations; state/regional associations and organizations. Troubled PHAs are not eligible to be contract administrators. Grant writers who assist applicants in preparing their Neighborhood Networks applications are also ineligible to be contract administrators. Organizations that the applicant proposes to use as the contract administrator must not violate the conflict of interest standards as defined in 24 CFR part 84 and 24 CFR part 85.

c. *Other Requirements Applicable to All Programs.* All applicants, lead and non-lead, should refer to ''Other Requirements and Procedures Applicable to All Programs'' of the General Section for other requirements to which they may be subject.

3. Number of Applications Permitted

a. *General.* Applicants may submit only one application for a NN grant.

b. *Joint applications.* Two or more applicants may join together to submit a joint application for proposed grant activities. Joint applications must designate a lead applicant. Only the lead applicant is subject to the threshold requirements outlined in this NOFA. However, both lead and non-lead applicants are subject to threshold requirements outlined in the General Section. The lead applicant must be registered with Grants.gov and submit the application using the Grants.gov portal. Applicants who submit joint applications cannot submit separate applications as sole applicants under this NOFA. **Note:** The lead applicant will determine the maximum funding amount the applicants are eligible to receive.

4. Eligible Participants

All program participants must be residents of public housing or residents of other housing assisted with funding made available under the 2006 Appropriations Act (*e.g.*, residents receiving tenant-based or project-based voucher assistance, as well as elderly and disabled residents).

IV. Application and Submission Information

A. Address To Request an Application Package

Copies of this published NOFAs and application forms will be posted on *www.Grants.gov/Apply.* If you have difficulty accessing the information you may call the Grants.gov help desk toll free at (800) 515–GRANTS or you may send an e-mail message to *Support@Grants.gov.*

B. Content and Form of Application Submission

1. Application Preparation

Before preparing an application, applicants should carefully review the program description, program requirements, ineligible activities, threshold requirements contained in this NOFA, and the General Section. Applicants should also review each rating factor found in the ''Application Review Information'' section before writing a narrative response. Applicants' narratives must be descriptive in order to ensure that every requested item is addressed. Applicants should be sure to include all requested information, according to the instructions found in this NOFA and the General Section. This will help ensure a fair and accurate review of your application.

2. Content of Application

Applicants must write narrative responses to each of the rating factors described in the section below. Their

responses must demonstrate that they have the necessary capacity to successfully manage this grant program. Applicants should ensure that their narratives are written clearly and concisely so that HUD reviewers, who may not be familiar with the Neighborhood Networks program, fully understand the proposal. HUD encourages applicants to carefully review each rating factor, the regulations governing the Neighborhood Networks program, at 24 CFR parts 905 and 968, and the General Section prior to responding to the rating factors.

3. Format of Application

(1) Applications may not exceed 35 narrative pages. Narrative pages must be submitted as separate electronic files, formatted as double-spaced, single-sided documents. Each file should have the pages numbered consecutively. Use Times New Roman font style and font size 12. Supporting documentation, required forms, and certifications will not be counted toward the 35 narrative page limit. Applicants should make every effort to submit only what is necessary in terms of supporting documentation. Please see the General Section for instructions on how to submit supporting documentation with your electronic application.

(2) The following checklist has been provided to guarantee that the applicants submit all of the required forms and information. Electronic application filers should make sure the file names for their narratives reflect the labels in the checklist. Each narrative must be in a separate file with all the files zipped together and sent as an attachment in the application submittal. (**Note:** Only applicants who receive a waiver to submit paper applications, must submit their applications in a three-ring binder, with TABS dividing the sections as indicated below) When submitting electronically, you do not need to submit these in TABS. Copies of the forms may be downloaded with the application package and instructions from *www.Grants.gov/Apply* of from the following Web site: *http://www.hud.gov/offices/adm/grants/nofa06/snofaforms.cfm.*

TAB 1: Required Forms

1. Acknowledgment of Application Recedsipt (HUD–2993), for paper application submissions only;
2. Application for Federal Assistance (SF–424);
3. SF–424 Supplement—Survey on Ensuring Equal Opportunity for Applicants;
4. Questionnaire for HUD's Initiative on Removal of Regulatory Barriers (HUD–27300);
5. ROSS Fact Sheet (HUD–52751);
6. Grant Application Detailed Budget (HUD–424–CB);
7. Grant Application Detailed Budget Worksheet (HUD–424–CBW);
8. Applicant/Recipient Disclosure/Update Report (HUD–2880);
9. Certification of Consistency with RC/EZ/EC–II Strategic Plan (HUD–2990) if applicable;
10. Certification of Consistency with the Consolidated Plan (HUD–2991) if applicable;
11. Disclosure of Lobbying Activities (HUD–SF–LLL)—if applicable;
12. Disclosure of Lobbying Activities Continuation Sheet (HUD–SF–LLL–A)—if applicable; and
13. You Are Our Client Grant Applicant Survey (HUD–2994–A) (Optional)
14. Facsimile Transmittal (must be used as the cover age to fax third party letters, documents, etc., that cannot be attached to the electronic application) (HUD–96011) HUD will not accept entire applications submitted by facsimile or read a fax that was not transmitted with the HUD 96011 as the cover page.

TAB 2: Threshold Requirements

1. Letters from Partners attesting to match;
2. Letter from Applicant's organization attesting to match (if applicant is contributing to match); and
3. Contract Administrator Partnership Agreement (required for troubled PHAs) (HUD–52755).
4. If applicable, documentation of site control (for 5 years) for off-site physical improvements.

TAB 3: Rating Factor 1

1. Narrative.
2. Chart A: Program Staffing (HUD–52756).
3. Chart B: Applicant/Administrator Track Record (HUD–52757).
4. Resumes/Position Descriptions.

TAB 4: Narrative for Rating Factor 2

TAB 5: Rating Factor 3

1. Narrative.
2. Business Plan (see sample) (HUD–52766).

TAB 6: Narrative for Rating Factor 4

TAB 7: Narrative for Rating Factor 5 and NN Program Forms

1. Narrative.
2. Logic Model (HUD–96010).

C. Submission Dates and Times

1. Deadline Dates

Electronic applications must be received and validated by Grants.gov no later than 11:59:59 p.m. eastern time on June 23, 2006. For applicants receiving a waiver to the electronic filing requirement, the approval of the waiver request will provide submission instructions. Paper applications must be received no later than the deadline date.

2. Proof of Timely Submission

Please see the General Section for this information. Applicants that fail to meet the deadline for application receipt will not receive funding consideration.

D. Intergovernmental Review

Not applicable.

E. Funding Restrictions

1. Reimbursement for Grant Application Costs

Applicants who receive a NN award are prohibited from using these grant funds to reimburse any costs incurred while preparing their applications.

2. Covered Salaries

a. Project Coordinator. The Neighborhood Networks program will fund up to $65,000 in combined annual salary and fringe benefits for up to a full-time Project Coordinator. Applicants may propose a part-time coordinator at lesser salary. The Project Coordinator's salary and fringe benefits may not exceed 30 percent of the total grant amount. For audit purposes, applicants must have documentation on file demonstrating that the salary paid to the Project Coordinator is comparable to similar professions in their local area.

b. Hiring Residents. Grantees may hire residents to help with the implementation of this grant program. No more than five percent of grant funds can be used for this purpose.

c. NN funds may only be used for the types of salaries described in this section according to the restrictions described herein. NN funds may not be used to pay for salaries of any other kind. NN funds may only be used to pay for salaries of staff that provide direct services to residents. Direct services staff, for purposes of this NOFA, are defined as applicant personnel or subcontractors who, as their primary responsibility, provide services directly to residents that participate in the activities described in this application, *e.g.*, computer skills training.

d. Neighborhood Networks grant funds cannot be used to hire or pay the services of a Contract Administrator.

3. Funding Requests in Excess of Maximum Grant Amount

Applicants that request funding in excess of the maximum grant amount which they are eligible to receive will be given consideration only for the maximum grant for which they are eligible. If awarded, the grantee will work with the Field Office to re-

apportion the grant funds for eligible activities.

4. Administrative Costs

Administrative costs may include, but are not limited to, purchase of office furniture, equipment, supplies, local travel, and utilities. To the maximum extent practicable, when leasing space or purchasing equipment or supplies, business opportunities should be provided to businesses under Section 3 of the Housing and Urban Development Act of 1968. Administrative costs may not be used to pay for salaries. Administrative costs must not exceed 10 percent of the total grant amount requested from HUD. Administrative costs must adhere to OMB Circular A–87. Please use HUD–424–CBW to itemize your administrative costs. See Section IV.E for information on this topic.

5. Long-Distance Travel

Grantees may not use more than $5,000 for applicant staff/subcontractor long distance travel activities.

6. Ineligible Activities/Costs

Grant funds may not be used for ineligible activities:

a. Payment of wages and/or salaries to participants for receiving supportive services and/or training programs;

b. Purchase, lease, or rental of land;

c. Purchase, lease, or rental of vehicles;

d. vehicle maintenance and/or insurance;

e. Entertainment costs;

f. Purchasing food;

g. Salaries and fringe benefits for staff that are not direct services staff. Direct services staff, for purposes of this NOFA, are defined as applicant personnel or subcontractors who, as their primary responsibility, provide services directly to residents that participate in the activities descried in this application, *e.g.* computer skills training;

h. Stipends;

i. Scholarships for degree programs;

j. Cost of application preparation;

k. Costs which exceed limits identified in the NOFA for the following: Project Coordinator, resident salaries, physical improvements (see below), long distance travel and administrative expenses; and

l. Any other costs not eligible under section 9(d)(1)(E) of the U.S. Housing Act of 1937.

m. NN funds cannot be used to hire or pay for the services of a Contract Administrator.

7. Physical Improvements

For new centers, expenses for physical improvements may not exceed 20 percent of the total grant amount requested from HUD. For existing centers, expenses for physical improvements may not exceed 10 percent of the total grant amount.

F. Other Submission Requirements

1. All applicants are required to submit their applications electronically via Grants.gov, unless they request and are approved by HUD for a waiver of that requirement. Please refer to the General Section for information on how to submit your application and all attachments electronically via Grants.gov. See the General Section for instructions for requesting a waiver of the electronic application submission requirements.

2. Proof of Timely Submission

Please see the General Section for this information. Applicants that fail to meet the deadline for application receipt will not receive funding consideration.

3. For Waiver Recipients Only

Applicants who have received waivers to submit paper applications (see the General Section for more information) must submit their applications to: HUD Grants Management Center, Mail Stop: ROSS Family and Homeownership, 501 School Street, SW., 8th floor, Washington, DC 20024. Applications must be received by the deadline date.

4. Number of Copies

Only applicants receiving a waiver to the electronic submission requirement may submit a paper copy application. Paper applications must be submitted in triplicate (one original and two identical copies). For all applicants with a waiver, the original and one identical copy must be sent to the Grants Management Center and an identical copy must be sent to your local Field Office in accordance with the submission and timely receipt requirements described in the General Section. All paper applications must be received by the deadline date.

V. Application Review Information

A. Criteria

1. Factors for Award Used To Evaluate and Rate Applications to the Neighborhood Networks Program

The factors for rating and ranking applicants and maximum points for each factor are provided below. The maximum number of points available for this program is 102. This includes two RC/EZ/EC bonus points. The General Section contains a certification that must be completed in order for the applicant to be considered for RC/EZ/EC–II bonus points. A listing of federally designated RC/EZ/EC–II is available on HUD's Web site at: *www.hud.gov/fundsdsavailable.* The agency certifying to RC/EZ/EC–II status must be included in the listing on HUD's Web site. Please see the General Section for more details. **Note:** Applicants should carefully review each rating factor before writing a response. Applicants' narratives must be descriptive and detailed in order to ensure every requested item is addressed. Applicants should make sure their narratives thoroughly address the Rating Factors below and include all requested information, according to the instructions found in this NOFA. This will help ensure a fair and accurate application review.

a. Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (35 Points)

This factor addresses whether the applicant has the organizational capacity and resources necessary to successfully implement the proposed activities within the grant period. In rating this factor, HUD will consider whether the proposal demonstrates that the applicant will have qualified and experienced staff. HUD will also bear in mind whether or not the proposed staff will be dedicated to administering the program.

(1) *Proposed Program Staffing* (12 Points).

(a) *Staff Experience* (4 Points). HUD is requesting details about the knowledge and experience of the proposed Project Coordinator, staff, and partners in planning and managing programs. Experience will be judged in terms of recent, relevant and successful experience of proposed staff to undertake program activities. In rating this factor, HUD will consider experience within the last 5 years to be recent; experience pertaining to the specific activities being proposed to be relevant; and experience producing specific accomplishments to be successful. Applicants will receive a greater amount of points if the proposed staff has recent and applicable experience. HUD is looking for staff to possess experience working with and successfully implementing similar projects. If proposed staff has experience in providing community technology services and in delivering social service programs to underserved populations, applicants will receive a maximum score of four points. If

proposed staff has experience in only one area, applicants will receive two points. If proposed staff has experience in neither area, applicants will receive a score of 0 for this subfactor.

The following information should be included in the application in order to provide HUD an understanding of the proposed staff's experience and capacity:

(i) The number of staff years (one staff year = 2080 hours) to be allocated to the program by each employee as well as each of their roles in the program;

(ii) The staff's relevant educational background and/or work experience;

(iii) Relevant and successful experience running programs whose activities include social services and computer programs that are similar to the eligible program activities described in this NOFA;

(b) *Hiring Residents* (3 points). Three points will be awarded if applicants commit to hiring one to three residents. Small PHAs should hire one person, medium PHAs should hire one to two people, and large PHAs should hire three people in order to get the maximum score. In order to receive points for this subfactor, applicants must explain in their narrative that they will hire residents and indicate the number of residents to be hired, and work they will be assigned.

(c) *Organizational Capacity* (5 Points). Applicants will be evaluated based on whether they have, and/or whether their partners have sufficient qualified personnel to deliver the proposed activities in a timely and effective fashion. In order to enhance or supplement capacity, applicants should provide evidence of partnerships with nonprofit organizations or other organizations that have experience providing community technology services to typically underserved populations. Applicants' narrative must describe their ability to immediately begin the proposed work program. Applicants may fax (see the General Section for instructions) resumes or position descriptions (where staff is not yet hired) for all key personnel. Please see the General Section for instructions on how to submit the required information with your electronic application. (Resumes/position descriptions do not count toward the 35-page limit.)

(2) *Past Performance of Applicant/Contract Administrator* (6 Points). Applicants' narrative must describe how they (or their Contract Administrator) successfully implemented grant programs (including those listed below) designed to promote resident self-sufficiency or moving from welfare to work. Applicants' past experience may include, but is not limited to, running programs aimed at assisting residents of low-income housing achieve economic self-sufficiency; *e.g.* ROSS grants and Youthbuild. Applicants' narrative must indicate the grants they received and managed, the grant amounts, and grant terms (years) of the grants they are counting towards past experience. Applicants will be evaluated according to the following criteria:

(a) Benefits gained by participating residents. These must be measurable. Applicants should describe results their programs have obtained, (*e.g.* higher incomes, improved grades, higher rates of employment, increased savings, improved literacy, etc.);

(b) Description of timely grant expenditure throughout the term of past grants. Timely means regular drawdowns throughout the life of the grant, *i.e.* quarterly drawdowns, with all funds expended by the end of the grant term;

(c) Description of past leveraging. Applicants must describe how they have leveraged funding or in-kind services beyond what was originally proposed for past projects;

(3) *Program Administration and Fiscal Management.* (17 Points)

(a) *Program Administration.* (10 Points). Applicants should describe how they will manage the program; how HUD can be sure that there is program accountability; and provide a description of proposed staff's roles and responsibilities. Applicants should also describe how grant staff, and partners will report to the Project Coordinator and other senior staff.

(b) *Fiscal Management.* (7 Points). In rating this factor, applicants' skills and experience in fiscal management will be evaluated. If applicants have had any audit or material weakness findings in the past five years, they will be evaluated on how well they have addressed them. Applicants must provide the following:

(i) A complete description of their fiscal management structure, including fiscal controls currently in place, which includes those of a Contract Administrator for applicants who required one. i.e., troubled PHAs);

(ii) Applicants must list any audit findings in the past five years (HUD Inspector General, management review, fiscal, etc.), material weaknesses and what has been done to address them;

(iii) For applicants who are required to have a Contract Administrator, describe the skills and experience the Contract Administrator has in managing Federal funds.

b. Rating Factor 2: Need (10 Points)

This factor addresses the need for funding an applicant's proposed program. In responding to this factor, applicants will be evaluated on the extent to which they describe and document the level of need for their proposed activities.

In responding to this factor, applicants must include:

(1) *Demonstrated Link Between Proposed Activities and Local Need* (10 points). Applicants' narrative must demonstrate a clear relationship between proposed activities, community needs and the purpose of the program's funding in order for points to be awarded for this factor.

c. Rating Factor 3: Soundness of Approach (25 Points)

This factor addresses both the quality and cost-effectiveness of applicants' proposed business plan. The business plan must indicate a clear relationship between proposed activities, the targeted population's needs, and the purpose of the program funding. Applicants' activities must address HUD's policy priorities outlined in this Rating Factor.

In rating this factor HUD will consider:

(1) *Quality of the Business Plan* (20 points). This factor evaluates both the applicants' business plan and budget which will be evaluated based on the following criteria:

(a) *Specific Services and/or Activities* (9 points). Applicants' narrative must describe the specific services, course curriculum, and activities they plan to offer and who will be responsible for each. In addition to the narrative, applicants must also provide a business plan listing the specific services, activities, and outcomes they expect. The business plan must show a logical order of activities and progress and must tie to the outcomes and outputs applicants identify in the Logic Model (see Rating Factor 5). Please see a sample business plan (HUD–52766). Applicants' narrative must explain how their proposed activities will:

(i) Involve community partners in the delivery of services (4 points); and

(ii) Offer comprehensive services versus a small range of services geared toward enhancing economic opportunities for residents. (5 points).

(b) *Feasibility and Demonstrable Benefits* (4 points). This factor examines whether applicants' business plan is logical, feasible and likely to achieve its stated purpose during the term of the grant. HUD's desire is to fund applications that will quickly produce

demonstrable results and advance the purposes of the Neighborhood Networks program.

(i) *Timeliness.* This subfactor evaluates whether applicants' business plan demonstrates that their project is ready to be implemented shortly after grant award. In addition, the timing of the application should not exceed three months following the execution of the grant agreement. The business plan must indicate timeframes and deadlines for accomplishing major activities.

(ii) *Description of the problem and solution.* The business plan will be evaluated based on how well applicants' proposed activities address the needs described in Rating Factor 2.

(c) *Budget Appropriateness/Efficient Use of Grant.* (5 Points) The score in this factor will be based on the following:

(i) *Justification of expenses.* (2 Points) Applicants will be evaluated based on whether their expenses are reasonable, well explained, and support the objectives of their proposal.

(ii) *Budget Efficiency.* (3 Points) Applicants will be evaluated based on whether their application requests funds commensurate with the level of effort necessary to accomplish their goals and anticipated results.

(d) Ineligible Activities. Two points will be deducted for each ineligible activity proposed in the application, as identified in Section IV(E). For example, you will lose 2 points if you propose costs that exceed the limits identified in the NOFA for a Project Coordinator.

(2) *Addressing HUD's Policy Priorities* (5 points). HUD wants to improve the quality of life for those living in distressed communities. HUD's grant programs are a vehicle for long-term, positive change that can be achieved at the community level. Applicants' narrative and business plan will be evaluated based on how well they meet the following HUD policy priorities:

(a) *Improving the Quality of Life in Our Nation's Communities* (1 point). In order to receive points in this category, applicants' narrative and business plan must indicate the types of activities, services, and training programs that will be offered. These programs should help residents successfully transition from welfare to work and earn higher wages, or for elderly/disabled residents, to continue to live independently.

(b) *Providing Full and Equal Access to Grassroots Faith-Based and Other Community-Based Organizations in HUD Program Implementation* (1 point). HUD encourages applicants to partner with grassroots organizations, e.g., civic organizations, grassroots faith-based and other community-based organizations. These grassroots organizations have a strong history of providing vital community services such as developing first-time homeownership programs, creating economic development programs, providing job training and other supportive services. In order to receive points under this factor, applicants' narrative and business plan must describe how applicants will work with these organizations and what types of services they will provide.

(c) *Policy Priority for Increasing the Supply of Affordable Housing Through the Removal of Regulatory Barriers to Affordable Housing.* (up to 2 points)

Under this policy priority, higher rating points are available to (1) governmental applicants that are able to demonstrate successful efforts in removing regulatory barriers to affordable housing, and (2) nongovernmental applicants undertaking activities in jurisdictions that have undertaken successful efforts in removing barriers. For applicants to obtain the policy priority points for efforts to successfully remove regulatory barriers, applicants should complete form HUD 27300, ''Questionnaire for HUD's Initiative on Removal of Regulatory Barriers.'' A copy of HUD's Notice entitled America's Affordable Communities Initiative, HUD's Initiative on Removal of Regulatory Barriers: Announcement of Incentive Criteria on Barrier Removal in HUD's 2004 Competitive Funding Allocations'' can be found on HUD's Web site at *http://www.hud.gov/grants/index.cfm.* The information and requirements contained in HUD's regulatory barriers policy priority apply to this FY 20056 NOFA. A description of the policy priority and a copy of form HUD 27300 can be found in the application package posted to *www.grants.gov.* Applicants are encouraged to read the Notice as well as the General Section to obtain an understanding of this policy priority and how it can impact their score. A number of questions expressly request the applicant to provide brief documentation with their response. Other questions require that for each affirmative statement made, the applicant must supply a reference, URL, or a brief statement indicating where the back-up information may be found, and a point of contact, including a telephone number or e-mail address. The electronic copy of the HUD 27300 has space to identify a URL or reference that the material is being scanned and attached to the application as part of the submission or faxed to HUD following the facsimile submission instructions.

(d) *Energy Star.* (1 point) HUD has adopted a wide-ranging energy action plan for improving energy efficiency in all program areas. As a first step toward implementing the energy plan, HUD, the Environmental Protection Agency (EPA) and the Department of Energy (DoE) have signed a joint partnership to promote energy efficiency in HUD's affordable housing efforts and programs. The purpose of the Energy Star partnership is to promote energy efficiency of the affordable housing stock, but also to help protect the environment. Applicants constructing, rehabilitating, or maintaining housing or community facilities are encouraged to promote energy efficiency in design and operations. They are urged especially to purchase and use Energy Star labeled products. Applicants providing housing assistance or counseling services are encouraged to promote Energy Star materials and practices, as well as buildings constructed to Energy Star standards, to both homebuyers and renters. Program activities can include developing Energy Star promotional and information materials, outreach to low- and moderate-income renters and buyers on the benefits and savings when using Energy Star products and appliances, and promoting the designation of community buildings and homes as Energy Star compliant. For further information about Energy Star, see *http://www.energystar.gov* or call 1–888–STAR–YES (1–888–782–7937) or for the hearing-impaired, 1–888–588–9920 TTY. Applicants demonstrating that they will meet one or more provisions of this policy priority will receive one point.

(e) Economic Opportunities for Low- and Very Low-Income Persons (Section 3)—(2 Points). You will receive 2 points if your application demonstrates that you will implement Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Economic Opportunities for Low- and Very Low-Income Persons in Connection with assisted Projects) and its implementing regulations at 24 CFR part 135 in connection with this grant, if awarded. Information about Section 3 can be found at HUD's Section 3 Web site at *www.hud.gov/fhe/sec3over.html.* Your application must describe how you will implement Section 3 through the proposed grant activities. You must state that you will, to the greatest extent feasible, direct training, employment, and other economic opportunities to:

(a) Low- and very low-income persons, particularly those who are recipients of government assistance for housing, and

(b) Business concerns which provide economic opportunities to low- and very low-income persons.

d. Rating Factor 4: Leveraging Resources (20 Points)

(1) This factor addresses the applicant's ability to secure community resources that can be combined with HUD's grant resources in order to achieve program purposes. Applicants are required to create partnerships with organizations that can help achieve their program's goals. PHAs are required by section 12(d)(7) of the U.S. Housing Act of 1937 (entitled ''Cooperation Agreements for Economic Self-Sufficiency Activities'') to make best efforts to enter into such agreements with relevant state or local agencies. In rating this factor, HUD will look at the extent to which applicants partner, coordinate and leverage their services and resources with other organizations serving the same or similar populations.

(2) Additionally, applicants must have at least a 25 percent cash or in-kind match. The match is a threshold requirement. Joint applicants must have at least a 25 percent match. Applicants who do not demonstrate the minimum 25 percent match will fail the threshold requirement and will not receive further consideration for funding. Leveraging in excess of the 25 percent of the requested grant amount will receive a higher point value. In evaluating this factor HUD will consider the extent to which applicants have partnered with other entities to secure additional resources. This will increase the effectiveness of the proposed program activities. The additional resources and services must be firmly committed, must support the proposed grant activities and must, in combined amount (including in-kind contributions of personnel, space and/or equipment, and monetary contributions) equal at least 25 percent of the grant amount requested in this application. Match proposed to be used for ineligible activities will not be accepted. ''Firmly committed'' means that the amount of resources and their dedication to Neighborhood Networks-funded activities must be explicit, in writing, and signed by a person authorized to make the commitment. ''In-kind'' match should be explained explicitly and include a total amount for the grant term. Please see the section on Threshold Requirements for more information.

(3) Points for this factor will be awarded based on the documented evidence of partnerships and firm commitments and the ratio of requested Neighborhood Networks funds to the total proposed grant budget.

Points will be assigned based on the following scale:

Percentage of match	Points awarded
25	5 points (with partnerships) 3 points (without partnerships).
26–50	10 points (with partnerships) 8 points (without partnerships).
51–75	15 points (with partnerships) 13 points (without partnerships).
76 or above	20 points (with partnerships) 18 points (without partnerships).

e. Rating Factor 5: Achieving Results and Program Evaluation (10 Points)

(1) An important element of any supportive service program is the development and reporting of performance measures and outcomes. This factor emphasizes HUD's determination to ensure that applicants meet commitments made in their applications and grant agreements. They are also required to assess their performance so they can measure performance goals. Applicants must demonstrate how they propose to measure their success and outcomes relating to the Department's Strategic Plan. HUD requires NN applicants to develop an effective, quantifiable, outcome-oriented plan for measuring performance and determining that goals have been met. Applicants must use the Logic Model form (HUD–96010) for this purpose. The narrative describes how the measurement tools are used to collect and verify reported data and to modify the program if goals are not being met.

(2) Applicants must establish interim benchmarks, or outputs, for their proposed program that lead to the ultimate achievement of outcomes. ''Outputs'' are the direct products of a program's activities. Outputs should produce outcomes for your program; *e.g.*, the delivery of training and/or educational programs to improve the ability of participants to obtain or retain employment, get a high school diploma or GED, get on-the-job training by establishing partnerships with local employers, etc. ''Outcomes'' are benefits accruing to the residents, families and/or communities during or after participation in the NN program. Applicants must clearly identify the outcomes to be achieved and measured. Examples of outcomes are: increasing academic achievement, increasing residents' financial stability by obtaining or retaining employment, increasing a participants' job readiness by increasing literacy or completing a GED, etc. Outcomes are not the actual development or delivery of services or program activities but the results of the services delivered or program activities—the ultimate results of the program.

(3) This rating factor requires that applicants identify program outputs, outcomes, and performance indicators that will allow applicants to measure their performance. Performance indicators should be objectively quantifiable and measure actual achievements against anticipated achievements. Applicants' narrative, business plan, and Logic Model should identify what applicants are going to measure, how they are going to measure it, and the steps they have in place to make adjustments if performance targets begin to fall short of established benchmarks and timeframes. Applicants' proposals must also show how they will measure the performance of partners and affiliates. Applicants must include the standards, data sources, and measurement methods they will use to measure performance. Applicants will be evaluated based on how comprehensively they propose to measure their program's outcomes.

B. Review and Selection Process

1. Review Process

Four types of reviews will be conducted: A screening to determine if you are eligible to apply for funding under the Neighborhood Networks category; whether your application submission is complete, on time and meets threshold; a review by the field office to evaluate past performance; and a technical review to rate your application based on the five rating factors provided in this NOFA.

2. Selection Process

HUD will make awards in rank order based on the score of each eligible application.

3. Tie Scores

In the event of a tie score between two applications, HUD will select the application that was received first.

4. Deficiency Period

Applicants will have fourteen calendar days in which to provide missing information requested from HUD. For other information on correcting deficient applications, please see the General Section.

VI. Award Administration Information

A. Award Notices

HUD will make announcements of grant awards after the rating and ranking process is completed. Grantees will be notified by letter. The letter will contain instructions and the steps they must take to access funding and begin implementing grant activities. Applicants who are not funded will also receive letters via U.S. postal mail.

B. Debriefings

Applicants who are not funded may request a debriefing. Applicants requesting to be debriefed must send a written request to: Iredia Hutchinson, Director, Grants Management Center, 501 School Street, SW., Suite 800, Washington, DC 20024. Please refer to the General Section for additional information on debriefings.

C. Administrative and National Policy Requirements

1. Applicable Requirements

Grantees are subject to regulations and other requirements found in:

a. 24 CFR 85 ''Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments'';

b. 24 CFR Part 905 ''The Public Housing Capital Fund Program'';

c. 24 CFR Part 968 ''Public Housing Modernization'';

d. OMB Circular A–87 ''Cost Principles for State, Local, and Indian Tribal Governments''; and

e. OMB Circular A–133 ''Audits of States, Local Governments, and Non-Profit Organizations''.

2. Economic Opportunities for Low- and Very Low-Income Persons (Section 3)

Applicants and grantees must also comply with Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u and ensure that training, employment, and other economic opportunities shall, to the greatest extent feasible, be directed toward low and very low-income persons, particularly those who are recipients of government assistance for housing and to business concerns which provide economic opportunities to low and very low-income persons.

3. Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects

For further information see the General Section.

4. Fair Housing and Civil Rights Laws

Applicants and their subrecipients must comply with all Fair Housing and Civil Rights laws, statutes, regulations, and Executive Orders as enumerated in 24 CFR 5.105(a), as applicable. Please see the General Section for more information.

5. Environmental Impact

Some activities under this Neighborhood Networks program section will be excluded and not subject to environmental review under 24 CFR 58.34(a)(3), (a)(8) or (a)(9), 58.35(b)(2) or (b)(3), 50.19(b)(3), (b)(8), (b)(9), (b)(12), or (b)(13). Some will be subject to environmental review. Any applicant proposing any long-term leasing or physical development activities, and its partners, are prohibited from constructing, rehabilitating, converting, leasing, repairing or constructing property, or committing or expending HUD or non-HUD funds for these types of program activities, until the following has occurred:

HUD has approved the grantee's Request for Release of Funds (HUD Form 7015.15) following a Responsible Entity's completion of an environmental review under 24 CFR part 58, where required, or if HUD has determined in accordance with 24 CFR 58.11 to perform the environmental review itself under 24 CFR part 50, HUD has completed the environmental review.

6. Wage Rates

Laborers and mechanics employed in the development and operation of Neighborhood Networks facilities must be paid Davis-Bacon or HUD-determined prevailing wage rates, respectively, unless they meet the qualifications of a volunteer (See Section III.C.1.a of this program section).

7. Provision of Services to Individuals With Limited English Proficiency (LEP)

Successful applicants and grantees must seek to provide access to program benefits and information to LEP individuals through translation and interpretive services in accordance with HUD's LEP Recipient Guidance 68 FR 70968.

8. Communications

Successful applicants should ensure that notices of and communications during all training sessions and meetings be effective for persons who have hearing and/or visual disabilities consistent with Section 504, see 24 CFR 8.6.

9. Procurement of Recovered Materials

State agencies or a political subdivision of a state that are using assistance under a HUD program NOFA, must comply with the requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. In addition, 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. Please see the General Section for more information.

D. Reporting

1. Semi-Annual Performance Reports

Grantees must submit semi-annual performance reports to the local HUD field office. These progress reports shall include financial reports (SF–269A) and the logic model (HUD–96010) showing achievements to date against outputs and outcomes proposed in the application and approved by HUD. A narrative describing milestones, work plan progress, and problems encountered and methods used to address these problems to support the data in the logic model is optional. HUD anticipates that some of the reporting of financial status and grant performance will be through electronic or Internet-based submissions. Grantees shall use quantifiable data to measure performance against goals and objectives outlined in their business plan. Applicants that receive awards from HUD should be prepared to report on additional measures that HUD may designate at time of award. Performance reports are due to the field office on July 30 and January 31 of each year. If reports are not received by the due date, grant funds will not be advanced until reports are received. For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment statement. HUD will be publishing a separate notice on the ROI concept.

2. Final Report

All grantees must submit a final report to their local field office that will include a financial report (SF–269A), a final Logic Model, and a narrative evaluating overall results achieved against their work plan. Grantees must use quantifiable data to measure performance against goals and objectives outlined in their work plan. The financial report must contain a summary of all expenditures made from the beginning of the grant agreement to

the end of the grant agreement and must include any unexpended balances. The final narrative, Logic Model, and financial report are due to the field office 90 days after the termination of the grant agreement.

3. Final Audit

Grantees that expend $500,000 in federal funds in a given program or fiscal year, are required to obtain a complete final close-out audit of the grant's financial statements by a Certified Public Accountant (CPA), in accordance with generally accepted government audit standards. A written report of the audit must be forwarded to HUD within 60 days of issuance. Grant recipients must comply with the requirements of 24 CFR 84 or 24 CFR 85 as stated in OMB Circulars A–87, A–110, and A–122, as applicable.

4. Racial and Ethnic Data

HUD requires that funded recipients collect racial and ethnic beneficiary data. HUD has adopted the Office of Management and Budget's Standards for the Collection of Racial and Ethnic Data. In view of these requirements, applicants should use form HUD–27061, Racial and Ethnic Data Reporting Form.

VII. Agency Contact(s)

For questions and technical assistance, applicants may call the Public and Indian Housing Information and Resource Center at 800–955–2232. For the hearing or speech impaired, please call the Federal Relay Service at 800–877–8339.

VIII. Other Information

A. Code of Conduct

See the General Section for more information.

B. Transfer of Funds

HUD does not have the discretion to transfer funds for the Neighborhood Networks category to or from any other grant program.

C. 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 2577–0229. 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 54.25 hours per respondent for the application. This includes the time for collecting, reviewing, and reporting the data for the application. The information will be used for grantee selection and monitoring the administration of funds. Response to this request for information is required in order to receive the benefits to be derived.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TECHNOLOGY FOR INCREASED RESIDENT SELF-SUFFICIENCY

PUBLIC AND INDIAN HOUSING FAMILY SELF-SUFFICIENCY PROGRAM COORDINATORS UNDER RESIDENT OPPORTUNITIES & SELF SUFFICIENCY (ROSS) PROGRAM

Billing Code 4210-01-C

Public and Indian Housing Family Self-Sufficiency Program Coordinators Under Resident Opportunities & Self-Sufficiency (ROSS) Program

Overview Information

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

B. Funding Opportunity Title: Public and Indian Housing Family Self-Sufficiency (PH FSS) Program Coordinators.

C. Announcement Type: Initial announcement.

D. Funding Opportunity Number: The Federal Register number for this NOFA is FR–5030–N–25. The Office of Management and Budget (OMB) paperwork approval number for this program is 2577–0229.

E. Catalog of Federal Domestic Assistance (CFDA) Number: 14.877.

F. Application Deadline: The application deadline date is June 8, 2006. Please see the General Section for application submission, delivery, and timely receipt requirements.

G. Additional Overview Content Information:

1. Purpose of Program

The purpose of the Public Housing FSS (PH FSS) program is to promote the development of local strategies to coordinate the use of assistance under the Public Housing program with public and private resources to enable participating families to increase earned income, reduce or eliminate the need for welfare assistance and make progress toward achieving economic independence and housing self-sufficiency. The FSS program and this FSS NOFA support the Department's strategic goals of helping HUD-assisted renters make progress toward housing self-sufficiency. The FSS program provides critical tools that can be used by communities to support welfare reform and help families develop new skills that will lead to economic self-sufficiency. As a result of their participation in the FSS program, many families have achieved stable, well-paid employment, which has made it possible for them to become homeowners or move to other non-assisted housing. An FSS program coordinator assures that program participants are linked to the supportive services they need to achieve self-sufficiency.

2. Funding Available

The Department expects to award a total of approximately $10 million in FY2006.

3. Award Amounts

Awards will pay only for the annual salary and fringe benefits of PH FSS Coordinators. Award amounts will be based on locality pay rates for similar professions. Each renewal position amount will not exceed $65,000.

4. Eligible Applicants

Eligible applicants are Public Housing Authorities (PHAs) and tribes/Tribally Designated Housing Entities (TDHEs) that administer PH FSS programs. All applicants must have an approved PH FSS Action Plan on file with their local HUD Field Office or Area ONAP prior to this NOFA's application deadline. Non-profit organizations and resident associations are not eligible to apply for funding under this program.

5. Cost Sharing/Match Requirement

There is no match requirement under this funding program.

6. Grant Term

The grant term is one year from the execution date of the grant agreement.

Full Text of Announcement

I. Funding Opportunity Description

A. Authority and Program Description

The Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006 (Public Law 109–115), allows funding for program coordinators under the Resident Opportunity & Self-Sufficiency program. Through annual NOFAs, HUD has provided funding to public housing agencies (PHAs) that are operating PH FSS programs to enable those PHAs to employ program coordinators to support their PH FSS programs. In the Fiscal Year (FY) 2006 PH FSS Program Coordinator NOFA, HUD is again making funding available to PHAs/Tribes/TDHEs to employ PH FSS program coordinators for one year. HUD will accept applications from both new and renewal applicants that have HUD approval to administer a PH FSS program. PHAs funded under the ROSS PH FSS NOFA in FY2004 or 2005 are considered ''renewal'' PHAs in this NOFA. These renewal PHAs are invited to apply for funds to continue previously funded PH FSS program coordinator positions that they have filled or are in the process of being filled because of turnover. Funding priority will be given to renewals for PHAs that have achieved a ''High Performer'' status on their most recent PHAS review. Second priority will be given to standard performer renewal applicants. Third priority will be given to troubled performer renewal applicants and Fourth priority will be given to new applicants. There will be no funding for expanding the number of coordinator positions in an existing program.

The maximum number of positions that a new applicant, including new joint applicants, may receive is one full-time FSS program coordinator.

Applicants must administer the FSS program in accordance with HUD regulations and requirements in 24 CFR Part 984 which govern the PH FSS program and must comply with the existing Public Housing program requirements, notices and guidebooks. This includes using a Program Coordinating Committee (PCC) to secure the necessary resources to implement the FSS Program. See 24 CFR 984.202 for more information.

B. Number of Positions for Which Eligible Applicants May Apply

Eligible applicants may apply for funding for PH FSS program coordinator positions under this NOFA as follows:

1. Renewal PHAs

PHAs that qualify as eligible renewal PHAs under this NOFA may apply for the continuation of each PH FSS coordinator position awarded under the ROSS PH FSS NOFA in FY2004 or 2005 that has been filled by the PHA or is in the process of being filled because of turnover.

2. New Applicants

An applicant that meets the requirements for a new applicant under this FSS NOFA may apply for PH FSS program coordinator positions as follows:

a. Up to one full-time PH FSS coordinator position for an applicant with HUD approval to administer a PH FSS program of 25 or more FSS slots; or

b. Up to one full-time PH FSS coordinator position per application for joint PHA applicants that together have HUD approval to administer a total of at least 25 PH FSS slots.

C. Definitions

The following definitions apply to the funding available under this NOFA.

1. Renewal PHA Applicant

A PHA or PHAs that received funding under the ROSS PH FSS NOFA in FY2004 or 2005.

2. New Applicant

Applicants that did not receive funding under the ROSS PH FSS NOFA in FY2005 that have HUD approval to administer a PH FSS program of at least 25 slots or that fulfill the 25 slot

minimum by applying jointly with one or more other applicants who together have approval to administer at least 25 PH FSS slots.

3. Indian Tribe (''tribe'')/TDHE means any tribe, band, nation or other organized group or a community of Indians, including any Alaska native village, regional, or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, and that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self Determination and Education Act of 1975, or any state-recognized tribe eligible for assistance under section 4 (12)(C) of NAHASDA. Tribally Designated Housing Entity (TDHE) means a tribally designated housing entity as defined by Section 4(21) of NAHASDA.

4. MTW PHAs

New and renewal PHAs that are under MTW agreements with HUD may qualify for funding under this NOFA if the PHA administers an FSS program. When determining the size of a new applicant, MTW PHA's HUD approved FSS program, the PHA may request the number of FSS slots reflected in the PHA's MTW agreement be used instead of the number in the PHA's FSS Action Plan.

5. FSS Program Size

The total number of PH FSS program slots identified in the applicant's HUD-approved PH FSS Action Plan, or, if requested by MTW PHA applicants, the number of slots in the applicant's MTW agreement. The total may include both voluntary and mandatory PH FSS program slots.

6. Action Plan

Describes the policies and procedures of the PHA or tribe/TDHE for operation of a local FSS program. For a full description of the minimum amount of information the Action Plan must contain, please see 24 CFR 984.201.

7. Positive Graduation Percentage

A percentage that will be computed by HUD and used to determine funding order under this NOFA. It is the percent of public housing FSS families that have successfully graduated from the program as shown in FSS exit reports submitted to HUD on the Form HUD–50058 or as otherwise reported to HUD by MTW PHAs. The data source is Form HUD–52767 as well as HUD's PIC data system records of Form HUD–50058 PH FSS program exit reports that were effective between October 1, 2000, and the publication date of this NOFA.

8. The Number of PH FSS Program Participants

The total number of families shown in HUD's PIC data system as enrolled in the applicant's PH FSS program on the publication date of this NOFA, plus the number of families that successfully completed their PH FSS contracts in the applicant's program between October 1, 2000, and the publication date of this NOFA.

9. Percentage of Families with Positive FSS Escrow Balances

A percentage that will be computed by HUD and used to determine funding order under this NOFA. It is the number of PH FSS families with positive escrow balances as a percentage of PH FSS families with FSS progress reports submitted to HUD on the Form HUD–50058 or as otherwise reported to HUD by MTW PHAs. The data source is Form HUD–52767 as well as HUD's PIC data system records of Form HUD–50058 PH FSS program progress reports that were effective between October 1, 2000, and the publication date of this NOFA or as otherwise reported to HUD by MTW PHAs.

10. PH FSS Program Coordinator

A person responsible for linking FSS program participants to supportive services. Program Coordinators will work with the Program Coordinating Committee and local service providers to ensure that the necessary services and linkages to community resources are being made; ensuring that the services included in participants' contracts of participation are provided on a regular, ongoing and satisfactory basis; making sure that participants are fulfilling their responsibilities under the contracts and that FSS escrow accounts are established and properly maintained for eligible families. FSS Coordinators may also perform job development functions for the FSS program.

II. Award Information

A. Available Funds

This NOFA announces the availability of approximately $10 million in FY2006 to employ FSS program coordinators for the PH FSS program. If additional funding becomes available during FY2006, HUD may increase the amount available for PH FSS Program coordinators under this NOFA. A maximum of $65,000 is available for each full-time coordinator position funded. Salaries are to be based on local comparables. The funding will be provided as a one-year grant. Funding amounts for individual grantees will be contingent upon HUD field office approval.

B. Grant Term

The grant term is one year from the execution date of the grant agreement.

C. Grant Extensions

Requests to extend the grant term beyond the originally established grant term must be submitted in writing to the local HUD field office or area Office of Native American Programs (ONAP) at least 90 days prior to the expiration of the grant term. Requests must explain why the extension is necessary, what work remains to be completed, and what work and progress has been accomplished to date. Extensions may be granted only once by the field office or Area ONAP for a period not to exceed six months and may be granted for a further six months by the Program Office.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants are PHAs and tribes/TDHEs which administer low rent public housing programs. New and renewal applicants must have an approved PH FSS Action Plan on file with their local HUD field office or Area ONAP prior to this NOFA's application deadline. PHAs eligible to apply for funding under this NOFA are:

1. Renewal PHAs

Those PHAs that received funding under the PH FSS NOFA in FY2004 or 2005 . To continue to qualify as renewal PHAs, the FY2006 application of joint applicants must include at least one PHA applicant that meets this standard. Joint applicants can change the lead PHA in their FY2006 application. A PHA that was originally funded as part of a joint application, that wishes to now apply separately will continue to be considered a renewal PHA applicant for funding purposes, but must be able to meet the FSS minimum program size requirement of a HUD-approved PH FSS program of at least 25 slots that applies to new applicant PHAs.

2. New Applicants

Applicants that were not funded under the PH FSS NOFA in FY2005. The new applicant PHA must be authorized through its HUD-approved FSS Action Plan to administer a PH FSS program of at least 25 slots, or be an applicant with HUD approval to administer PH FSS programs of fewer than 25 slots that applies jointly with one or more other applicants so that together they have HUD approval to

administer at least 25 PH FSS slots. Joint applicants must specify a lead co-applicant that will receive and administer the FSS program coordinator funding.

3. Moving to Work (MTW) PHAs

New and renewal PHAs that are under the MTW demonstration may qualify for funding under this NOFA if the PHA administers a PHFSS program. When determining the size of a MTW PHA's HUD-approved PH FSS program, the PHA may request that the number of PH FSS slots reflected in the PHA's MTW agreement be used instead of the number in the PHA's PH FSS Action Plan.

4. Troubled PHAs

a. A PHA that has been designated by HUD as a troubled PHA under the Public Housing Assessment System (PHAS), or that has serious program management findings from Inspector General audits or serious outstanding HUD management review or Independent Public Accountant (IPA) audit findings for the PHA's Low Rent Public Housing program that are resolved prior to the application due date is eligible to apply under this NOFA. Serious program management findings are those that would cast doubt on the capacity of the PHA to administer its PH FSS program in accordance with applicable HUD regulatory and statutory requirements.

b. The requirements that apply to a PHA whose PHAS troubled designation has not been removed by HUD or whose major program management findings or other significant program compliance problems that have not been resolved by the due date are stated in the Program Requirements section of this NOFA.

B. Cost Sharing or Matching

None required.

C. Other

1. Eligible Activities

Funds awarded to applicants under this FSS NOFA may only be used to pay salaries and fringe benefits of PH FSS program staff. Funding may be used to employ or otherwise retain for one year the services of PH FSS program coordinators. PH FSS coordinator support positions funded under previous FSS NOFAs that made funding available for such FSS positions may be continued. A part-time program coordinator may be retained where appropriate. Please note that even with a part-time program coordinator, the 25 slot minimum must be retained.

2. Threshold Requirements

a. All Applicants. (1) Each applicant must qualify as an eligible applicant under this NOFA and must have submitted an FSS application in the format required by this NOFA that was received and validated by Grants.gov by the application deadline date.

(2) All applications must include a Dun and Bradstreet Universal Numbering System (DUNS) number. (See the General Section for further information about the DUNS number requirement.)

(3) Civil Rights Thresholds, Non-discrimination, Affirmatively Furthering Fair Housing. All applicants must comply with these requirements. Please see the General Section for details.

(4) The applicant must have a financial management system that meets federal standards. See the General Section regarding those applicants that may be subject to HUD's arranging for a pre-award survey of an applicant's financial management system.

(5) Applicants must comply with the requirements for funding competitions established by the HUD Reform Act of 1989 (42 U.S.C. 3531 *et seq.*) and other requirements as defined in the General Section.

b. Renewal Applicants. *Continued funding for existing coordinator positions.* In addition to meeting the other requirements of this FSS NOFA, renewal PHA applicants must continue to operate a PH FSS program, have filled (or be in the process of filling because of turnover) eligible FSS program coordinator positions for which they are seeking renewal funding, executed FSS contracts of participation with PH FSS program families and submitted reports on participant families to HUD via the form HUD–50058 or reported as agreed for MTW PHAs.

c. New Applicants. New applicants must meet the all requirements of this FSS NOFA including those in Section III.A above regarding eligibility.

d. Troubled PHAs—Contract Administrator Partnership Agreement. PHAs that are troubled at the time of application are required to submit a signed Contract Administrator Partnership Agreement. The agreement must be for the entire grant term. The grant award shall be contingent upon having a signed Partnership Agreement included in the application. The Contract Administrator must ensure that the financial management system and procurement procedures that will be in place during the grant term will fully comply with 24 CFR Part 85. Troubled PHAs are not eligible to be contract administrators. Grant writers who assist applicants to prepare their FSS applications are ineligible to be Contract Administrators.

3. Program Requirements

a. Hiring a PH FSS Program Coordinator. Funds awarded to PHAs under this NOFA may only be used to employ or retain the services of a PH FSS Program Coordinator for the one-year grant term. A PH FSS Program Coordinator must:

(1) Work with the Program Coordinating Committee and with local service providers to ensure that PH FSS program participants are linked to the supportive services they need to achieve self-sufficiency.

(2) Ensure that the services included in participants' contracts of participation are provided on a regular, ongoing and satisfactory basis, that participants are fulfilling their responsibilities under the contracts and that FSS escrow accounts are established and properly maintained for eligible families. All of these tasks should be accomplished through case management. FSS coordinators may also perform job development functions for the FSS program.

(3) Monitor the progress of program participants and evaluate the overall success of the program.

b. Salary Comparables. For all positions requested under this NOFA, evidence of salary comparability to similar positions in the local jurisdiction must be kept on file in the PHA/Tribe/TDHE office.

c. FSS Action Plan. The requirements for the PH FSS Action Plan are stated in 24 CFR 984.201. For a new applicant to qualify for funding under this NOFA, the PHA/Tribe/TDHE's initial PH FSS Action Plan or amendment to change the number of PH FSS slots in the PHA's previously HUD-approved PH FSS Action Plan, must be submitted to and approved by the PHA's local HUD field office or Area ONAP prior to the application due date of this PH FSS NOFA. An FSS Action Plan can be updated by means of a simple one-page addendum that reflects the total number of PH FSS slots (voluntary and /or mandatory slots) the PHA intends to fill. New PHA applicants with previously approved PH FSS Action Plans may wish to confirm the number of HUD-approved slots their local HUD field office has on record for the PHA. An MTW PHA may request that the number of PH FSS slots reflected in its MTW agreement be used instead of the number of slots in the PHA's PH FSS Action Plan.

d. Eligible families. Current residents of public/Indian housing are eligible.

Eligible families who are currently enrolled or participating in local public/Indian housing self-sufficiency programs are also eligible.

e. Contract of participation. Each family that is selected to participate in an FSS program must enter into a contract of participation with the PHA or tribe/TDHE that operates the FSS program. The contract shall be signed by the head of the FSS family.

f. Contract term. The contract with participating families shall be for five years. During this time each family will be required to fulfill its contractual obligations. PHAs or tribes/TDHEs may extend contracts for no more than two years for any family that requests an extension of its contract provided the PHA or tribe/TDHE finds that good cause exists to provide an extension. This extension request must be in writing. See 24 CFR 984.303 for more information on contracts of participation.

g. Escrow accounts for very low or low income participating families. Such accounts shall be computed using the guidelines set forth in 24 CFR 984.305. **Note:** FSS families who are not low-income are not entitled to an escrow/credit. .

IV. Application and Submission Information

A. Addresses To Request Application Package

Applications are available from *www.Grants.gov/Apply.* The Download Instructions and the Application Download provide the information and forms that you need to apply for funding under this NOFA. If you have difficulty accessing the information you may receive customer support from Grants.gov by calling their Support Desk at (800) 518–GRANTS, or sending an e-mail to *support@grants.gov.* You may request general information, from the NOFA Information Center (800–HUD–8929) or 800–HUD–2209 (TTY) between the hours of 10 a.m. and 6:30 p.m. (Eastern Time) Monday through Friday, except on federal holidays. When requesting information, please refer to the name of the program you are interested in. The NOFA Information Center opens for business simultaneously with the publication of the SuperNOFA. You can also obtain information on this NOFA *from* HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

B. Content and Format of Application Submission

1. Content of Application

In addition to any information required in the General Section, each new and renewal applicant must complete the forms on the list below. Copies of the forms may be downloaded with the application package and instructions from *www.Grants.gov/Apply* or from the following Web site: *http://www.hud.gov/offices/adm/grants/nofa06/snofaforms.cfm.*

a. SF–424 Application for Federal Assistance—In completing the SF–424, renewal PHAs should select the continuation box on question 2, type of application. In section 18 of the SF–424, estimated funding, complete only 18.a., which will be the amount requested from HUD in the FY2006 FSS application, and 18.g., Total.

b. SF–424 Supplement, Survey on Ensuring Equal Opportunity for Applicants.

c. HUD–27300 Questionnaire for HUD's Initiative on Removal of Regulatory Barriers.

d. SF–LLL Disclosure of Lobbying Activities (if applicable).

e. HUD–2880—Applicant Disclosure/Update Report.

f. HUD–2990—Certification of Consistency with RC/EZ/EC–II Strategic Plan (if applicable).

g. HUD–2991—Certification of Consistency with the Consolidated Plan (if applicable).

h. Tribes/TDHE's must submit a HUD–52752—Certification of Consistency with Indian Housing Plan.

i. Contract Administrator Partnership Agreement, if required (see HUD–52755).

j. HUD–96011 Facsimile Transmittal, even if not transmitting any faxes.

k. HUD–52767 Family Self-Sufficiency Funding Request Form.

l. The HUD–2994–A—''You Are Our Client Applicant Survey'' is optional.

m. In addition, the application must include a completed Logic Model (from HUD 96010) showing proposed performance measures. See the General Section for information on the Logic Model.

2. Budget Forms

There are no budget forms required for this application.

C. Submission Date and Time

Your completed application must be received and validated by Grants.gov no later than 11:59:59 p.m. eastern time on the application deadline date. Applicants should carefully read the section titled ''APPLICATION and SUBMISSION INFORMATION'' in the General Section regarding HUD's procedures pertinent to the submission of your application.

D. Intergovernmental Review

Intergovernmental Review is not applicable to this program.

E. Funding Restrictions

1. Salary Cap

Awards under this NOFA are subject to a cap of $65,000 per year per full time coordinator position funded. Under this NOFA, if applicants apply jointly, the $65,000 maximum amount that may be requested per position applies to up to one full time coordinator position for the application as a whole, not to each PHA separately.

2. Limitation on Renewal Funding Increases

For renewal coordinator positions, PHAs will be limited to a three percent increase above the amount of the most recent award for the position unless a higher increase is approved by the local HUD field office after review of the PHA's written justification and at least three comparables that must be submitted to the field office by the PHA at the time they submit their FY2006 PH FSS Program Coordinator application to HUD. Examples of acceptable reasons for increases above three percent would be needed for a coordinator with higher level of skills or to increase the hours of a part time coordinator to full time. Total positions funded cannot exceed the maximum number of positions for which the PHA is eligible under this NOFA.

3. Ineligible Activities

a. Funds under this NOFA may not be used to pay the salary of an FSS coordinator for a Housing Choice Voucher (HCV) FSS program. A PH FSS program coordinator may only serve Low Rent Public Housing families while the HCV FSS program serves only HCV families. The funding for HCV FSS program coordinators is being made available through a separate NOFA included in the FY2006 Super NOFA.

b. Funds under this FSS NOFA may not be used to pay for services for FSS program participants.

c. Funds under this FSS NOFA may not be used to pay for administrative activities.

F. Other Submission Requirements

Electronic application submission is mandatory unless an applicant requests, and is granted, a waiver to the requirement. Procedures for obtaining a waiver are contained in the General

Section. If HUD grants a waiver, the applicant will be notified of the application submission requirements for paper copy applications. Paper copy applications must be received by the appropriate HUD office no later than the application deadline date to meet the deadline submission requirements.

V. Application Review Information

A. Criteria.

The funds available under this NOFA are being awarded based on demonstrated performance. Applications are reviewed by the local HUD field office and the Grants Management Center to determine whether or not they are technically adequate based on the NOFA requirements. Field offices will provide to the GMC in a timely manner, as requested, information needed by the GMC to make its determination, such as the HUD-approved PH FSS program size of new applicants and information on the administrative capabilities of PHAs.

B. Reviews and Selection Process

1. Funding Priority Categories

If HUD receives applications for funding greater than the amount made available under this NOFA, HUD will divide eligible applications into priority categories as follows:

a. Funding Category 1—Applications from eligible renewal applicants designated ''high performer'' in their most recent PHAS review will be funded for continuation of previously funded eligible positions where the positions are currently filled or are in the process of being filled because of turnover.

b. Funding Category 2—Eligible renewal applicants designated standard performers on the most recent PHAS review will be funded for continuation of previously funded eligible positions where the positions are currently filled or are in the process of being filled because of turnover.

c. Funding Category 3—Eligible renewal applicants designated troubled performers on the most recent PHAS review will be funded for continuation of previously funded eligible positions where the positions are currently filled or are in the process of being filled because of turnover.

d. Funding Category 4—Applications from eligible new applicants agreeing to implement an FSS program of at least 25 slots.

2. Order of Funding

a. Funding Category 1. Starting with Funding Category 1, HUD will first determine whether there are sufficient monies to fund all eligible positions requested in the funding category. If available funding is not sufficient to fund all positions requested in the category, HUD will calculate for each eligible applicant, the applicant's Positive Escrow Percentage and Graduation Percentage and will use these percentages in making funding decisions. Definitions and a description of the calculation of the FSS Positive Escrow Percentage and Graduation Percentage are included in the Definitions Section (Section I.C.) of this NOFA.

HUD will begin funding eligible Funding Category 1 applicants starting with the PHAs with the highest Positive Escrow Percentage first. If monies are not sufficient to fund all applicants with the same Positive Escrow Percentage, HUD will fund eligible applicants in order starting with those that have the highest Graduation Percentage first. If funding is not sufficient to fund all applicants with the same FSS Positive Escrow Percentage and/or Graduation Percentage, HUD will select among eligible applicants by PH FSS program size (number of approved slots) starting with eligible applicants with the largest PH FSS program size first.

b. Funding Category 2. If funding remains after funding all Funding Category 1 applications, HUD will then process eligible Funding Category 2 applications. If there are not enough funds to fund all of Funding Category 2, HUD will use same criteria as above for Funding Category 1.

c. Funding Category 3. If funding remains after funding all Funding Category 2 applications, HUD will then process eligible Funding Category 3 applications. If there are not enough funds to fund all of Funding Category 2, HUD will use the same criteria as above for Funding Category 1.

d. Funding Category 4. If funding remains after funding all Funding Category 1, 2, and 3 applications, HUD will then process requests of eligible Funding Category 4 applicants. If there are not sufficient monies to fund all eligible positions requested, HUD will begin funding positions starting with applicants with the largest PH FSS program size (number of approved slots) first.

3. Based on the number of applications submitted, the GMC may elect not to process applications for a funding priority category where it is apparent that there are insufficient funds available to fund *any* applications within the priority category.

4. Corrections to Deficient Applications

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

5. Unacceptable Applications

After the technical deficiency correction period (as provided in the General Section), the GMC will disapprove applications that it determines are not acceptable for processing. Applications from applicants that fall into any of the following categories are ineligible for funding under this NOFA and will not be processed:

a. An application submitted by an entity that is not an eligible applicant as defined under this PH FSS NOFA or an application that does not comply with the requirements of Sections IV.B., IV.C. and IV.F. of this NOFA.

b. An application from an applicant that does not meet the fair housing and civil rights compliance requirements of the General Section of the SuperNOFA.

c. An application from an applicant that does not comply with the prohibition against lobbying activities of this NOFA.

d. An application from an applicant that has been debarred or otherwise disqualified from providing assistance under the program.

e. An application that did not meet the application deadline date and timely receipt requirements as specified in this NOFA and the General Section.

f. Applications will not be funded which do not meet the Threshold requirements identified in this NOFA and the General Section.

VI. Award Administration Information

A. Award Notices

Successful applicants will receive an award letter from HUD. Successful applicants will be notified by letter and will receive instructions for the steps they must take to access funding and begin implementing grant activities. Applicants who are not funded will also receive letters via U.S. postal mail.

B. Administrative and National Policy Requirements

1. Environmental Impact

This NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and not subject to compliance actions for related environmental authorities under 24 CFR 50.19(b)(4) and (12).

2. Applicable Requirements

Grantees are subject to regulations and other requirements found in:

a. OMB Circular A–87 ''Cost principles for State, Local, and Indian Tribal Governments'';

b. OMB Circular A–133 ''Audits of States, Local Governments, and Non-Profit Organizations'';

c. HUD Regulations 24 CFR Part 984 ''Section 8 and Public Housing Family Self-Sufficiency Program''; and

d. HUD Regulations 24 CFR Part 85 ''Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments''.

3. Economic Opportunities for Low- and Very Low-Income Persons (Section 3)

Section 3 requirements do not apply to this program.

4. Fair Housing and Civil Rights Laws

Please see the General Section for more information.

5. Provision of Services to Individuals With Limited English Proficiency (LEP)

Successful applicants and grantees must seek to provide access to program benefits and information to LEP individuals through translation and interpretive services in accordance with HUD's LEP Recipient Guidance 68 FR 70968.

6. Communications

Successful applicants should ensure that notices of and communications during all training sessions and meetings shall be provided in a manner that is effective for persons with hearing, visual and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973. See 24 CFR Section 8.6.

7. HUD's Strategic Goals

HUD is committed to ensuring that programs result in the achievement of HUD's strategic mission. The FSS program and this FSS NOFA support the Department's strategic goals of helping HUD-assisted renters make progress toward self-sufficiency by giving funding preference to PHAs whose FSS programs show success in moving families to economic self-sufficiency. You can find out about HUD's Strategic Framework and Annual Performance Plan at *http://www.hud.gov/offices/cfo/reports/cforept.cfm3.*

8. HUD Policy Priorities

This NOFA supports the HUD policy priority of helping HUD-assisted renters made progress toward self-sufficiency. In this NOFA, funding priority is given to those PHA applicants that demonstrate that their FSS families have increased their earned income since enrolling in FSS. See Section V.B. of the General Section for a full discussion of HUD's policy priorities.

C. Reporting

Successful applicants must report activities of their FSS enrollment, progress and exit activities of their FSS program participants through required submissions of the Form HUD–50058 or as otherwise agreed for MTW PHAs. HUD's assessment of the accomplishments of the FSS programs of grantees funded under this NOFA will be based in part on Public Housing Information Center (PIC) system data obtained from the Form HUD–50058. MTW PHAs that do not report to HUD on the Form HUD–50058 will be asked to submit an annual report to HUD with the same information on FSS program activities that is provided to HUD by non-MTW PHAs via the Form HUD–50058. An applicant is also required to submit a completed Logic Model showing accomplishments against proposed outputs and outcomes as part of their annual reporting requirement to HUD. Grantees shall use quantifiable data to measure performance against goals and objectives outlined in their Logic Model. Semi-annual Performance Reports consisting of the updated Logic Model are due to the field office on July 30 and January 31 of each year. For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment statement. HUD will be publishing a separate notice on the ROI concept. In addition, HUD requires that funded recipients collect racial and ethnic beneficiary data. It has adopted the Office of Management and Budget's Standards for the Collection of Racial and Ethnic Data. In view of these requirements, funded recipients should use Form HUD–27061, Racial and Ethnic Data Reporting Form. The HUD–50058 used in concurrence with the PIC Data system is a comparable form. Applicants that receive awards from HUD should be prepared to report on additional measures that HUD may designate at time of award.

D. Debriefings

The applicant may request an applicant debriefing. Beginning not less than 30 days after the awards for assistance are publicly announced in the **Federal Register** and for at least 120 days after that announcement, HUD will, upon receiving a written request, provide a debriefing to the requesting applicant. (See Section VI.A. of the General Section for additional information regarding a debriefing.) Applicants requesting to be debriefed must send a written request to: Iredia Hutchinson, Director; Grants Management Center; U.S. Department of Housing and Urban Development, 501 School Street, SW., Suite 800; Washington, DC 20024.

VII. Agency Contacts

A. For Technical Assistance

For answers to your questions, you may contact the Public and Indian Housing Resource Center at 800–955–2232. Prior to the application deadline, staff at the numbers given above will be available to provide general guidance, but not guidance in actually preparing the application. Following selection, but prior to award, HUD staff will be available to assist in clarifying or confirming information that is a prerequisite to the offer of an award by HUD. Persons with hearing or speech impairments may use the Grants.gov helpdesk e-mail.

B. Satellite Broadcast

HUD will hold an information broadcast via satellite for potential applicants to learn more about the PH FSS program and preparation of an application. For more information about the date and time of this broadcast, you should consult the HUD Web site at *www.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 2577–0229. 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 forty hours per respondent for the application. This includes the time for collecting, reviewing, and reporting the data for the application. The information will be used for grantee selection and monitoring the administration of funds. Response to this request for information is required in order to receive the benefits to be derived.

B. Public Access, Documentation, and Disclosure.

See Section VIII. F. of the General Section.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TARGETED AND ASSISTED HOUSING

SELF-HELP HOMEOWNERSHIP OPPORTUNITY PROGRAM (SHOP)

Billing Code 4210-01-C

Self-Help Homeownership Opportunity Program (SHOP) Overview Information

A. Federal Agency Name: Department of Housing and Urban Development, Office of Community Planning and Development.

B. Funding Opportunity Title: Self-Help Homeownership Opportunity Program (SHOP).

C. Announcement Type: Initial announcement.

D. Funding Opportunity Number: The **Federal Register** number is FR–5030–N–06. The Office of Management and Budget (OMB) paperwork approval number is 2506–0157.

E. Catalog of Federal Domestic Assistance (CFDA) Number: Self-Help Homeownership Opportunity Program. The CFDA number is 14.247.

F. Application Deadline: The application deadline date is May 24, 2006.

G. Optional, Additional Overview Content Information:

SHOP funds are awarded to national and regional nonprofit organizations and consortia demonstrating experience in administering self-help housing programs in which the homebuyers contribute a significant amount of sweat-equity toward construction or rehabilitation of the dwelling. The amount available for SHOP in Fiscal Year (FY) 2006 is approximately $20,000,000.

Full Text of Announcement

I. Funding Opportunity Description

A. Program Description

SHOP funds are intended to facilitate and encourage innovative homeownership opportunities on a national geographically diverse basis through self-help housing programs that require a significant amount of sweat-equity by the homebuyer toward the construction or rehabilitation of the dwelling.

SHOP programs are administered by national and regional nonprofit organizations and consortia. Units developed with SHOP funds must be decent, safe, and sanitary non-luxury dwellings and must be made available to eligible homebuyers at prices below the prevailing market prices. Eligible homebuyers are low-income individuals and families (i.e., those whose annual incomes do not exceed 80 percent of the median income for the area, as established by HUD) who would otherwise be unable to purchase a dwelling but for the provision of sweat equity. Housing assisted under this Notice of Funding Availability (NOFA) must involve labor contributed by homebuyers and volunteers in the construction of dwellings and other activities that involve the community in the project.

B. Authority

Funding made available under SHOP is authorized by Section 11 of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note) (the ''Extension Act'').

II. Award Information

Approximately $20,000,000 will be available for this program in FY 2006. Any unobligated funds from previous competitions or additional funds that may become available due to deobligation or recapture from previous awards or budget transfers may be added to the FY 2006 appropriation to fund applications submitted in response to this NOFA. Awards will be made to successful applicants in the form of a grant. Grant funds must be expended within 24 months of the date that they are first made available for draw-down in a line of credit established by HUD for the grantee, except that grant funds provided to affiliates that develop five or more units must be expended within 36 months.

III. Eligibility Information

A. Eligible Applicants

You must be a national or regional nonprofit public or private organization or consortium that has the capacity and experience to provide or facilitate self-help housing homeownership opportunities. Your organization or consortium must undertake eligible SHOP activities directly and/or provide funding assistance to your local affiliates to carry out SHOP activities. You must propose in your application to use a significant amount of SHOP funds in at least two states. Affiliates must be located within the regional organization's or consortium's service area.

A national organization is defined as an organization that carries out self-help housing activities or funds affiliates that carry out self-help housing activities on a national scope. A regional organization is defined as an organization that carries out self-help housing activities or funds affiliates that carry out self-help housing activities on a regional scope. A regional area is a geographic area, such as the Southwest or Northeast, that includes at least two states. The states in the region need not be contiguous, and the service area of the organization need not precisely conform to state boundaries.

A consortium is defined as two or more nonprofit organizations located in at least two states that individually have the capacity and experience to carry out self-help housing activities or fund affiliates that carry out self-help housing activities on a national or regional scope and enter into an agreement to submit a single application for SHOP funding on a national or regional basis. The consortium must propose to use a significant amount of SHOP funds in each state represented in the consortium. All consortium members must receive SHOP funds. One organization must be designated as the lead entity. The lead entity must submit the application and, if selected for funding, execute the SHOP Grant Agreement with HUD and assume responsibility for the grant on behalf of the consortium in compliance with all program requirements.

A consortium agreement, executed and dated by *all* consortium members for the purpose of applying for and using FY 2006 SHOP funds, must be submitted with your application. A consortium's application must be *a single integrated document that demonstrates the consortium's comprehensive approach to self-help housing.* All consortium members must be identified in your application. The integrated application must reflect all consortium members' programs as a single program and may only briefly summarize the individual consortium members' past experiences in factor 1. All other components of the application must reflect the overall consortium program design. Individual program designs for consortium members or affiliates within the integrated document will not be considered by HUD. Upon being funded, the lead entity must enter into a separate agreement with each consortium member. The agreement must include the requirements of the FY 2006 SHOP Grant Agreement between HUD and the consortium and set forth the individual consortium member's responsibilities for compliance with HUD's 2006 SHOP program.

An affiliate is defined as:

(1) A local public or private nonprofit self-help housing organization which is a subordinate organization (i.e., chapter, local, post, or unit) of a central organization and covered by the group exemption letter issued to the central organization under Section 501(c)(3) of the Internal Revenue Code; or

(2) A local public or private nonprofit self-help housing organization with which the applicant has an existing relationship (e.g., the applicant has provided technical assistance or funding to the local self-help housing organization); or

(3) A local public or private nonprofit self-help housing organization with which the applicant does not have an existing relationship, but to which the applicant will provide necessary technical assistance and mentoring as part of funding under the application.

You must carry out eligible activities or you must enter into an agreement to fund affiliates to carry out eligible activities. If you are a consortium, each of your affiliates must be linked to an individual consortium member.

Your application may not propose to fund any affiliate or consortium member that is also included in another SHOP application. You must ensure that any affiliate or consortium member under your FY 2006 application is not also seeking FY 2006 SHOP funding from another SHOP applicant. If an affiliate applies for funds through more than one applicant, it may be disqualified for any funding.

B. Cost Sharing or Matching

There is no match requirement for the SHOP funds. However, you are expected to leverage resources for the construction of self-help housing assisted with SHOP. Failure to provide documentation of leveraged resources that meet the submission requirements for firm commitments as stated in factor 4 will result in a lower application score.

C. Other

1. Eligible Activities

The costs of eligible activities may be incurred by the applicant (and by affiliates, if permitted by the applicant) after the publication date of the NOFA and charged to the SHOP grant, provided that the applicant and affiliates comply with the requirements of this NOFA (including relocation and environmental review requirements) and costs are included in the application. Applicants and affiliates incur costs at their own risk, because applicants that do not receive a SHOP grant cannot be reimbursed or reimburse affiliates.

Eligible activities are:

a. Land acquisition, including financing and closing costs, which may include reimbursing an organization, consortium, or affiliate, upon approval of any required environmental review, for non-grant amounts expended by the organization, consortium, or affiliate to acquire land before completion of the review;

b. Infrastructure improvements, including installing, extending, constructing, rehabilitating, or otherwise improving utilities and other infrastructure, including removal of environmental hazards; and

c. Administration, planning, and management development, including the costs of general management, oversight, and coordination of the SHOP grant, staff and overhead costs of the SHOP grant, costs of providing information to the public about the SHOP grant, costs of providing civil rights training to local affiliates as well as any expenses involved in affirmatively furthering fair housing, and indirect costs (such as rent and utilities) of the grantee or affiliate in carrying out the SHOP activities.

2. Threshold Requirements

HUD will not consider an application from an ineligible applicant. An applicant must meet all of the applicable threshold requirements listed in the General Section published on January 20, 2006, and the SHOP threshold requirements described below:

a. Organization and Eligibility. You must be eligible to apply under SHOP (see Section III.A.).

b. Non-Profit Status. You must describe how you qualify as an eligible applicant and provide evidence of your public or private nonprofit status, such as a current Internal Revenue Service (IRS) ruling that your organization is exempt from taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986. If you are a consortium, each consortium member must submit evidence of its nonprofit status to the lead entity for inclusion in the consortium's application package.

c. Consortium Agreement. If you are a consortium, each consortium member must enter into and sign a consortium agreement for the purpose of applying for SHOP funds and carrying out SHOP activities. Your consortium agreement must be submitted as an appendix to your application.

d. Amount. The amount of SHOP funds requested must be sufficient to complete a minimum of 30 self-help housing units and may not exceed an average investment of $15,000 per unit.

e. Homebuyer Eligibility. Eligible homebuyers are low-income individuals and families (i.e., those whose incomes do not exceed 80 percent of the median income for the area, as established by HUD). You must specify the definition of ''annual income'' to be used in your proposed program. You may use one of the following three definitions of ''annual income'' to determine whether a homebuyer is income eligible under SHOP:

(1) ''Annual income'' as defined at 24 CFR 5.609; or

(2) ''Annual income'' as reported under the Census long-form for the most recent available decennial Census; or

(3) ''Adjusted gross income'' as defined for purposes of reporting under the IRS Form 1040 series for individual federal annual income tax purposes.

You may also adopt or develop your own definition of annual income for use in determining income eligibility under SHOP subject to review and approval by HUD. You must include your definition of ''annual income'' in your Program Summary.

f. Experience. You must demonstrate successful completion of at least 30 self-help homeownership units in a national or regional area within the 24-month period immediately preceding the publication of this NOFA. For dwellings to qualify as self-help homeownership units, the homebuyers must have contributed a significant amount of sweat-equity toward the construction as set forth in this section.

g. Sweat Equity. Your program must require homebuyers to contribute a minimum of 100 hours of sweat equity toward the construction or rehabilitation of their own homes and/or the homes of other homebuyers participating in the self-help housing program. In the case of a household with only one adult, the requirement is 50 hours of sweat equity toward the construction of these homes. Sweat equity includes training for construction on the dwelling units, but excludes homebuyer counseling and home maintenance training. All homebuyers must meet these minimum hourly sweat equity requirements; however, grantees must permit reasonable accommodations for persons with disabilities in order for them to meet the hourly requirements. For example, homebuyers with disabilities may work on less physical tasks or administrative tasks to meet this requirement or a volunteer(s) may enter into an agreement to substitute for the disabled person.

h. Community Participation. Your program must involve community participation in which volunteers assist in the construction or rehabilitation of dwellings. Volunteer labor is work performed by an individual without promise, expectation, or compensation for the work rendered. For mutual self-help housing programs that are assisted by the U.S. Department of Agriculture's Rural Housing Services/Rural Development under Section 523 of the Housing Act of 1949 (7 CFR Part 1944, subpart I) or which have a program design similar to the Section 523 program, the work by each participating family on other participating families'

homes may count as volunteer labor. A mutual self-help housing program generally involves 4 to 10 participating families organized in a group to use their own labor to reduce the total construction cost of their homes and complete construction work on their homes by an exchange of labor with one another.

i. Eligible Activities. You must use the SHOP funds for eligible activities (see Sections III.A. and IV.E.) and carry out the activities yourself or fund affiliates to carry out the activities.

3. Threshold Submission Requirements

In order for your application to be rated and ranked, all threshold requirements must be met. Threshold requirements 2(d) through (i) above do not require separate submissions, but must be addressed under the submission requirements for the rating factors listed below in Section V, Application Review Information Criteria.

4. Other Requirements

Other requirements applicable to the SHOP program are set forth in ''Additional Nondiscrimination and Other Requirements'' of the General Section. The following requirements also apply to SHOP:

a. Economic Opportunities for Low- and Very Low-Income Persons (Section 3). SHOP recipients must comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3), 12 U.S.C. 170lu (Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects), and the HUD regulations at 24 CFR part 135, including the reporting requirement of subpart E. Section 3 requires recipients to ensure that to the greatest extent feasible, 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.

b. Real Property Acquisition and Relocation. SHOP projects are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) (42 U.S.C. 4601), and the government-wide implementing regulations issued by the U.S. Department of Transportation at 49 CFR Part 24. The Uniform Act is a federal law that establishes minimum standards for federally-funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The Uniform Act's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally-funded projects.

SHOP grantees and affiliates must comply with all applicable Uniform Act requirements in order to receive SHOP funds for their programs and projects; non-compliance could jeopardize SHOP funding. Real property acquisitions for a SHOP-assisted program or project conducted before completion of an environmental review and HUD's approval of a request for release of funds and environmental certification are also subject to the Uniform Act. SHOP grantees and affiliates must ensure that all such real property acquisitions comply with applicable Uniform Act requirements.

Generally, real property acquisitions conducted without the threat or use of eminent domain, commonly referred to as ''voluntary acquisitions,'' must satisfy the applicable requirements and criteria of 49 CFR 24.101(b)(1) through (5). Evidence of compliance with these requirements must be maintained by the affiliate and submitted to and maintained by the SHOP grantee. It is also important to note that tenants who occupy property which may be acquired through voluntary means must be fully informed as to their eligibility for relocation assistance. This includes notifying such tenants of their potential eligibility when negotiations are initiated, notifying them if they become fully eligible, and, in the event the purchase of the property will not occur, notifying them that they are no longer eligible for relocation benefits. Evidence of compliance with these requirements must be maintained by the affiliate and submitted to and maintained by the SHOP grantee.

Additional information and resources pertaining to real property acquisition and relocation for HUD-funded programs and projects are available on HUD's Real Estate Acquisition and Relocation Web site at *http://www.hud.gov/relocation.* You will find applicable laws and regulations, policy and guidance, publications, training resources, and a listing of HUD contacts if you have questions or need assistance.

c. Environmental Requirements. The environmental review requirements for SHOP supersede the environmental requirements in the General Section. All SHOP assistance is subject to the National Environmental Policy Act of 1969 and related federal environmental authorities and regulations at 24 CFR part 58. SHOP grant applicants are cautioned that no activity or project may be undertaken, or federal or non-federal funds or assistance committed, if the project or activity would limit reasonable choices or could produce an adverse environmental impact until all required environmental reviews and notifications have been completed by a unit of general local government, tribe, or state and until HUD approves a recipient's request for release of funds under the environmental provisions contained in 24 CFR part 58. Notwithstanding the preceding sentence, in accordance with section 11(d)(2)(A) of the Housing Opportunity Extension Act of l996 and HUD Notice CPD–01–09, an organization, consortium, or affiliate may advance non-grant funds to acquire land before completion of an environmental review and HUD's approval of a request for release of funds and environmental certification. Any advances to acquire land prior to such approval are made at the risk of the organization, consortium, or affiliate, and reimbursement from SHOP funds for such advances will depend on the result of the environmental review.

d. Statutory and Program Requirements. SHOP is governed by Section 11 of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note) (the Extension Act), and this NOFA. There are no program regulations. You must comply with all statutory requirements applicable to SHOP as cited in Section I, Funding Opportunity Description, and the program requirements cited in this NOFA. Pursuant to these requirements, you must:

(1) Develop, through significant amounts of sweat-equity by each homebuyer and volunteer labor, at least 30 dwelling units at an average cost of no more than $15,000 per unit of SHOP funds for land acquisition and infrastructure improvements;

(2) Use your grant to leverage other sources of funding, including private or other public funds, to complete construction or rehabilitation of the housing units;

(3) Develop quality dwellings that comply with local building and safety codes and standards that will be made available to homebuyers at prices below the prevailing market price;

(4) Schedule SHOP activities to expend all grant funds awarded and substantially fulfill your obligations under your grant agreement, including timely development of the appropriate number of dwelling units. Grant funds must be expended within 24 months of the date that they are first made available for draw-down in a line of credit established by HUD for the

grantee, except that grant funds provided to affiliates that develop five or more units must be expended within 36 months; and

(5) Not require a homebuyer to make an up-front financial contribution to a housing unit other than cash contributed for down payment of closing cost at the time of acquisition.

IV. Application and Submission Information

A. Address To Request Application Package

This NOFA contains all the information necessary for national and regional nonprofit organizations and consortia to submit an application for SHOP funding. This section describes how you may obtain application forms and additional information about the SHOP program NOFA. Copies of the published SHOP NOFA and related application forms for this NOFA may be downloaded from the grants.gov website at *www.grants.gov/Apply.* If you have difficulty accessing the information, you may receive customer support from Grants.gov by calling its help line at (800) 518–GRANTS or sending an email to *support@grants.gov.* If you do not have Internet access and you need to obtain a copy of this NOFA, you may contact HUD's NOFA Information Center toll-free at (800) HUD–2209, or hearing and speech challenged persons may call (800) HUD–2209 (TTY).

1. *Application Kit.* There is no application kit for this program. All the information you need to apply is contained in this NOFA and available at *www.grants.gov/Apply.* The NOFA forms are available to be downloaded from *www.grants.gov/Apply.* Pay attention to the submission requirements and format for submission specified for this NOFA to ensure that you have submitted all required elements of your application.

The published **Federal Register** document is the official document that HUD uses to solicit applications. Therefore, if there is a discrepancy between any materials published by HUD in its **Federal Register** publications and other information provided in paper copy, electronic copy, or at *www.grants.gov,* the **Federal Register** publication prevails. Be sure to review your application submission against the requirements in the **Federal Register** for this NOFA.

2. *Guidebook and Further Information.* See the General Section.

B. Content and Form of Application Submission

You must meet all application and submission requirements described in the General Section. Your application should consist of the items listed in the section below called Assembly Format and Content. HUD's standard forms can be found in the application found on Grants.gov or HUD's website at *http://www.hud.gov/offices/adm/grants/nofa06/snofaforms.cfm.*

1. Page Limits

There are page limits for responses to the five rating factors. A national or regional organization is limited to 50 pages of narrative to respond to the five rating factors. A consortium is permitted up to 10 additional pages to address the past experiences of its individual consortium members. Required appendices, forms, certifications, statements, and assurances are not subject to the page limitations. All pages must be numbered sequentially 1 through 50 or 60, for factors 1 through 5. Your application may contain only the narrative statements that address the five rating factors and the required forms, certifications, assurances, and appendices listed in Assembly Format and Content below. In responding to the five factors, information must be included in your narrative response to each factor, unless this NOFA states that it should be included as an appendix. If you are submitting material using the fax method described in the General Section, the narrative should refer to the documents being faxed as part of your narrative response to the factor. Any supplemental information not required in the narratives or appendices requested by HUD that further explains information required in the five factors will not be reviewed for consideration in the scoring of the application.

2. Assembly Format and Content

Your FY 2006 application will be comprised of an Application Overview, Narrative Statements (rating factors), Forms, and Appendices. In order to receive full consideration for funding, you should use the following checklist to ensure that all requirements are addressed and submitted with your electronic application.

a. Application Overview (Not subject to the page limitations)

____ SF–424, Application for Federal Assistance (signed by the Authorized Organization Representative (AOR) who is legally authorized to submit the application on behalf of the applicant and has been approved by the eBusiness Point of Contact to submit the application via Grants.gov. (See the General Section.)

____ SF–424 Supplement, Survey on Ensuring Equal Opportunity for Applicants.

____ Self-Help Housing Organization Qualification—Narrative describing qualification as an eligible applicant and Evidence of Nonprofit Tax Exempt Status (in accordance with Section III.C. of this NOFA).

____ Consortium Agreement, if applicable.

____ Program Summary (including definition of ''annual income'').

b. Narrative Statements Addressing: (Subject to the page limitations described above.)

____ Factor 1—Capacity of the Applicant and Relevant Organizational Staff. (including organizational chart).

____ Factor 2—Need/Extent of the Problem.

____ Factor 3—Soundness of Approach.

____ Factor 4—Leveraging Resources.

____ Factor 5—Achieving Results and Program Evaluation.

c. Forms, Certifications, and Assurances: (Not subject to the page limitations.)

____ HUD–424CB, Grant Application Detailed Budget.

____ HUD–424–CBW, Grant Application Detailed Budget Worksheet.

____ SF–LLL, Disclosure of Lobbying Activities, as applicable.

____ HUD–2880, Applicant/Recipient Disclosure/Update Report.

____ HUD–2990, Certification of Consistency with the RC/EZ/EC–II Strategic Plan.

____ HUD–96011, Facsimile Transmittal (required for electronic submissions of third party documents).

____ HUD–2994–A, You Are Our Client Grant Applicant Survey (optional)

____ HUD–96010, Program Outcome Logic Model.

d. Appendices: (Not subject to the page limitations.)

____ A copy of your code of conduct (see the General Section).

____ Leveraging documentation—firm commitment letters (see factor 4).

____ Survey of potential affiliates, if applicable (see factor 2).

____ Demonstration of past performance for new applicants (see factor 5).

____ HUD–27300, Questionnaire for HUD's Initiative on Removal of Regulatory Barriers (see factor 3).

____ Evaluative criteria for Removal of Regulatory Barriers to Affordable Housing in affiliate selection process, if applicable (see factor 3).

e. Certifications and Assurances. Applicants are placed on notice that by signing the SF–424 cover page noted above in 2.a., Application Overview, the applicant is certifying to all information

described in Section IV.B.2 (''Certifications and Assurances'') in the General Section.

C. Submission Date and Time

The application deadline date is May 24, 2006. The electronic application must be received and validated by Grants.gov by the application deadline date. If an applicant is granted a waiver to the electronic application submission requirement, the application must be received at the appropriate HUD Office(s) by the application deadline date (see General Section).

D. Intergovernmental Review

Executive Order 12372 review does not apply to SHOP.

E. Funding Restrictions

1. Administrative Costs

Administrative costs may not exceed 20 percent of any SHOP grant. Indirect costs may only be charged to the SHOP grant under a cost allocation plan prepared in accordance with OMB Circular A–122.

2. Pre-Agreement Costs

After the publication date of the NOFA, but before the effective date of the SHOP Grant Agreement, an applicant and affiliates, if permitted by the applicant, may incur costs that may be charged to its SHOP grant provided the costs are eligible (see Section III.C.1.) and in compliance with the requirements of this NOFA (including relocation and environmental review requirements) and the application. Applicants and affiliates incur costs at their own risk, because applicants that do not receive a SHOP grant cannot be reimbursed or reimburse affiliates.

3. Ineligible Costs

Costs associated with the rehabilitation, improvement, or construction of dwellings and any other costs not identified in Section III.C.1. are not eligible uses of program funds. Acquiring land for land banking purposes (i.e., holding land for an indefinite period) is an ineligible use of SHOP funds. Acquisition undertaken by the applicant or its affiliate before the publication date of the NOFA is not an eligible cost. SHOP funds may not be expended on a property unless its acquisition by the grantee, subgrantee, or its affiliates complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). These requirements also apply to the reimbursement of pre-agreement costs (see Section IV.E.2).

F. Other Submission Requirements

You must meet all submission requirements described in the General Section. Refer to the General Section for detailed submission instructions, including methods and deadlines for submission.

3. No Facsimiles or Videos. HUD will not accept an entire application sent by facsimile (fax). However, third-party documents or other materials sent by facsimile in compliance with the submission requirements and received by the application submission date will be accepted. Facsimile corrections to technical deficiencies will not be accepted. Videos submitted as part of an application will not be viewed.

4. Applications must be received and validated by Grants.gov by the application deadline date.

V. Application Review Information

A. Criteria

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (25 Points)

This factor examines the extent to which you, as a single applicant or consortium (including individual consortium members), have the experience and organizational resources necessary to carry out the proposed activities effectively and in a timely manner. Any applicant that does not receive at least 15 points under this factor will not be eligible for funding.

In evaluating this factor, HUD will consider your recent and relevant experience in carrying out the activities you propose (including experience in developing accessible/visitable housing), and your administrative and fiscal management capability to administer the grant, including the ability to account for funds appropriately. All applicants, including individual consortium members, must have capacity and experience in administering or facilitating self-help housing. If you are sponsoring affiliate organizations that do not have experience in developing self-help housing, HUD will assess your organization's experience in providing technical assistance and the ability to mentor new affiliates.

Submission Requirements for Rating Factor 1

a. Past Experience (10 points). You must describe the past experience of your organization and key staff in carrying out self-help housing activities (specify the time frame during which these activities occurred) that are the same as, or similar to, the activities you propose for funding, and demonstrate that you have had reasonable success in carrying out and completing those activities. You must include the average number of sweat equity hours provided per homebuyer family, and the average number of volunteer labor hours provided per unit. You may demonstrate reasonable success by showing that your previous activities were carried out as proposed, consistent with the time frame you proposed for completion of all work.

b. Management Structure (12 points). You must provide a description of your organization's or consortium's management structure, including an organizational chart. You must also describe your key staff and their specific roles and responsibilities for day-to-day management of your proposed SHOP program. You must indicate if you will or will not be working with organizations that are inexperienced in carrying out self-help housing and describe how you will provide technical assistance and mentor these organizations to develop capacity either directly or indirectly.

c. Experience Developing Accessible Housing (3 points). You must demonstrate your experience in and ability to construct and alter self-help housing by describing the kinds of features that you have used to design homes in accordance with universal design and visitability standards, or otherwise make homes physically accessible. You must provide data on the number of accessible units you have completed and the time frame during which units were constructed and/or altered.

Rating Factor 2: Need/Extent of the Problem (10 Points)

This factor examines the extent to which you demonstrate an urgent need for SHOP funds in your proposed target areas based on the need for affordable housing, using quality data with source to substantiate that need.

The purpose of this factor is to make sure that funding is provided where a need for funding exists. Under this factor, you must identify the community need or needs that your proposed SHOP activities are designed to address. If you plan to select some or all affiliates after application submission, you must demonstrate how the selection of affiliates will help to address the needs identified in the proposed target areas.

Submission Requirements for Rating Factor 2

Extent of Need for Affordable Housing (10 points). You must establish the need for affordable housing and the specific

need for SHOP funds in the communities or areas in which your proposed activities will be carried out. You must specifically address the need for acquisition and/or infrastructure assistance for self-help housing activities in these identified areas and how your proposed SHOP activities meet these needs. Also, to the extent information is available, you must address the need for accessible homes in the target area(s); evidence of housing discrimination in the target area(s); and any need for housing shown in the local Analysis of Impediments to Fair Housing Choice, if appropriate. Applicants that select affiliates after application submission must submit a list of affiliates they surveyed and upon which they are basing their need for SHOP funding, as well as the specific criteria to be used to select communities or projects based on need.

In reviewing applications, HUD will consider the extent, quality, and validity of the information and data submitted that addresses the need for affordable housing in the target area. Such information must include:

a. *Housing market data* in the proposed target areas including, but not limited to: Low-income, minority, and disability populations; number of home sales and median sales price; and homeownership, rental, and vacancy rates. This information can be obtained from state or regional housing plans, the American Housing Survey, the United States Census, Home Mortgage Disclosure Act data or other local data sources, such as Consolidated Plans, comprehensive plans, local tax assessor databases, or relevant realtor information. Data included in your application must be recent and specific to your proposed target areas; and

b. *Housing problems in the proposed target areas* such as overcrowding, cost burden, housing age or deterioration, low homeownership rate (especially among minority families, families with children, and families with members with disabilities), and lack of adequate infrastructure or utilities.

Rating Factor 3: Soundness of Approach (45 Points)

This factor examines the quality and soundness of your plan to carry out a self-help housing program. In evaluating this factor HUD will consider the areas described below:

a. Your proposed use of SHOP funds, including the number of units and the type(s) of housing to be constructed, and the use of sweat equity and volunteer labor; your schedule for expending funds and completing construction, including interim milestones; the proposed budget and cost effectiveness of your program; your plan to reach all potentially eligible homebuyers, including those with disabilities and others least likely to apply; and your procedures for meeting section 3 requirements.

b. How your planned activities further the five HUD policy priorities that apply specifically to SHOP in FY 2006 as described in the General Section. The policy priorities for SHOP are:

(1) Providing increased homeownership opportunities for low- and moderate-income persons, persons with disabilities, the elderly, minorities, and families with limited English proficiency;

(2) Encouraging accessible design features: Visitability in new construction and substantial rehabilitation and universal design;

(3) Providing full and equal access to grassroots, faith-based, and other community-based organizations in HUD program implementation;

(4) Participation in Energy Star; and

(5) Removal of regulatory barriers to affordable housing.

c. How you plan to meet section 3 requirements for jobs and training and contracting opportunities for SHOP-funded infrastructure improvements.

Submission Requirements for Rating Factor 3

Activities. Describe the types of activities that you propose to fund with SHOP and the proposed number of units to be assisted with SHOP funding, the housing type(s) (single family or multifamily, or both) to be assisted and the form of ownership (fee simple, condominium, cooperative, etc.) you propose to use.

a. Sweat Equity and Volunteer Labor (7 points). Describe your program's requirements for sweat equity and volunteer labor (*i.e.*, types of tasks and numbers of hours required for both sweat equity and volunteer labor) and how you will provide reasonable accommodations for persons with disabilities by identifying sweat equity assignments that can be performed by the homebuyer regardless of the disability, such as doing administrative, clerical, organizational, or other office work or minor tasks on site. Reasonable accommodation can include sweat equity by the homebuyer that can be performed regardless of the disability or substitution of a non-homebuyer designee(s) to perform the sweat equity assignments on behalf of the homebuyer. Volunteers substituting for disabled homebuyers must enter into an agreement to complete the work on behalf of the homebuyers. Include the dollar value of both the sweat equity and volunteer labor contributions and specify the amount by which these contributions will reduce the sales price to the homebuyer. Applicants showing a larger reduction of the sales price as a result of the homebuyer's sweat equity and volunteer labor contributions will receive a higher score.

b. Funds Expenditure, Construction, and Completion Schedules (7 points). Submit a construction and completion schedule that expends SHOP funds and substantially fulfills your obligations if you are funded. You must provide a definition of ''substantially fulfills'' by specifically stating the percentage or number of properties that you propose to be completed and conveyed to homebuyers at the time all grant funds are expended. Your construction schedule must include the number of dwelling units to be completed within 24 months or, in the case of affiliates that develop five or more units, within 36 months, and a time frame for completing any unfinished units.

Your schedule must also include (1) milestones or benchmarks against which HUD can measure your progress in selecting local affiliates if they are not specifically identified in the application, (2) expending funds, and (3) completing acquisition, infrastructure, and housing construction activities within these schedules. These milestones or benchmarks should be established at reasonable intervals (*e.g.*, monthly, quarterly).

c. Budget (7 points). Provide a detailed budget including a breakdown for each proposed task and each budget category (acquisition, infrastructure improvements, and administration) funded by SHOP in the HUD–424–CB and 424–CBW. If SHOP funds will be used for administration of your grant, you must include the cost of monitoring consortium members and affiliates at least once during the grant period. Your detailed budget must also include leveraged funding to cover costs of completing construction of the proposed number of units. Budget amounts on the HUD–424–CB and 424–CBW must agree with amounts stated elsewhere in the application.

d. Cost Effective (6 points). Demonstrate the extent to which the investment of SHOP funds, the contribution of sweat equity and volunteer labor, and any donations to your SHOP program (*e.g.* land, building materials) reduce the average sales price below the appraised value of the house or market value of comparable housing.

e. Policy Priorities (6 points). Describe how each of the five HUD policy priorities identified specifically for

SHOP is furthered by your proposed activities. You will receive up to one point for each of the first four policy priorities based on how well your proposed work activities address the specific policy. You can receive up to two points for how well you address policy priority (5), removal of regulatory barriers to affordable housing, for which you must submit form HUD–27300, Questionnaire for HUD's Initiative on Removal of Regulatory Barriers. Applicants are encouraged to read HUD's notices published in the **Federal Register** on March 22 (69 FR 13450) and April 21 (69 FR 21663), 2004, to obtain an understanding of this policy priority and how it can impact your score. There are exceptions as provided below.

Applicants that identify affiliate organizations and jurisdictions to be served in their application to HUD should address the questions in Part A or Part B of form HUD–27300 for the jurisdiction in which the majority or plurality of services will be performed.

Applicants that do not identify affiliates and communities to be served in their application to HUD, but select affiliates competitively or through another method after application submission to HUD, may address this policy priority by including it as an evaluative criterion in their affiliate selection process. Such applicants may receive up to two points by requiring affiliate applicants for the awarded SHOP funds to complete the questions in either Part A or B, as appropriate. In order to receive points, applicants that identify affiliates after application submission must include their evaluative criterion as an appendix, and, if awarded SHOP funds in FY 2005, must demonstrate how the evaluative criteria that were included in your FY 2005 application were implemented. You must also describe how the evaluative criteria in your FY 2005 SHOP program affected or will affect the selection and funding of affiliates for FY 2006, to the extent this has been completed. The narrative for your evaluative criteria does not count against the page limits described in Section IV.B.1, Page Limits.

Applicants applying for funds for projects located in local jurisdictions and counties/parishes are invited to answer the 20 questions under Part A. An applicant that scores at least five in column 2 will receive 1 point in the NOFA evaluation. An applicant that scores 10 or more in column 2 will receive 2 points in the NOFA evaluation. The community(ies) must be identified on the form HUD–27300.

Applicants applying for funds for projects located in unincorporated areas or areas otherwise not covered in Part A are invited to answer the 15 questions in Part B. Under Part B, an applicant that scores at least four points in Column 2 will receive one point in the NOFA evaluation. An applicant that scores eight points or greater will receive a total of two points in the evaluation. The community(ies) must be identified on the form HUD–27300.

A limited number of questions on form HUD–27300 expressly request the applicant to provide brief documentation with its response. Other questions require that, for each affirmative statement made, the applicant supply a reference, Web site address, or brief statement indicating where the back-up information may be found, and a point of contact, including a telephone number or e-mail address.

f. Program Outreach (5 points). Describe materials or services that will be used to reach potential homebuyers, including persons least likely to apply. For example, what alternative formats will be used to reach persons with a variety of disabilities and what language accommodations will be made for persons with limited English proficiency.

g. Performance and Monitoring (5 points). Describe your plan for overseeing the performance of consortium members and affiliates, including a plan for monitoring each consortium member and affiliate for program compliance at least once during the term of the grant. Your plan should address when and how you will shift funds among consortium members and affiliates to ensure timely and effective use of SHOP funds within the schedule submitted for item b. above.

h. Section 3 Procedures (2 points). Under section 3 of the Housing and Urban Development Act of 1968, to the greatest extent feasible, opportunities for job training and employment arising in connection with housing rehabilitation, housing construction, or other public construction projects must be given to low- and very low-income persons in the metropolitan area (or non-metropolitan county) in which the project is located. In addition, to the greatest extent feasible, contracts for work to be performed in connection with housing rehabilitation, housing construction, or other public construction projects are given to business concerns that provide economic opportunities for low- and very low-income persons in the metropolitan area (or non-metropolitan county) in which the project is located. The regulations implementing section 3 are found at 24 CFR Part 135. Because SHOP funds may only be used for acquisition and infrastructure improvements, section 3 requirements apply only to SHOP projects for which the amount of SHOP funds for the infrastructure improvements (together with any other covered section 3 housing and community development assistance for infrastructure) meets the threshold amount of $200,000. Based on the SHOP maximum average investment of $15,000 per unit, section 3 would generally only apply to a SHOP project with at least 14 units where the entire SHOP amount (if no other covered section 3 housing and community development assistance is provided to the grantee or affiliate for infrastructure) is $200,000 or more. Regardless of whether the section 3 threshold is met, all applicants are required to describe procedures they have in place for section 3 compliance in the event that they meet the section 3 threshold in carrying out their proposed SHOP activities. You must clearly explain your procedures for complying with these requirements (1) for projects you undertake directly, and (2) for projects undertaken by affiliates. In the case of projects undertaken by affiliates, your procedures must state how you will inform affiliates of their responsibilities under section 3 and how you will monitor compliance. One point will be awarded for addressing job training and employment opportunities. One point will be awarded for addressing contracting opportunities.

Rating Factor 4: Leveraging Resources (10 Points)

This factor addresses your ability to secure other resources that can be combined with HUD's program resources to fully fund your proposed program. When combined with the SHOP grant funds, homebuyer sweat equity, and volunteer labor, your leveraged resources must be sufficient to develop the number of units proposed in your application. HUD will consider only those leveraging contributions for which current firm commitments as described in this factor are submitted. A firm commitment means a written agreement under which the applicant, a partner, or an entity agrees to perform services or provide resources for an activity specified in your application. Firm commitments in the form of cash funding (e.g., grants or loans), in-kind contributions, donated land and construction materials, and donated services will count as leverage. Leveraging does not include the dollar value of sweat equity and volunteer labor for your proposed activities. Leveraging does not include financing provided to homebuyers. However,

financing provided through the U.S. Department of Agriculture's Section 502 direct loans to homebuyers for construction of their dwellings counts as leveraging for mutual self-help housing programs. Firm commitments must be substantiated by the documentation described below.

Submission Requirements for Rating Factor 4

Firm Commitments of Resources (10 points). Provide firm commitments (letters, agreements, pledges, etc.) of leveraged resources or services from the source of the commitment. In order to be considered, leveraged resources or services must be committed in writing and include your organization's name, the contributing organization's name (including designation as a federal, state, local, or private source), the proposed type of commitment, and dollar value of the commitment as it relates to your proposed activities. Each letter of commitment must be signed by an official of the organization legally able to make the commitment on behalf of the organization. See Other Submission Requirements, of the General Section regarding the procedures for submitting third-party documentation. Each letter of commitment must specifically support your FY 2006 SHOP application or specific projects in your FY 2006 application. If your organization depends upon fundraising and donations from unknown sources/providers, you must submit a separate letter committing a specific amount of dollars in fundraising to your proposed FY 2006 SHOP program. Likewise, if you have received funds from organizations and agencies from previous years that are not committed to another activity and you have the sole discretion to commit these funds to your FY 2006 SHOP program, you must submit a separate letter committing these dollars to your FY 2006 SHOP program. In all instances, the dollar amount must be stated in the letters. Letters of commitment may be contingent upon your receiving a grant award. Letters of commitment must be included as an appendix to your application, and do not count toward the page limitation noted in Section IV.B.1. Unsigned, undated, or outdated letters, letters only expressing support of your organization or its proposal, or those not specifically stating the dollar amount or linking the resources to your FY 2006 SHOP application or specific projects in your FY 2006 application do not count as firm commitments.

To receive full credit for leveraging, an applicant's leveraging resources must be clearly identified for its FY 2006 SHOP application and must total at least 50 percent of the amount shown on forms HUD–424–CB needed to complete all properties, minus the proposed SHOP grant amount, homebuyer sweat equity, and volunteer labor.

Rating Factor 5. Achieving Results and Program Evaluation (10 Points)

This factor assesses an applicant's past performance and emphasizes HUD's determination to track whether applicants meet commitments made in their applications.

a. Past Performance. For applicants that previously received SHOP grants, HUD will assess your organization's past performance based upon performance reports that demonstrate your organization's completion of eligible SHOP activities, the number of families provided housing, financial status information focusing on timely use of funds, and other program outcomes. HUD will consider whether you had funds deobligated for failure to meet your drawdown and construction schedules or funds were returned because of monitoring findings or other program deficiencies. HUD will also use monitoring reports, audit reports, and other information available to HUD in making its determination under this factor. For applicants that received SHOP grants in previous years, HUD will assess your success in meeting benchmarks in the most recent three years of participation in the program. If you are not a current SHOP grantee, you must summarize your performance in undertaking similar activities during the past three years. You must supplement your narrative with internal or external performance reports or other information that will assist HUD in making this determination, and submit it as an appendix. Supplemental information and reports from applicants that have not received SHOP grants do not count against the page limitations.

b. Logic Model. HUD requires SHOP applicants to develop an effective, quantifiable, outcome-oriented evaluation plan for measuring performance and determining whether goals have been met using the Master Logic Model for SHOP, which can be found in the download instructions portion at *www.grants.gov.* In preparing your logic model you must first open the form HUD–96010 and go to the instruction tab and follow the directions in the tab. ''Outcomes'' are benefits accruing to the families and/or communities during or after participation in SHOP. The self-help housing units developed are outputs as described under this factor, not outcomes. Applicants must clearly identify the outcomes to be achieved and measured. Examples of outcomes for SHOP include increasing the homeownership rate in a neighborhood or among low-income families by a certain percentage, increasing financial stability (e.g., increasing assets of the low-income homebuyer households through home equity accumulation or reducing total housing costs compared to rents that SHOP participants previously paid) or increasing housing stability during and beyond the grantee's period for reporting on property completions. See Reporting in Section VI.C. Outcomes must be quantifiable.

In addition, applicants must establish interim benchmarks for which outputs lead to the ultimate achievement of outcomes. ''Outputs'' are the direct products of the applicant's program activities. Examples of outputs for SHOP include the number of houses constructed, number of sweat equity hours, or number of homes rehabilitated. Outputs should produce outcomes for your program. Outputs must be quantifiable.

''Interim benchmarks'' are steps or stages in your activities that, if reached or completed successfully, will result in outputs for your program. Examples of interim benchmarks for SHOP include income-qualifying homebuyers, obtaining building permits, or securing construction materials and equipment.

Program evaluation requires that you identify program outcomes, outputs, benchmarks, and performance indicators that will allow you to measure your performance. Performance indicators must be objectively quantifiable and measure actual achievements against anticipated achievements. Your evaluation plan must identify what you are going to measure, how you are going to measure it, and the steps you have in place to make adjustments to your work plan if performance targets are not met within established time frames. This factor reflects HUD's goal to embrace high standards of ethics, management, and accountability. Successful applicants will be required to periodically report on their progress in achieving the proposed outcomes identified in the application. Applicants should refer to the General Section for more information on the Master Logic Model.

Submission Requirements for Rating Factor 5

a. Past Performance (7 Points). For applicants that received SHOP grants in previous years, you must summarize your past performance, including any

delays you encountered and the mitigating actions taken to overcome them to successfully complete your program. HUD will measure your past performance using monitoring reports, audit reports, quarterly and annual reports, disbursement data, and other information currently in-house against what you stated you would do in your previous applications and your summary. New applicants must provide a summary of your performance in carrying out self-help housing, including any delays you encountered and the mitigating actions taken to overcome them to successfully complete your program. Your narrative summary must be supported by existing internal or external performance reports or other information that will assist HUD in measuring your performance for carrying out self-help housing. The supplemental reports and information must be included as an appendix and will not count against the page limitations.

b. Program Evaluation Plan (3 Points). For FY 2006, HUD has developed an e LogicModel™ that allows the applicant to select from drop down menus the elements of their program to be captured in the Logic Model. Instructions for the eLogic Model™ are found in Tab 1 of the form HUD–96011 found in the instructions download to your electronic application on *www.Grants.gov/Apply.* The Master Logic Model listing also identifies the unit of measure that HUD will collect for the output and outcome selected. Applicants must identify a unit of measure and establish a goal for each output and outcome. HUD expects applicants to identify more than one output and outcome. You must summarize your program evaluation plan that measures your own program performance. Your plan must measure the performance of individual consortium members and affiliates, including the standards and measurement methods, and the steps you have in place or how you plan to make adjustments if you begin to fall short of established benchmarks and time frames. For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment (ROI) statement. HUD will be publishing a separate notice on the ROI concept.

Review and Selection Process

1. Factors for Award Used To Evaluate Applications

HUD will evaluate all SHOP applications that successfully complete technical processing and meet threshold and submission requirements for Factors 1 through 5. The maximum number of points awarded for the rating factors is 100 plus the possibility of an additional 2 bonus points for RC/EZ/EC–II.

2. RC/EZ/EC–II Bonus Points

Applicants may receive up to 2 bonus points for eligible activities that the applicant proposes to locate in federally designated Empowerment Zones (EZs), renewal communities (RCs), or enterprise communities (ECs) designated by the United States Department of Agriculture (USDA) in Round II (EC–IIs) that are intended to serve the residents of these areas and that are certified to be consistent with the area's strategic plan or RC Tax Incentive Utilization Plan for an urban or rural renewal community designated by HUD (RC) on the strategic plan for an enterprise community designed in round II by USDA (EC–II) . For ease of reference in this notice, all of the federally designated areas are collectively referred to as ''RC/EZ/EC–IIs'' and the residents of these federally designated areas as ''RC/EZ/EC–II residents.'' The RC/EZ/EC–II certification, a valid HUD–2990 form, must be completed for an applicant to be considered for RC/EZ/EC–II bonus points. A list of RC/EZ/EC–IIs can be obtained from HUD's grants Web page at *www.hud.gov/offices/adm/grants/fundsavail.cfm.* Applicants can determine if their program or project activities are located in one of these designated areas by using the locator on HUD's Web site at *www.hud.gov/crlocator.* Copies of the certification can be found in the electronic application and on HUD's Web site at *http://www.hud.gov/offices/adm/grants/nofa05/snofaforms.cfm.* The certification must be completed and signed by the appropriate official in the RC/EZ/EC–II for an applicant to be considered for RC/EZ/EC–II bonus points. In addition to the RC/EZ/EC–II certification, applicants must provide the location of the EC/EZ/EC–II (name of town, city, state, or other locale) if not otherwise identified on the certification, and the number of units to be developed within the RC/EZ/EC–II in order to receive credit as noted in V.B.4, Ranking and Selection Procedures.

RC/EZ/EC–II bonus points will be awarded as follows: 2 Points to an applicant with over 25 percent of its proposed units in RC/EZ/EC–II; 1 point for 10 to 25 percent of units in RC/EZ/EC–IIs; and 0 points below 10 percent of units in RC/EZ/EC–II zones.

3. Rating

Applications that meet all threshold requirements listed in Section III.C will be rated against the criteria in Factors 1 through 5 and assigned a score. Applications that do not meet all threshold factors will be rejected and not rated.

4. Ranking and Selection Procedures

Applications that receive a total of 75 points or more (without the addition of RC/EZ/EC–II bonus points) will be eligible for selection. After adding any bonus points for RC/EZ/EC–IIs HUD will place applications in rank order. HUD will consider rank order, funds availability, and past performance in the selection and funding of applications.

5. Technical Deficiencies

After the application submission date and consistent with regulations in 24 CFR part 4, subpart B, HUD may not consider any unsolicited information you may want to provide. However, HUD may contact you to clarify an item in your application or to correct technical deficiencies. 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. However, HUD may not seek clarification of items or responses that improve the substantive quality of your response to any rating factor.

Examples of curable (correctible) technical deficiencies include inconsistencies in the funding request, a failure to submit certifications. In each case, HUD will notify you in writing by describing the clarification or technical deficiency. See the General Section for additional information.

6. HUD's Strategic Goals to Implement HUD's Strategic Frameworks and Demonstrate Results

See the General Section for HUD's Strategic Goals.

7. Policy Priorities

Refer to the General Section for information regarding application criteria addressing HUD's policy priorities.

Note: From all applications that receive SHOP funds, HUD intends to add relevant data obtained from the ''Removal of Regulatory Barriers'' policy priority factor to the database on state and local regulatory reform actions maintained at the Regulatory Barrier Clearinghouse Web site at *www.huduser.org.rbc/* used by states, localities, and housing providers to identify regulatory barriers and learn of exemplary local efforts at regulatory reform.

VI. Award Administration Information

A. Award Notices

1. HUD reserves the right to:

a. fund less than the amount requested by any applicant based on the application's rank, the applicant's past performance, and the amount of funds requested relative to the total amount of available funds; and/or

b. fund less than the full amount requested by any applicant to ensure a fair distribution of the funds and the development of housing on a national, geographically diverse basis as required by the statute.

HUD will not fund any portion of an application that is ineligible for funding under program threshold requirements in Section III.C. or which does not meet other threshold and pre-award requirements in Section III.C. The minimum grant award shall be the amount necessary to complete at least 30 units at an average investment of not more than $15,000 per unit or a lesser amount if lower costs are reflected in the application. If any funds remain after all selections have been made, these funds may be available for subsequent competitions.

2. Debriefing

For a period of at least 120 days, beginning 30 days after the awards for assistance are publicly announced, HUD will provide to a requesting applicant a debriefing related to its application. A debriefing request must be made in writing or by email by its authorized official whose signature appears on the SF–424 or his or her successor in the office and submitted to Ms. Lou Thompson, Office of Affordable Housing Programs, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7164, Washington, DC 20410–7000. Information provided during a debriefing will include, at a minimum, the final score you received for each rating factor, final evaluation comments for each rating factor, and the final assessment indicating the basis upon which assistance was provided or denied.

B. Administrative and National Policy Requirements

1. Grantees are required to comply with the following administrative and financial requirements: A–122 Cost Principles for Non-Profit Organizations; A–133 (Audits of States, Local Governments, and Non-Profit Organizations); and the regulations at 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations).

2. Copies of the OMB Circulars may be obtained from EOP Publications, Room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395–3080 (this is not a toll-free number) or (800) 877–8339 (toll-free TTY Federal Information Relay Service) or from the Web site at *www.whitehouse.gov/omb/circulars/index.html.*

3. Refer to all award administration information requirements described in Section VI (''Award Administration Information'') of the General Section.

C. Reporting

Grantees are required to submit quarterly and annual (consortium members/affiliates) reports providing data on the construction status, unit characteristics, and income and racial and ethnic composition of homeowners in SHOP-funded properties. For each reporting period, as part of the required quarterly report to HUD, grant recipients must include a completed Logic Model (form HUD–96010), which updates the output and outcome achievements identified in your application with which HUD can evaluate the effectiveness of the SHOP funding. Applicants are also required to report annually their response to the management questions contained in the eLogic model ™ for the SHOP program.

VII. Agency Contact

Further Information and Technical Assistance

Before the application due date, HUD staff may provide general guidance and technical assistance about this NOFA. However, staff is not permitted to assist in preparing your application. Also, following selection of applicants, but before awards are announced, staff may assist in clarifying or confirming information that is a prerequisite to the offer of an award. You may contact Ms. Lou Thompson, SHOP Program Manager, Office of Affordable Housing Programs, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7164, Washington, DC 20410–7000, telephone (202) 708–2684 (this is not a toll-free number). This number can be accessed via TTY by calling the toll-free Federal Information Relay Service Operator at (800) 877–8339. For technical support for downloading an application or electronically submitting an application, please call Grants.gov Customer Support at 800–518-GRANTS (this is a toll-free number) or e-mail to *support@grants.gov.*

VIII. Other Information

A. Review Section VIII.A., B., E., F., G., and H. (''Other Information'') of the General Section, and note that these subsections are incorporated by reference into this NOFA.

B. Paperwork Reduction Act

The information collection requirements contained in this document were 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 2506–0157. 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 60 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application, quarterly and annual reports, and final report. 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.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TARGETED AND ASSISTED HOUSING

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA)

Billing Code 4210-01-C

Housing Opportunities for Persons With AIDS (HOPWA) Overview Information

A. Federal Agency Name: Department of Housing and Urban Development, Office of Community Planning and Development (CPD), Office of HIV/AIDS Housing.

B. Funding Opportunity Title: Housing Opportunities for Persons With AIDS (HOPWA).

C. Announcement Type: Initial Announcement

D. Funding Opportunity Number: The Federal Register number is: FR–5030–N–05. The OMB approval number is 2506–0133.

E. Catalog of Federal Domestic Assistance (CFDA) Numbers: 14.241 Housing Opportunities for Persons With AIDS Program.

F. Dates: The application submission date is June 13, 2006. Refer to the General Section for application submission and timely receipt requirements.

G. Additional Overview Information:

1. *Purpose of the Program:* To provide states and localities with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of low-income persons with Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS). Grant recipients will measure client outcomes to assess how housing assistance results in creating or maintaining stable housing, reduces risks of homelessness, and improves access to healthcare and other needed support. States, units of general local government, and nonprofit organizations interested in applying for funding under this grant program should carefully review the General Section and detailed information listed in this NOFA.

2. *Available Funds.* Approximately $10,000,000 in FY2006 funding is made available under the Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109–115; approved Nov. 30, 2005). Funds for the renewal of expiring HOPWA competitive grants that have successfully undertaken permanent supportive housing projects will be distributed under a separate, simplified process, described in a separate notice from this NOFA. Funds under this NOFA will be made available after those awards with the remaining funds. This notice makes available funding for two types of HOPWA competitive grants for new projects: (1) Long-term project awards for housing activities to be conducted by eligible states and units of general local government in areas that are not eligible for formula allocations or in the balance of the state areas outside of eligible metropolitan statistical areas by a governmental agency that is not eligible to receive formula grants; and (2) awards for Special Projects of National Significance (SPNS) projects that will undertake housing service delivery models to provide HOPWA clients with improved stable housing arrangements by a governmental agency or an eligible non-profit organization.

Beginning this year, the Department will advise existing grantees that provide permanent supportive housing, the procedure for qualifying for additional funds as a renewal of an expiring HOPWA grant. These projects will not be required to submit an application under this competition for a renewal grant.

3. *Eligible Applicants.* States, units of general local government, and nonprofit organizations are eligible to apply.

4. *Match.* None.

5. *Authorities.* HOPWA Program regulations at 24 CFR Part 574 and the AIDS Housing Opportunity Act (42 U.S.C. 12901–12912), govern the program.

Full Text of Announcement

I. Funding Opportunity Description

A. Program Description

1. Long-Term Projects in Non-Formula Areas

HUD will award funding for short-term, transitional and/or permanent supportive housing activities. These projects should improve stable housing arrangements for eligible persons who reside in areas not eligible for HOPWA formula allocations or in the balance of state areas outside of eligible metropolitan statistical areas to be undertaken by a state or unit of general local government that is not eligible for a formula allocation in federal fiscal year 2006.

2. Special Projects of National Significance (SPNS)

Special Projects of National Significance (SPNS) projects will provide assistance that stabilizes housing for eligible persons through model and/or innovative service delivery models. Consistent with the selection considerations established at 42 U.S.C. 12903(c)(3)(C), SPNS projects will demonstrate potential replicability in the larger HOPWA program.

3. Definitions for All HOPWA Grants

a. *Chronically Homeless Person.* An unaccompanied homeless individual with a disabling condition who has either been continuously homeless for a year or more OR has had at least 4 episodes of homelessness in the past 3 years. For this program a disabling condition is defined as a diagnosable substance abuse disorder, serious mental illness, developmental disability, or chronic physical illness or disability, including the co-occurrence of two or more of these conditions.

b. *Lease or Occupancy Agreement.* In establishing that an eligible person has obtained permanent supportive housing and a legal right to remain in that housing unit, the lease or occupancy agreement must be for a term of at least one year. The lease or occupancy agreement must also be automatically renewable upon expiration, except on reasonable and timely prior notice by either the tenant or the landlord. A short-term lease or lease in the name of the provider may be used to undertake transitional housing activities.

c. *Non-profit Organization.* Non-profit organizations include those that: (1) Are state or locally chartered; (2) Are organized under state or local laws; (3) Have no part of earnings inuring to the benefit of any member, founder, contributor or individual; (4) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles, or has designated an entity that will maintain such an accounting system; and (5) Have among its purposes significant activities related to providing services or housing to persons with acquired immunodeficiency syndrome or related diseases, as clarified to include infection with the human immunodeficiency virus (HIV).

d. *Permanent Supportive Housing.* Housing in which the eligible person has a continuous legal right to remain in the unit and which provides the eligible person ongoing supportive services through qualified providers.

e. *Transitional Housing.* Housing, that will help facilitate the movement of eligible person(s) to permanent housing within 24 months.

B. Statutory and Regulatory Requirements

For more information on the HOPWA program, including eligible uses of funds, see the HOPWA program regulations at 24 CFR Part 574 and the AIDS Housing Opportunity Act (42 U.S.C. 12901–12912), which govern the program.

C. Availability of Other HOPWA Resources.

1. Formula Allocations

Applicants are advised to also consider seeking funds from the formula

component of the HOPWA program and from other resources. Ninety percent of the HOPWA program is allocated by formula to eligible states and qualifying cities. In FY2006, HUD distributed $256 million in HOPWA funds by formula to the qualifying cities for 83 eligible metropolitan statistical areas (EMSAs) and to 39 eligible states for areas outside of EMSAs.

2. National HOPWA Technical Assistance

To apply for funding to serve as a provider of HOPWA technical assistance, you must submit an application for funds under the Community Development Technical Assistance (CDTA) section of the SuperNOFA. The CDTA notice makes HOPWA funds available to organizations qualified to provide technical assistance support to HOPWA grantees and project sponsors. Organizations seeking help in managing their current HOPWA project, such as advice or other help needed in planning, operating, reporting to HUD and evaluating HOPWA programs, can request technical assistance by contacting their state or area CPD office.

II. Award Information

A. Total

The total available HOPWA competitive funding in FY2006 is $28,175,000. After first awarding funds to renew existing HOPWA permanent housing projects in FY2006, HUD estimates that approximately $10,000,000 will be available for new projects.

B. Announcement of Awards

HUD anticipates that projects awarded under this Notice will be announced by August 30, 2006. It is expected that selected projects will undertake program activities under a grant agreement for a three-year operating period.

C. Minimum and Maximum Grant Award

In order to fairly distribute available funding, the conditions on grant size for award that you may receive is:

1. For program activities (*e.g.*, activities that directly benefit eligible persons): at least $500,000 and up to $1,300,000 (*e.g.*, activities that directly benefit eligible persons);

2. For grant administrative costs of the grantee: 3 percent of the awarded grant amount (*e.g.*, an additional $39,000 if the maximum grant is awarded);

3. For grant administrative costs for project sponsors: 7 percent of the amounts received by the project sponsor under the grant (*e.g.*, an additional $91,000 if the maximum grant is awarded). A grantee cannot also receive project sponsor administrative costs even when the grantee carries out the program activities directly;

4. Total maximum grant amount for all categories of grant awards under this NOFA is $1,430,000.

D. Average Grant Award

Based on the results of the 2005 HOPWA competition, the average grant award for the 35 grants selected was $1,071,459.

III. Eligibility Information

A. Eligible Applicants

1. Eligibility for Funding to Nonprofit Organizations

If you are a nonprofit organization, you must also satisfy the nonprofit requirements established in the definition for eligible nonprofit organization found in 24 CFR 574.3 and in the definitions section of this Program NOFA.

2. General Eligibility for Expiring Grant Projects

To be eligible for a new grant for an existing HOPWA project—a project that does not qualify for renewal as a permanent supportive housing project—the project must meet all program requirements. Projects that show poor performance or unresolved grants management issues up to the date of the public announcement of awards under this NOFA will not be funded. Unresolved problems may include: (1) HUD knowledge that planned activities remain significantly delayed in their implementation; (2) A significant number of planned housing units are vacant; 3. Required annual progress reports are not timely filed with HUD; 4: Unresolved actions pending under a HUD notice of default on your current grant or significant citizen complaints are unresolved or not responded to with justified reasons.

3. General Eligibility for Applicants and Sponsors

States, units of general local government, and nonprofit organizations may apply under the SPNS grants category to propose new projects or for additional funding to existing projects that do not qualify as permanent supportive housing renewal grants.

States and units of general local government may apply under the ''Long-term'' category, if the project entails housing activities in areas that did not receive or are not designated to receive HOPWA formula allocations in FY2006 or the government agency is not eligible to receive formula funds will serve a balance of state area outside of any EMSA. Nonprofit organizations are not eligible to apply directly for Long-term grants, but may serve as a project sponsor for an eligible state or local government applicant.

B. Cost Sharing or Matching

There are no cost sharing or matching requirements for applications under this program NOFA. However, leveraging is encouraged and addressed in Rating Factor 4 Leveraging.

C. Other Eligibility Requirements

1. Threshold Requirements for All Applications

Applicants must meet the threshold requirement identified in the General Section. HUD will also review your application to determine that you are eligible for funding, as follows:

a. *Eligible Applicant.*

(1) Your application is consistent with the requirements of Section III of this NOFA for eligibility based on applicant requirements, project sponsor requirements and the lack of any unresolved management issues for applicants who currently administer HOPWA grants; and

(2) Your application complies with the Dun and Bradstreet Data Universal Numbering System (DUNS). More information on the requirement of the DUNS can be found in the General Section.

b. *Eligible Project Sponsors.* Your application is consistent with the requirements for eligibility of project sponsors, as follows:

If the project sponsor is a nonprofit organization, it must also satisfy the nonprofit requirements established in the definition of an eligible nonprofit organization found in 24 CFR 574.3 and in the definition section of this NOFA.

2. Program Requirements

All grant recipients must also meet the following program requirements, including performance goals and operational benchmarks, and conduct project activities in a consistent and ongoing manner over the approved grant operating period. If a selected project does not meet the appropriate requirement, HUD reserves the right to cancel and/or withdraw the grant funds.

a. *General Provisions.* The provisions outlined within the General Section apply to the HOPWA program unless otherwise stated within this NOFA. Specifically, you are encouraged to review Section III.C, *Other*

Requirements and Procedures Applicable to All Programs.

b. *Environmental Requirements.* All HOPWA assistance is subject to the National Environmental Policy Act and applicable related federal environmental authorities. While some eligible activities, such as tenant-based rental assistance, supportive services, operating costs, and administrative costs, are excluded from environmental review because of the lack of environmental impact, other activities require environmental review. All new facility-based projects must undergo an environmental review. In accordance with Section 856(h) of the AIDS Housing Opportunity Act and the HOPWA regulations at 24 CFR 574.510, environmental reviews for HOPWA activities are to be completed by responsible entities in accordance with 24 CFR Part 58. Applicants or grantees that are not a responsible entity must request the unit of general local government to perform the environmental review. HOPWA grantees and project sponsors may not commit or expend any grant or non-federal funds on project activities until HUD has approved a ''Request for Release of Funds and Certification'' (RROF), form HUD–7015.15, on compliance with the National Environmental Policy Act and implementing regulations at 24 CFR Part 58 (Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities) and the environmental certification from the responsible entity (other than those listed in 24 CFR 58.22(f), 58.34 or 58.35(b) for which the responsible entity documents its findings of exemption or exclusion for the environmental review record (24 CFR 58.34(b) or 24 CFR 58.35(d)). The recipient, its project sponsors and their contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project, or commit or expend HUD or local funds for such eligible activities, until the responsible entity (as defined in 58.2) has completed the environmental review procedures required by 24 CFR Part 58 and the environmental certification and RROF have been approved. HUD will not release grant funds if the recipient or any other party commits grant funds (*i.e.*, incurs any costs or expenditures to be paid or reimbursed with such funds) before the recipient submits and HUD approves its RROF (where such submission is required). The recipient shall supply all available, relevant information necessary for the responsible entity to perform, for each property, any environmental review required.

c. *Required HOPWA Performance Goals.* Grant recipients must conduct activities consistent with their planned annual housing assistance performance output goals, objectively measure actual achievements against anticipated achievements, and report on their actual performance housing outputs and client outcomes. Applicants are required to use the HOPWA Budget Form (form HUD–40110–B) found in the instructions to the published NOFA on Grants.gov/Apply in this NOFA for recording the funding for housing assistance activities that are associated with these performance outputs, including any funding request for HOPWA funds and/or commitment to use other funds for this purpose. This form is consistent with the new Annual Progress Report that grantees will be required to complete. Applicants must establish a reasonable client outcome goal on achieving housing stability to be quantified after each year of operation to demonstrate client outcomes. HUD expects that each HOPWA grantee will show that at least half of the beneficiaries achieve stable housing in their program during the operating year, as shown by stable housing arrangements for the household at the end of each operating year. The grantee will assist in establishing a baseline on annual performance to help measure how future efforts lead to the achievement of higher levels of housing stability. On a national basis, HUD has established the goal that over 80 percent of clients will be in stable housing situations by 2008. The following performance measures must be used in your project plan and your logic model under paragraph (e):

(1) Required Output refers to the number of units of housing/households assisted during the year, as measured by the annual use of HOPWA funds. For HOPWA, the application must specify one-year goals for the number of households to be provided housing through the use of HOPWA activities for: (a) short-term rent, mortgage, and utility assistance payments to prevent homelessness of the individual or family; (b) tenant-based rental assistance; and (c) units provided in housing facilities that are being developed, leased, or operated with HOPWA funds. You should also include the projected numbers of low-income eligible households who are expected to benefit from the other types of HOPWA assistance to be provided through your project during each operating year, such as the number receiving permanent housing placement support, or supportive services.

(2) Required Outcomes refer to the number of eligible households who have been provided housing assistance (as noted above for outputs) and thereby maintain a stable living environment in housing that is safe, decent, and sanitary. The program will measure these results in annual assessments on the housing status of beneficiaries along with other outcome measures on the reduced risks of homelessness and improved access to HIV treatment and other health care and support. On a nation-wide basis, the program is expected to demonstrate stable housing results for beneficiaries through the use of annual resources with a national goal that this stable housing status be achieved by 80 percent of all HOPWA beneficiaries by 2008.

d. *Optional Program Performance Goals.*

In addition to required performance measures described in the paragraph above, you may include other measures or annual indicators in your project plan and in your logic model under paragraph (e).

e. *HUD Logic Model.* You must use the Logic Model (Form HUD–96010) in the General Section to illustrate the planning for the use of resources, project activities, required outputs and outcomes, and other grantee-identified goals, and for reporting on annual accomplishments. Applicants must make use of the required elements in paragraph (a) in this form. If you are awarded a grant under this notice, please note that the logic model form will also be used as part of your Annual Progress Report to document results obtained under your approved plans during each operating year. For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment (ROI) statement. HUD will be publishing a separate notice on the ROI concept. Training on the logic model will be conducted via satellite broadcast and archived on HUD's Web site. The satellite broadcast and webcast date will be published on HUD's Web site. See Section VI, C Logic Model reporting requirements.

f. *HOPWA Facility Use Period Requirement.* Any building or structure assisted with amounts under this part will be maintained as a facility to provide assistance for eligible persons: (1) for not less than 10 years in the case of assistance involving new construction, substantial rehabilitation or acquisition of a building or structure; and (2) for not less than three years in cases involving substantial

rehabilitation or repair of a building structure.

g. *Execution of Grant Agreement and Obligation of Awards.* HOPWA grants are obligated upon execution of the grant agreement by both parties (*i.e.*, the recipient and HUD). Applicants selected to receive FY2006 funding must execute grant agreements as soon as practicable, but no later than six months after the notice of selection.

h. *Disbursement of Funds.* Grant recipients must fully expend their grant funding no later than three years following the effective date or the operation start date in the grant agreement, unless HUD has approved a one-time extension for an additional 12 months or less. A time limit on grant expenditures that is established in the National Defense Authorization Act for Fiscal Year 1991 requires the expenditure of all HOPWA funds awarded under the FY2006 Appropriations Act by September 30, 2012. After September 30, 2012, any unexpended funds shall be canceled and, thereafter, shall not be available for obligation or expenditure for any purpose.

i. *Site Control through Acquisition or Lease.* If you acquire or lease a site for housing activities, you are required to gain site control within one year from the date of your notice of selection by HUD.

j. *Rehabilitation or New Construction.* If you propose to use HOPWA funds for rehabilitation or new construction activities for housing projects, you must agree to begin the rehabilitation or construction within 18 months, and all rehabilitation or construction work must be completed within the terms of your grant agreement with HUD. Such activities will trigger certain accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and/or the Design and Construction requirements of the Fair Housing Act of 1988.

k. *Project Operations.* If funds are used for operating costs of existing housing facilities, you must agree to begin to use these funds within six months, consistent with the terms of your grant agreement with HUD. If funds are to be used for operating costs, in connection with the new construction or substantial rehabilitation of housing facilities, the amount of funds designated for operating costs must be limited to the amount to be used during the portion of the planned three-year period for your grant agreement for which the facility will be operational and assisting eligible. Delays in the project's development activities, such as the planned completion of the construction or rehabilitation activities, could result in the loss of funds designated for operating costs, if such funds remain in excess after the authorized use period for this award. For example, if you expect to take two years to complete the rehabilitation of the facility, any operating costs could only be requested for use in the remaining one-year of the planned three-year operating period for this award.

l. *Section 3 of the Housing and Urban Development Act of 1968.* The applicant will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701 (u), and regulations pursuant thereto (24 CFR Part 135), which require that to the greatest extent feasible opportunities for training and employment be given to lower-income residents of the project and contracts for work in connection with the project be awarded in substantial part to persons residing in the area of the project.

3. Eligible Activities

a. *Proposed Project Activities.* In your application, you must specify the activities and budget amounts for which HOPWA funds are being requested, consistent with the eligible activities found in the HOPWA regulations at 24 CFR 574.300. Activities must address housing needs of eligible members of the community and specify whether the project will be undertaking permanent, transitional, short-term and/or emergency housing assistance. A copy of the regulations may be downloaded from *www.hud.gov/offices/cpd/aidshousing/lawsregs/index.cfm.* You are encouraged to review the HOPWA regulations before seeking funding. HUD *will not* approve proposals that depend on a prospective determination as to how program funds will be used. For example, a proposal to establish a local request-for-proposal process to select either activities, or to select project sponsors, that have the effect of delaying the obligation of funds due to the unplanned use of HOPWA funds, will not be approved.

b. *Additional Guidance on Use of Program Funds.*

(1) *Housing Assistance.* HOPWA projects must demonstrate that housing assistance is the main focus of program activities. Please indicate if you propose to use HOPWA funds to provide permanent supportive housing (as defined in Section I.A.). If you are proposing emergency or transitional housing assistance, your plan must include linkages to permanent supportive housing. See 24 CFR 574.300(b)(8) for descriptions of appropriate operating costs for a housing project.

(2) *Supportive Services.* Many of the eligible persons who will be served by HOPWA may need other support in addition to housing. It is important that you design programs that enhance access to those existing mainstream resources through community wide strategies to coordinate assistance to eligible persons. These mainstream programs include: the Ryan White CARE Act; Medicaid; Children's Health Insurance Program; Temporary Assistance for Needy Families; Food Stamps; Mental Health Block Grant; Substance Abuse Block Grant; Workforce Investment Act; and the Welfare-to-Work grant program; as well as other state, local and private sources. No more than 35 percent of the proposed budget for program activities undertaken by project recipients can be designated for supportive services costs. In addition, HUD will not award funds for the acquisition, lease, rehabilitation, or new construction of a supportive services-only facility. Additional restrictions and limitations that apply to supportive services such as limitations addressing only uncompensated healthcare costs can be found at 24 CFR 574.300. HUD will not provide funds for medications or other health-care costs reasonably available from other sources. Costs for staff engaged in delivering the supportive service is part of the supportive service activity cost, and should not be listed as operating costs or ''other'' costs in the application's proposed HOPWA budget.

(3) *Permanent Housing Placement Assistance.* Permanent housing placement at § 574.300(b)(7) may also be used in connection with the provision of housing support provided under these awards and is not considered a supportive service under limitations stated in paragraph (2). Permanent housing placement costs may involve costs associated with helping eligible persons establish a new residence where ongoing occupancy is expected to continue, including rental application fees, related credit checks and reasonable security deposits necessary to move persons to permanent housing, provided such deposits do not exceed two months of rent. Leveraged resources may involve other forms of move-in support, such as essential housing supplies, smoke alarms, standard furnishings, minor repairs to the unit associated with move-in, and other incidental costs for occupancy of the housing unit. While these items are not eligible as permanent housing placement costs, grantees may make use of other leveraged funds for these costs.

(4) *Other HUD-Approved Activities.* You may propose other activities not already authorized at 24 CFR 574.300(b), subject to HUD's approval. Your proposal should address the expected beneficial impact of this alternative activity in addressing housing needs of eligible persons by describing the project impact and the identified performance output and client outcome measures for this activity.

IV. Application and Submission Information

A. Addresses To Request Application Package

Copies of the published NOFAs and application forms for HUD programs announced through NOFA are available at the Grants.gov Web site, *http://www.grants.gov/Apply* If you have difficulty accessing the information, customer support is available from Grants.gov by calling their Support Desk at (800) 518–4726 from 8 a.m.–9 p.m. eastern time or sending an email to *support@grants.gov.* If you do not have Internet access and need to obtain a copy of the NOFA, you can contact HUD's NOFA Information Center toll-free at (800) HUD–8929. Persons with hearing or speech impairments may also call toll-free at (800) HUD–2209.

B. Content and Form of Application Submission

By signing the SF–424, applicants are agreeing to the assurances found in the General Section. If conditionally selected for funding, the following certifications as noted must be provided prior to the signing of a grant agreement. Standard certifications and forms are found in the General Section and the HOPWA budget and certification (form HUD–40110–B), is included in the appendices in this NOFA. Copies of these forms are available from HUD's Web site at *http://www.hudclips.org/sub_nonhud/html/forms.htm.*

1. Forms

Applicants are requested to submit the following information:

a. *Application for Federal Assistance (SF–424) (Required)*

b. *Survey on Ensuring Equal Opportunity for Applicants (SF–424 Supplement) (Optional).*

c. *Program Outcome Logic Model (HUD–96010) (Required).*

d. *Certification of Consistency with the Consolidated Plan (HUD–2991) (Required prior to the signing of a grant agreement).*

e. *Certification of Consistency with the RC/EZ/EC–II Plan (HUD–2990)—if applicable to the service area of your project (Optional).*

f. *Applicant/Recipient Disclosure/Update Report (HUD–2880) (required prior to the signing of a grant agreement) (Required).*

g. *Disclosure of Lobbying Activities (SF–LLL)*, if applicable (required prior to the signing of a grant agreement).

h. *HOPWA Application Budget Summary, including HOPWA Applicant Certifications* (form HUD–40110–B) (Required).

i. *Acknowledgement of Application Receipt (HUD–2993)*, if applicable due to an approved waiver of the electronic submission requirement (Optional).

j. *Client Comments and Suggestions (HUD–2994)* (Optional).

k. *Facsimile Transmittal (for electronic applications)—Form HUD–96011, if applicable due to a facsimile transmission.*

2. Additional HOPWA Guidance on Forms

HOPWA Application Budget Summary (form HUD–40110–B). Do not complete the standard budget form contained in the General Section. Applicants must use this program-specific budget form (HUD–40110–B, HOPWA Budget Application Summary) that demonstrates how funds will be used for eligible activities. The HOPWA HUD–40110–B will provide a summary of the total budget for your project, the annual HOPWA amounts to be used in each of the three years of operation and description budget by project sponsor of the HOPWA funds to be used by each sponsor. On this form, you must provide a short narrative which outlines each of your requested budget line items and how the funds will be used, including the amount of requested funding by line item for you and your project sponsors.

b. *Certification of Consistency with the Consolidated Plan (HUD–2991).* Except as stated below, you must obtain a Consolidated Plan certification signed by the applicable state or local government official for submitting the appropriate plan for the areas in which activities are targeted. This form must be submitted to HUD prior to the signing of a grant agreement. The authorizing official from the state or local government must sign this certification. If your project will be carried out on a national basis or will be located on an Indian reservation or in one of the U.S. Territories of Guam, the Virgin Islands, American Samoa, or the Northern Mariana Islands, you are not required to include a Consolidated Plan certification from these areas with your application.

3. Application Content for Long-term and Special Projects of National Significance (SPNS) Project Applications

The review criteria for Long-term, and SPNS applications can be found in Section V.A. of this NOFA. For your narrative responses, number the pages and include a header or a footer that provides the name of the applicant or the project.

a. *Executive Summary.* On no more than two double-spaced pages, provide an Executive Summary of the proposed project. The summary should provide an overview of the main components of your planned HOPWA project, any special service delivery method or project purposes and the projected annual housing output for the first year of operation. In the Executive Summary, provide the name of the grantee and any project sponsors, along with contact names, phone numbers, and e-mail addresses.

For projects involving sites, (*e.g.*, a structure where HOPWA funds will be used for construction, acquisition, rehabilitation, leasing, operating costs, and/or project-based rental assistance) provide the address of the site and describe any other resources that are needed to complete the development of this housing facility. Please identify if the site is a Confidential Site or a Public Site. (HUD will not release the address of confidential sites).

Please indicate which of the following special populations your project will serve by operating a project that intentionally targets assistance. Further, indicate the number of special population households likely to be assisted through the housing assistance planned in your project:

- Homeless persons (and of those, identify how many are chronically homeless)
- Veterans

Note: HUD will use your responses regarding special population to respond to public inquires).

b. *Proof of Nonprofit Status and AIDS Purpose.* Excluding situations where non-profit documentation was submitted to HUD under prior HOPWA awards and there has been no change in project sponsor(s), all conditionally selected applicants must provide a copy of the nonprofit documentation for each sponsor that is a non-profit organization consistent with the standards under paragraph (1) prior to the signing of a grant agreement. Conditionally selected applicants must also provide documentation consistent with paragraph (2) below prior to the signing of a grant agreement to demonstrate that

each sponsor's organizational documents include a purpose of significant activities related to providing housing or services to persons with HIV/AIDS. For submission of the documentation in paragraphs (1) and (2) on paper forms, you should follow the directions in the General Section, with the exception of the budget forms.

(1) HUD will accept as evidence of your nonprofit status:

(a) A copy of the Internal Revenue Service (IRS) ruling providing tax-exempt status under Section 501(c) (3), (4), (6), (7), (9) or (19) of the IRS code;

(b) A ruling from the Treasury Department of the Commonwealth of Puerto Rico granting income tax exemption under section 101 of the Income Tax Act of 1954, as amended (13 LPRA 3101);

(c) Documentation that the applicant is a certified United Way agency;

(d) Copy of your most recent completed tax statement, Form IRS–990 or Form 990–EZ;

(e) All of these:

(i) a certification by the appropriate official of the jurisdiction where the nonprofit was organized that your organization was organized as a non-profit organization and is in good standing;

(ii) a certification from a designated official of the organization that no part of the net earnings of the organization inures to the benefit of any member, founder, contributor, or individual; that the organization has a voluntary board; and that the organization practices nondiscrimination in the provision of assistance in accordance with applicable program requirements; and

(iii) an opinion letter from an independent public accounting (IPA) firm that the nonprofit has a functioning accounting system that provides for each of the following:

(A) Accurate, current, and complete disclosure of the financial results of each federally funded project;

(B) Records that identify adequately the source and application of funds for federally funded activities;

(C) Effective control over and accountability for all funds, property and other assets;

(D) Comparison of outlays with budget amounts;

(E) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the use of funds for program purposes;

(F) Written procedures for determining reasonableness, allocable, and allowable costs; and

(G) Accounting records including cost accounting records that are supported by source documentation.

(2) We will also accept as evidence of your organization's HIV/AIDS-related purpose, a copy of the organization's articles of incorporation and by-laws, mission statement, program management plan, or other organizational policy document which evidences the organization's activities or objectives related to providing services or housing to persons with HIV/AIDS.

c. *Capacity of Applicant and Project Sponsors and Relevant Organizational Experience Narrative.* On no more than five double-spaced typed pages or similar chart or table for the Applicant, and no more than two double-spaced pages or similar chart or table per additional sponsor, demonstrate the extent to which you and any project sponsor(s) have the organizational resources necessary to successfully implement your proposed activities in a timely manner.

d. *Need/Extent of the Problem Narrative.* On no more than five double-spaced typed pages or similar chart or table define your planned service area and demonstrate the need for funding eligible activities in the area to be served.

e. *Soundness of Approach: Model Qualities and Responsiveness/ Coordination Narrative.* On no more than ten double-spaced typed pages or similar chart or table, address the method by which your plan meets your identified needs. Demonstrate how your project will provide its planned activities through HOPWA and other resources, and how it will serve as a model with exemplary qualities to address the ongoing housing and supportive service needs of eligible persons within a replicable operational framework.

f. *Documentation of Leveraged Resources.* As described in paragraph 4 of this section, to receive a leverage score for your project, provide a detailed chart of commitments that you have obtained and have on file that provides evidence of your ability to secure community resources for operating and sustaining your housing project.

g. *Achieving Results and Program Evaluation Narrative.* To complement the use of the Logic Model form, in no more than three double-spaced typed pages or similar chart or table, provide a supplemental optional narrative that may detail or further demonstrate your commitment to ensuring that the goals that you set forth and your performance will be assessed in a clear and effective manner. Address how you will implement the HOPWA Program goals and identify the benefits or outcomes of your program including details on your activities, benchmarks, and interim activities or performance indicators shown in the Logic Model. Provide comments as may be needed on details for an evaluation plan that will objectively measure actual achievements against anticipated achievements.

4. Application Content on Leveraging for All Types of Applications

To receive consideration for leveraged resources, all types of applications must include information on the commitments from other state, local, federal, or private entities to provide additional resources in operating and sustaining your planned activities to support project beneficiaries. Other HOPWA funds, such as formula allocations, may *not* be used for this purpose in determining leveraging. To receive a score for leveraging, any project must provide a list in a chart with information on the nature of the secured leveraged commitments that you have in hand at the time of your application submission to HUD. You may also describe a plan for how the project will continue to operate in future years, with a decreased reliance on these federal resources.

As a change from prior year competitions, you should not submit an electronic copy or facsimile transmittal of these letters of commitment with your HOPWA application, but should use these letters or documents to report on the information requested below. The applicant must retain in its files all of the leveraging letters or documents and a conditionally-selected applicant may be required to provide HUD with a copy or other evidence of these letters or documents as part of the conditions for receiving HOPWA funds.

In the application, provide information only for contributions for which you have a written commitment in hand at the time of application. A written agreement could include signed letters, memoranda of agreement, and other documented evidence of a firm commitment for resources to be available during the operating period of your project, if selected for award. Leveraging items may include any written commitments that will be used towards your leveraging of the project, as well as any written commitments for buildings, equipment, materials, services and volunteer time. The value of commitments of land, buildings and equipment are one-time only and cannot be claimed by more than one selected project (*e.g.*, the value of donated land, buildings or equipment claimed in 2005 and prior years for a project that was selected for funding cannot be claimed as leveraging by that project in

subsequent competitions). The written commitments must be documented on letterhead stationery, signed by an authorized representative, dated and in your possession prior to the deadline for submitting your application.

The Department will periodically monitor the use of your commitments by requiring the collection of information in annual progress reports to establish that the leveraged resources are being used, as committed, in undertaking the project. Failure to provide evidence of these commitments or the related use of these additional resources in operating your project could result in a notice of default and affect the project's continued access to federal funds awarded under this NOFA.

C. Submission Dates

Application Deadline Date. Your completed application must be submitted, received and validated electronically by Grants.gov no later than 11:59:59 p.m. eastern time on the submission date for HOPWA found in the General Section. Failure to meet the appropriate submission and receipt date requirements will result in the application being ineligible for funding under this NOFA. Please follow the application submission and timely receipt requirements that are established in the General Section.

All parts of an electronic application must be submitted via the Grants.gov portal with additional documentation as called for in this NOFA provided via electronic facsimile transmittal in accordance with the requirements stated in the General Section. For electronic applications, HUD will not accept parts of an application submitted through the mail or entire applications by facsimile. For applications receiving a waiver of the electronic application submission requirements, the entire application must be submitted in hard paper copy format with the required number of copies.

D. Intergovernmental Review

The HOPWA program is not subject to Executive Order (EO) 12372, Intergovernmental Review of Federal Programs.

E. Funding Restrictions

1. Limitations on Maximum Grant Amounts

Your request for funding must be consistent with the following limitations on minimum and maximum grant amounts:

a. *For program activities* (*e.g.*, activities that directly benefit eligible persons): At least $500,000 and a maximum of $1,300,000, subject to the limitations in this section;

b. *For grant administrative costs of the grantee:* A maximum of no more than an additional $39,000, subject to the limit on administrative costs of three percent of the amount requested for project activities in your application for grantees.

c. *For grant administrative costs for project sponsors:* A maximum of no more than an additional $91,000, subject to the limit on administrative costs of seven percent of the amount requested for project activities to be conducted by project sponsors in your application. (Note an applicant that will serve as a grantee, but carryout activities directly without a third-party project sponsor, cannot add amounts from this paragraph to its eligible amount under paragraph (b) above.)

d. *Total for maximum grant amount:* $1,430,000, as subject to applicable limitations in this section and if funds are requested for a term of less than three years, HUD reserves the right to reduce these amounts in a proportionate manner.

2. Limitation on Supportive Services

Your request for the supportive services line item in program activities must be consistent with the program limits of not more than 35 percent of the proposed budget for program activities undertaken by project recipients. Consistent with the standards on *Leveraging*, of this NOFA, requests for supportive services must be leveraged with commitments to provide supportive services in order to qualify an applicant for the maximum leveraging score.

3. Limitation on Prospective Determinations

HUD *will not* approve proposals that depend on a prospective determination as to how program funds will be used. More specifically, proposals to establish a local request-for-proposal process to select either activities or project sponsors, and other similar proposals that have the effect of delaying the obligation of funds due to the unplanned use of HOPWA funds, will not be approved.

4. Limitation on Ineligible Activities

HUD will not provide funds under this notice for the purposes of conducting resource identification activities to establish, coordinate and develop housing assistance resources, and/or technical assistance for community residence activities, since these types of activities are funded through the national HOPWA technical assistance funds being made available under the Community Development Technical Assistance (CDTA) NOFA. HUD will not provide additional funds for data collection on project outcomes; as such activities in collecting performance data and reporting to HUD are required as a central grants management function, which is already covered under administrative costs. Further, eligible HOPWA costs do not involve costs for personal items, such as grooming, clothing, pets, financial assistance, consumer credit payments, entertainment activities, personal vehicle maintenance and repairs, property taxes, condominium fees and other non-housing-related costs. Eligible costs are also subject to additional HOPWA standards at 24 CFR Part 574.

F. Other Submission Requirements.

1. Electronic Delivery

HUD requires applicants to submit applications electronically through *www.grants.gov.* See Section IV.F. of the General Section for instructions for submitting leveraging documentation, certifications, and other required forms.

2. Waivers to the Electronic Submission Process

Applicants may request a waiver of the electronic submission process (see the General Section for more information). Applicants who are granted a waiver must submit their applications in accordance with the requirements stated in the approval to the waiver request. Please see the General Section for detailed mailing and delivery instructions.

V. Application Review Information

A. Criteria

1. Criteria for Project Applications

a. *Departmental Policy Priorities.* As outlined in the General Section, HUD has identified policy priorities that project applicants are encouraged to address through their proposed project plans. HUD has identified five Departmental policy priorities as being applicable for new HOPWA projects. Applications for HOPWA funding will receive rating points for each applicable Department policy priority initiative addressed through the proposed program activities and performance goals and objectives. Applicants must demonstrate how these priorities will be addressed through the Soundness of Approach of the application as outlined under Rating Factor 3. Under the points available for Rating Factor 3, one or two Rating Points, as specified below, will

be awarded for each of the following addressed priorities:

(1) In accordance with the General Section, for applicants seeking HOPWA funds for capital development activities, including rehabilitation or new construction, for one rating point under project soundness of approach, you are encouraged to institute visitability and universal design standards in these activities undertaken with HOPWA funds. Visitability standards allow a person with mobility impairments access into the home, but do not require that all features be made accessible; and such standards incorporate universal design in the construction or rehabilitation of housing undertaken with HOPWA funds. Universal design provides housing that is usable by all without the need for adaptation or specialized design.

(2) For one rating point under project soundness of approach, you are encouraged to propose projects in which the grantee, or the project sponsor(s), fulfills the policy priority for being a nonprofit grassroots community-based organization, including faith-based organizations, as defined in the General NOFA.

(3) For one rating point under project soundness of approach, you are encouraged to propose applications in which the grantee, or project sponsor(s), commits to follow the Energy Star standard in any new construction, or rehabilitation activity, or maintaining housing or community facilities to be undertaken in the proposed project with HOPWA or other funds. You are encouraged to undertake program activities that include developing energy star promotional and information materials, providing outreach to low- and moderate-income renters and buyers on the benefits and savings when using Energy Star products. The Energy Star standard is as defined in the General Section.

(4) For up to two rating points under project soundness of approach, you are encouraged to propose an application in which the grantee, or project sponsor(s), if it is a state or local government agency, as defined in the General Section, completes the regulatory barriers policy questionnaire and provides the required documentation or provides a website URL where the information can be readily found.

(5) For up to two rating points under project soundness of approach, you are encouraged to propose an application in which the grantee or project sponsor(s) demonstrate in their applications how they were incorporating Section 3 principles into their projects with goals for expanding opportunities for Section 3 residents and business concerns. As defined in Section V of the General Section, the purpose of Section 3 is to ensure that employment and other economic opportunities generated by federal financial assistance for housing and community development programs, shall, to the greatest extent feasible, be directed toward low and very-low income persons.

b. *Program Policies—Target Population.* Prior to the award of other projects, HUD reserves the right to select the two highest rated applications (but not any that are rated at less than 75 points) that demonstrate that the planned HOPWA activities and activities supported by leveraged funds will serve the special population of HOPWA eligible person who are chronically homeless persons with HIV/AIDS. Persons who are infected with HIV are more likely to be able to follow complex treatment regimens if they have a reliable address where they can be reached by care providers, a safe place to keep medications, refrigeration for drugs that require it, and other necessities that many of us take for granted. HUD is encouraging applications that strive to create additional models for permanent housing for eligible persons living with HIV/AIDS that are experiencing chronic homelessness. Applicants must work collaboratively with the local Continuum of Care Plans to create these models for persons living with HIV/AIDS and their families and demonstrate a plan for the integration of HOPWA activities with those systems such as the use of HMIS. HMIS participation is required for all recipients of award funding under this NOFA whose projects intentionally target HOPWA eligible persons who are homeless or chronically homeless. In a number of Continuum of Care communities, HOPWA projects are directly involved in providing outreach, assessment, housing and supportive services to HOPWA eligible persons who are homeless at the time they enter into program support. HMIS activities or the use of related information technology systems may already be operating to support the delivery of housing information services to these HOPWA clients.

c. *Application Selection Process for Projects*

Rating Factor 1: Capacity of the Applicant and Project Sponsors and Relevant Organizational Experience (20 Points) (Minimum for Funding Eligibility—14 Points)

Address the following factor using not more than five (5) double-spaced, typed pages or similar chart or table. For each project sponsor, you may add two additional pages. This factor addresses the extent to which you and any project sponsor have the organizational resources necessary to successfully implement your proposed activities in a timely manner. If you will be using project sponsor(s) in your project, you must identify each project sponsor in your application. HUD will award up to 20 points based on your and any project sponsor's ability to develop and operate your proposed program in relation to which entity is carrying out an activity.

1. With regard to both you and your project sponsor(s), you should demonstrate:

(a) Past experience and knowledge in serving persons with HIV/AIDS and their families;

(b) Past experience and knowledge in programs similar to those proposed in your application including HOPWA formula funding;

(c) Experience and knowledge in monitoring and evaluating program performance and disseminating information on project outcomes; and

(d) Past experience as measured by expenditures and measurable progress in achieving the purpose for which funds were provided.

2. In reviewing the elements of the paragraph above, HUD will consider:

(a) The knowledge and experience of the proposed project director and staff, including the day-to-day program manager, consultants, and contractors in planning and managing the proposed activities. You and any project sponsor will be judged in terms of recent, relevant, and successful experience of staff in undertaking eligible program activities.

(b) Your and/or the project sponsor's experience in managing complex interdisciplinary programs, especially those involving housing and community development programs directly relevant to the work activities proposed and carrying out grant management responsibilities.

(c) If you and/or the project sponsor received funding in previous years in the program area for which you seek funding, those past experiences will be evaluated in terms of the ability to attain demonstrated measurable progress in the implementation of your grant awards. Measurable progress is defined as:

(i) Meeting applicable performance benchmarks in program development and operation;

(ii) Meeting project goals and objectives, such as the HOPWA output for number of homeless assisted in

comparison to the number that was planned at the time of the application;

(iii) Submitting timely performance reports; and

(iv) Expending prior funding as outlined in the existing HOPWA grant agreement with HUD with no outstanding audit or monitoring issues.

Applicants must receive a minimum of 14 points in Rating Factor 1 to be eligible for funding under this NOFA.

Rating Factor 2: Need/Extent of the Problem (15 Points)

Address the following factor using not more than five (5) double-spaced, typed pages or similar chart or table. Up to 15 points will be awarded for this factor.

a. AIDS Cases (5 Points). You must define your planned service area. HUD will obtain AIDS surveillance information pertinent to that area from the Director of the Centers for Disease Control and Prevention. Up to five points will then be awarded based on the relative numbers of AIDS cases and per capita AIDS incidence within your service area, in metropolitan areas of over 500,000 population and in areas of a state outside of these metropolitan areas, in the state for proposals involving state-wide activities, and in the nation for proposals involving nation-wide activities.

b. Description of Unmet Housing Need (10 Points). Up to ten points will be awarded based on demonstration of need for funding eligible housing activities in the area to be served. To receive the maximum points, demonstrate that substantial housing and related service needs of eligible persons and/or the target population, as outlined in Section V.A., are not being met in the project area and that reliable statistics and data sources (i.e. Census, health department statistics, research, scientific studies, and Needs Analysis of Consolidated Plan and/or Continuum of Care documentation) show this unmet need. To receive the maximum points, show that your jurisdiction's Consolidated Plan and Analysis of Impediments to Fair Housing Choice, Continuum of Care Homeless Assistance plans (if homeless persons are to be served), and comprehensive HIV/AIDS housing plans are applicable to your project and identify the level of the problem and the urgency of the need.

(1) If you apply for a SPNS grant, you must describe a housing need that is not currently addressed by other projects or programs in the area including reference to the area's existing HOPWA programs. You must further describe how the planned activity will complement these in a manner that is consistent with the community's plan for a comprehensive and coordinated approach to housing needs of persons living with HIV/AIDS which establishes stable housing for clients and helps foster greater self sufficiency and independence. Also, describe any unresolved or emerging issues and the need to provide new or alternative forms of assistance that, if provided, would enhance your area's programs for housing and related care for persons living with HIV/AIDS and their families. You must also describe how your project will enhance the community's Consolidated Plan strategies for providing affordable housing and access to related mainstream services to HOPWA eligible persons; or

(2) If you apply as a Long-term project that will operate in a non-formula area or balance of state area, you must describe the housing need that is not currently addressed by other projects or programs in the area including any HOPWA competitive grants or other HIV/AIDS housing projects and how the planned activity will complement these in a manner that is consistent with the community's plan for a comprehensive and coordinated approach to housing needs of persons living with HIV/AIDS. You must also describe any unresolved or emerging issues and/or the need to provide forms of assistance that enhances the community's strategy for providing housing and related services to eligible persons.

HUD will evaluate your presentation of statistics and data sources based on soundness, reliability, and the specificity of information to the target population and the area to be served. If you propose to serve a subpopulation of eligible persons on the basis that these persons have been traditionally and are currently underserved (e.g., persons with multiple disabilities including AIDS or chronically homeless eligible persons), your application must demonstrate the need for this targeted effort through statistics and data sources that support the need of this population in your service area. Programs may serve a qualified subpopulation of persons with AIDS based on the presence of another disability or group of disabilities, only if doing so is necessary to provide this subpopulation with as effective housing, benefits, aid, or services as that provided to others. See 24 CFR 8.4(b)(1)(iv).

Rating Factor 3: Soundness of Approach: Responsiveness, Coordination and Public Policy Priorities, and Model Qualities (45 Points)

Address this factor on not more than ten (10) double-spaced, typed pages or similar chart or table. Include the HOPWA Budget Forms found in Appendix A. This factor addresses the method by which your plan meets your identified needs. HUD will award up to 45 points (15 for responsiveness, 5 for coordination, 7 for public policy priorities, and 18 for model qualities) based on the extent to which your plan evidences a sound approach for conducting the HOPWA activities in a manner that is responsive to the needs of eligible persons and that your plan for project coordination will offer model qualities in providing supportive housing opportunities for eligible persons with access to mainstream health and human welfare services, when compared to other applications and projects funded under previous HOPWA competitions.

a. Responsiveness, Coordination, and Public Policy Priorities (25 Points). HUD will award up to 25 points (Responsiveness—15 Points and Coordination—5 Points and Public Policy Priorities—7 Points) based on how well your project plans respond to the unmet needs in housing and related supportive services for the eligible population, including target populations outlined under Section V.A. You should demonstrate the extent to which you have coordinated your activities and the activities of your project sponsors with other organizations that are not directly participating in your proposed work activities. This involves organizations with which you share common goals and objectives in assisting eligible persons. In order to ensure that resources are used to their maximum effect within the community, it is important that you demonstrate collaboration and leveraging of other resources from state, local, and private funding resources.

(1) *Responsiveness (15 Points).* To receive the highest rating in this element your application must address:

- The projected number of persons to be served through each activity for each year of your program;
- The projected number of housing units, by type, to be provided through your project, by year, over a 3-year period; and
- The specific organizations, either through an agreement with your organization or through funding from your project, that will provide housing, and agreements with organizations that will provide mainstream supportive services, or other activities.

Include a description of the roles and responsibilities of your project sponsors and/or other organizations within your project plan and how these will be coordinated in conducting eligible

activities. To receive the maximum points for your project plan, you must explain and describe the eligible housing activities you or your project sponsor intend to conduct, where these activities will take place (either on site or at another location), and how those activities will benefit eligible persons. Please describe:

(a) *Housing Activities.* You must demonstrate how the emergency, transitional, or permanent housing needs of eligible persons will be addressed through one or more of the HOPWA eligible activities and through any other resources and how such activities are coordinated with other available housing assistance. Your plan for housing assistance must include:

(i) *Access to permanent supportive housing for applicants.* In proposing a housing project, you must describe how eligible persons will access permanent housing and/or use emergency, short-term and transitional housing support through your project and through any specific commitments with other community housing providers. If your project involves some initial emergency or transitional assistance for clients, please describe your plans to facilitate the movement of eligible persons receiving this emergency or transitional housing support to permanent housing or independent living arrangements within 24 months.

(ii) Permanent housing placement. If you use funds to help beneficiaries secure new housing units, please describe your plans to use funds and the related housing outputs for these permanent housing placement services (under that budget line item) such as costs for first month's rent and security deposits;

(iii) *Description of Housing Site.* You must describe any appropriate site features including use of universal design, accessibility, visitability, and access to other community amenities associated with your project.

(iv) *Development and Operations Plan.* You must describe a development and/or operations plan for the emergency, transitional, or permanent housing assistance you are proposing to provide. For rental assistance programs, this will include your plan for providing rental assistance, proposed housing sites if project-based, and length of stay if less than ongoing permanent supportive housing. If you are proposing to use HOPWA funds for the acquisition, rehabilitation, or new construction of a housing facility, your plan must also document that you have secured other funding sources, including plans for coordinating the use of other resources that are committed to meeting leveraging, have significant progress on an identified and secured project site(s), and must provide rehabilitation/construction timelines consistent with the three year use of grant funds. The project must be cost effective, including costs not deviating substantially from the norm in that locale for the type of structure or kind of activity. HOPWA funds are not intended for use as the initial or sole funding source for capital development housing projects.

(v) *Operational Procedures.* Describe your outreach, intake, engagement and assessment procedures, as well as how eligible persons will receive housing support with access to medical care and other supportive services provided by other organizations. Describe the use of housing being funded from other sources, and how your project provides for ongoing assessments of the housing service benefits received by eligible persons. Include a description of how a client moves through the housing program from outreach, intake, client assessment, the delivery of housing services, the use of emergency, transitional, or permanent housing, and when appropriate, the outplacement to more self-sufficient independent housing. If persons who are homeless are to be assisted, including persons who are chronically homeless, describe the housing activities and necessary support to identify, prioritize and respond to their supportive housing needs in coordination with other area assistance for persons who are homeless. Also address the number of permanent housing beds for the chronically homeless that would become available for occupancy during each of your project operating years.

(b) *Supportive Service Activities.* You must describe how the supportive service needs of eligible persons will be addressed with HOPWA assistance (subject to applicable limitations) and the use of any additional leveraged resources by describing the type of supportive services that will be offered directly by the program and/or how agreements and project plans will assure that services will be accessed and coordinated from other mainstream health and human welfare sources. Explain the connection of these services in helping eligible persons obtain and/or maintain stable housing. Supportive service costs may represent no more than 35 percent of your proposed budget for program activities. In describing your supportive services delivery plan explain:

(i) How agreements provide that eligible persons will have access to mainstream programs that offer healthcare and other supportive services;

(ii) How project plans ensure that eligible persons will participate in decision making in the project operations and management; and

(iii) Your plan for delivering supportive services through a comprehensive plan that shows how agreements provide that eligible persons access medical care and other mainstream supportive services to address their needs.

(c) *Additional HOPWA Activities.* You must describe your plan for utilizing other requested HOPWA funds (described at 24 CFR 574.300(b)). Explain how these activities will be integrated into your overall plan in the provision of housing and related supportive services to eligible persons.

(d) *Other Approvable Activities.* As authorized by statute, HUD may approve other activities that are in addition to the activities at 24 CFR574.300(b). You may propose other activities in your application, which can be undertaken only if approved by HUD due to their relevance in addressing the housing needs of eligible persons. You must describe the reason for the need to request authorization for ''other activities'' and the benefits likely to occur if the activities are authorized. Also address how the project would operate, or not, if such request were not approved.

(2) *Coordination (5 Points).* You should demonstrate the extent to which you have coordinated your activities and the activities of your project sponsors with other organizations that are not directly participating in your proposed work activities. This involves organizations for which you share common goals and objectives. You may provide information on your primary decision-making group in providing leadership to your efforts as well as other organizations participating in planning activities, such as committees, workgroups, public meetings, forums etc. and the frequency of meetings. You will be rated on the extent to which you demonstrate you have:

(a) Coordinated your proposed activities with those of other groups or organizations within the community or region prior to submission, to best complement, support, and coordinate all housing and supportive service activities including specific reference to how the proposal is coordinated with existing HOPWA programs in that area (formula and competitive) and how the planned efforts complement the existing programs;

(b) Developed your project through consultation with other stakeholders,

such as organizations, groups, or consumers involved with area HIV/AIDS housing and service planning, including planning under the Ryan White CARE Act and other federal planning. The highest rated applicant will demonstrate that the project is closely and fully integrated with HUD's planning processes, such as the jurisdiction's Consolidated Planning process or the community's Continuum of Care Homeless Assistance planning process (if homeless persons are to be served by proposed activities and related use of Homeless Management Information Systems (HMIS) to coordinate benefits for clients);

(c) Coordinated with other HUD-funded programs outside of the Consolidated Planning process, for example, accessing additional housing resources through a local public housing authority; and

(d) Coordinated with mainstream resources including private, other public, and mainstream services and housing programs. To achieve the maximum points, applicants must evidence explicit agency strategies to coordinate client assistance with mainstream health, social service and employment programs for which eligible persons may benefit.

(3) *Public Policy Priorities (7 points).* Applications for HOPWA funding will receive rating point(s) for each applicable Department policy priority initiative addressed through the proposed program activities and performance goals and objectives. Applicants must make a specific statement on their commitment to address the priority or otherwise demonstrate how these priorities will be addressed:

(a) In accordance with the General Section, for applicants seeking HOPWA funds for capital development activities, including rehabilitation or new construction, for one rating point under project soundness of approach, your application describes the use of universal design and visitability standards in development activities undertaken with HOPWA funds and incorporate universal design in the construction or rehabilitation of housing undertaken with HOPWA funds. Visitability standards allow a person with mobility impairments access into the home, but do not require that all features be made accessible. Universal design provides housing that is usable by all without the need for adaptation or specialized design.

(b) For one rating point under project soundness of approach, your application involves participation as the grantee, or as a project sponsor(s), by a non-profit grassroots community-based organization, including faith-based organizations, as defined in the General Section.

(c) For one rating point under project soundness of approach, the grantee, or project sponsor(s), commits to promote energy efficiency by adopting or following the Energy Star standard in any new construction or rehabilitation activity or in maintaining housing or community facilities to be undertaken in the proposed project with HOPWA or other funds. The Energy Star standard is as defined in the General Section.

(d) For two rating points under project soundness of approach, your application involves an state or local government agency as the grantee, or as a project sponsor(s), and that agency completes the regulatory barriers policy questionnaire, including providing the required documentation, as defined in the General Section.

(e) For up to two rating points under project soundness of approach, your application demonstrates how you are incorporating Section 3 principles into your project with goals for expanding employment and other opportunities for Section 3 residents who are low and very-low income persons, and related business concerns, as defined in Section V of the General Section,

b. Model Qualities (18 Points). HUD will award up to 18 points based on your service delivery plan and how well it will serve as a model for a housing project during the operating period. HUD expects the proposed project to show exemplary and/or innovative qualities that address the ongoing housing needs of eligible persons by establishing or maintaining stable housing arrangements by project activities that will be undertaken within a replicable operational framework. To receive the maximum points, you must offer a housing plan that describes the following:

(1) *Policy Priorities.* If applicable to your application, describe how you will meet the Departmental policy priorities for assisting the special population of HOPWA eligible persons who are chronically homeless persons with HIV/AIDS. HUD is encouraging applications that strive to create additional models for permanent housing for persons living with HIV/AIDS that are experiencing chronic homelessness. Applicants addressing this population must work collaboratively with the local Continuum of Care Plans to create this permanent housing for persons living with HIV/AIDS and their families.

(2) *Project Management and Oversight.* Describe your method for managing and overseeing activities, including those of your organization, your project sponsor, and any other organization. Identify staff members who are responsible for management and oversight of the project and activity implementation and sustainability plans.

(3) *Evaluation Plan.* In addition to required HOPWA outputs and outcomes your evaluation plan should identify what you are going to measure, how you are going to measure it, the steps you have in place to make adjustments to your work plan if performance targets are not met within established timeframes, and how you plan to share successes and lessons learned in undertaking your activities with other communities.

(4) *Model Features.* Describe how the planned efforts for the type of proposed project, Long-term or SPNS, will represent model or exemplary qualities in service delivery, management, or other features in connection with other HOPWA funded projects in your community including any local assessment of these features. For a Long-term project, the features must involve housing activities to be undertaken in a non-formula area. A SPNS project must involve a plan and commitments to establish or maintain stable housing arrangements by showing exemplary and/or innovative qualities. If you propose a new program, or an alternative method of meeting the needs of your eligible population, describe how the innovative qualities of your activities will result in knowledge gained or lessons learned for achieving greater housing opportunities and supportive services for persons living with HIV/AIDS. HUD will rate your application higher if you provide strong evidence that your methods will yield qualities that will benefit or expand knowledge in serving eligible persons, when compared to other applications and HOPWA projects. To learn about qualities of previously funded and ongoing HOPWA projects, you may review the HOPWA Executive Summaries for HOPWA grantees at *http://www.hud.gov/offices/cpd/aidshousing.*

(5) *Model Descriptive Budget.* HUD will review your budget under the HOPWA budget form (HUD–40110–B) in describing:

(a) How each amount of requested funding for you and your project sponsors will be used and the related use of leveraged resources;

(b) How each line item will relate to your description of planned eligible HOPWA activities; and

(c) The clarity and completeness of your summary statement of the planned

activities for your project by budget line item and the use of any leveraged funds or other resources by the grantee and sponsor(s).

You must complete the HOPWA Project Budget Form as described above.

Rating Factor 4: Leverage and Sustainability (10 Points) (Minimum for Funding Eligibility 1 Point)

This factor addresses your ability to secure community resources that can be combined with HUD's funds to achieve program purposes and to ensure sustainability of the housing efforts. HUD will award up to 10 points based on the extent to which resources from other state, local, federal, or private resources are listed with the required elements to demonstrate that these funds are committed at the time of application to support and sustain your project. To receive the highest leveraging points based on the amount of commitments, up to 8 points, you must provide information on the commitment of other resources that at least equal the amount of the HOPWA request for program activities (not including administrative costs) as part of your plan to operate this project over the next three year period. Applications must receive a minimum of 1 point in this Rating Factor to demonstrate the commitment of other resources to be eligible for funding under this NOFA with the standards described in Section IV(B)4 on Leveraging. Applicants will be awarded points based on the content of a list or chart for the commitments with the following information: the name and address of the organization(s) providing the commitment(s) (note if the organization will serve as a project sponsor); the type of commitment (applicant or third party cash resources, non-cash resources, volunteer time, contribution of a building, contribution of lease hold interest); the dollar value of the commitment; the date of the commitment letter or other document; the source of the funding, such as federal, state, local, private or in-kind contributions; and the organization's authorized representative's name, title, and contact information who has made this commitment. For up to two additional points, the application must address the project's sustainability as shown in a plan for obtaining and coordinating identified resources to be more financially self-sustaining. The highest rated plan will show how the project will decrease dependency on federal funding at the end of the operating period and rely more on state, local, and private funding to continue support for beneficiaries.

Factor 5: Achieving Results and Program Evaluation (Maximum 10 Points)

Address this factor in your Logic Model (and optionally in a supplemental related narrative) on not more than three additional (3) double-spaced, typed pages or similar chart or table. Under this factor, HUD will award 10 points based on how well your application demonstrates a commitment to ensuring that the goals that you set forth and your performance will be assessed in a clear and effective manner. HUD will analyze how well you have clearly implemented the required HOPWA program output and outcome goals and identified other stated benefits or outcomes of your program including your activities, benchmarks, and interim activities or performance indicators with timelines. HUD will award the highest points to applications that demonstrate an evaluation plan that will objectively measure actual achievements against anticipated achievements.

The highest rated applications will have a clear plan to address the HOPWA client outcome goals increase the amount of housing assistance provided to eligible persons, to establish or maintain housing stability, reduce the risks of homelessness for eligible persons, and improve access to healthcare and other support. The application may also optionally address other related indicators of relevant outcomes.

The highest rated applications will also have a clear plan to use the HOPWA housing output measures—the projected number of households to be assisted in HOPWA supported housing units by type (tenant-based rental assistance, STRMU payments and assistance in housing facilities) to be provided to eligible households through your project during each project-operating year. The application may also optionally address other related outputs.

Your application must include the Logic Model form (HUD–96010) to receive any points under this factor.

B. Reviews and Selection Process

1. HOPWA Project Applications

a. *Threshold Reviews.* HUD will review your HOPWA application to ensure that it meets the threshold requirements found in the General Section and Section III.C of this NOFA pertaining to a request for a Long-term project or a SPNS project.

b. *HUD Reviews.* HUD staff will conduct this review, including staff from Community Planning and Development at Headquarters and HUD's state and area Field Offices.

c. *Procedures for the Rating and Selection of Applications.* HUD will rate all HOPWA applications based on the factors listed above. The points awarded for the factors total 100. In addition, HUD will award two bonus points to each application that includes a valid form HUD–2990 certifying that the proposed activities/projects in the application are consistent with the strategic plan for an empowerment zone (EZ) designated by HUD or the United States Department of Agriculture (USDA), the tax incentive utilization plan for an urban or rural renewal community designated by HUD (RC), or the strategic plan for an enterprise community designated in Round II by USDA (EC–II) and that the proposed activities/projects will be located within the RC/EZ/EC–II identified above and are intended to serve the residents. A listing of the RC/EZ/EC–IIs is available on the Internet at 222.hud.gov/cr. This notice contains the certification form HUD–2990 that must be completed for the applicant to be considered for RC/EZ/EC–II bonus points. Whether your HOPWA application is conditionally selected will depend on your overall ranking compared to other applications within each of the two categories of assistance, Long-term projects or SPNS projects, and the amount of funds that are available to be awarded by this competition. Funds made available from federal Fiscal Year 2006 must first be used to fund the priority selection of expiring competitive projects that undertake permanent supportive housing activities (as a change from prior years, renewal applicants are not part of this NOFA process and will be conducted by HUD by a separate action). If any such funds remain after renewal actions are funded, then the funds will be used under this NOFA competition to fund additional projects. HUD will select applications in rank order in each category of assistance (Long-term and SPNS) to the extent that funds are available, except as outlined in this Program NOFA, where HUD reserves the right to select applications that target the priority eligible populations to ensure selection of two projects addressing the housing needs of persons who are chronically homeless. In allocating amounts to the categories of assistance, HUD reserves the right to ensure that sufficient funds are available for the selection of at least one application with the highest ranking under each category of assistance. HUD will not select an application that is rated below 75 points, nor will an

application be funded if it receives a Rating Factor 1—Capacity score lower than 14 points or Rating Factor 4—Leveraging score lower than one point.

In the event of a tie between applications in a category of assistance, HUD reserves the right to break the tie by selecting the proposal that was scored higher on a rating criterion in the following order: Rating Factor 3; Rating Factor 5; Rating Factor 1; Rating Factor 2; and Rating Factor 4.

C. Anticipated Announcement and Award Dates

The anticipated announcement of the projects selected under this notice is no later than August 30, 2006.

VI. Award Administration Information

A. Award Notices

1. Applicant Notification

HUD will notify the eligible applicants of their conditional selection or rejection for awards by email or by a letter to be mailed to the applicant's authorized official at the address or email address provided in your application. For conditionally selected applicants, the CPD Division of HUD's state or area office will provide a second letter with a copy of a proposed grant agreement along with instructions on any adjustments to the grant amount requested and other conditions identified during the review for conducting planned activities and on the close out of the current grant.

2. Award Modifications

After reviewing each application, HUD reserves the right to take each of the following actions:

a. HUD reserves the right to make award adjustments as outlined in Section IV.A.2, *Adjustments to Funding,* of the General Section.

b. In the event that a conditionally-selected applicant is unable to meet any conditions for funding within the specified time, HUD reserves the right not to make an award to that applicant. In the event that a conditionally-selected applicant is continuing to operate under the prior grant, and has sufficient funds to continue current operations for at least six months following the date of notification of selection, HUD may take any of the following actions: (i) Follow procedures to terminate the prior grant and recapture remaining funds after this date, consistent with the terms of the applicable grant agreement and 24 CFR 574.500(c); or (ii) adjust the amount of the new award by the amount of funds remaining after this date in the prior grant.

c. In making an award to the final selected project (by order of ranking), HUD may offer less than the full amount requested by an applicant that had received sufficient points to be selected, but for which there are insufficient funds remaining to provide the full funding request. HUD may also use funds from an award reduced under item b, above, to restore amounts to a funding request that had been reduced in this competition due to the application's lower rating status;

d. If an applicant turns down an award, an award is not made, or if there are sufficient award adjustments to make additional awards feasible, HUD reserves the right to: (a) Offer an award to the next highest rated application(s) in this competition in their rank order; (b) add remaining or recaptured amounts to the funds that become available for a future competition; or (c) restore amounts to a funding request that had been reduced in this competition.

3. Applicant Debriefing

Applicants requesting to be debriefed must send a written request to: Department of Housing and Urban Development; Attention: Office of HIV/AIDS Housing; 451 Seventh Street, SW., Room 7212; Washington, DC 20401–7000. Telephone number is (202) 708–1934. Persons with hearing or speech challenges may access the above number via TTY (text telephone) by calling the Federal Information Relay Service at 800–877–8339 (this is a toll-free number). Additional information regarding debriefing can be found in the General Section.

B. Administrative and National Policy Requirements

1. Executive Order 13202, Preservation of Open Competition and Government Neutrality Toward Government Contractors' Labor Relations on Federal and Federally Funded Contract Projects. See the General Section for the information on how to meet this requirement.

2. Procurement of Recovered Materials. See the General Section for the information on how to meet this requirement.

C. Reporting

1. Six-Month Report

For any new project (i.e. a conditionally-selected applicant that has not previously received a HOPWA competitive grant), you must provide an initial report to the Field Office and HUD Headquarters on the startup of the planned activities within six months of your selection. Your report must outline your accomplishments and identify any barriers or issues for which the Department may provide assistance on the start-up on your new award.

2. Measuring Performance

You must report after each year of operation on the annual accomplishments of your projects under the HOPWA Annual Progress Report (form HUD–40110–B), comparing your results to proposed plans, including reporting under the required HOPWA Performance Goals including reporting on annual housing outputs and client outcomes in achieving housing stability, reduced risks of homelessness, and improved access to healthcare and other needed support. For each reporting period, you must provide a completed Logic Model showing progress to date against projected outputs and outcomes contained in your approved grant agreement. In addition, on an annual basis, you must respond to the management questions in the Program Logic Model found as an appendix to this program Section. HUD will use these reports and information obtained from HUD financial systems, along with any remote or on-site monitoring, to measure your progress and achievements in evaluating your performance on your HOPWA grant.

3. Beneficiary Information

HUD requires that funded recipients collect racial and ethnic beneficiary data. It has adopted the Office of Management and Budget's Standards for the collection of Racial and Ethnic Data. In view of these requirements, you should use one of the following:

- HUD–27061, Racial and Ethnic Data Reporting Form (instructions for its use) found on *www.HUDclips.org;*
- A comparable program form (HOPWA—Annual Performance Report (APR) form HUD–40110–C); or
- A comparable electronic data system for this purpose.

VII. Agency Contacts

A. For Further Information and Technical Assistance (TA)

For technical assistance in downloading an application package from Grants.gov/Apply, contact the Grant.gov help desk at 800–518-Grants or by sending an e-mail to *support@grants.gov.* For programmatic information, you may contact the HUD field office serving your area. You can find the telephone number for the State or Area Office of Community Planning and Development on HUD's Web site: *www.hud.gov/offices/adm/grants/*

fundsavail.cfm. HUD staff may assist with program questions, but may not assist in preparing your application. Persons with hearing or speech challenges may access the above number via TTY (text telephone) by calling the toll-free Federal Information Relay Service at 800–877–8339.

B. Seeking Technical Assistance (TA) in Developing a HOPWA Application

HOPWA TA providers may not provide technical assistance in the drafting of responses to HUD's NOFA due to the unfair advantage such assistance gives to one organization over another. If HUD determines that HOPWA technical assistance has been used to draft a HOPWA application, HUD reserves that right to reject the application for funding. If, after your application has been selected for an award, HUD determines that HOPWA technical assistance was used to draft your application, the award will be withdrawn and you may be liable to return to HUD any funds already spent.

C. Satellite Broadcast

HUD will hold information broadcasts via satellite for potential applicants to learn more about the program and preparation of the application. For more information about the date and time of the broadcast, you should consult the HUD Web site at *www.hud.gov/grants*.

VIII. Other Information

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 2506–0133. 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 413 hours per annum per respondent for the application and grant administration. This includes the time collecting, reviewing, and reporting the data for the application, semi-annual reports and final report. 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.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TARGETED AND ASSISTED HOUSING

ASSISTED LIVING CONVERSION PROGRAM (ALCP) FOR ELGIBLE MULTIFAMILY HOUSING PROJECTS

Billing Code 4210-01-C

Assisted Living Conversion Program (ALCP) for Eligible Multifamily Housing Projects

Overview Information

A. *Federal Agency Name:* Department of Housing and Urban Development, Office of Housing Assistance and Grant Administration.

B. *Funding Opportunity Title:* The Assisted Living Conversion Program for Eligible Multifamily Projects.

C. *Announcement Type:* Initial announcement.

D. *Funding Opportunity Number:* The OMB Approval Number is: 2502–0542. The Federal Register number for this NOFA is 5030–N–18.

E. *Catalog of Federal Domestic Assistance (CFDA) Number:* The Assisted Living Conversion Program for Eligible Multifamily Housing Projects is 14.314.

F. Dates: Application Deadline Date: June 15, 2006.

G. *Optional, Additional Overview Content Information:* The purpose of this program is to provide grants for the conversion of some or all of the dwelling units in an eligible project into assisted living facilities (ALFs) for frail elderly persons. Private nonprofit owners of eligible developments interested in applying for funding under this grant program should carefully review the General Section and the detailed information listed in this NOFA. Funding will only be provided for those items related to the conversion. There is no separate Application Kit for this NOFA.

The ALCP will fund those applications that may impact federal problem solving and policymaking and that are relevant to HUD's policy priorities and annual goals and objectives. (Refer to the General Section for discussion of these priorities and annual goals and objectives.)

Full Text of Announcement

I. Funding Opportunity Description

Program Description. Assisted living facilities (ALFs) are designed to accommodate frail elderly persons and people with disabilities who need certain support services (*e.g.*, assistance with eating, bathing, grooming, dressing, and home management activities). ALFs must provide support services such as personal care, transportation, meals, housekeeping, and laundry. Frail elderly person means an individual 62 years of age or older who is unable to perform at least three activities of daily living (ADLs) as defined by the regulations for HUD's Section 202 Program (Supportive Housing for the Elderly) at 24 CFR 891.205. Assisted living is defined in section 232(b)(6) of the National Housing Act (12 U.S.C. 1715w).

The ALCP provides funding for the physical costs of converting some or all of the units of an eligible multifamily development into an ALF, including unit configuration and related common and services space and any necessary remodeling, consistent with HUD or the state's statute/regulations (whichever is more stringent). Typical funding will cover basic physical conversion of existing project units, as well as related common and services space. There must be sufficient community space to accommodate a central kitchen or dining facility, lounges, recreation, and other multiple-areas available to all residents of the project, or office/staff spaces in the ALF. When food is prepared at an off-site location, the preparation area of the facility must be of sufficient size to allow for the installation of a full kitchen, if necessary. You must provide supportive services for the residents either directly or through a third party. Your application must include a firm commitment for the supportive services to be offered within the ALF. You may charge assisted living residents for meals and/or service fees. Residents may contract with third party agencies directly for nursing, therapy, or other services not offered by the ALF.

Authority. The Assisted Living Conversion Program is authorized by Section 202(b) of the Housing Act of 1959 (12 U.S.C. 1701q–2) and the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006, (Public Law 109–115, approved November 30, 2005) which provides $24,800,000 for the conversion of eligible projects to assisted-living or related use and for emergency repairs, and the government-wide rescissions pursuant to the Department of Defense Appropriations Act (Public Law 109–148, approved December 30, 2005). The Department has set-aside $15 million for emergency capital repairs. The eligibility requirements for obtaining funding for emergency capital repairs are described in a separate HUD Notice. Any unused funds from the emergency capital repairs set-aside will be returned to the funds allocated for eligible multifamily assisted projects.

II. Award Information

A. Available Funds

This NOFA makes available approximately $20 million including carryover funds. The funds will be used for the physical conversion of eligible multifamily assisted housing projects or portions of projects to ALFs.

The allocation formula used to fair share the $20,000,000 for the ALCP reflects demographic characteristics of age and incidence of frailty that would be expected for program participants. The FY 2006 formula consists of one data element from the 2000 decennial census: The number of non-institutional elderly population aged 75 years or older with a disability. A fair share factor for each state was developed by taking the sum of the persons aged 75 or older with a disability within each state as a percentage of the sum of the same number of persons for the total United States. The resulting percentage for each state was then adjusted to reflect the relative difference in the cost of providing housing among the states. The total of the grant funds available was multiplied by the adjusted fair share percentage for each state, and the resulting funds for each state were totaled for each Hub.

The ALCP grant funds fair share allocations, based on the formula above, to the 18 multifamily Hubs are as shown on the following chart:

B. FY 2006 Allocation

FY 2006 ALLOCATION FOR THE ASSISTED LIVING CONVERSION PROGRAM (ALCP) OF ELIGIBLE ASSISTED MULTIFAMILY PROJECTS

Hub	Grant authority
Boston	$1,059,150.63
Buffalo	497,891.04
New York	1,070,750.58
Philadelphia	2,043,688.82
Baltimore	798,694.18
Greensboro	827,785.85
Atlanta	1,573,719.90
Jacksonville	2,115,430.48
Chicago	1,345,332.83
Columbus	867,687.46
Detroit	690,950.94
Minneapolis	656,946.67
Fort Worth	1,837,398.85
Kansas City	1,331,095.76
Denver	431,846.42
Los Angeles	1,099,430.56
San Francisco	1,146,692.71
Seattle	605,506.31
Total	$20,000,000.00

The ALCP Grant Agreement, when fully executed, obligates the HUD funds. This Agreement establishes the legal relationship between HUD and the ALCP award recipient. The period of performance will be based on the scope of work but shall not exceed 18 months.

III. Eligibility Information

A. Eligible Applicants

Only private nonprofit owners of eligible multifamily assisted housing developments specified in section 683(2)(B), (C), (D), (E), (F), and (G) of the

Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) may apply for an ALCP grant.

Note: If your eligibility status changes during the course of the grant term, making you ineligible to receive the grant (*e.g.*, prepayment of mortgage, sale/TPA of property, opting out of a Section 8 Housing Assistance Payment (HAP) contract, or the transfer of the grant to a single asset entity), HUD retains the right to terminate the grant and recover funds made available through this NOFA.

1. Ineligible Applicants

Ineligible applicants are:

a. Owners of developments designed specifically for people with disabilities.

b. Owners of Section 232 developments.

c. Property management companies and agents of property management companies.

d. Limited dividend partnerships.

e. Nonprofit Public Agencies.

f. Owners of hospitals or other health-related facility which are considered to be eleemosynary institutions.

g. Owner of an existing insured or privately owned Assisted Living Facility.

h. Owners of commercial structures.

2. Eligible Developments

Eligible projects must be owned by a private, nonprofit entity and designated primarily for occupancy by elderly persons. Projects must have been in occupancy for at least five years from the date the form HUD–92485, Permission to Occupy Project Mortgage, was approved by HUD and have completed final closing. Eligible projects may only receive one grant award. Additionally, eligible projects must meet one of the following criteria:

a. Section 202 direct loan projects with or without Section 8 rental assistance,

b. Section 202 capital advance projects receiving rental assistance under their Project Rental Assistance Contract (PRAC),

c. Section 515 rural housing projects receiving Section 8 rental assistance,

d. Other projects receiving Section 8 project-based rental assistance,

e. Projects subsidized with Section 221(d)(3) below-market interest mortgage,

f. Projects assisted under Section 236 of the National Housing Act.

B. Cost Sharing or Matching

No matching required.

C. Other

1. *Eligible conversion activities are:*

a. Retrofitting to meet Section 504 accessibility requirements, minimum property standards for accessibility and/or building codes and health and safety standards for ALFs in that jurisdiction. Examples are items such as addition of:

(1) Upgrading to accessible units for the ALF with moveable cabinetry, accessible appliances, sinks, bathroom and kitchen fixtures, closets, hardware and grab bars, widening of doors, etc.;

(2) An elevator or upgrades thereto;

(3) Lighting upgrades;

(4) Major physical or mechanical systems of projects necessary to meet local code or assisted living requirements;

(5) Sprinkler systems;

(6) Upgrades to safety and emergency alert systems;

(7) Addition of hallway railings; and

(8) Medication storage and workstations;

b. Retrofitting to add, modify and/or outfit common space, office or related space for ALF staff including a service coordinator and file security, and/or a central kitchen/dining facility to support the ALF function (*e.g.*, outfit lounge/common space/dining furniture, kitchen equipment for cooking/serving and dishware).

c. Retrofitting to upgrade a regular unit to an accessible unit for a person/family with disabilities who is being displaced from an accessible unit in the portion of the project that is being converted to the ALF, where another accessible unit is not available.

d. Temporary relocation.

e. Consultant, architectural, and legal fees.

f. Vacancy payments limited to 30 days after conversion to an ALF.

g. Any excess Residual Receipts (over $500/unit) and Reserve for Replacement funds (over $1000/unit) in Project Accounts that are not approved for another use at the time of application to HUD under this NOFA are considered available funds and must be applied toward the cost of conversion activities. Before making this determination, however, HUD staff will consider the extent of repair/replacement needs indicated in the most recent Real Estate Assessment Center (REAC) physical inspection and not yet approved and any ongoing commitments such as non-grant-based service coordinator or other funding, where existing, deduct the estimated costs of such items from the reserve for replacement and residual receipts balances to determine the extent of available residual receipts and reserve for replacement funds for the ALCP.

2. *Threshold Requirements.* In addition to the threshold criteria outlined in the General Section, applicants must meet the following requirements to receive funding for this program.

a. Be an eligible applicant.

b. DUNS Requirement. All ALCP applicants must have a DUN and Bradstreet Universal Data Numbering Systems (DUNS) number. The DUNS number must be included in the data entry field labeled ''organizational DUNS'' on the form SF–424. Instructions for obtaining a DUNS number can be found at either *www.hud.gov/offices/adm/grants/duns.cfm* or *www.Grants.gov/GetStarted.*

c. You cannot request more funds than allocated for your jurisdiction. (See the allocation chart above in Section II.B.)

d. You must provide commitment and funding support letters from the appropriate funding organizations and the appropriate licensing agency(ies). HUD will reject your application if the commitment and support letter(s) from the appropriate funding organizations and the appropriate licensing agency(ies):

(1) Are not submitted by the application submission date as part of your application for financial assistance;

(2) Indicate that the ALF units, facilities, meals and supportive services to be provided are not designed to meet the special needs of the residents who will reside in the ALF as defined in this NOFA,

(3) Do not show commitment for funding the meals and supportive services proposed; or

(4) Indicate that the project as proposed will not meet the licensing requirements of the appropriate state/local agency(ies).

e. You must comply with all applicable statutory requirements specified in Section 202(b) and statutory requirements under Section 232(b)(6).

f. Minimum Size Limits for an ALF. An ALF must be economically feasible. Consistent with HUD Handbook 4600.1, CHG–1, the minimum size for an ALF is five units.

g. You must submit an original and four copies of your completed ALCP application by the deadline date, if you requested and received a waiver of the electronic submission requirement. The notification granting your waiver request will specify requirements for paper application submission.

3. Program Requirements

a. You must have a residual receipt account separate from the Reserve for Replacement account, or agree to establish this account as a condition for getting an award(s).

b. You must be in compliance with your Loan Agreement, Capital Advance Agreement, Regulatory Agreement, Housing Assistance Payment contract, Project Rental Assistance Contract, Rent Supplement or LMSA contract, or any other HUD grant or contract document.

c. If selected, you must file a form HUD–2530 for all construction contractors, architects, consultants, and service provider organizations under direct contract with you that will be engaged under this NOFA within 30 days of execution of the grant award.

d. Your project must meet HUD's Uniform Physical Conditions Standards at 24 CFR part 5, subpart G. Meeting these standards, based on the most recent REAC physical inspection report and responses thereto, means that the project, must have a ''satisfactory'' rating as evidenced by a score of 60 or better or a HUD-approved and on schedule repair plan for developments scoring less than 60. Additionally, the project must have no uncorrected and outstanding Exigent Health and Safety violations. Finally, the project must not have a management review with a rating of ''minimally satisfactory'' or ''unsatisfactory'' with open and unresolved findings.

e. You must submit, with your application, an agreement to pursue appropriate ALF licensing in a timely manner.

f. Meals and Supportive Services. You must develop and submit a Supportive Services Plan (SSP) for the services and coordination of the supportive services, which will be offered in the ALF to the appropriate state or local organization(s), which are expected to fund those supportive services. (See Section IV.B. below for information, which must be in the SSP.) You must submit one copy of your SSP to each appropriate state or local service funding organizations well in advance of the application deadline, for appropriate review. The state or local funding organization(s) must return the SSP to you with appropriate comments and an indication of the funding commitment, which you will then include with the application you submit to HUD.

g. Licensing Requirements. You must also submit the SSP to the appropriate organization(s), which license ALFs in your jurisdiction. The licensing agency(ies) must approve your plan, and must also certify that the ALF and the proposed supportive services identified in your SSP, are consistent with local statute and regulations and well designed to serve the needs of the frail elderly and people with disabilities who will reside in the ALF portion of your project.

h. Your ALF must be licensed and regulated by the state (or if there is no state law providing such licensing and regulation, by the municipality or other subdivision in which the facility is located). Each assisted living unit must include its own kitchen, bathroom, bedroom, living/dining area (1 bedroom unit) or kitchen, bathroom, bedroom/living/dining area (efficiency unit) and must meet the state and/or local licensing, building, zoning, and other requirements for an ALF.

i. Your ALF must be available to qualified elderly persons and persons with disabilities, consistent with the rules and payment plans of the state, who need and want the supportive services in order to remain independent and avoid premature institutionalization.

j. Your ALF's residents must be tenants or residents of the multifamily project and must comply with the requirements applicable to the project. Thus, you cannot charge additional rent over what is charged to residents in the non-ALF portion of the project. All admissions to the ALF must be through the applicable project admissions office. However, persons accepted into the ALF also must sign an ALF admissions agreement, which shall be an addendum to the applicable project lease.

k. At a minimum, your ALF must provide room, board, and continuous protective oversight (CPO). CPO involves a range of activities and services that may include such things as awareness by management and staff of the occupant's condition and location as well as an ability to intervene in a crisis for ALF occupants on a 24-hour basis. The two occupant groups in an ALF are:

(1) Independent Occupants. Awareness by management and staff of the occupant's condition and whereabouts as well as the availability of assistance for the occupants as needed.

(2) Dependent occupants. Supervision of nutrition, assistance with medication and continuous responsibility for the occupants' welfare.

l. Anyone moving into an ALF unit must agree to accept as a condition of occupancy the board and services required for the purpose of complying with state and local law and regulation.

m. Your ALF must provide three meals per day.

(1) Residents whose apartments have kitchens must take at least the number of meals a day provided by the facility, per their mandatory meals requirement, or as required by state or local rules, if more stringent. If the facility does not have a mandatory meals plan, then state and local rules govern.

(2) Residents in projects which were originally constructed without kitchens in their units must take such meals as required by their mandatory meals agreement, if applicable, or by the state's mandated requirements if more stringent (*e.g.*, two meals, two snacks daily).

In either case, ALF management must coordinate meal requirements with the needs of residents who are out part of the day (*e.g.*, in day care). The meal program may not be operated at a profit by the project owner.

n. Priority admissions for ALF units are as follows:

(1) Current residents desiring an ALF unit and meeting the program requirements (no resident can be required to accept an ALF unit).

(2) Qualified individuals or families needing ALF services who are already on the project's waiting list;

(3) Qualified individuals or families in the community needing ALF services wanting to be added to the project's waiting list.

(4) Qualified disabled non-elderly persons needing assisted living services are eligible to occupy these units on the same basis as elderly persons, except for section 202 project rental assistance contracts (PRAC) projects.

o. The management of the project must set up a separate waiting list for ALF units. ALF units must be for eligible residents who meet the admissions/discharge requirements as established for assisted living by state and local licensing, or HUD frailty requirements under 24 CFR 891.205 if more stringent.

p. Upon receipt of a grant under this program, all project owners participating in the ALCP must provide a Declaration of Restrictive Covenants (DRC), which will be recorded with the land, to retain the low income character of the housing, and to maintain the project (including the ALF), as a moderate-, low-, or very low-income facility (as appropriate) for at least 20 years beyond the current 40-to 50-year term of the mortgage loan or capital advance.

q. The ALCP requires service coordination for linking the ALF to available services in the community for low-income persons. All projects funded under this NOFA must have sufficient service coordination in place, or request additional funds, if appropriate, to ensure that services meeting licensing requirements are available to ALF residents on an ongoing basis. Service coordination must be described in the application

(see Section IV.B. of this NOFA). If you need to enhance an existing service coordination program or add one where it does not exist, you may apply for funding through the Service Coordinator NOFA, published elsewhere in the SuperNOFA. If a funds request for service coordination for the ALF and/or the whole project is included as part of this application, the Form SF–424 under Exhibit 11, must indicate the dollars requested. Do NOT attach the whole service coordinator application. You may also show evidence that funding for the enhanced service coordination is provided by other sources by indicating such funding on the form SF–424. If you are funded under this NOFA and requested new or enhanced service coordination you will be funded first under the service coordinator NOFA.

(1) The ALF must be staffed either directly or through coordination with local agencies, depending on state regulations or local requirements. These may also serve non-ALF residents of the project on a time available and appropriate fee basis.

(2) If you are a Section 202 PRAC project owner, you are not eligible to request funding under the service coordinator NOFA. Section 202 PRAC owners can pay for the service coordinator out of PRAC funds.

(3) The ALF may cater to the special needs of residents depending on their condition or diagnosis, such as Alzheimer's disease. If it does so, the design/environment of such facilities must accommodate those needs, *e.g.*, dementia special care unit. However, the ALF cannot provide a service it is not licensed by the state or locality to provide.

(4) Owners of Section 202/PRAC projects are reminded that they may include a PRAC payment of up to $15/unit/month not to exceed 15 percent of the total program cost, consistent with 24 CFR 891.225(b)(2) to cover part of the cost of meals and/or supportive services for frail elderly residents, including residents of the ALF.

(5) Training for ALF staff is an eligible project cost under existing operating procedures. For further information on ALFs, please refer to Handbook 4600.1, CHG–1, ''Mortgage Insurance for Residential Care Facilities,'' Chapter 13. This Handbook and recent ALF program Notices are accessible through HUDCLIPS on HUD's Web site at *http://www.hudclips.org/cgi/index.cgi*. These notices are in the Handbooks and Notices—Housing Notices database. Enter only the number without the letter prefix (*e.g.*, 99–16) in the ''Document number'' to retrieve the program notice.

For further guidance on service coordinators, please refer to Handbook 4381.5 REV–2, CHANGE–2, Chapter 8, ''The Management Agent's Handbook,'' which is also available through the HUDCLIPS database.

r. Your ALF's operation must be part of the project owner's management organization. Some or all of its functions may be contracted out. The ALF must predicate its budget on a two-tiered structure under which board and supportive service income and expenses must be maintained separately and independently from the regular income and expenses of the applicable project.

The two components of ALF costs are:

(1) Charges/payment for board, (not including rent for the unit) which may be on a sliding scale or any other equitable fee system; and

(2) Charges/payment for necessary supportive services, which may include a combination of resident fees, Medicaid and/or other third party payments.

s. Prohibition Against Lobbying Activities. The Byrd Amendment prohibits ALCP recipients of federal contracts, grants, or loans from using appropriated funds for lobbying activities. (Refer to Section III.C. of the General Section for further instructions regarding this requirement.)

t. Economic Opportunities for Low and Very Low-Income Persons (Section 3). You must comply with Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low and Very Low-Income Persons), and implementing regulations at 24 CFR part 135. You must ensure that training, employment, and other economic opportunities shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing and to business concerns which provide economic opportunities to low- and very low-income persons and including people with disabilities.

4. Additional Non-discrimination and Other Requirements. Comply with the requirements of the Fair Housing Act, Executive Order 11063, Title VI of the Civil Rights Act, the Age Discrimination Act of 1975, the affirmative fair housing marketing requirements of 24 CFR part 200, subpart M, and the implementing regulations at 24 CFR part 108, which requires that the project be marketed to those least likely to apply, including those who are not generally served by the agency administering the program, and other applicable federal, state, and local laws prohibiting discrimination and promoting equal opportunity, including affirmatively furthering fair housing, and other certifications listed in the application. (Refer to Section III.C. of the General Section for additional requirements and information.)

a. Comply with section 232 of the National Housing Act, as applicable; the Uniform Federal Accessibility Standards (24 CFR 40.7); section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8; and the Americans with Disabilities Act of 1990 for all portions of the development physically affected by this proposal.

b. Comply with the Davis-Bacon requirements and the Contract Work Hours and Safety Standards Act as applied to this program. While it has been determined that Davis-Bacon does not apply statutorily to the ALCP, the Department has administratively determined that Davis-Bacon standards and overtime rates in accordance with the Contract Work Hours and Safety Standards Act will be adhered to in any ALCP conversion grant in which the total cost of the physical conversion to an ALF (and including any additional renovation work undertaken at the same time) is $500,000 or more (this includes ALCP grant funds, owner funds, or any third party funds loaned or granted in support of the conversion or other renovation for the project associated with this grant), and in which the ALF portion of the project is 12 units or more.

c. Ensuring the Participation of Small Business, Small Disadvantaged Businesses, and Woman-Owned Businesses. HUD is committed to ensuring that small businesses, small disadvantage businesses, and woman-owned businesses participate fully in HUD's direct contracting and in contracting opportunities generated by HUD's financial assistance. (Refer to the General Section for further instructions regarding this requirement.)

d. Executive Order 13166, Improving Access to Persons with Limited English Proficiency (LEP). ALCP applicants must seek to improve access to persons with limited English proficiency by providing materials and information in languages other than English. Make applications and other materials available in languages other than English that are common in the community, if speakers of these languages are found in significant numbers and come into frequent contact with the program. For further guidance on serving persons with Limited English Proficiency (LEP) in HUD assisted programs, see the recently published HUD LEP guidance, 'Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Against

National Origin Discrimination Affecting Limited English Proficient Persons,'' 68 FR 70968 (December 19, 2003) or Section III of the General Section.

e. Executive Order 13279, Equal Protection of the Laws for Faith-Based and Community Organizations. HUD has undertaken a review of all policies and regulations that have implications for faith-based and community organizations, and has established a policy priority to provide full and equal access to grassroots faith-based and other community-based organizations. (Refer to the General Section for specific instructions regarding this requirement.)

f. Accessible Technology. The Rehabilitation Act Amendments of 1998 apply to all electronic information technology (EIT) used by an ALCP recipient for transmitting, receiving, using, or storing information to carry out the responsibilities of the ALCP awards. (Refer to Section III.C. of the General Section for specific instructions regarding this requirement.)

g. Participation in HUD-Sponsored Program Evaluation. As a condition of the receipt of ALCP funds, successful applicants are required to cooperate with all HUD staff or contractors performing HUD-funded research and evaluation studies.

h. Comply with Executive Order 13202, Preservation of Open Competition and Government Neutrality toward Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects. (Refer to the General Section for additional information on this requirement).

i. OMB Circulars and Government-wide Regulations Applicable to Financial Assistance. ALCP applicants are subject to the Administrative Requirements of OMB Circular A–133, Audits of States, Local Governments and Non-Profit Organizations; OMB Circular A–122, Cost Principles for Non-Profit Institutions; the administrative requirements of 24 CFR Part 84; and the procurement requirements of 24 CFR 84.44. (Refer to the General Section for additional information on this requirement).

j. Environmental Requirements. Your ALCP application is subject to the National Environmental Policy Act of 1969 and applicable related federal environmental authorities. (See 24 CFR part 50, as applicable.) An environmental review will be completed by HUD before awarding any grant under this program. ALCP projects are 'critical actions' for purposes of 24 CFR part 55 and must comply with requirements applicable to 'critical actions,' including floodplain management review requirements, if proposed to be carried out in the 500-year floodplain.

IV. Application and Submission Information

A. Addresses to Request Application Package

All information for requesting an application is included in this NOFA and Section IV. A. of the General Section. The application for the ALCP is available on the Internet from the grants.gov Web site at *http://www.grants.gov/FIND*. If you have difficulty accessing the information, you can receive customer support from Grants.gov by calling the help line at (800) 518–Grants or by sending an e-mail to *support@grants.gov*. If you do not have access, you may obtain an ALCP application by calling the NOFA Information Center at (voice) 800–HUD–8929 (800–483–8929). Persons with a hearing or speech impairment may call the Center's TTY number at 800–HUD–2209. Please be sure to provide your name, address (including zip code), and telephone number (including area code).

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

2. For Technical Assistance. Before the ALCP application due 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. For technical support for downloading the ALCP application or submitting the application, call the toll free Grants.gov Customer Support line at 1–800–518–Grants or send an e-mail message to *support@grants.gov*.

3. Satellite Broadcast. HUD will provide a satellite broadcast for potential applicants. For more information about the date and time of the broadcast, you should contact your local HUD Office or go to HUD's Web site at: *www.hud.gov/webcasts/index.cfm.*

B. Content and Form of Application Submission

There are eleven required exhibits under the ALCP, including prescribed forms and certifications. In cases where your articles of incorporation and by-laws have NOT changed since the project was originally approved by HUD, your signature on the SF–424 signifies that you are self-certifying to that effect—that the documents on file with HUD are current—is sufficient. Exhibits for which self-certification of currency is possible are Exhibits 2(a) and (b).

In addition to the relief of paperwork burden, you will not have to submit certain information and exhibits you have previously prepared. See individual item descriptions, below to identify such items. An example of such an item may be the FY 2006 Annual Financial Statement. Your application must include all of the information, materials, forms, and exhibits listed below (Please see the General Section for instructions on how to submit third party and other documents such as Articles of Incorporation; by-laws; copies of original plans; evidence of financial commitment; letter(s) from zoning officials; etc.):

1. Application Summary for the Assisted Living Conversion Program, Form HUD–92045.

2. Evidence that you are a private nonprofit organization or nonprofit consumer cooperative and have the legal ability to operate an ALF program, per the following:

a. Articles of Incorporation, constitution, or other organizational documents, or self-certification of these documents if there has been no change in the Articles since they were originally filed with HUD; and

b. By-laws, or self-certification of by-laws, if there has been no change in the by-laws since they were originally filed with HUD

3. A description of your community support:

a. A description of your links to the community at large and to the minority and elderly communities in particular; and

b. A description of your efforts to involve elderly persons, including minority elderly persons and persons with disabilities in:

(1) The development of the application;

(2) The development of the ALF operating philosophy;

(3) Review of the application prior to submission to HUD; and

(4) Your intent whether or not to involve eligible ALF residents in the operation of the project.

c. A description of your involvement in your community's Consolidated Planning and Analysis of Impediments to Fair Housing (AI) processes including:

(1) An identification of the lead/facilitating agency(ies) that organizes and/or administers the process;

(2) A listing of the Consolidated Plan/AI issue areas in which you participate; and

(3) The level of your participation in the process, including active

involvement with any neighborhood-based organizations, associations, or any committees that support programs and activities that enhance projects or the lives of residents of the projects, such as the one proposed in your application.

If you are not currently active, describe the specific steps you will take to become active in the Consolidated Planning and AI processes. (Consult the local HUD office for the identification of the Consolidated Plan community process for the appropriate area.)

d. A description of how the assisted living facility will implement practical solutions that will result in assisting residents in achieving independent living and improved living environment.

e. A description of how you have supported state and local efforts to streamline processes and procedures in the removal of regulatory barriers to affordable housing. To obtain up to 2 points for this policy priority you must complete the Form HUD–27300, Questionnaire for HUD's Initiative on Removal of Regulatory Barriers and provide the required documentation. See Rating Factor 3 in Section V.A. of this NOFA for more details.

4. Evidence of your project being occupied for at least five years prior to the date of application to HUD.

5. A market analysis of the need for the proposed ALF units, including information from both the project and the housing market, containing:

a. Evidence of need for the ALF by current project residents:

(1) A description of the demographic characteristics of the elderly residents currently living in the project, including the current number of residents, distribution of residents by age, race, and sex, an estimate of the number of residents with frailties/limitations in activities of daily living, and an estimate of the number of residents in need of assisted living services.

(2) A description of the services currently available to the residents and/or provided on or off-site and what services are lacking;

b. Evidence of the need for ALF units by very low-income elderly and disabled households in the market area; a description of the trend in elderly and disabled population and household change; data on the demographic characteristics of the very low-income elderly in need of assisted living services (age, race, sex, household size, and tenure) and extent of residents with frailty/limitations in existing federally assisted housing for the elderly (HUD and Rural Housing Service); and an estimate of the very low-income elderly and disabled in need of assisted living taking into consideration any available state or local data.

c. A description of the extent, types, and availability and cost of alternate care and services locally, such as home health care; adult day care; housekeeping services; meals programs; visiting nurses; on-call transportation services; health care; and providers of supportive services who address the needs of the local low income population.

d. A description of how information in the community's Analysis of Impediments to Fair Housing Choice was used in documenting the need for the ALF (covering items in c. above).

6. A description of the physical construction aspects of the ALF conversion, including the following:

a. How you propose to carry out the physical conversion (including a timetable and relocation planning). Completion of the Logic Model will assist in completing your response to this Exhibit.

b. A short narrative stating the number of units, special design features, community and office space/storage, dining and kitchen facility and staff space, and the physical relationship to the rest of the project. Also, you must describe how this design will facilitate the delivery of services in an economical fashion in the most integrated setting appropriate to the needs of the participating residents with disabilities and accommodate the changing needs of the residents over at least the next 10 years.

c. A description on how the project will promote energy efficiency, including any plans to incorporate energy efficiency features in the design and operation of the ALF through the use of Energy Star labeled products and appliances. Applicants that meet this policy priority will receive two points under Rating Factor 3 in Section V.A. of this NOFA. Refer to the General Section for further information on this requirement or for further information about Energy Star see *http://www.energystar.gov*.

d. A copy of the original plans for all units and other areas of the development, which will be included in the conversion.

e. A description of the conversion must clearly address how the units will conform to the accessibility requirements described in the Uniform Federal Accessibility Standards (UFAS). (For example, all door openings must have a minimum clear opening of 32 inches; and, all bathrooms and kitchens must be accessible to and functional for persons in wheelchairs.)

f. Architectural sketches of the conversion to a scale of 1/4 inch to one foot that indicate the following:

(1) All doors being widened;

(2) Typical kitchen and bathroom reconfiguration: show all wheelchair clearances, wall reinforcing, grab bars, and elevations of counters and work surfaces;

(3) Bedroom/living/dining area modification, if needed;

(4) Any reconfigured common space;

(5) Added/reconfigured office and storage space;

(6) Monitoring stations, and

(7) The kitchen and dining facility.

All architectural modifications must meet section 504 and ADA requirements as appropriate.

g. A budget showing estimated costs for materials, supplies, fixtures, and labor for each of the items listed in Section IV.B.6.f, items (1) through (7), above.

h. Include firm financial commitment letters with specific dollar amounts from appropriate organization(s) for conversion needs (within the scope of the ALF conversion NOFA) which will be supported by non-HUD funding.

i. A description of any relocation of current tenants including a statement that:

(1) Indicates the estimated cost of temporary relocation payments and other related services;

(2) Identifies the staff organization that will carry out the relocation activities; and

(3) Identifies all tenants that will have to be temporarily moved to another unit within the development OR from the development during the period that the physical conversion of the project is under way.

Note: If any of the relocation costs will be funded from sources other than the ALCP grant, you must provide evidence of a firm financial commitment of these funds. When evaluating applications, HUD will consider the total cost of proposals (*i.e.*, cost of conversion, temporary relocation, service coordinator, and other project costs).

j. Address how training, employment, and economic opportunities will be directed to low- and very low-income persons that receive government assistance for housing and to business concerns which provide economic opportunities to low- and very-low-income persons and people with disabilities.

7. A description of any retrofit or renovation that will be done at the project (with third party funds) that is separate and distinct from the ALF conversion. With such description, include as part of your application

submission firm commitment letters from third party organizations in specific dollar amounts that will cover the cost of any work outside the scope of this NOFA.

8. A letter from the local zoning official indicating evidence of permissive zoning. Also, showing that the modifications to include the ALF into the project as proposed are permissible under applicable zoning ordinances or regulations.

9. A supportive services plan (SSP), a copy of which must be submitted to the appropriate state and/or local agency as instructed in Section III.C. above. For those applicants needing to contact state Medicaid offices, a list is provided on the Internet at *www.cms.hhs.gov/medicaid*. The SSP must include:

a. A description of the supportive services needed for the frail elderly the ALF is expected to serve. This must include at least (1) meals and such other supportive services required locally or by the state, and (2) such optional services or care to be offered on an ''as needed'' basis.

Examples of both mandatory and optional services (which will vary from state to state) are: Two meals and two snacks or three meals daily; 24-hour protective oversight; personal care; housekeeping services; personal counseling, and transportation.

b. A description of how you will provide the supportive services to those who are frail and have disabilities (i.e., on or off-site or combination of on or off-site), including an explanation of how the service coordination role will facilitate the adequate provision of such services to ALF residents, and how the services will meet the identified needs of the residents. Also indicate how you intend to fund the service coordinator role.

c. A description of how the operation of your ALF will work. Address: (1) General operating procedures; (2) ALF philosophy and how it will promote the autonomy and independence of the frail elderly and persons with disabilities; (3) what will the service coordination function do and the extent to which this function already exists, or will be augmented or new; (4) ALF staff training plans; and (5) the degree to which and how the ALF will relate to the day-to-day operations of the rest of the project.

d. The monthly individual rate for board and supportive services for the ALF listing the total fee and components of the total fee for the items required by state or local licensing, and list the appropriate rate for any optional services you plan to offer to the ALF residents. Provide an estimate of the total annual costs of the required board and supportive services you expect to provide and an estimate of the amount of optional services you expect to provide.

e. List who will pay for the board and supportive services and the amount. For example, include such items as:

(1) Meals by sponsors—$20

(2) Housekeeping services by the City government—$30

(3) Personal care by State Department of Health—$60

(4) Service paid for by state program—$40

(5) Fees paid by tenants—$83

The amounts and commitments from both tenants and/or providers must equal the estimated amounts necessary to cover the monthly rates for the number of people expected to be served. If you include tenant fees in the proposal, list and show any proposed scaling mechanism. All amounts committed/collected must equal the annualized cost of the monthly rates calculated by the expected percentage of units filled.

f. A support/commitment letter from *EACH* listed proposed funding source per paragraph e. above, for the planned meals and supportive services listed in the application. The letter must cover the total planned annual commitment (and multiyear amount total, if different), length of time for the commitment, and the amounts payable for each service covered by the provider/paying organization. There must be a letter from *EACH* participating organization listed in paragraph e, above.

g. A support letter from *EACH* governmental agency that provides licensing for ALFs in that jurisdiction.

h. A description of your relevant experience in arranging for and/or delivering supportive services to frail residents. The description should include any supportive services facilities owned/operated; your past or current involvement in any project-based programs that demonstrates your management capabilities. The description should include data on the facilities and specific meals and/or supportive services provided on a regular basis, the racial/ethnic composition of the populations served, if available, and information and testimonials from residents or community leaders on the quality of the services.

10. A description of your project's resources:

a. A copy of the most recent project Reserve and Replacement account statement, and a Reserve for Replacement analysis showing plans for its use over the next five years, and any approvals received from the HUD field office to date.

b. A copy of the most recent Residual Receipts Account statement. Indicate any approvals for the use of such receipts from the field office for over $500/unit.

c. Annual Financial Statement (AFS). If your FY2006 AFS was due to REAC more than 120 days BEFORE the due date for this application, in the interest of reducing work burden, only include the date that it was sent to REAC. If the AFS was due to REAC 120 days or less from the due date of this application, you MUST include a paper copy of your AFS.

11. *Forms and Certifications.* The electronic version of the NOFA contains all forms required for submitting the ALCP application. The following exhibits, forms, certifications, and assurances are required. Copies of forms denoted by (*) may be downloaded from HUD's Web site at *http://www.hud.gov/offices/adm/grants/nofa06/snofaforms.cfm.*

a. Form HUD–92045, Multifamily Housing Assisted Living Conversion Program Application Summary Sheet.

b. *Form SF–424, Application for Federal Assistance**, and compliance with Executive Order 12372 (a certification that you have submitted a copy of your application, if required, to the state agency (Single Point of Contact) for state review in accordance with Executive Order 12372 (refer to the General Section for instructions in submitting this form).

c. SF–424 Supplement, Survey for Ensuring Equal Opportunity for Applicants*.

d. Form HUD–424–CB, Grant Applications Detailed Budget*.

e. Form HUD–424–CBW, Grant Application Detailed Budget worksheet*.

f. *Form HUD–2880, Applicant/Recipient Disclosure/Update Report*, including Social Security and Employment Identification numbers.* A disclosure of assistance from other government sources received in connection with the project.

g. *Form HUD–2991, Certification of Consistency with the Consolidated Plan** for the jurisdiction in which the proposed ALF will be located. The certification must be made by the unit of general local government if it is required to have, or has, a complete Plan. Otherwise, the certification may be made by the state, or by the unit of general local government if the project will be located within the jurisdiction of the unit of general local government authorized to use an abbreviated

strategy, and if it is willing to prepare such a Plan.

All certifications must be made by the public official responsible for submitting the plan to HUD. The certifications must be submitted by the application submission deadline date set forth herein. The Plan regulations are published in 24 CFR part 91.

h. Form HUD 2994–A, You Are Our Client Survey, optional.

i. Standard Form-LLL, Disclosure of Lobbying Activities, if applicable*.

j. Form HUD–96010, Program Outcome Logic Model*. (This is going to be in the application instructions. A version of the form for those that do not have excel will be available on the Web site.)

k. Form HUD–27300, America's Affordable Communities Initiative/ Removal of Regulatory Barriers* (and supporting documentation).

l. Certification of Consistency with RC/EZ/EC–II Strategic Plan (HUD–2990), if applicable. Pm. Form HUD–96011, Facsimile Transmittal Cover Page. This form must be used as the cover page to transmit third party documents and other information as described in the General Section as part of your electronic application submittal (if applicable).

C. Submission Date and Time

1. Application Submission Date. Unless you received a waiver to the electronic application submission requirements, your completed ALCP application must be submitted through the *www.grants.gov/Apply* and must be received and validated by Grants.gov no later than 11:59:59 Eastern Time on the application deadline date (June 15, 2006). (Refer to Section IV. of the General Section for further instructions on the delivery and receipt of applications.

D. Intergovernmental Review

1. Executive Order 12372. ALCP applicants are subject to the Executive Order 12372 process. Refer to Section IV.D. of the General Section for instructions on the intergovernmental review process.)

2. You must submit a Supportive Services Plan (SSP) for the services and coordination of the supportive services that will be offered in the assisted living facility (ALF) to the appropriate state or local organization(s), which are expected to fund those supportive services. You must submit one copy of your SSP to each appropriate state or local service funding organizations well in advance of the application deadline, for appropriate review. The state or local funding organization(s) must return the SSP to you with appropriate comments and an indication of the funding commitment, which you will then include with the application you submit to HUD.

You must ALSO submit the SSP to the appropriate organization(s) that license ALFs in your jurisdiction. The licensing agency(ies) must approve your plan, and must also certify that the ALF and the proposed supportive services identified in your SSP, are consistent with local statute and regulations and well designed to serve the needs of the frail elderly and people with disabilities who will reside in the ALF portion of your project.

E. Funding Restrictions

1. This program does NOT cover the cost of meals and supportive services. These items must be paid for through other sources (*e.g.*, a mix of resident fees and/or third party providers). Evidence of third party commitment(s) must be included as part of the application. The assisted living supportive services program must promote independence and provide personal care assistance based on individual needs in a home-like environment. In accordance with Section 504 of the Rehabilitation Act of 1973 and HUD's regulations at 24 CFR 8.4(d), the project must deliver services in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

2. This program does not allow permanent displacement of any resident living in the project at the time the application was submitted to HUD. (HUD will only provide temporary relocation costs for current tenants if they must vacate their unit while conversion work is underway (normal temporary relocation costs include increases in rent, reconnection of telephones, moving costs, and appropriate out-of-pocket expenses).

3. Applicants will not be awarded multiple grant funds for the same elderly housing development. One project will not receive multiple awards.

4. Ineligible Activities. You may not use funds available through this NOFA to:

a. Add additional dwelling units to the existing project;

b. Pay the costs of any of the necessary direct supportive services needed to operate the ALF;

c. Purchase or lease additional land;

d. Rehabilitate (see definition at 24 CFR 891.105) the project for needs unrelated directly to the conversion of units and common space for assisted living.

e. Use the ALCP to reduce the number of accessible units in the project that are not part of the ALF.

f. Permanently displace any resident out of the project (permanent relocation is prohibited under this program)

g. Increase the management fee.

h. Cover the cost of activities not directly related to the conversion of the units and common space. (i.e., if an applicant is applying to convert 24 units on 2 floors of a 5-story elderly housing development and the inspection by the Fire Marshal reveals that sprinklers must be installed in the entire building), ALCP funds will be used only to install sprinklers for the 24 units on the 2 floors requested in the application. The cost to install sprinklers in the remaining units must be paid for out of other resources.

F. Other Submission Requirements

Application Submission and Receipt Procedures. Refer to Section IV.F. of the General Section for specific procedures for additional information on application submission requirements.

1. *Electronic Delivery.* ALCP applicants must submit their applications electronically through *www.grants.gov/Apply*, unless a waiver is granted.

a. The *www.grants.gov/Apply* offer a simple, unified application process. There are several steps to complete at the *www.grants.gov* Web site. ALCP applicants should read HUD's **Federal Register** Notice on Early Registration published in the **Federal Register** on December 9, 2005 (70 FR 73332).

b. Electronic signature. ALCP applications submitted through Grants.gov constitute submission as an electronically signed application.

2. Instructions on how to submit an electronic application to HUD via grants.gov/Apply: Grants.gov has a full set of instructions on how to apply for funds on its Web site at *http://www.grants.gov/CompleteApplication.*

3. *Waiver of Electronic Submission Requirement.* HUD will only accept electronic applications submitted through *www.grants.gov* unless the ALCP applicant has received a waiver.

4. *Proof of Timely Submission.* ALCP applicants must submit their applications to www.grants.gov in time for receipt and validation at Grants.gov by 11:59:59 p.m. eastern time on the application deadline date of June 15, 2006. Validation can take 24–48 hours so applicants should submit with ample time for the process to be completed. Applicants are also advised to submit with sufficient time to correct any deficiencies that would prevent the acceptance of your application by

Grants.gov. (Refer to the General Section for specific procedures regarding proof of timely submission of applications.)

5. *Hubs and Field Offices addresses.* If you are granted a waiver to the electronic application submission requirement, you must submit an original and four copies of the ALCP application to the director of the appropriate HUD Multifamily Hub Office with jurisdiction over the housing development identified in your application. For your use in determining the appropriate HUD Multifamily Hub Office to which you must submit your application, see HUD's Web site at *http://www.HUD.gov/offices/adm/grants/nofa06/grpalcp.cfm.* The HUD Program Centers are under each Hub. If you send your application to the wrong Hub Office, it will be rejected. Therefore, if you are uncertain as to which Hub Office to submit your application, you are encouraged to contact the local HUD Office that is closest to your project's location to ascertain the Office's jurisdiction and to ensure that you submit your application to the correct local HUD Multifamily Hub Office. Paper applications must be received in the appropriate Hub Office by the application deadline date. The Department will no longer allow a 15-day grace period for receipt of applications post-marked on or before the application deadline date.

V. Application Review Information

A. Criteria

HUD will rate ALCP applications that successfully complete technical processing using the Rating Factors set forth below and in accordance with the application submission requirements identified in Section IV.B. above. The maximum number of points an application may receive under this program is 102. This includes two RC/EZ/EC–II bonus points, as described in the General Section and Section V.A. below.

1. Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (20 Points)

This factor addresses your capacity to carry out the conversion in a timely, cost-conscious and effective manner. It also addresses your experience at providing the proposed supportive services you intend to make available at the ALF for elderly residents, especially in such areas as meals, 24-hour staffing, and on-site health care. Submit information responding to this factor in accordance with Application Submission Requirements in Sections IV. B. 6. a. and b. and 9. a. through c and h. of this NOFA.

In rating this factor, HUD will consider the extent to which your application demonstrates your ability to carry out a successful conversion of the project and to implement the plan to deliver the supportive services on a long-term basis, considering the following:

a. (9 points). The time frame planned for carrying out the physical conversion of the development to the ALF.

b. (10 points). Your past experience in providing or arranging for supportive services either on or off site for those who are frail. Examples are: Meals delivered to apartment of resident or in a congregate setting (2 points), arranging for or providing personal care (3 points), providing 24-hour staffing (1 point), providing or making available on-site preventive health care (2 points) and other support services (2 points).

c. (1 point). The Department will provide 1 point to those applicants who currently or propose to partner, fund, or subcontract with grassroots organizations. HUD will consider an organization a ''grassroots organization'' if the organization is headquartered in the local community and has a social services budget of $300,000 or less; or has six or fewer full-time equivalent employees. (Refer to the General Section for further information on policy priority points for activities related to grassroots organizations.)

2. Rating Factor 2: Need/Extent of the Problem (20 Points)

This factor addresses the extent to which the conversion is needed by the categories of elderly persons and persons with disabilities that the ALF is intended to serve (very low-income elderly persons and persons with disabilities who have limitations in three or more activities of daily living). The application must include evidence of current needs among project residents and needs of potential residents in the housing market area for such persons including economic and demographic information on very low-income, frail, elderly, and persons with disabilities and information on current assisted living resources in the market area.

The factor also addresses your inability to fund the repairs or conversion activities from existing financial resources. In making this determination, HUD will consider the project's financial information. Submit information responding to this factor in accordance with Application Submission Requirements in Sections IV.B.3.c., 5. a. through d., and 10. a. through c. of this NOFA. In evaluating this factor, HUD will consider:

a. (7 points). The need for assisted living among the elderly and disabled residents of the project taking into consideration those currently in need and the depth of future needs given aging in place.

b. (3 points). The need for assisted living among very low-income elderly persons and persons with disabilities in the housing market area.

c. (9 points). Insufficient funding for any needed conversion work, as evidenced by the project's financial statements and specifically the lack of excess Reserve for Replacement dollars and residual receipts. If the available Reserve for Replacement and residual receipts are less than 10 percent of the total funds needed = 9 points; if the available Reserve for Replacement and residual receipts are 10–50 percent of need = 5 points; and, if the available Reserve for Replacement and residual receipts are 51 percent or more of the total funds needed = 0 points).

d. (1 point). The Department will provide one point to those applications which establish a connection between the proposed ALF and the community's Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues and is prepared by a local planning or similar organization.

3. Rating Factor 3: Soundness of Approach (40 Points)

This factor addresses the quality and effectiveness of your proposal in addressing the proposed conversion, effectiveness of service coordination and management planning and the meals and supportive services which the ALF intends to provide, whether the jurisdiction in which the ALF is located has taken successful efforts to remove regulatory barriers to affordable housing, whether you will incorporate energy efficiency in the design and operation of the assisted living facility, provide training, employment, and economic opportunities to low- and very low-income persons, and the extent to which you have evidenced general support for conversion by participating in your community's Consolidated Planning Process, involving the residents in the planning process. There must also be a relationship between the proposed activities, the project's and the community's needs and purposes of the program funding for your application to receive points for this factor. Submit information responding to this factor in accordance with Application Submission Requirements in Sections IV.B.3.a. through c. and e., IV. B.5.e.,

IV.B.6.b. through e., IV. B9.a. through e., g., and h. of this NOFA. In evaluating this factor, HUD will consider the following:

a. (10 points). The extent to which the proposed ALF design will meet the special physical needs of frail elderly persons or persons with disabilities expected to be served at reasonable cost (consider the ALF design: Meets needs = 10 points; ALF design partially meets needs = 5 points; and ALF design does not meet needs = 0 points).

b. (10 points). The extent to which the ALF's proposed management and operational plan ensures that the provision of both meals and supportive services planned will be accomplished over time. (Consider ALF design/management plan: Meets needs of management operations = 10 points; ALF design/management plan partially meets needs of management operations = 5 points; and ALF design/management plan does not meet needs of management operations = 0 points.)

c. (7 points). The extent to which the proposed supportive services meet the anticipated needs of the frail elderly and disabled residents (does meet = 7 points; partially meets needs = 4 points; and, does not meet needs = 0 points); and

d. (7 points). The extent to which the service coordination function is addressed and explained as onsite and sufficient, onsite and augmented or new, and addresses the ongoing procurement of needed services for the residents of the ALF (does meet = 7 points, partially meets = 4 points, does not meet = 0 points).

e. (2 points). The steps you have taken which support State and local efforts in streamlining processes and procedures that eliminate redundant requirements, statutes, regulations and codes which impede the availability of affordable housing. To receive points for removal of regulatory barriers, applicants must include in their response the completed Questionnaire HUD Form 27300. (Refer to the General Section for further information.)

f. (2 points). Describe how you plan to incorporate energy efficiency activities in the design or the operation of the assisted living facility through the use of Energy Star labeled products and appliances.

g. (2 points). To the greatest extent feasible, describe how you propose to provide opportunities to train and employ low- and very low-income persons in the project area; and how you plan to award contracts to business concerns which provide economic opportunities to low- and very low-income persons and people with disabilities in the project area.

4. Rating Factor 4: Leveraging Resources (10 Points)

This factor addresses your ability to secure other community resources that can be combined with HUD's grant funds to achieve program purposes. For the ALCP to succeed, you *must* generate local funding for the necessary supportive services to operate the ALF. HUD also encourages local funding for some of the necessary conversion work, or other work needed in the project (*e.g.*, general modernization) which is *not* specifically linked to the ALF).

Submit information responding to this factor in accordance with Application Submission Requirements in Section IV.B.6.h. and i., B.7., and B.9.e. through g. of this NOFA.

a. (5 points). The extent to which there are commitments for the funding needed for the meals and the supportive services planned for the ALF and that the total cost of the estimated budget of the ALF is covered. Consider 90 percent or more commitment of the total budget with no more than 10 percent for meals and services = 5 points; 80–89.9 percent with no more than 20 percent for meals and services = 4 points; 65–79.9 percent with no more than 35 percent for meals and services = 3 points; 40–64.9 percent with no more than 60 percent for meals and services = 2 points; less than 40 percent commitment of the total budget with no more than 60 percent support for meals and services = 0 points.

b. (3 points). The extent of local organizations' support, which is firmly committed to providing at least 50 percent of the total cost of ALF conversion (consider 50% or more = 3 points, 20–49.9 percent = 2 points, and under 20 percent = 0 points).

c. (2 points). The extent of local organizational support which is firmly committed to providing funds for additional repair or retrofit necessary for the project NOT specifically directed to activities eligible under this NOFA (funds firmly committed = 2 points, funds not committed = 0 points).

5. Rating Factor 5: Achieving Results and Program Evaluation (10 Points)

This factor reflects HUD's goal to embrace high standards of ethics, management and accountability. This factor emphasizes HUD's commitment to ensure that promises you make in the application are kept; and to ensure performance goals with outcomes are established and are met (refer to Section V.B. of the General Section for more detail). Outcomes may include the extent to which your project will implement practical solutions that will result in assisting residents in achieving independent living and an improved living environment, as well as the extent to which the project will be viable absent HUD funds but rely more on state, local, and private funds. Submit information responding to this factor in accordance with Application Submission Requirements in Section IV.B.3.d., 6.a. through g., and 9.a. through e. of this NOFA. Applicants must complete Form HUD–96010, Program Outcome Logic Model in responding to this Rating Factor.

a. (4 points). Describe the extent to which your conversion time frame reflects the length of time it will take to convert the units describing how residents will benefit from the conversion of the units; and how the converted units will result in ALF residents being able to age in place;

b. (2 points). Describe the extent to which your assisted living facility will implement practical solutions that will result in assisting residents in achieving independent living and improved living environment.

c. (2 points). Demonstrate how the project will be viable absent HUD funds while relying more on state, local, and private funds.

d. (2 points). Describe the extent to which the ALFs operating philosophy promotes the autonomy and independence of the frail elderly persons it is intended to serve (is fully addressed = 2 points, ''no'' or not addressed = 0 points).

6. Bonus Points (2 bonus points)

The project to be converted is located in an RC/EZ/EC–II area, as described in the General Section.

B. Reviews and Selection Process

1. The ALCP will fund those applications that may impact federal problem solving and policymaking and that are relevant to HUD's policy priorities and annual goals and objectives. (Refer to the General Section for discussion of these priorities and annual goals and objectives). For the Assisted Living Conversion Program, applicants who include work activities that specifically address the policy priorities of removing barriers to affordable housing and promoting energy efficiency in the design and operation of the ALF will receive additional points. For information pertaining to the removal of barriers to affordable housing see *www.hud.gov/grants/index.cfm* and for information about Energy Star see *www.energystar.gov*.

2. *Review for Curable Deficiencies.* You should ensure that your application is complete before submitting it to HUD electronically through the *http://www.grants.gov/Apply* Website. If you received a waiver of the electronic submission requirement, you must submit an original and four copies to the appropriate HUD Hub Office. Submitting fewer than the original and four copies of the application is not a curable deficiency and will cause your application to be considered non-responsive to the NOFA and returned to you.

HUD will screen all applications received by the deadline for curable deficiencies. With respect to correction of deficient applications, HUD may not, after the application due date and consistent with HUD's regulations in 24 CFR part 4, subpart B, consider any unsolicited information an applicant may want to provide. HUD may contact an applicant to clarify an item in the application or to correct curable deficiencies. Please note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of a 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. A curable deficiency is a missing Exhibit or portion of an Exhibit that will not affect the rating of the application. In each case, under this NOFA, the appropriate HUD Multifamily Hub office will notify you in writing by describing the clarification or curable deficiency. You must submit clarifications or responses to curable deficiencies in accordance with the information provided by the Hub office within 14 calendar days of the date of HUD notification. (If the due date falls on a Saturday, Sunday, or federal holiday, your correction must be received by HUD on the next day that is not a Saturday, Sunday, or federal holiday.) If the deficiency is not corrected within this time period, HUD will reject the application as incomplete, and it will not be considered for funding. The following is a list of the deficiencies that will be considered curable in ALCP applications:

Exhibits/Forms

- *Application Summary.
- *Articles of Incorporation, or certification of Articles of Incorporation.
- *By-laws, or certification of by-laws.
- Evidence of occupancy for at least five years.
- Original project plans.
- Relocation Plan.
- Evidence of Permissive Zoning.
- Form SF–424, Application for Federal Assistance.
- Form SF–424 Supplement, Survey for Ensuring Equal Opportunity for Applicants.
- Form HUD–424–CB, Grant Applications Detailed Budget.
- Form HUD–424–CBW, Grant Application Detailed Budget worksheet.
- Form HUD–2880, Applicant/Recipient Disclosure/Update Report.
- Form HUD–2991, Certification of Consistency with the Consolidated Plan.
- Form HUD–2994–A, You Are Our Client Survey, optional.
- Standard Form–LLL, Disclosure of Lobbying Activities, if applicable.

The appropriate Hub office will notify you in writing if your application is missing any of the exhibits listed above and you will be given 14 days from the date of the HUD notification to submit the information required to cure the noted deficiencies. The exhibits identified by an asterisk (*) must be dated on or before the application deadline date. If not so dated the application will be rejected.

After the completeness review, HUD staff will review your application to determine whether the application meets the threshold requirements.

3. *Threshold Review.* Only those ALCP applications that meet all threshold requirements will be eligible to receive an award. Applications that do not pass threshold will be rejected. (See Section III.C 2. above for threshold requirements).

4. *Appeal Process.* Upon rejection of an ALCP application, HUD must send a letter to the Owner outlining all reasons for rejection. The Owner has 14 calendar days from the date of the letter to appeal the rejection. If the Owner submits an appeal, which causes the rejection to be overturned, the application is then rated, ranked, and submitted to the selection panel for consideration. If the Owner does not appeal or does appeal but the rejection is not overturned, the application remains a reject.

5. *Review Panels.* The Office of Housing's Multifamily Hubs will establish panels to review all eligible applications that have passed threshold.

6. *Rating of Applications.* HUD staff teams will review and rate ALCP applications in accordance with the Ranking and Selection procedures outlined below. All applications will be either rated or technically rejected at the end of technical review. If your application meets all program eligibility requirements after completion of technical review, it will be rated according to the rating selection factors in Section V.A. above of this NOFA. HUD reserves the right to reduce the amount requested in the application if any proposed components are ineligible or if the cost of items is not deemed reasonable. HUD will *not* reject an ALCP application based on technical review without notifying you of that rejection with all the reasons for the rejection, and providing you an opportunity to appeal. You will have 14 calendar days from the date of HUD's written notice to appeal a technical rejection to the Multifamily Hub where the applications were sent originally. HUD staff will make a determination on an appeal before finalizing selection recommendations.

7. *Ranking and Selection Procedures.* Applications submitted in response to this NOFA that are eligible, pass threshold and have a total score of 75 points (or more) are eligible for ranking and selection.

a. Hub staff teams will be established for ALCP review in each Hub to do the application ratings.

b. From within rank order, Hub staff teams in each of the 18 Hubs will select the highest ranked applications from within that Hub in rank order, which can be funded from within the dollars available. Each Hub will select applications based on rank order up to and including the last application that can be funded out of each Hub's allocation. Hubs must not skip over any applications in order to select one based on the funds remaining.

c. After making the initial selections, however, Hubs may use any residual funds to select the next rank-ordered application by reducing the dollars requested by no more than 10 percent and reducing the number of units proposed, but in no case reducing the number of units below the financial threshold feasibility of five ALF units.

d. Funds remaining after these processes are completed will be returned to HUD Headquarters. HUD Headquarters will use these funds to restore units to any project reduced as a result of using the residual grant funds in a Hub. Finally, HUD will use these funds for selecting one or more additional applications based on the Hubs rating and rankings, beginning with the highest rated application within the 18 Hubs. Only one application will be selected per Hub from the national residual amount. If there are no approvable applications in other Hubs, the process will begin again with the selection of the next highest

rated application within the remaining Hubs. This process will continue until all approvable applications are selected using the available remaining funds. If there is a tie score between two or more applications, and there are insufficient residual funds to cover all tied applications, HUD Headquarters staff will choose the winning application(s) by lottery and/or reduction of grant requests consistent with the instructions above.

VI. Award Administration Information

A. Award Notices

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

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

3. Applicant Debriefing. All requests for debriefing must be made in writing and submitted to the local Hub in which you applied for assistance. Materials provided to you during your debriefing will include the final scores you received for each rating factor, final evaluator comments for each rating factor, and the final assessment indicating the basis upon which assistance was provided or denied. Information regarding this procedure may be found in the General Section.

B. Administrative and National Policy Requirements

See Section III.C. of this NOFA and the General Section.

C. Reporting

Recipients of funding under this program NOFA shall submit a progress report every six months after the effective date of the Grant Agreement. Every six months owners must report their progress in attaining the goals and objectives they proposed in their ALCP Logic Model that was included in their application. For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment (ROI) statement. HUD will be publishing a separate notice on the ROI concept.

VII. Agency Contacts

A. For Further Information and Technical Assistance

You should contact the HUD Multifamily Hub where you will be mailing your ALCP Application. For a list of HUD Multifamily Hub Offices, see HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm*.

You also may contact Faye Norman, Housing Project Manager at (202) 708–3000, extension 2482 or Aretha Williams, Director, Grant Policy and Management Division, Room 6138 at (202) 708–3000, extension 2480 for questions regarding the ALF grant award process. These are not toll-free numbers. Ms. Norman can be reached by e-mail at *Faye_ L._ Norman@hud.gov* and Ms. Williams at *Aretha_M._Williams@hud.gov*. If you have a hearing or speech impairment, you may access the telephone number via TTY by calling the Federal Information Relay Service at 800–877–8339.

VIII. Other Information

A. Paperwork Reduction Act

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (4 U.S.C. 3501–3520) and assigned OMB control number 2502–0542. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. Public reporting burden for the collection of information is estimated to average 2,550 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting data for the application, semi-annual reports, and final report. 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. Appendix

Appendix 1 provides a list of HUD Multifamily Hub Offices. Appendix 1 may be found at HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm*.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TARGETED AND ASSISTED HOUSING

SERVICE COORDINATORS IN MULTIFAMILY HOUSING

Billing Code 4210-01-C

Service Coordinators in Multifamily Housing

Overview Information

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

B. *Funding Opportunity Title:* Service Coordinators In Multifamily Housing

C. *Announcement Type:* Initial announcement.

D. *Funding Opportunity Number:* The Federal Register number is FR–5030–N–26. The OMB approval number is 2502–0447.

E. *Catalog of Federal Domestic Assistance (CFDA) Number:* 14.191, Multifamily Housing Service Coordinators.

F. *Dates:* The application submission date is June 16, 2006. (All applications must be submitted and received by *http://www.grants.gov* no later than 11:59:59 p.m. Eastern Time on the application submission date. See submission details in the General Section.)

G. *Optional, Additional Overview Information:*

1. *Available Funds.* Approximately $51.6 million in fiscal year 2006 funds are available for the Service Coordinator program. Of these funds, approximately $10 million are available in this NOFA for funding new Service Coordinator programs.

2. *Purpose of the program:* The Service Coordinator program allows multifamily housing owners to assist elderly individuals and nonelderly people with disabilities living in HUD-assisted housing and in the surrounding area to obtain needed supportive services from the community, to enable them to continue living as independently as possible in their homes.

3. *Eligible Applicants:* Only owners of eligible multifamily assisted developments may apply.

Full Text of Announcement

I. Funding Opportunity Description

A. The Service Coordinator Program

The Service Coordinator Program provides funding for the employment and support of Service Coordinators in insured and assisted housing developments that were designed for the elderly or nonelderly persons with disabilities and continue to operate as such. Service Coordinators help residents obtain supportive services from the community that are needed to enable independent living and aging in place.

A Service Coordinator is a social service staff person hired or contracted by the development's owner or management company. The Service Coordinator is responsible for assuring that elderly residents, especially those who are frail or at risk, and those non-elderly residents with disabilities are linked to the supportive services they need to continue living independently in their current homes. All services should meet the specific desires and needs of the residents themselves. The Service Coordinator may not require any elderly individual or person with a disability to accept any specific supportive service(s).

You may want to review the Management Agent Handbook 4381.5 REVISION–2, CHANGE–2, Chapter 8 for further guidance on service coordinators. This Handbook is accessible through HUDCLIPS on HUD's Web site at *http://www.hudclips.org*. The Handbook is in the Handbooks and Notices—Housing Notices database. Enter the Handbook number in the ''Document Number'' field to retrieve the Handbook.

B. Authority

Section 808 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101–625, approved November 28, 1990), as amended by sections 671, 674, 676, and 677 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992), and section 851 of the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106–569, approved December 27, 2000).

C. Definition of Terms Used in this Program NOFA

1. ''*Activities of daily living (ADLs)*'' means eating, dressing, bathing, grooming, and household management activities, as further described below:

a. Eating—May need assistance with cooking, preparing, or serving food, but must be able to feed self;

b. Bathing—May need assistance in getting in and out of the shower or tub, but must be able to wash self;

c. Grooming—May need assistance in washing hair, but must be able to take care of personal appearance;

d. Dressing—Must be able to dress self, but may need occasional assistance; and

e. Home management activities—May need assistance in doing housework, grocery shopping, laundry, or getting to and from activities such as going to the doctor and shopping, but must be mobile. The mobility requirement does not exclude persons in wheelchairs or those requiring mobility devices.

2. ''*At-risk elderly person*'' is an individual 62 years of age or older who is unable to perform one or two ADLs, as defined in the above paragraph.

3. ''*Frail elderly person*'' means an individual 62 years of age or older who is unable to perform at least three ADLs as defined in the above paragraph.

4. ''*People with disabilities*'' means those individuals who:

a. Have a disability as defined in Section 223 of the Social Security Act;

b. Have a physical, mental, or emotional impairment expected to be of long, continued, and indefinite duration that substantially impedes the individual's ability to live independently; or

c. Have a developmental disability as defined in Section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, (42 U.S.C. Section 15002).

5. ''*Reasonable costs*'' mean that costs are consistent with salaries and administrative costs of similar programs in your Field office's jurisdiction.

D. Basic Qualifications of Service Coordinators and Aides

1. Service Coordinator qualifications include the following:

a. A Bachelor of Social Work or degree in Gerontology, Psychology or Counseling is preferable; a college degree is fully acceptable. You may also consider individuals who do not have a college degree, but who have appropriate work experience.

b. Knowledge of the aging process, elder services, disability services, eligibility for and procedures of federal and applicable state entitlement programs, legal liability issues relating to providing Service Coordination, drug and alcohol use and abuse by the elderly, and mental health issues.

c. Two to three years experience in social service delivery with senior citizens and/or people with disabilities. Some supervisory or management experience may be desirable if the Service Coordinator will work with aides.

d. Demonstrated working knowledge of supportive services and other resources for senior citizens and/or non-elderly people with disabilities available in the local area.

e. Demonstrated ability to advocate, organize, problem-solve, and provide results for the elderly and people with disabilities.

2. Aides working with a Service Coordinator should have appropriate education or experience in working with the elderly and/or people with disabilities. An example of an aide position could be an internship or work-

study program with local colleges and universities to assist in carrying out some of the Service Coordinator's functions.

II. Award Information

A. Available Funding. The Consolidated Appropriations Act, 2006 (Pub. L. 109–115, approved November 30, 2005) provides approximately $51.6 million to fund Service Coordinators and the continuation of existing Congregate Housing Services Program (CHSP) grants. (The $51.6 million appropriation is subject to a 1 percent across-the-board rescission pursuant to Public Law 109–148.) Approximately $10 million of the available $51.6 million will be used to fund new Service Coordinator programs. The remaining amount of $51,084,000 will be used to fund one-year extensions to expiring Service Coordinator and CHSP grants.

B. Maximum Grant Award. There is no maximum grant amount. The grant amount you request will be based on the Service Coordinator's salary and the number of hours worked each week by that Service Coordinator (and/or aide). You should base your determination of the appropriate number of weekly work hours on the number of people in the development who are frail or at-risk elderly or non-elderly people with disabilities. Under normal circumstances, a full-time Service Coordinator should be able to serve about 50–60 frail or at-risk elderly or non-elderly people with disabilities on a continuing basis. Your proposed salary must also be supported by evidence of comparable salaries in your area. Gather data from programs near you to compare your estimates with the salaries and administrative costs of currently operating programs. HUD Field staff can provide you with contacts at local program sites.

C. HUD provides funding in the form of three-year grants. HUD may renew grants subject to the availability of funds and the grantee's acceptable performance and compliance with program requirements. HUD will determine performance based on the information given in the grantee's semi-annual performance reports, financial status reports, and Logic Model forms.

III. Eligibility Information

A. Eligible Applicants

1. You must meet all of the applicable threshold requirements of Section III.C of the General Section.

2. You must be an owner of a development assisted under one of the following programs:

a. Section 202 Direct Loan;

b. Project-based Section 8 (including Section 8 Moderate Rehabilitation), or

c. Section 221(d)(3) below-market interest rate, and 236 developments that are insured or assisted.

3. Additionally, developments listed in paragraph III.A.2, above, are eligible only if they meet the following criteria:

a. Have frail or at-risk elderly residents and/or non-elderly residents with disabilities who together total at least 25 percent of the building's residents. (For example, in a 52-unit development, at least 13 residents must be frail, at-risk, or non-elderly people with disabilities.)

b. Were designed for the elderly or persons with disabilities and continue to operate as such. This includes any building within a mixed-use development that was designed for occupancy by elderly persons or persons with disabilities at its inception and continues to operate as such, or consistent with title VI, subtitle D of the Housing and Community Development Act of 1992 (Pub. L. 102–550). If not so designed, a development in which the owner gives preferences in tenant selection (with HUD approval) to eligible elderly persons or nonelderly persons with disabilities, for all units in that development.

c. If FHA insured or financed with a Section 202 Direct Loan, are current in mortgage payments or are current under a workout agreement.

d. Meet HUD's Uniform Physical Conditions Standards (codified in 24 CFR part 5, subpart G), based on the most recent physical inspection report and responses thereto, as evidenced by a score of 60 or better on the last physical inspection or by an approved plan for developments scoring less than 60.

e. Are in compliance with their regulatory agreement, Housing Assistance Payment (HAP) Contract, and any other outstanding HUD grant or contract document.

f. Have no available project funds (i.e., Section 8 operating funds, residual receipts, or excess income) that could pay for a Service Coordinator program. (''Available funds'' are those that require HUD approval for their use and are not needed to meet critical project needs.) Field office staff will make this determination based on financial records maintained by the Department and information provided by the applicant in the grant application.

g. You may use funds to continue a Service Coordinator program that has previously been funded through other sources. To be deemed eligible, you must provide evidence that these resources have already ended or will discontinue within six months following the application deadline date and that no other funding mechanism is available to continue the program. (This applies only to funding sources other than the subsidy awards and grants provided by the Department through program Notices beginning in FY 1992. HUD currently provides one-year extensions to these subsidy awards and grants through a separate funding action.)

4. If your eligibility status changes during the course of the grant term, making you ineligible to receive a grant (e.g., due to prepayment of mortgage, sale of property, or opting out of a Section 8 HAP contract), HUD has the right to terminate your grant.

5. Ineligible Applicants and Developments.

a. Property management companies, area agencies on aging, and other like organizations are *not* eligible applicants for Service Coordinator funds.

b. Developments not designed for the elderly, nonelderly people with disabilities, or those no longer operating as such;

c. Section 221(d)(4) and Section 515 developments without project-based Section 8 assistance;

d. Section 202 and 811 developments with a Project Rental Assistance Contract (PRAC). Owners of Section 202 PRAC developments may obtain funding by requesting an increase in their PRAC payment consistent with Handbook 4381.5 REVISION–2, CHANGE–2, Chapter 8;

e. Conventional public housing, as such term is defined in section 3(b) of the United States Housing Act of 1937), and units assisted by project-based Housing Choice Vouchers, as set forth in 24 CFR Part 983.

f. Renewals of existing Section 8 Service Coordinator subsidy awards or grants. HUD currently provides one-year extensions to these subsidy awards and grants through a separate funding action.

B. Cost Sharing or Matching Requirement

None required.

C. Other

1. *Eligible Activities.* The functions of a Service Coordinator position are considered the program's eligible activities. The major functions of the Service Coordinator include the following:

a. Refer and link the residents of the development to supportive services provided by the general community. Such services may include case

management, personal assistance, homemaker, meals-on-wheels, transportation, counseling, occasional visiting nurse, preventive health screening/wellness, and legal advocacy.

b. Educate residents on service availability, application procedures, client rights, etc.

c. Establish linkages with agencies and service providers in the community. Shop around to determine/develop the best ''deals'' in service pricing, to assure individualized, flexible, and creative services for the involved resident. Provide advocacy as appropriate.

d. Provide case management when such service is not available through the general community. This might include evaluation of health, psychological and social needs, development of an individually tailored case plan for services, and periodic reassessment of the resident's situation and needs. Service Coordinators can also set up a Professional Assessment Committee (PAC) to assist in performing initial resident assessments. (See the guidance in the Congregate Housing Services Program (CHSP) regulations at 24 CFR 700.135 (or 1944.258 for Rural Housing developments).)

e. Monitor the ongoing provision of services from community agencies and keep the case management and provider agency current with the progress of the individual. Manage the provision of supportive services where appropriate.

f. Help the residents build informal support networks with other residents, family and friends.

g. Work and consult with tenant organizations and resident management corporations. Provide training to the development's residents in the obligations of tenancy or coordinate such training.

h. Create a directory of providers for use by both development staff and residents.

i. Educate other staff of the management team on issues related to aging in place and Service Coordination, to help them to better work with and assist the residents.

j. Provide service coordination to low-income elderly individuals or nonelderly people with disabilities living in the vicinity of an eligible development. Community residents should come to your housing development to meet with and receive service from the Service Coordinator, but you must make reasonable accommodations for those individuals unable to travel to the housing site.

2. *Eligible Program Costs.* a. Service Coordinator Program grant funds may be used to pay for the salary, fringe benefits, and related support costs of employing a service coordinator. Support costs may include quality assurance, training, travel, creation of office space, purchase of office furniture, equipment, and supplies, computer hardware, software, and Internet service, and indirect administrative costs.

b. You may use grant funds to pay for Quality Assurance (QA) in an amount that does not exceed ten percent of the Service Coordinator's salary. Eligible QA activities are those that evaluate your program to assure that the position and program are effectively implemented. A qualified, objective third party must perform the program evaluation work and must have work experience and education in social or health care services. Your QA activities must identify short and long term program outcomes and performance indicators that will help you measure your performance. On-site housing management staff cannot perform QA and you may not augment current salaries of in-house staff for this purpose.

c. You may propose reasonable costs associated with setting up a confidential office space for the Service Coordinator. Such expenses must be one-time only start-up costs. Such costs may involve acquisition, leasing, rehabilitation, or conversion of space. The office space must be accessible to people with disabilities and meet the Uniform Federal Accessibility Standards (UFAS) requirements of accessibility. HUD field office staff must approve both the proposed costs and activity and must perform an environmental assessment on such proposed work prior to grant award.

d. Only ALCP applicants may use funds to augment a current Service Coordinator program, by increasing the hours of a currently employed Service Coordinator, or hiring an additional Service Coordinator or aide on a part- or full-time basis. The additional hours and/or staff must work only with ALCP residents.

2. *Threshold Requirements.* a. At the time of submission, grant applications must contain the materials in Section IV.B.2.a and c of this NOFA in order to be considered for funding. If any of these items are missing, HUD will immediately reject your application.

b. In cases where field office staff request information in response to technical deficiencies in applications, applicants must submit the response by the designated deadline date. If requested responses are not received by this date, HUD will reject the application.

c. DUN and Bradstreet Universal Numbering System (DUNS) Number Requirement. Refer to the General Section for information regarding the DUNS requirement. You will need to obtain a DUNS number to receive an award from HUD.

3. *Program Requirements.* In managing your Service Coordinator grant, you must meet the requirements of this Section. These requirements apply to all activities, programs, and functions used to plan, budget, and evaluate the work funded under your program.

a. You must make sufficient separate and private office space available for the Service Coordinator and/or aides to meet with residents, without adversely affecting normal activities.

b. The Service Coordinator must maintain resident files in a secured location. Files must be accessible ONLY to the Service Coordinator, unless residents provide signed consent otherwise. These policies must be consistent with maintaining confidentiality of information related to any individual per the Privacy Act of 1974.

c. Grantees must ensure that the Service Coordinator receives appropriate supervision, training, and ongoing continuing education, consistent with statutory and HUD administrative requirements. This includes 36 hours of training in age-related and disability issues during the first year of employment, if the Service Coordinator has not received recent training in these areas, and 12 hours of continuing education each year thereafter.

d. Grantees are responsible for any budget shortfalls during the three-year grant term.

e. As a condition of receiving a grant, Section 202 developments without a dedicated residual receipts account must amend their regulatory agreement and open such an account, separate from their Reserve for Replacement account.

f. Subgrants and Subcontracts. You may directly hire a Service Coordinator or you may contract with a qualified third party to provide this service.

g. Environmental Requirements. It is anticipated that most activities under this program are categorically excluded from the National Environmental Policy Act (NEPA) and related environmental authorities under 24 CFR 50.19(b)(3), (4), (12), or (13). If grant funds will be used to cover the cost of any activities which are not exempt from environmental review requirements—such as acquisition, leasing, construction, or building rehabilitation,

HUD must perform an environmental review to the extent required by 24 CFR part 50, prior to grant award. HUD Field office staff will determine the need for an environmental assessment, based on the proposed program activities.

IV. Application and Submission Information

A. Obtaining Grant Application Packages. Applicants may download the Instructions to the application found on the grants.gov Web site at *http://www.Grants.gov/Apply.* The instructions contain the General Section and Program Section of the published NOFA as well as forms that you must complete and attach as a zip file to your application submission. If you have difficulty accessing the information, you may call the Grants.gov Support desk toll free at 800–518–GRANTS or e-mail your questions to *Support@Grants.gov.* The Support Desk staff will assist you in accessing the information.

B. Content and Form of Application Submission. Your application must contain the items listed in paragraphs 1 and 2, below. These items include the standard forms listed in Section IV.B of the General Section that are applicable to this funding Notice (collectively referred to as the ''standard forms''). The standard forms and other required forms are part of the electronic application found at *http://www.grants.gov/Apply.* The items are as follows:

1. *Standard Forms.* a. Application for Federal Assistance (SF–424)

b. SF–424 Supplement—Survey on Ensuring Equal Opportunity for Applicants.

c. If engaged in lobbying, the Disclosure Form Regarding Lobbying (SF–LLL).

d. Applicant/Recipient Disclosure/Update Report Form (HUD–2880).

e. Logic Model, (HUD–96010). This year HUD is providing on its Web site, at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm,* a Master Logic model from which applicants may select the items in each column that reflect their anticipated activity outputs and outcomes and copy and paste them into the appropriate column in the Logic Model form. You must select the outputs from the master output listing that reflect your proposed program and enter the information into the output column of the form. Likewise, you must enter the appropriate outcomes in the outcome column from the output list provided. The Master Logic Model listing also identifies the unit of measure that HUD is interested in collecting for the outputs and outcomes selected. In making the selections, you must identify the appropriate predicted number of units of measure to be accomplished for each out put and outcome. Use the space next to the output and outcome to identify the anticipated units of measure. You may select multiple outputs and outcomes. See HUD's Web site for the Master Logic Model for the Service Coordinator program.

f. Acknowledgment of Application Receipt (HUD–2993), for applicants submitting paper applications only.

g. You Are Our Client Grant Applicant Survey (HUD 2994–A), optional.

h. Facsimile Transmittal Cover Page (HUD–96011), (if applicable). This form must be used as part of the electronic application to transmit third party documents and other information as described in the General Section.

2. *Other Application Items.* All applications for funding under the Service Coordinator Program must include the following documents and information:

a. Service Coordinator First-Time Funding Request, form HUD–91186.

b. Evidence of comparable salaries in your local area.

c. Narrative Statements Describing Your Program.

(1) Explain your method of estimating how many residents of your development are frail or at-risk elderly or non-elderly people with disabilities. Please document that individuals meeting these criteria make up at least 25 percent of your resident population. (Do not include elderly individuals or people with disabilities who do not live in the eligible developments included in your application.)

(2) Explain how you will provide on-site private office space for the Service Coordinator, to allow for confidential meetings with residents. If construction is planned, also include a plan and a cost-estimate.

(3) Your quality assurance program evaluation activities and itemized list of estimated expenses for this activity if included in your request for funding. Indicate the type of professional or entity that will perform the work if known at this time or the criteria you will use to select the provider.

(4) A description of your plan to address community resident needs, if applicable to your program.

(5) If you are applying for an ALCP grant in conjunction with your Service Coordinator application, describe how the new or additional Service Coordinator hours will support your proposed assisted living program.

Indicate if you want your Service Coordinator application entered into the lottery if your ALCP application is not selected to receive an award. In this instance, your SC application will be eligible only if the concerned housing development currently has no SC program.

d. Evidence that no project funds are available to fund a Service Coordinator program. You must include a copy of your development's most recent bank statement (or the equivalent thereof), showing the project's current residual receipts or excess income balance (if any). It is incumbent upon the applicant to demonstrate that no such project funds are available.

e. If applicable, provide evidence that prior funding sources for your development's Service Coordinator program are no longer available or will expire within six months following the application deadline date.

f. Agents may prepare applications and sign application documents if they provide authorization from the owner corporation as part of the application. In such cases, the owner corporation *must* be indicated on all forms and documents as the funding recipient.

(1) If an agent is preparing an electronic application for an owner, the owner must authorize the agent as the Authorized Organization Representative (AOR) in the Grants.gov Registration process. HUD will recognize this authority if the DUNS number included in the application belongs to the owner corporation and the name of the agent is listed as the AOR. Refer to Section IV.F. of the General Section for more detailed registration information.

(2) If you are applying in paper copy format, you must provide a letter from the owner authorizing the submission by the agent on their behalf.

3. *Single and Joint Applications.* a. Single Applications.

(1) You may submit one application that contains one or more developments that your corporation owns. Submitting one application for each project you own will increase your chances of selection in the lottery. You may also submit one application that contains multiple projects you own, to reduce preparation time and resources.

Each application must propose a stand-alone program at separate developments. The developments must all be located in the same field office jurisdiction.

(2) If you wish to apply on behalf of developments located in different field office jurisdictions, you must submit a separate application to each field office.

b. Joint Applications. You may join with one or more other eligible owners to share a Service Coordinator and submit a joint application. Small developments often join together to hire

and share a part or full-time Service Coordinator and submit a joint application. If more than one owner is proposing to share a Service Coordinator, one agency must designate itself the ''lead''. When the legal signatory for the owner corporation signs the application, the owner indicates agreement to administer grant funds for all the housing developments listed in the application.

4. *Application Submission Requirements for ALCP Applicants.* (1) If you are an ALCP applicant and you request new or additional Service Coordinator funds specifically for your proposed Assisted Living Program, you must submit an application containing all required documents listed in Section IV.B of this NOFA. You may include a copy of all standard forms submitted as part of your ALCP application.

(2) If you currently do not have a Service Coordinator working at the development proposed in your ALCP application and your ALCP application is selected to receive an award, HUD will fund a Service Coordinator to serve either ALCP residents only or all residents of the development dependent upon your request. If your development currently has a Service Coordinator, you may request additional hours for the Service Coordinator to serve the Assisted Living residents only. If you request additional hours, you must specify the number of additional hours per week and provide an explanation based on the anticipated needs of the Assisted Living residents. If you request Service Coordinator funding to serve all residents of your development, indicate whether or not your request should be entered into the national lottery if your ALCP application is not selected to receive an award. Provide this information in your related narrative, pursuant to paragraph IV.B.2.c(6) of this NOFA.

C. *Submission Dates and Times.* The application submission date is June 16, 2006. (All applications must be submitted and received by *http://www.grants.gov* no later than 11:59:59 p.m. Eastern Time on the application submission date. See submission details in the General Section.)

D. *Intergovernmental Review:* Not applicable to this program.

E. *Funding Restrictions.* 1. Alternative Funding for Service Coordinators. If your development has available Section 8 operating funds, residual receipts, or excess income (*i.e.* ''project funds''), not needed for critical project expenses, you must use these project funds prior to receiving grant monies. Owners may submit requests to use Section 8 operating funds, residual receipts, or excess income pursuant to instructions in Housing's Management Agent Handbook 4381.5, REVISION–2, CHANGE–2, Chapter 8 and Housing Notice H 02–14. HUD field staff may approve use of these project funds at any time, consistent with current policy. You should discuss the use of project funds with your field office staff prior to submitting a grant application.

2. Ineligible Activities and Program Costs.

a. You may not use funds available through this NOFA to replace currently available funding from other sources for a Service Coordinator or for some other staff person who performs service coordinator functions.

b. Owners with existing service coordinator subsidy awards or grants may not apply for renewal or extension of those programs under this NOFA. HUD will provide extension funds through a separate funding process.

c. Non-ALCP applicants may not use funds to augment a current Service Coordinator program, by increasing the hours of a currently employed Service Coordinator, or hiring an additional Service Coordinator or aide on a part- or full-time basis. HUD will award grants only to eligible projects that do not currently have (or are served by) an SC program, regardless of the funding source used to operate the program.

d. Grant recipients may not use grant funds to pay for supervision performed by property management staff. (Management fees already pay for such supervision.)

e. Cost overruns associated with creating private office space and usual audit and legal fees are not eligible uses of grant funds.

f. The cost of application preparation is not eligible for reimbursement.

g. Grant funds cannot be used to increase a project's management fee.

h. Grant funds may not cover the cost of Service Coordinator-related training courses for members of a development's management staff who do not directly provide Service Coordination. Owners must use their management fees to pay this expense.

i. Owners/managers cannot use Reserve for Replacement funds to pay costs associated with a Service Coordinator program.

j. Congregate Housing Services Program grantees may not use these funds to meet statutory program match requirements and may not use these funds to replace current CHSP program funds to continue the employment of a service coordinator.

k. Grantees cannot use grant funds to pay PAC members for their services.

l. The grant amount allowed for QA may not exceed ten percent of the Service Coordinator's salary.

3. Prohibited Service Coordinator Functions. Service Coordinators may not perform the following activities:

a. Act as a recreational or activities director;

b. Provide supportive services directly;

c. Act as a Neighborhood Networks program director or coordinator, and

d. Perform property management work, regardless of the funding source used to pay for these activities.

F. Other Submission Requirements: 1. Application Submission and Receipt Procedures. Carefully review the procedures presented in Section IV.F of the General Section. All applicants submitting Service Coordinator applications must submit applications electronically.

2. *Waiver of Electronic Submission Requirement.* Please see the General Section for detailed instructions and timelines for requesting a waiver of the mandatory electronic submission requirement.

3. *Application Copies.* Applicants submitting electronic applications must submit just one application to *http://www.grants.gov*. Applicants who receive a waiver for electronic submission must submit an original and two copies to the field office with jurisdiction over the housing developments included in your application. If you send your application to the wrong local HUD Office, it will be rejected. Therefore, if you are uncertain as to which local HUD Office to submit your application, you are encouraged to contact the local HUD Office that is closest to your development's location to ensure that you submit your application to the correct local HUD Office.

4. *Field Office Addresses.* For a list of field office addresses, see HUD's Web site at *http://www.hud.gov/local/index.cfm.*

V. Application Review Information

A. Criteria

1. HUD will not award Service Coordinator Program grant funds through a rating and ranking process. Instead, the Department will hold one national lottery for all applications determined to be eligible by Multifamily Hub and Multifamily Program Centers.

2. Threshold Eligibility Review. HUD Multifamily field office staff will review applications for completeness and compliance with the eligibility criteria set forth in Section III of this NOFA. Field office staff will deem an

application eligible if the electronic application was submitted and received by *http://www.Grants.gov* no later than 11:59:59 PM on June 16, 2006. Paper applications will be considered eligible if they are received by the field office on or before the deadline date and meet the application timely receipt requirements for paper copy submission in the General Section. To be eligible for the lottery, in addition to meeting the timely submission requirement, an applicant must meet all eligibility criteria; propose reasonable costs for eligible activities, and, if technical corrections are requested during the review process, provide the technical correction(s) by the timeframe stated in the request.

B. Review and Selection Process

1. Funding Priorities

a. Prior to the lottery, HUD will fund Service Coordinator applications submitted by FY2006 ALCP applicants, whose ALCP applications are selected for funding under that program's NOFA. HUD estimates that approximately $1 million will be used to fund ALCP Service Coordinator applications. Any funds not used by the ALCP program to fund service coordinators will be added to the funds available for the National Lottery.

b. After setting aside funds for ALCP applicants, and prior to the lottery, HUD will next fund all applications submitted by owners who are applying for grant funds to continue a currently operating program previously funded through project funds. As stated in paragraph III.A.4.f of this NOFA, such applications are eligible only if project funds are no longer available to continue the program.

2. Selection Process

a. HUD will use remaining funds to make grant awards through the use of a national lottery. A computer program performs the lottery by randomly selecting eligible applications.

b. HUD will fully fund as many applications as possible with the given amount of funds available. After all fully fundable applications have been selected by lottery, HUD may make an offer to partially fund the next application on the lottery's list, in order to use the entire amount of funds allocated. If the applicant selected for partial funding turns down the offer, HUD will make an offer to partially fund the next application on the lottery list. HUD will continue this process until an applicant accepts the partial funding offer.

3. Reduction in Requested Grant Amount. HUD may make an award in an amount less than requested, if:

a. HUD determines that some elements of your proposed program are ineligible for funding;

b. There are insufficient funds available to make an offer to fully fund the application;

c. HUD determines that reduced grant amount would prevent duplicative federal funding.

4. Corrections to Deficient Applications. Section V.B. of the General Section provides the procedures for corrections to deficient applications.

VI. Award Administration Information

A. Award Notices. HUD field staff will send, by postal or overnight mail, selection letters and grant agreements to the award recipient organization. The grant agreement is the obligating document and funds are obligated once the HUD grant officer signs the agreement. Field staff will send non-selection letters during this same period of time. If your application is rejected, field staff may notify you by letter any time during the application review process.

B. Administrative and National Policy Requirements. None.

C. Reporting. All award recipients must submit the following reports on a yearly basis:

1. Two Semi-Annual Financial Status Reports (SF–269–A), for each half-year period of the federal fiscal year;

2. Two Semi-Annual Service Coordinator Performance Reports, (HUD–92456), for each half-year period of the federal fiscal year;

3. Two completed Logic Model forms, HUD–96010, submitted as an attachment to each Semi-Annual Performance Report. The Logic Model must present performance information on a short term basis, corresponding to each six-month reporting period; on an intermediate basis, *i.e.* annually, and in the long-term, reporting results for the entire grant term showing progress related to program outputs and outcomes as specified in your approved Logic Model incorporated into your grant agreement. The objectives of the Service Coordinator program are to enhance a resident's quality of life and ability to live independently and to age in place. The data that HUD collects on the performance report and Logic Model measures, in a quantitative form, the grantee's success in meeting these intended program outcomes.

4. Periodic reimbursement requests (*i.e.*, Payment Voucher, form HUD–50080–SCMF), providing program expenses for the associated time period, and submitted in accordance with the due dates stated in the grant agreement. Grantees must request grant payments directly following the end of each agreed-upon time period and the funds must reimburse those program costs already incurred.

5. If your grant includes Quality Assurance activities, you must provide a copy of at least one annual report that your QA provider submits to you each year. You must submit this copy along with the semi-annual reports that are due on October 30 of each year. The QA provider's report that you submit to HUD must include the following information: Who performed the QA work, when the review(s) was conducted, and the results of the evaluation. The results should include such information as how many residents were served, the types of services they receive, the training sessions attended by the Service Coordinator, and the extent of resident satisfaction with the program. HUD will use this report, in tandem with other reports and performance data, to determine a grantee's acceptable program performance.

VII. Agency Contacts

You may contact your local HUD field office staff for questions you have regarding this NOFA and your application. Please contact the Multifamily Housing Service Coordinator contact person in your local office. If you are an owner of a Section 515 development, contact the HUD field office that monitors your Section 8 contract. If you have a question that the field staff is unable to answer, please call Carissa Janis, Housing Project Manager; Office of Housing Assistance and Grants Administration; Department of Housing and Urban Development; 451 Seventh Street, SW., Room 6146; Washington, DC 20410–8000; (202) 708–3000, extension 2487 (this is not a toll-free number). If you are hearing- or speech-impaired, you may access this number via TTY by calling the Federal Information Relay Service at 800–877–8339.

VIII. Other Information

A. Satellite Broadcast. HUD will hold an information program for potential applicants via satellite broadcast to learn more about the program and preparation of the application. For more information about the date and time of the broadcast, you should contact your local field office staff or consult the HUD Web site at *http://www.hud.gov.*

B. Paperwork Reduction Act. The information collection requirements contained in this document have been

approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2502–0477. 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 *50.25* hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application, semi-annual reports and final report. 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.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TARGETED AND ASSISTED HOUSING

SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY PROGRAM (SECTION 202 PROGRAM)

Billing Code 4210-01-C

Section 202 Supportive Housing for the Elderly Program (Section 202 Program)

Overview Information

A. *Federal Agency Name:* Department of Housing and Urban Development, Office of Housing

B. *Funding Opportunity Title:* Section 202 Supportive Housing for the Elderly

C. *Announcement Type:* Initial announcement.

D. *Funding Opportunity Number:* The Federal Register number is FR–5030–N–22. The OMB Approval Number is 2502–0267.

E. *Catalog of Federal Domestic Assistance (CFDA) Number(s):* 14.157, Section 202 Supportive Housing for the Elderly.

F. *Dates:* The application deadline date is on or before June 2, 2006. Refer to Section IV of this NOFA and to the General Section for information on electronic application submission and receipt requirements.

G. Optional, Additional Overview Content Information:

1. *Purpose of the Program.* This program provides funding for the development and operation of supportive housing for very low-income persons 62 years of age or older.

2. *Available Funds.* Approximately $443.2 mllion in capital advance funds, plus associated project rental assistance contract (PRAC) funds and any carryover funds available.

3. *Types of Funds.* Capital advance funds will cover the cost of developing the housing. PRAC funds will cover the difference between the HUD-approved operating costs of the project and the tenants' contributions toward rent (30 percent of their adjusted monthly income).

4. Eligible Applicants. Private nonprofit organizations and nonprofit consumer cooperatives. (See Section III.C.3.k of this NOFA for further details and information regarding the formation of the Owner corporation).

5. Eligible Activities. New construction, rehabilitation, or acquisition (with or without rehabilitation) of housing. (See Section III.C.1. below of this NOFA for further information.

6. Match Requirements. None required.

7. Local HUD Offices. The local HUD office structure, for the purpose of implementing the Section 202 program, consists of 18 Multifamily Hub Offices. Within the Multifamily Hubs, there are Multifamily Program Centers with the exception of the New York Hub, the Buffalo Hub, the Denver Hub and the Los Angeles Hub. All future references shall use the term ''local HUD office'' unless a more detailed description is necessary as in Limitations on Applications and Ranking and Selection Procedures, below.

Full Text of Announcement

I. Funding Opportunity Description

A. Program Description. HUD provides capital advances and contracts for project rental assistance in accordance with 24 CFR part 891. Capital advances may be used for the construction or rehabilitation of a structure, or acquisition of a structure with or without rehabilitation (including structures from the Federal Deposit Insurance Corporation (FDIC)). Capital advance funds bear no interest and are based on development cost limits in Section IV.E.3. Repayment of the capital advance is not required as long as the housing remains available for occupancy by very low-income elderly persons for at least 40 years.

PRAC funds are used to cover the difference between the tenants' contributions toward rent (30 percent of adjusted income) and the HUD-approved cost to operate the project. PRAC funds may also be used to provide supportive services and to hire a service coordinator in those projects serving frail elderly residents. The supportive services must be appropriate to the category or categories of frail elderly residents to be served.

B. Authority. The Section 202 Supportive Housing for the Elderly Program is authorized by section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101–625; approved November 28, 1990); the Housing and Community Development Act of 1992 (Pub. L. 102–550; approved October 28, 1992); the Rescissions Act (Pub. L. 104–19; enacted on July 27, 1995); the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106–569; approved December 27, 2000); the Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109–115; approved November 30, 2005); and the government-wide rescissions pursuant to the Department of Defense Appropriations Act, 2006 (Pub. L. 109–148; approved December 30, 2005).

C. Calculation of Fund Reservation. If selected, you will receive a fund reservation that will consist of both a reservation of capital advance funds and a reservation of three years for project rental assistance.

1. Capital Advance Funds. The reservation of capital advance funds is based on a formula which takes the development cost limit for the appropriate building type (elevator, non-elevator) and unit size(s) and multiplies it by the number of units of each size (including a unit for a resident manager, if applicable) and then multiplies the result by the high cost factor for the area. The development cost limits can be found in Section IV.E.3. of this NOFA.

2. PRAC Funds. The initial PRAC award covers three years. The amount awarded is determined by multiplying the number of revenue units for elderly persons by the appropriate operating cost standard times 3. The operating cost standards will be published by Notice.

II. Award Information

A. Available Funds. For FY2006, approximately $443,167,647 is available for capital advances for the Section 202 Supportive Housing for the Elderly Program. The Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109–115, approved November 30, 2005) provides $742,000,000 for capital advances, including amendments to capital advance contracts, for supportive housing for the elderly as authorized by section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101–625, approved November 28, 1990), for project rental assistance, amendments to contracts for project rental assistance, and the renewal of expiring contracts for such assistance for up to a one-year term, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959 as well as the amount of $400,000 to be transferred to the Working Capital Fund, all of which is subject to a 1 percent across-the-board rescission pursuant to Public Law 109–148. Additionally, of the amount appropriated, approximately $51,600,000 is provided for Service Coordinators and the continuation of Congregate Services grants, up to $24,800,000 is provided for Assisted Living Conversion grants and Emergency Capital Repairs, $20,000,000 is provided for a Section 202 Demonstration Planning Grant program, and approximately $4,000,000 is provided for a Section 202 Demonstration Program for Elderly Housing for Intergenerational Families pursuant to section 203 of Public Law 108–186.

The announcement of the availability of the funds for the Service Coordinators and the continuation of Congregate Services as well as the Assisted Living

Conversion program is covered elsewhere in this NOFA.

The announcement of the availability of funds for Emergency Capital Repairs, the Section 202 Demonstration Planning Grant program, and the Section 202 Demonstration Program for Elderly Housing for Intergenerational Families will be addressed in a future **Federal Register**.

In accordance with the waiver authority provided in the Department of Housing and Urban Development Appropriations Act, 2006, the Secretary is waiving the following statutory and regulatory provision: The term of the project rental assistance contract is reduced from 20 years to 3 years. HUD anticipates that at the end of the contract terms, renewals will be approved subject to the availability of funds. In addition to this provision, HUD will reserve project rental assistance contract funds based on 75 percent rather than on 100 percent of the current operating cost standards for approved units in order to take into account the average tenant contribution toward rent.

The allocation formula used for Section 202 reflects the ''relevant characteristics of prospective program participants,'' as specified in 24 CFR 791.402(a). The FY2006 formula consists of one data element from the 2000 Census: Number of one-person elderly renter households (householder age 62 and older) with incomes at or below the applicable Section 8 very low-income limit, and with housing conditions. Housing conditions are defined as paying more than 30 percent of income for gross rent, or occupying a unit lacking some or all kitchen or plumbing facilities, or occupying an overcrowded unit (1.01 persons per room or more).

Under Section 202, 85 percent of the total capital advance amount is allocated to metropolitan areas and 15 percent to nonmetropolitan areas. In addition, each local HUD office jurisdiction receives sufficient capital advance funds for a minimum of 20 units in metropolitan areas and 5 units in nonmetropolitan areas. The total amount of capital advance funds to support these minimum set-asides are subtracted from the respective (metropolitan or nonmetropolitan) total capital advance amounts available. The remainder is fair shared to each local HUD office jurisdiction whose fair share exceeds the minimum set-aside based on the allocation formula fair share factors described below.

Note: The allocations for metropolitan and nonmetropolitan portions of the local HUD office jurisdictions reflect the definitions of metropolitan and nonmetropolitan areas as of the June 2003 definitions by the Office of Management and Budget.

A fair share factor is developed for each metropolitan and nonmetropolitan portion of each local HUD office jurisdiction by dividing the number of elderly renter households in the respective metropolitan and nonmetropolitan portion of the jurisdiction by the total number of elderly rental households in the metropolitan and nonmetropolitan portions of the United States. The resulting percentage for each local HUD office jurisdiction is then adjusted to reflect the relative cost of providing housing among the local HUD office jurisdictions. The adjusted needs percentage for the applicable metropolitan or nonmetropolitan portion of each jurisdiction is then multiplied by the respective total remaining capital advance funds available nationwide. Based on the allocation formula, HUD has allocated the available capital advance funds as shown on the following chart:

FY 2006 SECTION 202 ALLOCATIONS BY FIELD OFFICE

Offices	Metropolitan		Nonmetro		Totals	
	Units	Capital advance	Units	Capital advance	Units	Capital advance
Boston Hub						
Boston	129	$15,564,417	5	$601,448	134	$16,165,865
Hartford	65	7,946,297	9	1,052,092	74	8,998,389
Manchester	40	3,881,135	23	2,157,316	63	6,038,451
Providence	40	4,827,240			40	4,827,240
Total	274	32,219,089	37	3,810,856	311	36,029,945
New York Hub						
New York	310	38,617,068	5	622,188	315	39,239,256
Buffalo Hub						
Buffalo	87	9,248,360	25	2,640,360	112	11,888,720
Philadelphia Hub						
Charleston	20	1,814,715	11	992,898	31	2,807,613
Newark	146	17,993,806			146	17,993,806
Philadelphia	126	14,572,884	18	2,023,930	144	16,596,814
Pittsburgh	64	6,318,624	14	1,417,082	78	7,735,706
Total	356	40,700,029	43	4,433,910	399	45,133,939
Baltimore Hub						
Baltimore	63	6,064,734	5	482,196	68	6,546,930
Washington	60	6,431,887			60	6,431,887
Richmond	58	5,137,294	15	1,282,127	73	6,419,421

FY 2006 SECTION 202 ALLOCATIONS BY FIELD OFFICE—Continued

Offices	Metropolitan		Nonmetro		Totals	
	Units	Capital advance	Units	Capital advance	Units	Capital advance
Total	181	17,633,915	20	1,764,323	201	19,398,238
Greensboro Hub						
Columbia	43	4,026,055	13	1,193,046	56	5,219,101
Greensboro	64	7,164,349	29	3,254,193	93	10,418,542
Total	107	11,190,404	42	4,447,239	149	15,637,643
Atlanta Hub						
Atlanta	66	5,652,196	20	1,724,942	86	7,377,138
Knoxville	20	1,638,428	9	727,670	29	2,366,098
Louisville	42	3,792,284	20	1,855,095	62	5,647,379
Nashville	43	3,654,088	14	1,216,238	57	4,870,326
San Juan	36	3,600,655	5	505,528	41	4,106,183
Total	207	18,337,651	68	6,029,473	275	24,367,124
Jacksonville Hub						
Birmingham	47	3,868,900	17	1,367,390	64	5,236,290
Jackson	20	1,607,319	18	1,413,145	38	3,020,464
Jacksonville	186	15,229,308	12	950,260	198	16,179,568
Total	253	20,705,527	47	3,730,795	300	24,436,322
Chicago Hub						
Chicago	150	17,751,418	23	2,707,777	173	20,459,195
Indianapolis	69	6,295,375	19	1,696,015	88	7,991,390
Total	219	24,046,793	42	4,403,792	261	28,450,585
Columbus Hub						
Cincinnati	51	4,627,889	5	451,086	56	5,078,975
Cleveland	81	7,867,659	14	1,374,696	95	9,242,355
Columbus	40	3,575,488	15	1,339,012	55	4,914,500
Total	172	16,071,036	34	3,164,794	206	19,235,830
Detroit Hub						
Detroit	85	8,911,136	10	1,014,397	95	9,925,533
Grand Rapids	42	3,774,205	14	1,291,955	56	5,066,160
Total	127	12,685,341	24	2,306,352	151	14,991,693
Minneapolis Hub						
Minneapolis	63	6,942,229	23	2,522,537	86	9,464,766
Milwaukee	73	7,717,849	23	2,469,528	96	10,187,377
Total	136	14,660,078	46	4,992,065	182	19,652,143
Ft. Worth Hub						
Ft. Worth	94	7,432,879	24	1,909,424	118	9,342,303
Houston	61	4,744,124	9	731,223	70	5,475,347
Little Rock	20	1,482,881	17	1,244,128	37	2,727,009
New Orleans	50	4,065,695	14	1,127,289	64	5,192,984
San Antonio	52	3,896,212	10	763,615	62	4,659,827
Total	277	21,621,791	74	5,775,679	351	27,397,470
Kansas City Hub						
Des Moines	20	1,638,428	20	1,631,262	40	3,269,690
Kansas City	54	4,853,142	20	1,757,253	74	6,610,395
Oklahoma City	38	3,043,259	16	1,292,764	54	4,336,023

FY 2006 SECTION 202 ALLOCATIONS BY FIELD OFFICE—Continued

Offices	Metropolitan		Nonmetro		Totals	
	Units	Capital advance	Units	Capital advance	Units	Capital advance
Omaha	20	1,814,715	14	1,229,339	34	3,044,054
St. Louis	45	4,665,792	14	1,466,969	59	6,132,761
Total	177	16,015,336	84	7,377,587	261	23,392,923
Denver Hub						
Denver	76	7,176,367	31	2,474,938	107	9,651,305
San Francisco Hub						
San Francisco	148	17,605,317	10	1,124,640	158	18,729,957
Honolulu	20	3,733,128	5	933,282	25	4,666,410
Phoenix	56	4,678,191	9	780,333	65	5,458,524
Sacramento	49	5,819,931	9	1,082,051	58	6,901,982
Total	273	31,836,567	33	3,920,306	306	35,756,873
Los Angeles Hub						
Los Angeles	235	26,686,926	5	567,747	240	27,254,673
Seattle Hub						
Seattle	75	8,227,226	13	1,398,338	88	9,625,564
Anchorage	20	3,733,128	5	933,282	25	4,666,410
Portland	55	5,279,867	18	1,681,124	73	6,960,991
Total	150	17,240,221	36	4,012,744	186	21,252,965
National Total	3,617	376,692,499	696	66,475,148	4,313	443,167,647

B. Type of Award. Capital Advance and Project Rental Assistance Contract Funds for new Section 202 applications.

C. Type of Assistance Instrument. The Agreement Letter stipulates the terms and conditions for the Section 202 fund reservation award as well as the submission requirements following the fund reservation award. The duration of the fund reservation award for the capital advance is 18 months from the date of issuance of the fund reservation.

D. Anticipated Start and Completion Date. Immediately upon your acceptance of the Agreement Letter, you are expected to begin work toward the submission of a Firm Commitment Application, which is the next application submission stage. You are required to submit a Firm Commitment Application to the local HUD office within 180 days from the date of the Agreement Letter. Initial closing of the capital advance and start of construction of the project are expected to be accomplished within the duration of the fund reservation award period as indicated in the above paragraph regarding the Type of Assistance Instrument. Final closing of this capital advance is expected to occur no later than six months after completion of project construction.

III. Eligibility Information

A. Eligible Applicants. Private nonprofit organizations and nonprofit consumer cooperatives who meet the threshold requirements contained in the *General Section* and Section III.C.2. of this NOFA are the only eligible applicants under this Section 202 program. Neither a public body nor an instrumentality of a public body is eligible to participate in the program.

Applicant eligibility for purposes of applying for a Section 202 fund reservation under this NOFA has not changed; i.e., all Section 202 Sponsors and Co-Sponsors must be private nonprofit organizations and nonprofit consumer cooperatives. However, the Owner corporation, when later formed by the Sponsor, may be (1) a single-purpose private nonprofit organization that has tax-exempt status under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code of 1986, (2) nonprofit consumer cooperative, or (3) for purposes of developing a mixed-finance project pursuant to the statutory provision under Title VIII of the American Homeownership and Economic Opportunity Act of 2000, a for-profit limited partnership with a private nonprofit organization as the sole general partner.

See Section III.C.3.b. regarding limits on the total number of units and projects for which you may apply for funding.

B. Cost Sharing or Matching. No cost sharing or match is required; however, you are required to make a commitment to cover the estimated start-up expenses, the minimum capital investment of one-half of one percent of the HUD-approved capital advance, not to exceed $10,000 or for a national Sponsor not to exceed $25,000, and any funds required in excess of the capital advance, including the estimated cost of any amenities or features (and operating costs related thereto) which are not covered by the capital advance. You make such a commitment by signing the Form HUD–92042, Sponsor's Resolution for Commitment to Project in Exhibit 8(g) of the application found in Section IV.B.

C. Other. 1. Eligible Activities. Section 202 capital advance funds must be used to finance the development of housing through new construction, rehabilitation, or acquisition with or without rehabilitation. Capital advance funds may also be used in combination

with other non-Section 202 funding sources leveraged by a for-profit limited partnership (of which a single-purpose private nonprofit organization is the sole general partner) to develop a mixed-finance project, including a mixed-finance project for additional units for the elderly over and above the Section 202 units. The development of a mixed-use project in which the Section 202 units are mortgaged separately from the other uses of the structure is not considered a mixed-finance project. Project rental assistance funds are provided to cover the difference between the HUD-approved operating costs and the amount the residents pay (each resident pays 30 percent of adjusted income) as well as to provide supportive services to frail elderly residents.

Note: For purposes of approving Section 202 capital advances, HUD will consider proposals involving mixed-financing for additional units over and above the Section 202 units. However, you must obtain funds to assist the additional units with other than PRAC funds. HUD will not provide PRAC funds for non-Section 202 units.

A portion of the PRAC funds (not to exceed $15 per unit/per month) may be used to cover some of the cost of any supportive services for those frail elderly or those elderly determined to be at-risk of being institutionalized. The balance of the cost for services must be paid for from sources other than the capital advance or PRAC funds. Also, the cost of employing a service coordinator for those projects serving principally the frail elderly (when at least 25 percent of the residents will be frail or determined to be at-risk of being institutionalized) is an eligible use of PRAC funds. Section 202 projects receiving Congregate Housing Services assistance under Section 802 of the National Affordable Housing Act are not eligible to use capital advance or PRAC funds for supportive services or the cost of a service coordinator.

2. Threshold Requirements for Funding Consideration. In addition to the threshold criteria outlined in the *General Section*, the following threshold requirements must be met:

a. Non-Responsive Application. Your application will be considered non-responsive to the NOFA and will not be accepted for processing if you:

(1) Requested and received approval to submit a paper application and you submit less than the required number of paper copies (an original and four copies) are required. Refer to the *General Section* for information on application submission and receipt procedures;

(2) submit paper copies of the application if you have not received approval from HUD for a waiver of the electronic submission requirements;

(3) submit a substantially deficient application (i.e., a majority of the required exhibits, are not submitted with your application, particularly, but not limited to, those exhibits which are not curable). HUD reserves the right to determine whether your application is substantially deficient for purposes of determining whether the application is non-responsive to the NOFA. Refer to Section IV.B., Content of Form of Application Submission, for information on the required exhibits for submission with your application to ensure that your application is complete at time of submission;

(4) request more units than were allocated in either the metropolitan or nonmetropolitan allocation category to the local HUD office that will be reviewing your application or 125 units, whichever is less (see the allocation chart in Section II.A. above);

(5) request less than the minimum number of 5 units per site;

(6) request assistance for an ineligible activity as defined in Section IV.E., Funding Restrictions, of this program NOFA; or

(7) are an ineligible applicant (see Section III.A, Eligible Applicants of this program NOFA).

b. Other Criteria. (1) You, or a co-Sponsor, must have experience in providing housing or services to elderly persons.

(2) You and any co-Sponsor must be eligible private nonprofit organizations or nonprofit consumer cooperatives with tax exempt status under Internal Revenue Service code.

(3) Your application must contain acceptable evidence of the following:

(a) *Evidence of Site Control.* You must provide evidence of site control as described in this section and Exhibit 4(d)(i) of Section IV.B. of this NOFA).

(b) *Historic Preservation.* You are required to send a letter to the State/Tribal Historic Preservation Officer (SHPO/THPO) that attempts to initiate consultation with their office and requests their review of your determinations and findings with respect to the historical significance of your proposed project. A sample letter to the SHPO/THPO that you may adapt for your use, if you so choose, is available on HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* You must include a copy of your letter to the SHPO/THPO in your application and a statement that you have not received a response letter(s) from the SHPO/THPO or a copy of the response letter(s) received from the SHPO/THPO.

(c) *Contamination.* HUD must determine if a proposed site contains contamination and, if so, HUD must be satisfied that it is eliminated to the extent necessary to meet non site-specific federal, state or local health standards. You must assist HUD by doing the following:

(i) Phase I Environmental Site Assessment (ESA). You must undertake and submit a Phase I ESA, prepared in accordance with the ASTM Standards E 1527–05, as amended, completed or updated no earlier than six months prior to the application deadline date. The Phase I ESA must be completed and submitted with the application. Therefore, it is important that you start the Phase I ESA process as soon after publication of the SuperNOFA as possible. To help you choose an environmentally safe site, HUD invites you to review the documents ''Choosing an Environmentally Safe Site'' and ''Supplemental Guidance, Environmental Information'', which are available on the HUD Web site at http://www.hud.gov/offices/adm/grants/fundsavail.cfm.

(ii) Phase II ESA. If the Phase I ESA indicates the possible presence of contamination and/or hazards, you must decide whether to continue with this site or choose another site. Should you choose another site, the same Phase I ESA process identified above must be followed for the new site. However, if you choose to continue with the original site on which the Phase I ESA indicated contamination or hazards, you must undertake a detailed Phase II ESA by an appropriate professional. In order for your application to be considered for review under this FY2006 funding competition, the Phase II must be received by the local HUD office on or before July 3, 2006.

(iii) Clean-up—If the Phase II ESA reveals site contamination, the extent of the contamination and a plan for clean-up of the site must be submitted to the local HUD office. The plan for clean-up must include a contract for remediation of the problem(s) and an approval letter from the applicable federal, state, and/or local agency with jurisdiction over the site. In order for your application to be considered for review under this FY2006 funding competition, this information must be received by the local HUD office on or before July 3, 2006. If the above information is not received by the local HUD office by that date, the application will be rejected.

Note: Clean-up could be an expensive undertaking. You must pay for the cost of any

clean-up and/or remediation. If the application is approved, clean-up must be completed prior to initial closing. Completion of clean-up means that hud must be satisfied that the contamination has been eliminated to the extent necessary to meet non site-specific federal, state or local health standards, with no active or passive remediation still taking place, no capping over of any contamination, and no monitoring wells. However, it is acceptable if contamination remains solely in groundwater that is at least 25 feet below the surface.

(d) *Asbestos.* Asbestos is a hazardous substance commonly used in building products until the late 1970s. Therefore, you must submit one of the following with your application:

(i) If there are no pre-1978 structures on the site or if there are pre-1978 structures, that most recently consisted of solely four or fewer units of single-family housing including appurtenant structures thereto, a statement to this effect, or

(ii) If there are pre-1978 structures on the site, other than for a site that most recently consisted of solely four or fewer units of single-family housing including appurtenant structures thereto, a comprehensive building asbestos survey that is based on a thorough inspection to identify the location and condition of asbestos throughout any structures. In those cases where suspect asbestos is found, it would either be assumed to be asbestos or would require confirmatory testing. If the asbestos survey indicates the presence of asbestos or the presence of asbestos is assumed, and if the application is approved, HUD will condition the approval on an appropriate mix of asbestos abatement and an asbestos Operations and Maintenance Plan.

(4) There must be a market need for the number of units proposed in the area of the project location.

(5) You are required to include a Supportive Services Plan that describes the supportive services proposed to be provided to the anticipated occupants, including a description of the public or private funds that are expected to fund the proposed services and the manner in which the services will be provided to the proposed residents (see Exhibit 5 in Section IV.B. of this NOFA). You must not require residents to accept any supportive services as a condition of occupancy or admission.

(6) Delinquent Federal Debt. Refer to the *General Section* for information regarding delinquent federal debt.

3. Program Requirements. By signing Form HUD–92015–CA, Supportive Housing for the Elderly Section 202, Application for Capital Advance Summary Information, you are certifying that you will comply with all program requirements listed in the *General Section* as well as the following requirements:

a. *Statutory and Regulatory Requirements.* In addition to the statutory, regulatory, threshold and public policy requirements listed in the General Section, you must comply with all statutory and regulatory requirements listed in Sections I and III of this NOFA.

b. *Application/Project Size Limits.*

(1) *Application Limits Applicable to Sponsors or Co-Sponsors.* A Sponsor or Co-sponsor may not apply for more than 200 units of housing for the elderly in a single Hub or more than 10 percent of the total units allocated to all HUD offices. Affiliated entities (organizations that are branches or offshoots of a parent organization) that submit separate applications are considered a single entity for the purpose of this limit.

(2) *Maximum Project Size.* No single application may propose the development of a project for more than the number of units allocated to a local HUD office (in either the metropolitan or nonmetropolitan allocation category, depending on the location of your proposed project) or 125 units, whichever is less. For example, the local HUD office, which has jurisdiction over the area of your proposed project, was allocated 80 units (metropolitan) and 20 units (nonmetropolitan) for a total of 100 units. You cannot apply for more than 80 units if your proposed project is in a metropolitan area and no more than 20 units if the project is in a nonmetropolitan area.

(3) *Minimum Project Size.* The minimum number of units that can be applied for in one application is five units. If the proposed project will be a scattered-site development, the five-unit minimum requirement will apply to each site.

c. *Minimum Capital Investment.* If selected, you must provide a minimum capital investment of one-half of one percent of the HUD-approved capital advance amount, not to exceed $10,000 in accordance with 24 CFR 891.145, with the following exception. If you, as Sponsor or Co-Sponsor, have one or more Section 202 or one or more Section 811 project(s) under reservation, construction, or management in two or more different HUD geographical regions (Hubs), the minimum capital investment shall be one half of one percent of the HUD-approved capital advance amount, not to exceed $25,000.

d. *Accessibility.* Your project must meet accessibility requirements published at 24 CFR 891.120, 24 CFR 891.210, and Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 24 CFR Part 8, and, if new construction, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100. In addition, 24 CFR 8.4(b)(5) prohibits the selection of a site or location which has the purpose or effect of excluding persons with disabilities from the federally assisted program or activity. Refer to Section V.A. below and the *General Section* for information regarding the policy priority of encouraging accessible design.

e. *Conducting Business in Accordance with HUD Core Values and Ethical Standards.* You are not subject to the requirements of 24 CFR parts 84 and 85 as outlined in the *General Section*, except that the disposition of real property may be subject to 24 CFR part 84. However, you are still subject to the core values and ethical standards as they relate to the conflict of interest provisions in 24 CFR 891.130. To ensure compliance with the program's conflict of interest provisions, you are required to sign a Conflict of Interest Resolution and include it in your Section 202 application. Further, if awarded a Section 202 fund reservation, the officers, directors, board members, trustees, stockholders and authorized agents of the Section 202 Sponsor and Owner entities will be required to submit to HUD individual certifications regarding compliance with HUD's conflict of interest requirements.

f. *National Environmental Policy Act.* You must comply with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and applicable related environmental authorities at 24 CFR 50.4, HUD's programmatic implementing regulations at 24 CFR part 50 and 24 CFR 891.155(b), especially, but not limited to, the provision of information to HUD at 24 CFR 50.31(b) and you must comply with any environmental ''conditions and safeguards'' at 24 CFR 50.3(c).

Under 24 CFR Part 50, HUD has the responsibility for conducting the environmental reviews. HUD cannot approve any site unless it first completes the environmental review. In rare cases where HUD is not able to complete the environmental review, it is due to a complex environmental issue that could not be resolved during the time period allocated for application processing. Thus, HUD requires you to attempt to obtain comments from the State/Tribal Historic Preservation Officer (see Exhibit 4(d)(ix) of Section IV.B. below) to help HUD complete the environmental review on time. It is also why HUD may contact you for

additional environmental information. So that you can review the type of information that HUD needs for its preparation of the environmental review as well as the type of information requests that HUD may make to you, you are invited to go to the following Web site to view the HUD form 4128, including the Sample Field Notes Checklist, which HUD uses to record the environmental review: *www.hud.gov/utilities/intercept.cfm?/offices/cpd/energyenviron/environment/compliance/forms/4128.pdf*.

g. Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects. Refer to the *General Section*.

h. *Fair Housing Requirements.* Refer to the *General Section* for information regarding fair housing requirements.

i. *Economic Opportunities for Low and Very Low-Income Persons (Section 3).* You must comply with Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low and Very Low-Income Persons) and its implementing regulations at 24 CFR part 135. You must ensure that training, employment and other economic opportunities shall, to the greatest extent feasible, be directed toward low and very low-income persons, particularly those who are recipients of government assistance for housing and to business concerns which provide economic opportunities to low and very low-income persons. To comply with Section 3 requirements you are hereby certifying that you will strongly encourage your general contractor and subcontractors to participate in local apprenticeship programs or training programs registered or certified by the Department of Labor's Office of Apprenticeship, Training, Employer and Labor Services or recognized State Apprenticeship Agency. Although not a NOFA requirement, you are encouraged to submit with your application a description on how you plan to incorporate the Section 3 requirements into your proposed project with goals for expanding training and employment opportunities for low and very low-income (Section 3) residents as well as business concerns. You will receive up to two (2) points if you provide a description of your plans for doing so under Exhibit 3(k) of this program NOFA.

j. *Design and Cost Standards.* You must comply with HUD's Section 202 design and cost standards (24 CFR 891.120 and 891.210), the Uniform Federal Accessibility Standards (24 CFR 40.7), Section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8, and for covered multifamily dwellings designed and constructed for first occupancy after March 13, 1991, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100, and, where applicable, the Americans with Disabilities Act of 1990.

HUD has adopted a wide-ranging energy action plan for improving energy efficiency in all program areas. As a first step in implementing the energy plan, HUD, the Environmental Protection Agency (EPA) and the Department of Energy (DoE) have signed a joint partnership to promote energy efficiency in HUD's affordable housing efforts and programs. The purpose of the Energy Star partnership is not only to promote energy efficiency of the affordable housing stock, but also to help protect the environment.

k. *Formation of Owner Corporation.* You must form an Owner entity (in accordance with 24 CFR 891.205) after issuance of the capital advance fund reservation and must cause the Owner entity to file a request for determination of eligibility and a request for capital advance, and must provide sufficient resources to the Owner entity to ensure the development and long-term operation of the project, including capitalizing the Owner entity at firm commitment processing in an amount sufficient to meet its obligations in connection with the project over and above the capital advance amount.

l. *Davis-Bacon.* You must comply with the Davis-Bacon requirements (12 U.S.C. 1701q(j)(5)) and the Contract Work Hours and Safety Standards Act in accordance with 24 CFR 891.155(d).

4. Energy Efficiency. Although it is not a requirement, you are encouraged to promote energy efficiency in design and operation of your proposed project and your application will receive one (1) point if you describe your plans for doing so in the proposed project. You are urged especially to purchase and use Energy Star-labeled products. For further information about Energy Star, see *http://www.energystar.gov* or call 1–888–STAR–YES (1–888–782–7937) or for the hearing-impaired, 1–888–588–9920 TTY.

IV. Application and Submission Information

Applicants are required to submit an electronic application unless they receive a waiver of the requirement. See the *General Section* for information on electronic application submission, procedures for requesting a waiver, and timely submission and receipt requirements.

A. *Address to Request Application Package.* All information required to complete and return a valid application is included in the *General Section* and this NOFA, including other related documents. Applicants may download the application and instructions from the Grants.gov Web site at *http://www.Grants.gov./Apply*. If you have difficulty accessing the information you may call the Grants.gov Support Desk toll free 800–518–GRANTS or e-mail your questions to *Support@Grants.gov.* See the *General Section* for information regarding the registration process or ask for registration information from the Grants.gov Support Desk. Copies of the *General Section*, this program section, and the required forms are available and may be downloaded from the *Grants.gov* Web site at *www.Grants.gov*.

You may request general information, copies of the *General Section* and NOFA (including related documents), from the NOFA Information Center (800–HUD–8929 or 800–HUD–2209 (TTY)) Monday through Friday, except on federal holidays. When requesting information, please refer to the name of the program you are interested in.

B. *Content and Form of Application Submission.* The exhibits to be included in your application are contained in the body of this NOFA. Before preparing your application, you should carefully review the requirements of the regulations (24 CFR part 891) and general program instructions in Handbook 4571.3 REV–1, Section 202 Capital Advance Program for Housing the Elderly. *Note: Section 1001 of Title 18 of the United States Code (Criminal Code and Criminal Procedure, 72 Stat. 967) applies to all information supplied in the application submission.* (18 U.S.C. 1001, among other things, provides that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.)

The Application for a Section 202 Capital Advance consists of four parts with a total of eight Exhibits. Included with the eight Exhibits are prescribed forms, certifications and resolutions. The components of the Application are:

Part 1—Application Form for Section 202 Supportive Housing—Capital Advance (Exhibit 1)

Part 2—Your Ability to Develop and Operate the Proposed Project (Exhibits 2 and 3)
Part 3—The Need for Supportive Housing for the Target Population in the Area to be Served, Site Control and Suitability of Site, Adequacy of the Provision of Supportive Services and of the Proposed Project (Exhibits 4 and 5)
Part 4—General Application Requirements, Certifications and Resolutions (Exhibits 6 through 8).

The following additional information, which may assist you in preparing your application, is available on HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

Listing of Local HUD Offices
Letter Requesting SHPO/THPO Review
Choosing an Environmentally Safe Site
Supplemental to Choosing an Environmentally Safe Site

Your application must include all of the information, materials, forms, and exhibits listed below (unless you were selected for a Section 202 fund reservation within the last three funding cycles). If you qualify for this exception, you are not required to submit the information described in Exhibits 2(a), (b), and (c), which are the articles of incorporation, (or other organizational documents), by-laws, and the IRS tax exemption, respectively. If there has been a change in any of these documents since your previous HUD approval, you must submit the updated information in your application. The local HUD office will verify your previous HUD approval by checking the project number and approval status with the appropriate local HUD office based on the information submitted.

In addition to this relief of paperwork burden in preparing applications, you will be able to use information and exhibits previously prepared for prior applications under Section 202, Section 811, or other funding programs. Examples of exhibits that may be readily adapted or amended to decrease the burden of application preparation include, among others, those on previous participation in the Section 202 or Section 811 programs, your experience in the provision of housing and services, supportive services plans, community ties, and experience serving minorities.

For programmatic information, you MUST contact the appropriate local HUD office about the submission of applications within the jurisdiction of that Office. A listing of the local HUD offices is available on HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

Please submit *your application using the following format provided in this NOFA.* For applications to be submitted electronically, in which you have created files to be attached to the electronic application, you should number the pages of the attached file and include a header that identifies the exhibit that it relates to.

For applicants that have received a waiver of the electronic application submission, you must number the pages of each file, narratives and other attached files. Include the name of your organization, your DUNS number, and the exhibit number that you are responding to on the header of each document.

1. Table of Contents (This is also to be used as a checklist to assist you in submitting a complete application. For applicants who received a waiver of the electronic application submission, after your application is complete, you must insert the page number after each Exhibit or portion of the Exhibit item listed below.)

a. Part I—Application Form for Section 202 Supportive Housing—Capital Advance

(1) Exhibit 1: Form HUD–92015–CA, Supportive Housing for the Elderly:

Section 202, Application for Capital Advance Summary Information

b. Part II—Your Ability To Develop and Operate the Proposed Project

(1) Exhibit 2: Your Legal Status

(a) Articles of Incorporation (or other organizational documents);

(b) By-laws;

(c) IRS Tax Exemption Ruling.

[Exception: See exhibit to determine if you may be exempt from submitting these documents.]

(2) Exhibit 3: Your purpose, community ties and experience:

(a) Purpose(s), current activities, how long you have been in existence;

(b) Ties to the community at large, to the target population, and description of geographic areas served;

(c) Local government support for project;

(d) Letters of support for your organization and for the proposed project;

(e) Housing and/or supportive services experience;

(f) Efforts to involve target population;

(g) Description of practical solutions to be implemented;

(h) Project Development Timeline;

(i) Description of how project will remain viable, including:

(i) If service funds are depleted;

(ii) For State-funded services, if State changes policy;

(iii) If the need for project changes;

(j) Description of efforts to remove barriers to affordable housing;

(k) Description of your plans to incorporate Section 3 requirements, Economic Opportunities for Low- and Very Low-Income Persons, in proposed project (optional, but required to received up to 2 points).

c. Part III—The Need for Supportive Housing for the Target Population in the Area To Be Served, Site Control and Suitability of Site, Adequacy of the Provision of Supportive Services and of the Proposed Project

(1) Exhibit 4: Project information including:

(a) Evidence of need for project;

(b) How project will benefit target population and community;

(c) A narrative description of the project, including:

(i) Building design;

(ii) Whether and how project will promote energy efficiency;

(iii) If applicable, description of plans and actions to create a mixed-finance project for additional units and the number of additional units;

(d) Evidence of site control and permissive zoning;

(i) Site control document(s);

(ii) Evidence site is free of limitations, restrictions, or reverters;

(iii) Evidence of permissive zoning or statement of proposed action required to make project permissible;

(iv) Evidence of compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) site notification requirement;

(v) Narrative topographical/demographic description of site/area suitability, how site will promote greater housing opportunities for minorities/target population;

(vi) Racial composition/concentration map of site;

(vii) Phase I Environmental Site Assessment;

(viii) Asbestos Statement or Survey;

(ix) Letter to State/Tribal Historic Preservation Officer (SHPO/THPO) and a statement that SHPO/THPO failed to respond to you OR a copy of the response letter received from SHPO/THPO.

(2) Exhibit 5: Supportive Services Plan:

(a) Description of services;

(b) Public/private funding sources for proposed services;

(c) Manner in which services will be provided.

d. Part IV—General Application Requirements, Certifications and Resolutions

(1) Exhibit 6: Other Applications:

(a) A list of applications, if any, you are submitting to any other local HUD Office in response to the FY 2006 Section 202 or Section 811 NOFA, and required information about each;

(b) A list of all FY 2005 and prior years Section 202 or Section 811 projects to which you are a party and the required information about each.

(2) Exhibit 7: A statement that:

(a) Identifies all persons occupying property on application submission date;

(b) Indicates estimated cost of relocation payments/other services;

(c) Identifies staff organization that will carry out relocation activities;

(d) Identifies all persons who have moved from site within past 12 months.

(3) Exhibit 8: Standard Forms, Certifications and Resolutions:

(a) Standard Form 424, Application for Federal Assistance with copy of the letter you sent to the State Point of Contact, if applicable;

(b) Standard Form 424 Supplement, Survey on Ensuring Equal Opportunity for Applicants;

(c) Standard Form LLL, Disclosure of Lobbying Activities, if applicable;

(d) Form HUD–2880, Applicant/Recipient Disclosure/Update Report;

(e) Form HUD–2991, Certification of Consistency with the Consolidated Plan;

(f) Form HUD–92041, Sponsor's Conflict of Interest Resolution;

(g) Form HUD–92042, Sponsor's Resolution for Commitment to Project;

(h) Form HUD–2990, Certification of Consistency with the RC/EZ/EC–II Strategic Plan, if applicable;

(i) Form HUD–96010, Program Outcome Logic Model;

(j) Form HUD–27300, Questionnaire for HUD's Initiative on Removal of Regulatory Barriers (optional form, but required to receive up to 2 points);

(k) Form HUD–96011, Facsimile Transmittal, must be used as the cover page to any facsimile submitted using the facsimile solution (*i.e.*, for faxing third party letters and other documents for your electronic application in accordance with the instructions in the General Section;

(l) Form HUD–2994–A, You Are Our Client/Grant Applicant Survey (optional).

2. Programmatic Applications Requirements

a. Part I—Application Form for Section 202 Supportive Housing—Capital Advance

(1) Exhibit 1: Form HUD–92015–CA, Supportive Housing for the Elderly Section 202, Application for Capital Advance Summary Information. A copy of this form is available at the Grants.gov Web site at *www.grants.gov*.

b. Part II—Your Ability To Develop and Operate the Proposed Project

(1) Exhibit 2: Evidence of your legal status (Private nonprofit or nonprofit consumer cooperative (If another organization(s) is co-sponsoring the application with you, each co-Sponsor must also submit the following):

(a) Articles of Incorporation, constitution, or other organizational documents;

(b) By-laws;

(c) IRS tax exemption ruling (this must be submitted by all Sponsors, including churches).

Note: Based on a HUD review of your articles of incorporation, constitution, or other organizational documents, HUD must determine, among other things, that (1) you are an eligible private nonprofit entity and are not a public body or an instrumentality of a public body, (2) your corporate purposes are sufficiently broad to provide you the legal authority to sponsor the proposed project for the elderly, to assist the Owner, and to apply for a capital advance, (3) no part of the Sponsor's net earnings inures to the benefit of any private party, and (4) that you are not controlled by or under the direction of persons seeking to derive profit or gain therefrom.

[Exception: If you received a section 202 fund reservation within the last three funding cycles, you are not required to submit the documents described in (A), (B), and (C) above. Instead, submit the project number of the latest application and the local HUD office to which it was submitted. If there have been any modifications or additions to the subject documents, indicate such, and submit the new material.]

(2) Exhibit 3: Your purpose, community ties and experience:

(a) A description of your purpose(s), current activities, including your ability to enlist volunteers and raise private local funds, and how long you have been in existence.

(b) A description of your ties to the community in which your project will be located and to the minority and elderly communities in particular, including a description of the specific geographic area(s) in which you have served.

(c) A description of local government support for the project (including financial assistance, donation of land, provision of services, etc.).

(d) Letters of support for your organization and for the proposed project from organizations familiar with the housing and supportive services needs of the target population that you expect to serve in the proposed project.

(e) A description of your housing and/or supportive services experience. The description should include any rental housing projects and/or supportive services facilities that you sponsored, own and/or operate, your past or current involvement in any programs other than housing that demonstrates your management capabilities (including financial management) and experience, your experience in serving the target population (the elderly and/or families and minorities); and the reasons for receiving any increases in fund reservations for developing and/or operating previously funded Section 202 or Section 811 projects. The description should include data on the facilities and services provided, the racial/ethnic composition of the populations served, if available, and information and testimonials from residents or community leaders on the quality of the activities. Examples of activities that could be described include housing counseling, nutrition and food services, special housing referral, screening and information projects.

(f) A description of your efforts to involve members of the target population (elderly persons, including minority elderly persons) in the development of the application as well as your intent to involve the target population in the development and operation of the project.

(g) A description of the practical solutions you will implement which will enable residents of your project to achieve independent living. In addition, describe the educational opportunities you will provide for the residents and how you will provide them. This description should include any activities that will enhance the quality of life for the residents. And, finally, describe how your proposed project will be an improved living environment for the residents when compared to their previous place of residence.

(h) Describe your plan for completing the proposed project. Include a project development timeline which lists the major development stages for the project with associated dates that must be met in order to get the project to initial closing and start of construction within the 18-month fund reservation period as well as the full completion of the project, including final closing.

Completion of Exhibit 8(i), Program Outcome Logic Model, will assist you in completing your response to this Exhibit.

(i) Describe how you will ensure that your proposed project will remain viable as housing with the availability of supportive services for the target population for the 40-year capital advance period. This description should address the measures you would take should any of the following occur:

(i) Funding for any of the needed supportive services becomes depleted;

(ii) If, for any state-funded services for your project, the state changes its policy regarding the provision of supportive services to projects such as the one you propose; or

(iii) If the need for housing for the population you will be serving wanes over time, causing vacancies in your project.

(j) A description of the successful efforts the jurisdiction in which your project will be located has taken in removing regulatory barriers to affordable housing. To obtain up to 2 points for this policy priority, you must complete the optional Form HUD–27300, ''Questionnaire for HUD's Initiative on Removal of Regulatory Barriers'' in Exhibit 8(j) of the application AND provide the necessary URL references or submit the documentary evidence.

(k) A description on how you plan to incorporate the Section 3 requirements into your proposed project with goals for expanding training and employment opportunities for low- and very low-income (Section 3) persons as well as business concerns. This exhibit is optional, but to obtain up to 2 points for this policy priority, you must submit this exhibit and adequately address your plans to provide opportunities to train and employ low- and very low-income residents of the project area and award substantial contracts to persons residing in the project area.

c. Part III—The Need for Supportive Housing for the Target Population, Site Control and Suitability of Site, Adequacy of the Provision of Supportive Services and of the Proposed Project

(1) Exhibit 4: Need and Project Information

(a) Evidence of need for supportive housing. Include a description of the category or categories of elderly persons the housing is intended to serve and evidence demonstrating sustained effective demand for supportive housing for that population in the market area to be served, taking into consideration the occupancy and vacancy conditions in existing federally assisted housing for the elderly (HUD and the Rural Housing Service (RHS)) *e.g.*, public housing, state or local data on the limitations in activities of daily living among the elderly in the area; aging in place in existing assisted rentals; trends in demographic changes in elderly population and households; the numbers of income eligible elderly households by size, tenure and housing condition; the types of supportive services arrangements currently available in the area; and the use of such services as evidenced by data from local social service agencies or agencies on aging. Also, a description of how information in the community's or (where applicable) the state's Consolidated Plan, Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues was used in documenting the need for the project.

(b) A description of how the proposed project will benefit the target population and the community in which it will be located.

(c) Description of the project.

(i) Narrative description of the building design including a description of the number of units with bedroom distribution, any special design features, including any features that incorporate visitability standards and universal design, amenities, and/or commercial and community spaces, and how this design will facilitate the delivery of services in an economical fashion and accommodate the changing needs of the residents over the next 10–20 years.

Note: If the community spaces, amenities, or features do not comply with the project design and cost standards of 24 CFR 891.120(a) and (c), the special standards of 24 CFR 891.210, and the limitation on bedroom unit sizes as required by paragraph 1–11.B.4. of HUD Handbook 4571.3 REV–1, you must demonstrate your ability and willingness to contribute both the incremental development cost and continuing operating cost associated with the community spaces, amenities, or features;

(ii) Describe whether and how the project will promote energy efficiency (in accordance with the requirements set forth in Section III.C.3.j. and III.C.4.of this NOFA), including any plans to incorporate energy efficiency features in the operation of the project through the use of Energy Star labeled products and appliances and, if applicable, innovative construction or rehabilitation methods or technologies to be used that will promote efficient construction.

(iii) If you are proposing to develop a mixed-finance project by developing additional units for the elderly (*i.e.*, in addition to the 202 units), a description of any plans and actions you have taken to create such a mixed-finance project with the use of Section 202 capital advance funds, in combination with other funding sources. Provide the number of non-Section 202 units to be included in the mixed-finance project (also provide the number of additional units in the appropriate space on Form HUD–92015-CA). Also, provide copies of any letters you have sent seeking outside funding for the non-Section 202 units and any responses thereto. You also must demonstrate your ability to proceed with the development of a Section 202 project that will not involve mixed-financing, as proposed in your application, in the event you are later unable to obtain the necessary outside funding or HUD disapproves your proposal for a mixed-finance project for additional non-Section 202 units for the elderly.

Notes: (1) A proposal to develop a mixed-finance project for additional units must occur at the application for fund reservation stage. You cannot decide after selection that you want to do a mixed-finance project for additional units. (2) Section 202 capital advance amendment money will not be approved for projects proposing mixed-financing. (3) If approved for a reservation of capital advance funds, you will be required to submit with your Firm Commitment Application, the additional documents required by HUD for mixed-finance proposals. (4) A mixed-finance project does not include the development of a mixed-use project in which the Section 202 units are mortgaged separately from the other uses of the structure.

(d) Evidence of site control and permissive zoning.

(i) Acceptable evidence of site control is limited to any one of the following:

(A) Deed or long-term leasehold which evidences that you have title to or a leasehold interest in the site. If a leasehold, the term of the lease must be at least 50 years with renewable provisions for 25 years, except for sites on Indian trust land, in which case, the term of the lease must be at least 50 years with no requirement for extensions;

(B) Contract of sale for the site that is free of any limitations affecting the ability of the seller to deliver ownership to you after you receive and accept a notice of Section 202 capital advance. (The only condition for closing on the sale can be your receipt and acceptance of the capital advance.) The contract of sale cannot require closing earlier than the Section 202 closing;

(C) Option to purchase or for a long-term leasehold, which must remain in effect for six months from the date on

which the applications are due, must state a firm price binding on the seller, and be renewable at the end of the six-month period. The only condition on which the option may be terminated is if you are not awarded a fund reservation;

(D) If the site is covered by a mortgage under a HUD program, (*e.g.*, a previously funded Section 202 or Section 811 project or an FHA-insured mortgage) you must submit evidence of site control as described above and evidence that consent to release the site from the mortgage has been obtained or has been requested from HUD (all required information in order for a decision on the request for a partial release of security must have been submitted to the local HUD office) and from the mortgagee, if other than HUD. Approval to release the site from the mortgage must be done before the local HUD office makes its selection recommendations to HUD Headquarters. Refer to Chapter 16 of HUD Handbook 4350.1 REV–1, Multifamily Asset Management and Project Servicing, for instructions on submitting requests to the local HUD office for partial release of security from a mortgage under a HUD program; or

(E) For sites to be acquired from a public body, evidence is needed that the public body possesses clear title to the site and has entered into a legally binding agreement to lease or convey the site to you after you receive and accept a notice of Section 202 capital advance. Where HUD determines that time constraints of the funding round will not permit you to obtain all of the required official actions (*e.g.*, approval of Community Planning Boards) that are necessary to convey publicly-owned sites, you may include in your application a letter from the mayor or director of the appropriate local agency indicating that conveyance or leasing of the site is acceptable without imposition of additional covenants or restrictions, and only contingent on the necessary approval action. Such a letter of commitment will be considered sufficient evidence of site control.

(ii) Whether you have title to the site, a contract of sale, an option to purchase, or are acquiring a site from a public body, you must provide evidence (a current title policy or other acceptable evidence) that the site is free of any limitations, restrictions, or reverters which could adversely affect the use of the site for the proposed project for the 40-year capital advance period under HUD's regulations and requirements (*e.g.*, reversion to seller if title is transferred). If the title evidence contains restrictions or covenants, copies of the restrictions or covenants must be submitted with the application. If the site is subject to any such limitations, restrictions, or reverters, the application will be rejected. Purchase money mortgages that will be satisfied from capital advance funds are not considered to be limitations or restrictions that would adversely affect the use of the site. If the contract of sale or option agreement contains provisions that allow a Sponsor not to purchase the property for reasons such as environmental problems, failure of the site to pass inspection, or the appraisal is less than the purchase price, then such provisions are not objectionable and a Sponsor is allowed to terminate the contract of sale or the option agreement.

Note: A proposed project site may not be acquired or optioned from a general contractor (or its affiliate) that will construct the Section 202 project or from any other development team member.

(iii) Evidence that the project, as proposed, is permissible under applicable zoning ordinances or regulations or a statement of the proposed action required to make the proposed project permissible and the basis for the belief that the proposed action will be completed successfully before the submission of the firm commitment application (*e.g.*, a summary of the results of any requests for rezoning and/or the procedures for obtaining special or conditional use permits on land in similar zoning classifications and the time required for such rezoning, or preliminary indications of acceptability from zoning bodies, etc.).

(iv) Evidence of compliance with the URA requirement that the seller has been provided, in writing, with the required information regarding a voluntary, arm's length purchase transaction (*i.e.*, (1) applicant does not have the power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement, and (2) of the estimate of the fair market value of the property).

Note: This information should have been provided before making the purchase offer. However, in those cases where there is an existing option or contract, the seller must be provided the opportunity to withdraw from the agreement or transaction, without penalty, after this information is provided.

(v) Narrative describing topographical and demographic aspects of the site, the suitability of the site and area (as well as a description of the characteristics of the neighborhood), how use of the site will promote greater housing opportunities for minority elderly and elderly persons with disabilities, and how use of the site will affirmatively further fair housing.

Note: You can best demonstrate your commitment to affirmatively furthering fair housing by describing how your proposed activities will assist the jurisdiction in overcoming impediments to fair housing choice identified in the applicable jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice, which is a component of the jurisdiction's Consolidated Plan or any other planning document that addresses fair housing issues. The applicable Consolidated Plan and AI may be the community's, the county's, or the state's, to which input should have been provided by local community organizations, agencies in the community and residents of the community. Alternatively, a document that addresses fair housing issues and remedies to barriers to fair housing in the community that was previously prepared by a local planning, or similar organization, may be used. Applicable impediments could include the need for improved housing quality and services for elderly minority families, lack of affirmative marketing and outreach to minority elderly persons, and the need for quality eldercare services within areas of minority concentration when compared with the type and quality of similar services and housing in nonminority areas.

(vi) A map showing the location of the site, the racial composition of the neighborhood, and any areas of racial concentration.

Note: For this competition, when determining the racial and ethnic composition of the neighborhood surrounding the proposed site, use data from the 2000 Census of Population. Data from the 2000 Census may be found at: *www.factfinder.census.gov/servlet/BasicFactsServlet.*

(vii) A Phase I Environmental Site Assessment (ESA), in accordance with the ASTM Standards E 1527–05, as amended, must be undertaken and completed by you and submitted with the application. In order for the Phase I ESA to be acceptable, it must have been completed or updated no earlier than six months prior to the application deadline date. Therefore, it is important to start the site assessment process as soon after the publication of the NOFA as possible.

If the Phase I ESA indicates possible presence of contamination and/or hazards, you must decide whether to continue with this site or choose another site. Should you choose another site, the same Phase I ESA process identified above must be followed for the new site. If the property is to be acquired from the FDIC/RTC, include a copy of the FDIC/RTC prepared

Transaction Screen Checklist or Phase I ESA and applicable documentation, per the FDIC/RTC Environmental Guidelines. If you choose to continue with the original site on which the Phase I ESA indicated contamination or hazards, you must undertake a detailed Phase II ESA by an appropriate professional. If the Phase II Assessment reveals site contamination, you must submit the extent of the contamination and a plan for clean-up of the site including a contract for remediation of the problem(s) and an approval letter from the applicable federal, state, and/or local agency with jurisdiction over the site to the local HUD office. The Phase II ESA and any necessary plans for clean-up do not have to be submitted with the application but must be received by the local HUD office by July 3, 2006. If it is not received by that date, the application will be rejected.

Note: You must pay for the cost of any clean-up or remediation, which can be very expensive. See NOTE at Section III.C.2.b.(3)(c)(iii).

(viii) You must submit one of the following:

(A) If there is no pre-1978 structures on the site or if there are pre-1978 structures, that most recently consisted of solely four or fewer units of single-family housing including appurtenant structures thereto, a statement to this effect, or

(B) If there are pre-1978 structures on the site, other than for a site that most recently consisted of solely four or fewer units of single-family housing including appurtenant structures thereto, a comprehensive building asbestos survey that is based on a thorough inspection to identify the location and condition of asbestos throughout any structures.

Note: In those cases where suspect asbestos is found, it would either be assumed to be asbestos or would require confirmatory testing. If the asbestos survey indicates the presence of asbestos, or the presence of asbestos is assumed, and if the application is approved, HUD will condition the approval on an appropriate mix of asbestos abatement and an asbestos Operations and Maintenance Plan.

(ix) The letter you sent to the State/Tribal Historic Preservation Officer (SHPO/THPO) initiating consultation with their office and requesting their review of your determinations and findings with respect to the historical significance of your proposed project, along with a statement that the SHPO/THPO failed to respond to your letter, OR the SHPO/THPO response to your letter. A sample letter that you may adapt and send to the SHPO/THPO is available on the Grants.gov Web site at *www.grants.gov.*

(2) Exhibit 5: Supportive Services Plan

(a) A detailed description of the supportive services proposed to be provided to the anticipated occupancy.

(b) A description of public or private sources of assistance that reasonably could be expected to fund the proposed services.

(c) The manner in which such services will be provided to such persons (*i.e.*, on or off-site), including whether a service coordinator will facilitate the adequate provision of such services, and how the services will meet the identified needs of the residents.

Note: You may not require residents, as a condition of admission or occupancy, to accept any supportive services.

d. Part IV—General Application Requirements, Certifications and Resolutions

(1) Exhibit 6: Other Applications

(a) A list of the applications, if any, you are submitting to any other local HUD office in response to the FY2006 Section 202 or Section 811 NOFA. Indicate by local HUD office, the proposed location by city and state and the number of units requested for each application.

(b) Include a list of all FY2005 and prior years Section 202 and Section 811 capital advance projects to which you are a party. Identify each by project number and local HUD office and include the following information:

(1) Whether the project has initially closed and, if so, when;

(2) If the project was older than 24 months when it initially closed (specify how old) or if older than 24 months now (specify how old) and has not initially closed, provide the reasons for the delay in closing;

(3) Whether amendment money was or will be needed for any project in (2) above; and, (4) Those projects that have not been finally closed.

(2) Exhibit 7: A statement that:

(a) Identifies all persons (families, individuals, businesses and nonprofit organizations) by race/minority group, and status as owners or tenants occupying the property on the date of submission of the application for a capital advance.

(b) Indicates the estimated cost of relocation payments and other services.

(c) Identifies the staff organization that will carry out the relocation activities.

(d) Identifies all persons that have moved from the site within the past 12 months.

Note: If any of the relocation costs will be funded from sources other than the Section 202 capital advance, you must provide evidence of a firm commitment of these funds. When evaluating applications, HUD will consider the total cost of proposals (*i.e.*, cost of site acquisition, relocation, construction and other project costs).

(3) Exhibit 8: Standard Forms, Certifications and Resolutions. You are required to submit completed copies of the following forms which are available on the Grants.gov Web site at *http://www.grants.gov*.

(a) Standard Form 424—Application for Federal Assistance, including a DUNS number, an indication of whether you are delinquent on any federal debt, and compliance with Executive Order 12372 (a certification that you have submitted a copy of your application, if required, to the State agency (Single Point of Contact/(SPOC)) for state review in accordance with Executive Order 12372). If the SPOC requires a review of your application, you must include in your Section 202 application, a copy of the cover letter sent to the SPOC. Refer to Section IV.D. of this NOFA for additional information on compliance with Executive Order 12372. **Note:** For Section 202 program purposes, in Item 12, Areas Affected by Project, of SF–424, provide the names of the City, County and State where the project will be located (not the largest political entities as indicated on the instructions page of SF–424).

(b) Standard Form 424 Supplement, Survey on Ensuring Equal Opportunity for Applicants. Although the information on this form will not be considered in making funding decisions, it will assist the federal government in ensuring that all qualified applicants have an equal opportunity to compete for federal funding.

(c) Standard Form LLL—Disclosure of Lobbying Activities (if applicable). A disclosure of activities conducted to influence any federal transactions.

(d) Form HUD–2880, Applicant/Recipient Disclosure/Update Report, including Social Security and Employee Identification Numbers. A disclosure of assistance from other government sources received in connection with the project.

(e) Form HUD–2991, Certification of Consistency with the Consolidated Plan (Plan) for the jurisdiction in which the proposed project will be located. The certification must be made by the unit of general local government if it is required to have, or has, a complete Plan. Otherwise, the certification may be made by the state or by the unit of general local government if the project

will be located within the jurisdiction of the unit of general local government authorized to use an abbreviated strategy, and if it is willing to prepare such a Plan. All certifications must be made by a public official responsible for submitting the Plan to HUD. The certifications must be submitted as part of the application by the application submission deadline date set forth in the NOFA. The Plan regulations are published in 24 CFR part 91.

(f) Form HUD–92041, Sponsor's Conflict of Interest Resolution. A certified Board Resolution that no officer or director of the Sponsor or Owner has or will have any financial interest in any contract with the Owner or in any firm or corporation that has or will have a contract with the Owner, including a current listing of all duly qualified and sitting officers and directors by title and the beginning and ending dates of each person's term.

(g) Form HUD–92042, Sponsor's Resolution for Commitment to Project. A certified Board Resolution acknowledging responsibilities of sponsorship, long-term support of the project(s), your willingness to assist the Owner to develop, own, manage and provide appropriate services in connection with the proposed project, and that it reflects the will of your membership. Also, it shall indicate your willingness to fund the estimated start-up expenses, the Minimum Capital Investment (one-half of one-percent of the HUD-approved capital advance, not to exceed $10,000 or for national Sponsors, not to exceed $25,000), and the estimated cost of any amenities or features (and operating costs related thereto) that would not be covered by the approved capital advance.

(h) Form HUD–2990, Certification of Consistency with the RC/EZ/EC–II Strategic Plan. A certification that the project is consistent with the RC/EZ/EC–IIs strategic plan, is located within the RC/EZ/EC–II, and serves RC/EZ/EC–II residents. (This certification is not required if the project site(s) will not be located in a RC/EZ/EC–II.)

(i) Form HUD–96010, Program Outcome Logic Model. In addition to the Project Development Timeline to be submitted in Exhibit 3(h) above, the information provided in the Logic Model will be used in rating your application for Rating Factor 5, Achieving Results and Program Evaluation.

(j) Form HUD–27300, Questionnaire for HUD's Initiative on Removal of Regulatory Barriers (optional form). To receive up to 2 points, you must submit this form and provide a reference, URL or brief statement documenting the successful efforts in removing barriers to affordable housing by the jurisdiction in which your project will be located. This Questionnaire will be considered in the rating of your application for Rating Factor 3.j.

(k) Form HUD–96011, Facsimile Transmittal, is only required if you are using the facsimile method to fax third party letters and other documents for your electronic application in accordance with the instructions in the *General Section.*

Note: HUD will not accept entire applications by fax. If you submit the application entirely by fax, it will be disqualified.

(l) Form HUD–2994–A, You Are Our Client Grant Applicant Survey. This is an optional form, which may be used to provide suggestions and comments to the Department regarding your application submission experience.

C. *Submission Dates and Time.* Your application must be received and validated electronically by Grants.gov no later than 11:59:59 p.m. Eastern time on the application deadline date of June 2, 2006, unless a waiver of the electronic delivery process has been approved by HUD. Please refer to the *General Section* for instructions on applying for a waiver. HUD strongly recommends that applicants that are unable to submit its application electronically and must seek a waiver of the electronic grant submission requirement, submit its waiver request to the Assistant Secretary for Housing at the following address no later than 15 days before the application deadline date. Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9100, Washington, DC 20410–8000.

If a waiver is granted, you must mail copies of the application so that it can be received at the appropriate local HUD office no later than 11:59:59 p.m. on the application deadline date of June 2, 2006. The letter granting the waiver will provide instructions regarding the number of copies and where the application must be sent.

D. *Intergovernmental Review. 1. State Review.* This funding opportunity is subject to Executive Order (EO) 12372, ''Intergovernmental Review of Federal Programs.'' You must contact your State's Single Point of Contact (SPOC) to find out about and comply with the state's process under EO 12372. The names and addresses of the SPOCs are listed in the Office of Management and Budget's home page at *http://www.whitehouse.gov/omb/grants/spoc.html.* If required by the state, the submission to the state needs to occur before the Section 202 application deadline date, but in no event later than the application deadline date. It is recommended that you provide the state with sufficient time to review the application. Therefore, it is important that you consult with the SPOC for State review timeframes and take that into account when submitting the application. If the SPOC requires a review of your application, you must include a copy of the cover letter you sent to the SPOC in Exhibit 8(a) of your Section 202 application.

2. HUD/RHS Agreement. HUD and the Rural Housing Service (RHS) have an agreement to coordinate the administration of the agencies' respective rental assistance programs. As a result, HUD is required to notify RHS of applications for housing assistance it receives. This notification gives RHS the opportunity to comment if it has concerns about the demand for additional assisted housing and possible harm to existing projects in the same housing market area. HUD will consider RHS' comments in its review and application selection process.

E. *Funding Restrictions.*

1. Ineligible Activities. Section 202 funds may not be used for:

a. Nursing homes;

b. Infirmaries;

c. Medical facilities;

d. Mobile homes;

e. Community centers;

f. Headquarters for organizations for the elderly;

g. Nonhousekeeping accommodations (e.g., central dining, but without private kitchens and/or bathrooms in the residential units);

h. Refinancing of sponsor-owned facilities without rehabilitation,

i. Housing that you currently own or lease that is occupied by elderly persons; and

j. Projects licensed or to be licensed as assisted living facilities.

Note: You may propose to rehabilitate an existing currently-owned or leased structure that does not already serve elderly person, except that the refinancing of any federally-funded or assisted project or project insured or guaranteed by a federal agency is not permissible under this Section 202 NOFA. HUD does not consider it appropriate to utilize scarce program resources to refinance projects that have already received some form of assistance under a federal program. (For example, Section 202 or Section 202/8 direct loan projects cannot be refinanced with capital advances and project rental assistance.)

2. Application Limits (Units/Projects). Refer to Section III.C. of this NOFA for

information applicable to the limitations on the number of units you may apply for in a single application and the project sizes.

3. *Development Cost Limits.* a. The following development cost limits, adjusted by locality as described in Section IV.E.3.b. below must be used to determine the capital advance amount to be reserved for projects for the elderly.

Note: The capital advance funds awarded for this project are to be considered the total amount of funds that the Department will provide for the development of this project. Amendment funds will only be provided in exceptional circumstances (e.g., to cover increased costs for construction delays due to litigation or unforeseen environmental issues resulting in a change of sites) that are clearly beyond your control. Otherwise, you are responsible for any costs over and above the capital advance amount provided by the Department as well as any costs associated with any excess amenities and design features.

(1) The capital advance amount for the project attributable to dwelling use (less the incremental development cost and the capitalized operating costs associated with any excess amenities and design features and other costs you must pay for) may not exceed:

Non-elevator structures:

$42,980 per family unit without a bedroom;
$49,557 per family unit with one bedroom;
$59,766 per family unit with two bedrooms;

For elevator structures:

$45,232 per family unit without a bedroom;
$51,849 per family unit with one bedroom;
$63,049 per family unit with two bedrooms.

(2) These cost limits reflect those costs reasonable and necessary to develop a project of modest design that complies with HUD minimum property standards; the accessibility requirements of § 891.120(b); and the project design and cost standards of § 891.120 and § 891.210.

b. Increased development cost limits. (1) HUD may increase the development cost limits set forth above, by up to 140 percent in any geographic area where the cost levels require, and may increase the development cost limits by up to 160 percent on a project-by-project basis. This increase may include covering additional costs to make dwelling units accessible through rehabilitation.

Note: In applying the applicable high cost percentage, the local HUD Office may use a percentage that is higher or lower than that which is assigned to the local HUD Office if it is needed to provide a capital advance amount that is comparable to what it typically costs to develop a Section 202 project in that area.

(2) If HUD finds that high construction costs in Alaska, Guam, the Virgin Islands, or Hawaii make it infeasible to construct dwellings, without the sacrifice of sound standards of construction, design, and livability, within the development cost limits provided in sections IV.E.3.a.(1) and IV.E.3.b.(1) above, the amount of the capital advances may be increased to compensate for such costs. The increase may not exceed the limits established under this section (including any high cost area adjustment) by more than 50 percent.

4. *Commercial Facilities.* A commercial facility for the benefit of the residents may be located and operated in the Section 202 project. However, the commercial facility cannot be funded with the use of Section 202 capital advance or PRAC funds. The maximum amount of space permitted for a commercial facility cannot exceed 10 percent of the total project cost. An exception to this 10 percent limitation is if the project involves acquisition or rehabilitation and the additional space was incorporated in the existing structure at the time the proposal was submitted to HUD. Commercial facilities are considered public accommodations under Title III of the Americans with Disabilities Act of 1990 (ADA), and thus must comply with all the accessibility requirements of the ADA.

5. *Expiration of Section 202 Funds.* The Department of Housing and Urban Development Appropriations Act, 2006, requires HUD to obligate all Section 202 funds appropriated for FY 2006 by September 30, 2009. Under 31 U.S.C. Section 1551, no funds can be disbursed from this account after September 30, 2014. Under Section 202, obligation of funds occurs for both capital advances and project rental assistance upon fund reservation and acceptance. If all funds are not disbursed by HUD and expended by the project Owner by September 30, 2014, the funds, even though obligated, will expire and no further disbursements can be made from this account. In submitting an application you need to carefully consider whether your proposed project can be completed through final capital advance closing no later than September 30, 2014. Furthermore, all unexpended balances, including any remaining balance on PRAC contracts, will be cancelled as of October 1, 2014. Amounts needed to maintain PRAC payments for any remaining term on the affected contracts beyond that date will have to be funded from other current appropriations.

F. *Other Submission Requirements:*

1. Address for Submitting Applications. Applications must be submitted electronically through the *www.grants.gov* Web site, unless the applicant receives a waiver from the electronic application submission requirement. See the *General Section,* Application Submission and Receipt Procedures, for information on applying online. If you apply for and receive a waiver from the electronic application requirement, you must submit an original and four copies of your completed application to the Director of the appropriate local HUD office. Refer to HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm* for a listing of local HUD offices. The applications submitted electronically via *www.Grants.gov* will be downloaded and forwarded to the appropriate local HUD office.

2. *Special Instructions for Section 202 Applications That Will Have More Than One Applicant, i.e., Co-Sponsors.* The applicants must designate a single individual to act as the authorized representative for all co-Sponsors of the application. The designated authorized representative of the organization submitting the application must be registered with Grants.gov, the Federal Central Contractor Registry and with the credential provider for E-Authentication. Information on the Grants.gov registration process is found at HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* (Ours are clearer instructions.) When the application is submitted through Grants.gov, the name of the designated authorized representative will be inserted into the signature line of the application. Please note that the designated authorized representative must be able to make legally binding commitments for each co-Sponsor to the application.

Each co-Sponsor must complete the documents required of all co-sponsoring organizations to permit HUD to make a determination on the eligibility of the co-Sponsor(s) and the acceptability of the application based on the assistance and commitments the co-Sponsor(s) has pledged to the project. Therefore, each co-Sponsor must submit the following information using the scanning and/or faxing method described in Section IV. of the *General Section:* Standard Form–424, Application for Federal Assistance; Standard Form–424 Supplement, Survey on Ensuring Equal Opportunity for Applicants; Standard Form LLL, Disclosure of Lobbying Activities (if

applicable); Form HUD–92015–CA, Section 202 Application for Capital Advance, Summary Information; Form HUD–92041, Sponsor's Conflict of Interest Resolution; and Form HUD–92042, Sponsor's Resolution for Commitment to Project. The forms identified above are discussed in the Program instructions package and can be downloaded from Grants.gov under the program application download at *www.grants.gov.* The downloaded and completed forms should be saved as separate electronic files and attached to the electronic application submission following the requirements of Section IV.

As stated in the *General Section,* Section IV, scanning documents to create electronic files increases the size of the file. Therefore, applicants may not submit scanned files unless using the facsimile method as stated in the *General Section* will not work due to the nature of the document. If the facsimile method does not work, forms and other documents from co-Sponsors may be scanned to create an electronic file and submitted as an attachment to the application. These documents should be labeled and numbered so the HUD reviewer can identify the file and its contents. If the applicant is creating an electronic file, the file should contain a header that identifies the name of the Sponsor submitting the electronic application, that Sponsor's DUNS number, and the unique ID that is found at the top of the Facsimile Transmission form found in the electronic application package. The naming convention for each electronic file should correspond to the labeling convention used in the application Table of Contents found in Section IV.B.1. of this program NOFA. For example, the organizational documents of a co-Sponsor would be included under Part II, Exhibit 2(a) of the Section 202 application.

The signed documents and other information required to be submitted with the electronic application should be transmitted via fax using Form HUD–96011, Facsimile Transmittal found in the electronic application package. Co-Sponsors should use the form HUD–96011 provided by the Sponsor that is submitting the electronic application. The submitting Sponsor should fill in the SF–424 form prior to giving the Form HUD–96011 to the co-Sponsors. By following these directions, the Form HUD–96011 will be pre-populated with the submitting Sponsor's organizational information exactly as the submitting Sponsor has provided it on the electronic application. In addition, HUD will be using the unique identifier associated to the downloaded application package as a means of matching the faxes submitted with the applications received via Grants.gov. The Facsimile Transmittal form also has space to provide the number of pages being faxed and information on the type of document. Co-Sponsors or the submitting applicant can insert the document name in the space labeled Program Component.

Note: Do not insert any additional or other cover pages as it will cause problems in electronically matching the pieces of the application.

V. Application Review Information

A. Criteria

Policy Priorities. HUD encourages applicants to undertake specific activities that will assist the Department in implementing its policy priorities and which help the Department achieve its strategic goals for FY 2006. Refer to the *General Section* for information regarding HUD's Strategic Goals and Policy Priorities. For the Section 202 program, applicants who include work activities that specifically address the policy priorities of encouraging accessible design features by incorporating visitability standards and universal design, removing barriers to affordable housing, promoting energy efficiency in design and operations, and expanding training and employment opportunities for low- and very low-income persons and business concerns (Section 3 requirements), will receive additional points. A Notice pertaining to the removal of barriers to affordable housing was published in the **Federal Register** and may be downloaded from the HUD Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

Rating Factors. HUD will rate applications that successfully complete technical processing using the Rating Factors set forth below and in accordance with the application submission requirements in this NOFA. The maximum number of points an application may receive under this program is 102. This includes two (2) RC/EZ/EC–II bonus points, as described in the *General Section* and Section V.A.6. below.

1. Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (23 Points)

This factor addresses the extent to which you have the organizational resources to successfully implement the proposed activities in a timely manner. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 3(a), 3(b), 3(e), 5 and 6 of Section IV.B. of this NOFA. In rating this factor, HUD will consider the extent to which your application demonstrates your ability to develop and operate the proposed housing on a long-term basis, considering the following:

a. (13 points). The scope, extent, and quality of your experience in providing housing or related services to those proposed to be served by the project and the scope of the proposed project (*i.e.*, number of units, services, relocation costs, development, and operation) in relationship to your demonstrated development and management capacity as well as your financial management capability.

b. (10 points). The scope, extent and quality of your experience in providing housing or related services to minority persons or minority families and your ties to the community at large and to the minority and elderly communities in particular.

(1) (5 points). The scope, extent, and quality of your experience in providing housing or related services to minority persons or minority families.

(2) (5 points). The scope, extent, and quality of your ties to the community at large and to the minority and elderly communities in particular.

To earn the maximum number of points under sub-criteria (b)(1) above, you must describe significant previous experience in providing housing and/or supportive services to minorities generally and to minority elderly in particular. For the purpose of this competition, ''significant previous experience'' means that the previous housing assistance or related services to minorities (*i.e.*, the percentage of minorities being provided housing or related services in your current developments) was equal to or greater than the percentage of minorities in the housing market area where the previous housing or services occurred. To earn the maximum number of points under sub-criteria (b)(2) above, you should submit materials that demonstrate your efforts to make housing available to the community at large and the minority and elderly communities in particular and your relationships over time with the minority and elderly communities. Examples of documents that may be submitted to earn the maximum number of points under sub-criteria (b)(2) include letters of support from community leaders (including minority community leaders) that give information about the applicant's relationship over time with the community (including the minority community). You may also submit copies of your affirmative marketing

plan and the advertising/outreach materials you utilize to attract minority communities (including limited English proficient communities), elderly communities and the community at large. Regarding your advertising/outreach materials, you should identify when advertising/outreach materials are circulated, whom they are circulated to, where they are circulated and how they are circulated. Descriptions of other advertising/outreach efforts to the minority (including limited English proficient communities) and elderly communities and the dates and places of such advertising/outreach efforts should also be included.

c. (−3 to −5 points). HUD will deduct (except if the delay was beyond your control) 3 points if a fund reservation you received under either the Section 202 Program of Supportive Housing for the Elderly or the Section 811 Program of Supportive Housing for Persons with Disabilities in FY 2001 or later has been extended beyond 24 months, 4 points if beyond 36 months, or 5 points if beyond 48 months. Examples of such delays beyond your control include, but are not limited to, initial closing delays that are: (1) directly attributable to HUD, (2) directly attributable to third party opposition, including litigation, and (3) due to a disaster, as declared by the President of the United States.

d. (−3 to −5 points). HUD will deduct from 3 points to 5 points if amendment money was required in connection with a fund reservation you received under either the Section 202 Program of Supportive Housing for the Elderly or the Section 811 Program of Supportive Housing for Persons with Disabilities in FY 2001 or later based on the following.

(1) (−3 points). The amount of the amendment money required was *25% or less* of the original capital advance amount approved by HUD.

(2) (−4 points). The amount of the amendment money required was between *26% and 50%* of the original capital advance amount approved by HUD.

(3) (−5 points). The amount of the amendment money required was over *50%* of the original capital advance amount approved by HUD.

2. Rating Factor 2: Need/Extent of the Problem (13 Points)

This factor addresses the extent to which there is a need for funding the proposed activities to address a documented problem in the target area. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 4(a) and 4(b) of Section IV.B. of this NOFA. HUD will take into consideration the following in evaluating this factor:

The extent of the need for the project in the area based on a determination by the local HUD Office. In making this determination, HUD will consider your evidence of need in the area, as well as other economic, demographic, and housing market data available to the local HUD office. The data should include a general assessment of the current conditions in the market for the type of housing proposed, an estimate of the demand for additional housing of the type proposed in the applicable housing market area; as well as, information on the numbers and types of existing comparable federally assisted housing units for the elderly (HUD and RHS), current occupancy in such housing and recent market experience, comparable assisted housing for the elderly under construction or for which fund reservations have been issued, and, in accordance with an agreement between HUD and RHS, comments from RHS on the demand for additional comparable subsidized housing and the possible harm to existing projects in the same housing market areas. The Department will also review more favorably those applications that establish a connection between the proposed project and the community's Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues and is prepared by a local planning or similar organization. You must show how your proposed project will address an impediment to fair housing choice described in the AI or meet a need identified in the other type of planning document.

For all Section 202 projects that are determined to have sufficient demand, HUD will rate your application based on the ratio of the number of units in the proposed project to the estimate of unmet need for housing assistance by the income eligible elderly households with selected housing conditions. Unmet need is defined as the number of very low-income elderly one-person renter households age 75 and older with housing conditions problems, as of the 2000 Census minus the number of project-based subsidized rental housing units (HUD, RHS, or LIHTC) that are affordable to very low-income elderly provided in the area since 1999. Units to be occupied by resident managers are not counted. After HUD determines the estimate of unmet need and whether a connection has been made between the project and community's Consolidated Plan, Analysis of Impediments to Fair Housing Choice, or other planning document, HUD will rate your application as follows:

a. (10 points). The area of the project has an unmet needs ratio of 15 percent or less; or

(5 points). The area of the project has an unmet needs ratio of greater than 15 percent; or

(0 points). The area of the proposed project has no unmet needs for housing assistance.

b. (3 points). The extent that a connection has been established between the project and the community's Consolidated Plan, Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues and is prepared by a local planning or similar organization.

3. Rating Factor 3: Soundness of Approach (47 Points)

This factor addresses the quality and effectiveness of your proposal and the extent to which you involved elderly persons, including elderly minority persons, in the development of the application and will involve them in the development and operation of the project, whether the jurisdiction in which your project will be located has undertaken successful efforts to remove regulatory barriers to affordable housing, whether you will promote energy efficiency in the design and operation of the proposed housing, and your plans to expand economic opportunities for low- and very low-income persons as well as business concerns (Section 3 requirements). There must be a clear relationship between your proposed design, proposed activities, the community's needs and purposes of the program funding for your application to receive points for this factor. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 3(f), 3(j), 3(k), 4(c)(i), 4(c)(ii), 4(d)(iii), 4(d)(v), 4(d)(vi), 5, and 8(j) of Section IV.B. of this NOFA. In evaluating this factor, HUD will consider the following:

a. (20 points). The proximity or accessibility of the site to shopping, medical facilities, transportation, places of worship, recreational facilities, places of employment, and other necessary services to the intended occupants; adequacy of utilities and streets; freedom of the site from adverse environmental conditions; compliance with site and neighborhood standards (24 CFR 891.125(a), (d) and (e)).

b. (−1 point). The site(s) is not permissively zoned for the intended use.

c. (10 points). The suitability of the site from the standpoints of promoting a greater choice of housing opportunities for minority elderly persons/families, and affirmatively furthering fair housing. In reviewing this criterion, HUD will assess whether the site meets the site and neighborhood standards at 24 CFR 891.125(b) and (c) by examining relevant data in your application or in the local HUD Office. Where appropriate, HUD may visit the site.

(1) The site will be deemed acceptable if it increases housing choice and opportunity by expanding housing opportunities in non-minority neighborhoods (if located in such a neighborhood). The term ''nonminority area'' is defined as one in which the minority population is lower than 10 percent. If the site will be in a minority neighborhood, the site will be deemed acceptable if it contributes to the revitalization of and reinvestment in the minority neighborhood, including improvement of the level, quality and affordability of services furnished to minority elderly. You should refer to the Site and Neighborhood Standards provisions of the regulations governing the Section 202 Supportive Housing for the Elderly program (24 CFR 891.125(b) and (c)) when considering sites for your project.

(2) For the purpose of this competition, the term ''minority neighborhood (area of minority concentration)'' is defined as one where any one of the following statistical conditions exists:

(a) The percentage of persons of a particular racial or ethnic minority is at least 20 points higher than the minority's or combination of minorities' percentage in the housing market area as a whole;

(b) The neighborhood's total percentage of minority persons is at least 20 points higher than the total percentage of minorities for the housing market as a whole; or,

(c) In the case of a metropolitan area, the neighborhood's total percentage of minority persons exceeds 50 percent of its population.

d. (2 points). The extent to which your proposed design will meet the special physical needs of elderly persons.

e. (2 points). The extent to which the proposed size and unit mix of the housing will enable you to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion.

f. (2 points). The extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, initially and over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve.

g. (3 points). The extent to which the proposed supportive services meet the identified needs of the anticipated residents and that the identified supportive services will be provided on a consistent, long-term basis.

h. (1 point). The extent to which the proposed design incorporates visitability standards and/or universal design in the construction or rehabilitation of the project. Refer to the General Section for further information.

i. (2 points). Your involvement of elderly persons, particularly minority elderly persons, in the development of the application and your intent to involve elderly persons, particularly minority elderly persons, in the development and operation of the project.

j. (2 points). The extent to which the jurisdiction in which your project will be located has undertaken successful efforts to remove regulatory barriers to affordable housing. (**Note**: To receive *up to 2 points*, the applicant must have submitted the *optional* Form HUD–27300, Questionnaire for HUD's Initiative on Removal of Regulatory Barriers, AND provided URL references or submitted the required documentary evidence.) Refer to the *General Section* for further information.

k. (1 point). The extent to which you will promote energy efficiency in the design and operation of the proposed housing. Refer to Section III.C.3.j. of this NOFA.

l. (2 points). The extent to which you have described your plans for expanding economic opportunities for low- and very-low income persons (provisions of Section 3). **Note**: To receive *up to 2 points*, the applicant must have adequately addressed the following in Exhibit 3(k) of the application. Refer to the General Section for further information.

(1) (1 point). Provide opportunities to train and employ low- and very low-income residents of the project area.

(2) (1 point). Award substantial contracts to persons residing in the project area.

4. Rating Factor 4: Leveraging Resources (5 Points)

This factor addresses your ability to secure other funding sources and community resources that can be combined with HUD's program resources to achieve program purposes. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 3(a), 3(b), 3(c), 3(d), 3(e), and 5(b) of Section IV.B. of this NOFA.

a. (0 point). The application contains general support and/or written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (*e.g.*, private local community and government sources) where the dollar value totals *5% or less* of the capital advance amount as determined by HUD.

b. (1 point). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (*e.g.*, private local community and government sources) where the dollar value total between *6% and 10%* of the capital advance amount as determined by HUD.

c. (2 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (*e.g.*, private local community and government sources) where the dollar value totals *11% and 15%* of the capital advance amount as determined by HUD.

d. (3 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (*e.g.*, private local community and government sources) where the dollar value totals between *16% and 20%* of the capital advance amount as determined by HUD.

e. (4 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (*e.g.*, private local community and government sources) where the dollar value totals between *21% and 25%* of the capital advance amount as determined by HUD.

f. (5 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (*e.g.*, private local community and government sources) where the dollar value totals *over 25%*

of the capital advance amount as determined by HUD.

5. Rating Factor 5: Achieving Results and Program Evaluation (12 Points)

This factor reflects HUD's goal to embrace high standards of ethics, management and accountability and, as such, emphasizes HUD's commitment to ensuring that you keep the promises made in your application. This factor requires that you clearly identify the benefits or outcomes of your project and develop an evaluation plan to measure performance, which includes what you are going to measure, how you are going to measure it, and the steps you will have in place to make adjustments to your project development timeline should you not be able to achieve any of the major milestones. Completion of Exhibit 8(i), Project Outcome Logic Model, will assist you in completing your response to this rating factor. This rating factor also addresses the extent to which your project will implement practical solutions that result in residents achieving independent living, educational opportunities, and improved living environments. Finally, this factor addresses the extent to which the long-term viability of your project will be sustained for the duration of the 40-year capital advance period. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 3(e), 3(g), 3(h), 3(i), 6(b) and 8(i) of Section IV.B.

a. (5 points). The extent to which your project development timeline is indicative of your full understanding of the development process and will, therefore, result in the timely development of your project.

b. (2 points). The extent to which your past performance evidences that the proposed project will result in the timely development of the project. Evidence of your past performance could include the development of previous construction projects, including but not limited to Section 202 and Section 811 projects.

c. (2 points). The extent to which your project will implement practical solutions that will result in assisting residents in achieving independent living, educational opportunities, outreach regarding telemarketing fraud, and improved living environments.

d. (3 points). The extent to which you demonstrated that your project will remain viable as housing with the availability of supportive services for very low-income elderly persons for the 40-year capital advance period.

6. Bonus Points (2 Bonus Points)

Location of proposed site in an RC/EZ/EC–II area, as described in the *General Section*. Submit the information responding to the bonus points in accordance with the Application Submission Requirements in Exhibit 8(h) of Section IV.B. of this NOFA.

B. Reviews and Selection Process

1. *Review for Curable Deficiencies. Upon receipt of the application by HUD staff, HUD will screen all applications to determine if there are any curable deficiencies. For applicants receiving a waiver to submit a paper application, submitting fewer than the required original and four copies of the application is not a curable deficiency and will cause your application to be considered non-responsive to the NOFA and returned to you. A curable deficiency is a missing Exhibit or portion of an Exhibit that will not affect the rating of the application. Refer to the General Section for additional information regarding procedures for corrections to deficient applications. The following is a list of the only deficiencies that will be considered curable in a Section 202 application:*

Exhibit	Description
1	Form 92015–CA (Application Form).*
2(a)	Articles of Incorporation.*
(b)	By-laws.*
(c)	IRS tax exemption ruling.*
4(c)(iii)	Description of mixed-financing plans for additional units, if applicable.
4(d)(i)	Evidence of site control.
(d)(ii)	Evidence site is free of limitations, restrictions or reverters.
(d)(iv)	Evidence of compliance with URA site notification requirement.
(d)(vii)	Phase I ESA.
(d)(viii)	Asbestos Statement or Survey.
(d)(ix)	Letter to the State/Tribal Historic Preservation Officer. (SHPO/THPO) and a statement that the SHPO/THPO failed to respond; or the Letter from the SHPO/THPO.
7	Relocation.
8(a)	Standard Form 424, Application for Federal Assistance, Letter sent to the State Point of Contact (SPOC).*
(b)	Standard Form 424 Supplement, Survey on Ensuring Equal Opportunity for Applicants.
(c)	Standard Form LLL, Disclosure of Lobbying Activities, if applicable.
(d)	Form HUD–2880, Applicant/Recipient Disclosure/Update Report.
(e)	Form HUD–2991, Certification of Consistency with Consolidated Plan.
(f)	Form-HUD–92041, Sponsor's Conflict of Interest Resolution.
(g)	Form HUD–92042, Sponsor's Resolution for Commitment to Project.*

The local HUD office will notify you in writing if your application is missing any of the above exhibits or portions of exhibits and will provide you with a specified deadline to submit the information required to cure the noted deficiencies. The items identified by an asterisk (*) must be dated on or before the application submission date. If an Exhibit or portion of an Exhibit listed above as curable is not discovered as missing until technical processing, HUD will provide you with a deadline to cure the deficiency.

2. *Rating.* HUD will review and rate your application in accordance with the Reviews and Selection Process in the General Section except as described in 3. Appeal Process below. Your application will be either rated or technically rejected at the end of technical review. If your application meets all program eligibility requirements after completion of technical review, it will be rated according to the rating factors in Section V.A. above.

3. *Appeal Process.* HUD will not reject your application based on technical review without notifying you of the rejection with all the reasons for rejection and providing you an opportunity to appeal. You will have 14 calendar days from the date of HUD's written notice to appeal a technical rejection to the local HUD office. In HUD's review of any appeal, it should be noted that in conformance with its regulations at 24 CFR part 4, subpart B, HUD will not consider any unsolicited information that you, the applicant, may want to provide. The local HUD office will make a determination on any appeals before making its selection recommendations.

4. *Ranking and Selection Procedures.* Applications submitted in response to the advertised metropolitan allocations or nonmetropolitan allocations that have a total base score of 75 points or more (without the addition of RC/EC/EZ–II bonus points) and meet all of the applicable threshold requirements of the *General Section* and this NOFA will be eligible for selection, and HUD will

place them in rank order per metropolitan or nonmetropolitan allocation. These applications, after adding any bonus points for RC/EC/EZ–II, will be selected based on rank order, up to and including the last application that can be funded out of each HUD Multifamily Program Center's metropolitan or nonmetropolitan allocation. HUD Multifamily Program Centers will *not* skip over any applications in order to select one based on the funds remaining. After making the initial selections in each allocation area, however, HUD Multifamily Program Centers may use remaining available funds to select the next rank-ordered application by reducing the number of units by no more than 10 percent, rounded to the nearest whole number, provided the reduction will not render the project infeasible. For this purpose, however, HUD will not reduce the number of units in projects of five units or less.

Once this process has been completed, HUD Multifamily Program Centers may combine their unused metropolitan and nonmetropolitan funds in order to select the next highest ranked application in either category, using the unit reduction policy described above, if necessary.

After the HUD Multifamily Program Centers have funded all possible projects based on the process above, combined metropolitan and nonmetropolitan residual funds from all HUD Multifamily Program Centers within each Multifamily Hub will be combined. First, these funds will be used to restore units to projects reduced by HUD Multifamily Program Centers based on the above instructions. Second, additional applications within each Multifamily Hub will be selected in Hub-wide rank order with only one application selected per HUD Multifamily Program Center. More than one application may be selected per HUD Multifamily Program Center if there are no approvable applications in other HUD Multifamily Program Centers within the Multifamily Hub. This process will continue until there are no more approvable applications within the Multifamily Hub that can be selected with the remaining funds. Applications may not be skipped over to select one based on funds remaining. However, the Multifamily Hub may use any remaining residual funds to select the next highest rated application by reducing the number of units by no more than 10 percent rounded to the nearest whole number, provided the reduction will not render the project infeasible or result in the project being less than five units.

Funds remaining after the Multifamily Hub selection process is completed will be returned to Headquarters. HUD Headquarters will use these residual funds first to restore units to projects reduced by HUD Multifamily Program Centers or Multifamily Hubs as a result of the instructions for using their residual funds. Second, HUD Headquarters will use these funds for selecting applications based on HUD Multifamily Program Centers' rankings, beginning with the highest rated application *nationwide.* However, after restoring units to projects where necessary, priority will be given to those applications for projects in non-metropolitan areas, if necessary to meet the statutory requirement of Section 202 of the Housing Act of 1959 pertaining to Section 202 funding in nonmetropolitan areas. Only one application will be selected per HUD Multifamily Program Center from the national residual amount. If there are no approvable applications in other HUD Multifamily Program Centers, the process will begin again with the selection of the next highest rated application nationwide. This process will continue until all approvable applications are selected using the available remaining funds. HUD Headquarters may skip over a higher-rated application in order to use as much of the available remaining funds as possible.

5. *HUD Error.* In the event HUD commits an error that, when corrected, would have resulted in the selection of an otherwise eligible applicant during the funding round of this NOFA, HUD may select that applicant when sufficient funds become available.

VI. Award Administration Information

A. Award Notices

1. *Agreement Letter.* If you are selected to receive a Section 202 fund reservation, you will receive an Agreement Letter that stipulates the terms and conditions for the Section 202 fund reservation award as well as the submission requirements following the fund reservation award. The duration of the fund reservation award for the capital advance is 18 months from the date of issuance of the fund reservation.

Immediately upon your acceptance of the Agreement Letter, you are expected to begin work towards the submission of a Firm Commitment Application, which is the next application submission stage. You are required to submit a Firm Commitment Application to the local HUD office within 180 days from the date of the Agreement Letter. Initial closing of the capital advance and start of construction of the project are expected to be accomplished within the duration of the fund reservation award. Final closing of the capital advance is expected to occur no later than six months after completion of project construction.

2. *Non-Selection Letter.* If your application is approvable but unfunded due to insufficient funds or receives a rating that is below the minimum threshold score established for funding eligibility, you will receive a letter to this effect.

3. *Debriefing.* Refer to the *General Section* for further information regarding debriefings, except that the request for a debriefing must be made to the Director of Multifamily Housing in the appropriate local HUD office.

B. Administrative and National Policy Requirements

1. *Ensuring the Participation of Small Businesses, Small Disadvantaged Businesses, and Women-Owned Businesses.* Although the Section 202 program is not subject to the provisions of 24 CFR 85.36(e) as described in the corresponding paragraph in the *General Section,* you are required to comply with Executive Order 12432, Minority Business Enterprise Development and Executive Order 11625, Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise as they relate to the encouragement of HUD grantees to utilize minority business enterprises.

2. *Acquisition and Relocation.* You must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (49 CFR part 24, and 24 CFR 891.155(e)) (URA), which covers the acquisition of sites, with or without existing structures, and with 24 CFR 8.4(b)(5) of the Section 504 regulations which prohibits discrimination based on disability in determining the site or location of a federally-assisted facility. However, you are exempt from complying with the site acquisition requirements of the URA if you do not have the power of eminent domain and prior to entering into a contract of sale, option to purchase or any other method of obtaining site control, you inform the seller of the land *in writing* (1) that you do not have the power of eminent domain and, therefore, you will not acquire the property if negotiations fail to result in an amicable agreement, and (2) of the estimate of the fair market value of the property. An appraisal is not required to meet this requirement, however, your files must include an explanation (with reasonable evidence) of the basis for the estimate. *Evidence of*

compliance with this advance notice requirement must be included in Exhibit 4(d)(iv) of your application.

3. *Flood Disaster Protection Act of 1973 and Coastal Barrier Resources Act.* You must comply with the requirements under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128) and the Coastal Barrier Resources Act (16 U.S.C. 3601).

C. Reporting

1. The Program Outcome Logic Model (Form HUD–96010) must be completed indicating the results achieved against the proposed output goal(s) and proposed outcome(s) which you stated in your approved application and agreed upon by HUD. Based on the information you provided in the Program Outcome Logic Model, you also are required to submit to HUD a statement reporting the Return on Investment as a result of HUD's Section 202 funding award to you to develop and operate a Section 202 housing project with supportive services for the very low-income elderly. The Return on Investment requirement is a comparison of the cost of the acquisition, construction, or rehabilitation of housing with supportive services for elderly persons, including the frail elderly, 62 years of age and over, with the value of maintaining an elderly person, including a frail elderly person, in their own home and avoiding placement into a long-term care facility. These reporting requirements are to be submitted to HUD as follows:

a. Program Outcome Logic Model. You, as the Sponsor, and the Owner, when formed, are required to report annually, beginning from the date of the Agreement Letter, on the results achieved against the output goal(s) and outcome(s), which you proposed in the Program Outcome Logic Model that was submitted in your application. For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment (ROI) statement. HUD will be publishing a separate notice on the ROI concept.

2. The Regulatory Agreement (Form HUD–92466–CA) requires the Owner of the Section 202 project to submit an annual financial statement for the project. This financial statement must be audited by an Independent Public Accountant who is a Certified Public Accountant or other person accepted by HUD and filed electronically with HUD's Real Estate Assessment Center (REAC) through the Financial Assessment Subsystem for Multifamily Housing (MF-FASS). The submission of annual financial statements is required throughout the 40-year term of the mortgage.

VII. Agency Contact(s)

For Technical Assistance. For technical assistance in downloading an application package from *www.grants.gov,* contact the Grants.gov help desk at 800–518–Grants or by sending an e-mail to *support@grants.gov.* For programmatic information, you may contact the appropriate local HUD office, or Evelyn Berry at HUD Headquarters at (202) 708–3000 (this is not a toll-free number), or access the Internet at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* Persons with hearing and speech impairments may access the above number via TTY by calling the Federal Relay Service at 1–800–877–8339 (this is a toll-free number).

VIII. Other Information

A. Field Office Workshop. HUD encourages minority organizations and grassroots organizations (e.g., civic organizations, faith-communities and grassroots faith-based and other community-based organizations) to participate in this program and strongly recommends that prospective applicants attend the local HUD office workshop. At the workshops, HUD will explain application procedures and requirements, as well as address concerns such as local market conditions, building codes and accessibility requirements, contamination identification and remediation, historic preservation, floodplain management, other environmental requirements, displacement and relocation, zoning, and housing costs. If you are interested in attending the workshop, make sure that your name, address and telephone number are on the appropriate local HUD office's mailing list so that you will be informed of the date, time and place of the workshop. Persons with disabilities should call the appropriate local HUD Office to assure that any necessary arrangements can be made to enable their attendance and participation in the workshop.

If you cannot attend the workshop, call the appropriate local HUD office if you have any questions concerning the submission of applications to that particular office and to request any materials distributed at the workshop.

B. Satellite Broadcast. HUD will hold an information broadcast via satellite for potential applicants to learn more about the program and preparation of the application. It is strongly recommended that potential applicants, especially those who may be applying for Section 202 funding for the first time, tune in to this broadcast, if at all possible. Copies of the broadcast tapes are also available from the NOFA Information Center. For more information about the date and time of the broadcast, you should consult the HUD Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

C. Related Programs. Funding for a related program, Section 202 Demonstration Planning Grant Program, is available to provide predevelopment grants to private nonprofit organizations and consumer cooperatives in connection with the development of housing under the Section 202 program. The announcement of the availability of funding under this program will be addressed in a separate NOFA. Also, funding was made available for the Department to carry out a Section 202 Demonstration Program for Elderly Housing for Intergenerational Families. The announcement of the availability of funds for this demonstration program will be addressed in a future **Federal Register**.

D. Paperwork Reduction Act. The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2502–0267. 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 37.42 hours per annum per respondent for the application and grant administration. 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 derived.

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TARGETED AND ASSISTED HOUSING

SECTION 811 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES (SECTION 811 PROGRAMS)

Billing Code 4210-01-C

Section 811 Program of Supportive Housing for Persons With Disabilities (Section 811 Program)

Overview Information

A. *Federal Agency Name:* Department of Housing and Urban Development, Office of Housing.

B. *Funding Opportunity Title:* Section 811 Supportive Housing for Persons with Disabilities.

C. *Announcement Type:* Initial announcement.

D. *Funding Opportunity Number:* OMB Approval Number: 2502–0462. The **Federal Register** number is: FR–5030–N–21.

E. *Catalog of Federal Domestic Assistance (CFDA) Number:* 14.181, Section 811 Supportive Housing for Persons with Disabilities.

F. *Dates:* Application deadline date: May 26, 2006. Refer to Section IV. below and the General Section for information on application submission requirements.

G. *Optional, Additional Overview Content Information: 1. Purpose of the Program.* This program provides funding for the development and operation of supportive housing for very low-income persons with disabilities who are at least 18 years old. If you receive funding through this program, you must assure that supportive services are identified and available.

2. Available Funds. Approximately 90.3 million in capital advance funds, plus associated project rental assistance contract (PRAC) funds and any carryover funds available.

3. Types of Funds. Capital advance funds will cover the cost of developing the housing. PRAC funds will cover the difference between the HUD-approved operating costs of the project and the tenants' contributions toward rent (30 percent of their adjusted monthly income).

4. *Eligible Applicants.* Nonprofit organizations that have a section 501(c)(3) tax exemption from the Internal Revenue Service. (See Section VI.B.6. below of this NOFA for further details and information regarding the formation of the Owner corporation.)

5. *Eligible Activities.* New construction, rehabilitation, or acquisition (with or without rehabilitation) of housing. (See Section III.C.1. below of this NOFA for further information.)

6. *Match Requirements.* None required.

7. *Local HUD Offices.* The local HUD office structure, for the purpose of implementing the Section 811 program, consists of 18 Multifamily Hub Offices. Within the Multifamily Hubs, there are Multifamily Program Centers with the exception of the New York Hub, the Buffalo Hub, the Denver Hub and the Los Angeles Hub. All future references shall use the term ''local HUD office'' unless a more detailed description is necessary as in Limitations on Applications and Ranking and Selection Procedures, below.

Full Text of Announcement

I. Funding Opportunity Description

A. Program Description. HUD provides capital advances and contracts for project rental assistance in accordance with 24 CFR part 891. Capital advances may be used for the construction or rehabilitation of a structure or acquisition of a structure with or without rehabilitation (including structures from the Federal Deposit Insurance Corporation (FDIC)), to be developed into a variety of housing options described in Section III.C. Capital advance funds bear no interest and are based on development cost limits in Section IV.E.3. Repayment of the capital advance is not required as long as the housing remains available for occupancy by very low-income persons with disabilities for at least 40 years. PRAC funds are used to cover the difference between the tenants' contributions toward rent (30 percent of adjusted income) and the HUD-approved cost to operate the project.

B. Authority. 42 U.S.C. 8013 (Section 811 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101–625, approved November 28, 1990)(NAHA), as amended by the Housing and Community Development Act of 1992) (Pub. L. 102–550, approved October 28, 1992)(HCD Act of 1992); the Rescissions Act (Pub. L. 104–19, approved July 27, 1995); the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106–569, approved December 27, 2000) and the Department of Housing and Urban Development Appropriations Act, 2006, (Pub. L.109–115, approved November 30, 2005) and the Government-wide Rescissions pursuant to the Department of Defense Appropriations Act, 2006 (Pub. L. 109–148, approved December 30, 2005) authorized a new supportive housing program for persons with disabilities, and replaced assistance for persons with disabilities previously covered by section 202 of the Housing Act of 1959 (section 202 continues, as amended by section 801 of the NAHA, and the HCD Act of 1992, to authorize supportive housing for the elderly).

C. Eligible Occupancy. You may propose a Section 811 project to serve persons with physical disabilities, developmental disabilities, chronic mental illness, or any combination of the three as defined in 24 CFR 891.305. In addition, you may request HUD approval to restrict occupancy to a subcategory of one of these three defined categories (e.g., HIV/AIDS is a subcategory of physical disability). If restricted occupancy is approved, however, you cannot deny occupancy to any otherwise qualified person that meets the definition of the overall category of disability under which the subcategory falls.

D. Calculation of Fund Reservation. If selected, you will receive a fund reservation that will consist of both a reservation of capital advance funds and a reservation of three years for project rental assistance.

1. *Capital advance funds.* The reservation of capital advance funds is based on a formula which, for an independent living project (including condominiums), takes the development cost limit for the appropriate building type (elevator, non-elevator) and unit size(s) and multiplies it by the number of units of each size (including a unit for a resident manager, if applicable) and then multiplies the result by the high cost factor for the area. For a group home, the formula is based on the number of persons with disabilities in the appropriate disability category (excluding any unit for a resident manager since such a unit is already incorporated in the development cost limit) multiplied by the high cost factor for the area. The development cost limits can be found in Section IV.E.3. of this NOFA.

2. *PRAC funds.* The initial PRAC award covers three years. The amount awarded is determined by multiplying the number of units for residents with disabilities in an independent living project or the number of residents with disabilities in a group home by the appropriate operating cost standard times 3. The operating cost standards will be published by Notice.

II. Award Information

A. Available Funds. For FY 2006, $90,302,844 million is available for capital advances for the Section 811 Program of Supportive Housing for Persons with Disabilities. The Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109–115, approved November 30, 2005) provides $239,000,000 for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities as authorized by section 811 of the National Affordable Housing Act of 1990

(NAHA); for project rental assistance for supportive housing for persons with disabilities under section 811 of the NAHA, including amendments to contracts for such assistance and renewal of expiring contracts for such assistance for up to a one-year term and for tenant-based rental assistance contracts and renewal of expiring contracts for such assistance entered into pursuant to section 811 of the NAHA, and $400,000 to be transferred to the Working Capital Fund, all of which is subject to a 1 percent across-the-board rescission pursuant to Public Law 109–148. $5,000,000 will be provided for tenant-based rental assistance for persons with disabilities administered through public housing agencies (PHAs) and nonprofit organizations under the Mainstream Housing Opportunities for Persons with Disabilities Program and $78,300,000 will be provided for one-year renewal costs of Section 811 rental assistance.

In accordance with the waiver authority provided in the Department of Housing and Urban Development Appropriations Act, 2006, the Secretary is waiving the following statutory and regulatory provision: The term of the project rental assistance contract is reduced from 20 years to 3 years. HUD anticipates that at the end of the contract terms, renewals will be approved subject to the availability of funds. In addition to this provision, HUD will reserve project rental assistance contract funds based on 75 percent rather than on 100 percent of the current operating cost standards for approved units in order to take into account the average tenant contribution toward rent.

The allocation formula used for Section 811 reflects the ''relevant characteristics of prospective program participants,'' as specified in 24 CFR 791.402(a). The FY2006 formula consists of the following data element from the 2000 Census: the number of non-institutionalized persons age 16 to 64 with a disability. The data on disability status were derived from answers to a two-part question that asked about the existence of the following long-lasting conditions: (a) Blindness, deafness, or a severe vision or hearing impairment (sensory disability), and (b) a condition that substantially limits one or more basic physical activities, such as walking, climbing stairs, reaching, lifting, or carrying (physical disability); and a four-part question that asked if the individual had a physical, mental, or emotional condition lasting 6 months or more that made it difficult to perform certain activities. The four activity categories were: (a) Learning, remembering, or concentrating (mental disability); (b) dressing, bathing, or getting around inside the home (self-care disability); (c) going outside the home alone to shop or visit a doctor's office (going outside the home disability); and (d) working at a job or business (employment disability).

Under the Section 811 Program, each local HUD office jurisdiction receives sufficient capital advance funds for a minimum of 10 units. The total amount of capital advance funds to support this minimum set-aside is then subtracted from the total capital advance available. The remainder is fair shared to each local HUD office jurisdiction whose fair share would exceed the set-aside based on the allocation formula fair share factors describe below.

The fair share factors were developed by taking the count of disabilities in the data element for each state, or state portion, of each local HUD office jurisdiction as a percent of the data element from the 2000 Census, described above, for the total United States. The resulting percentage for each local HUD office is then adjusted to reflect the relative cost of providing housing among the local HUD office jurisdictions. The adjusted needs percentage for each local HUD office is then multiplied by the total amount of capital advance funds available nationwide.

The Section 811 capital advance funds have been allocated, based on the formula above, to 51 local HUD offices as shown on the following chart:

FY 2006 SECTION 811 ALLOCATIONS FOR SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

Offices	Units	Capital advance
Boston Hub		
Boston	20	$2,303,897
Hartford	10	1,177,474
Manchester	10	937,874
Providence	10	1,168,554
Total	50	5,587,799
New York Hub		
New York	34	4,079,464
Buffalo Hub		
Buffalo	19	1,961,030
Philadelphia Hub		
Charleston	10	883,106
Newark	22	2,622,563
Philadelphia	23	2,599,492
Pittsburgh	15	1,473,111
Total	70	7,578,272
Baltimore Hub		
Baltimore	15	1,455,965
Richmond	18	1,576,619

FY 2006 SECTION 811 ALLOCATIONS FOR SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES—Continued

Offices	Units	Capital advance
Washington	15	1,616,012
Total	48	4,648,596
Greensboro Hub		
Columbia	18	1,610,633
Greensboro	24	2,631,484
Total	42	4,242,117
Atlanta Hub		
Atlanta	24	1,974,924
Knoxville	10	832,557
Louisville	18	1,558,073
Nashville	16	1,339,069
San Juan	19	1,839,670
Total	87	7,544,293
Jacksonville Hub		
Birmingham	18	1,480,947
Jackson	16	1,214,171
Jacksonville	38	3,021,346
Total	72	5,716,464
Chicago Hub		
Chicago	28	3,191,666
Indianapolis	19	1,720,040
Total	47	4,911,706
Columbus Hub		
Cincinnati	10	880,132
Cleveland	18	1,710,077
Columbus	10	861,301
Total	38	3,451,510
Detroit Hub		
Detroit	20	2,019,247
Grand Rapids	15	1,329,464
Total	35	3,348,711
Minneapolis Hub		
Minneapolis	16	1,708,402
Milwaukee	17	1,719,424
Total	33	3,427,826
Ft. Worth Hub		
Ft. Worth	30	2,211,919
Houston	20	1,514,450
Little Rock	15	1,113,202
New Orleans	18	1,414,339
San Antonio	19	1,400,829
Total	102	7,654,739
Kansas City Hub		
Des Moines	10	796,877
Kansas City	17	1,495,773
Oklahoma City	16	1,233,530

FY 2006 SECTION 811 ALLOCATIONS FOR SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES—Continued

Offices	Units	Capital advance
Omaha	10	883,106
St. Louis	10	1,008,981
Total	63	5,418,267
Denver Hub		
Denver	23	2,005,360
San Francisco Hub		
San Francisco	29	3,344,550
Honolulu	10	1,784,052
Phoenix	18	1,462,681
Sacramento	16	1,783,920
Total	73	8,375,203
Los Angeles Hub		
Los Angeles	45	4,986,788
Seattle Hub		
Seattle	19	2,018,070
Anchorage	10	1,784,052
Portland	17	1,562,577
Total	46	5,364,699
National Total	927	90,302,844

B. Type of Award. Capital Advance and Project Rental Assistance Contract Funds for new Section 811 applications.

C. Type of Assistance Instrument. The Agreement Letter stipulates the terms and conditions for the Section 811 fund reservation award as well as the submission requirements following the fund reservation award. The duration of the fund reservation award for the capital advance is 18 months from the date of issuance of the fund reservation.

D. Anticipated Start and Completion Date. Immediately upon your acceptance of the Agreement Letter, you are expected to begin work toward the submission of a Firm Commitment Application, which is the next application submission stage. You are required to submit a Firm Commitment Application to the local HUD office within 180 days from the date of the Agreement Letter. Initial closing of the capital advance and start of construction of the project are expected to be accomplished within the duration of the fund reservation award as indicated in the above paragraph regarding the Type of Assistance Instrument. Final closing of this capital advance is expected to occur no later than six months after completion of project construction.

III. Eligibility Information

A. Eligible Applicants: Nonprofit organizations with a section 501(c)(3) tax exemption from the Internal Revenue Service and who meet the threshold requirements contained in the General Section NOFA and Section III.C.2 below are the only eligible applicants for this program.

Applicant eligibility for purposes of applying for a Section 811 fund reservation under this NOFA has not changed; *i.e.*, all Section 811 Sponsors and Co-Sponsors must be nonprofit organizations. However, the Owner corporation, when later formed by the Sponsor, may be (1) a single-purpose nonprofit organization that has tax-exempt status under Section 501(c)(3) of the Internal Revenue Code (IRS) of 1986, or (2) for purposes of developing a mixed-finance project pursuant to the statutory provision under Title VIII of the American Homeownership and Economic Opportunity Act of 2000, a for-profit limited partnership with a nonprofit organization that has tax-exempt status under Section 501(c)(3) of the IRS code as the sole general partner.

See Section IV.E.2 below regarding limits on the total number of units and projects for which you may apply for funding.

B. Cost Sharing or Matching: No cost sharing or match is required; however, you are required to make a commitment to cover the estimated start-up expenses, the minimum capital investment of one half of one percent of the HUD-approved capital advance, not to exceed $10,000, and any funds required in excess of the capital advance, including the estimated cost of any amenities or features (and operating costs related thereto) which are not covered by the capital advance. You must make such a commitment by signing the form HUD–92042, Sponsor's Resolution for Commitment to Project, in Exhibit 8(g) of the application found in Section IV.B. below.

C. Other: 1. *Eligible Activities.* Section 811 capital advance funds must be used to finance the development of housing through new construction, rehabilitation, or acquisition with or without rehabilitation. Capital advance funds may also be used in combination with other non-Section 811 funding sources leveraged by a for-profit limited partnership (of which a single-purpose nonprofit organization with a 501(c)(3) tax exemption is the sole general partner) to develop a mixed-finance project, including a mixed-finance project for additional units over and above the Section 811 units. The

development of a mixed-use project in which the Section 811 units are mortgaged separately from the other uses of the structure is not considered a mixed-finance project. Project rental assistance funds are provided to cover the difference between the HUD-approved operating costs and the amount the residents pay (each resident pays 30 percent of adjusted income). The types of housing that can be developed with Section 811 capital advance funds include independent living projects, dwelling units in multifamily housing developments, condominium and cooperative housing and small group homes.

Note: For purposes of approving Section 811 capital advances, HUD will consider proposals involving mixed-financing for additional units over and above the Section 811 units if you have legal control of an approvable site and the additional units do not cause the project, as a whole, to exceed the project size limits if the additional units will also house persons with disabilities (unless your project will be an independent living project and you request and receive HUD approval to exceed the project size limits (See IV.B.2.c.(1)(d)(xii)). However, you must obtain funds to assist the additional units with other than PRAC funds. HUD will not provide PRAC funds for non-Section 811 units.

2. *Threshold Criteria for Funding Consideration.* In addition to the threshold criteria outlined in the General Section of the SuperNOFA, the following threshold requirements must be met:

a. *Non-Responsive Application.* Your application will be considered non-responsive to the NOFA and will not be accepted for processing if you:

(1) Submit less than the required number of copies (an original and four copies are required) if you requested and received approval for a waiver of the electronic submission requirement. Refer to the General Section for information on application submission and receipt procedures;

(2) Submit paper copies of the application if you have not received approval from HUD for a waiver of the electronic submission requirements;

(3) Submit a substantially deficient application (i.e., a majority of the required exhibits are not submitted with your application, particularly, but not limited to, those exhibits which are not curable). HUD reserves the right to determine whether your application is substantially deficient for purposes of determining whether the application is non-responsive to the NOFA. Refer to Section IV.B., Content and Form of Application Submission, for information on the required exhibits for submission with your application to ensure that your application is complete at time of submission;

(4) Request more units than were allocated to the local HUD office that will be reviewing your application (See the allocation chart in Section II.A. above);

(5) Request less than the minimum number of units for persons with disabilities in an independent living project (5 units) or a group home (2 units);

(6) Request more than the maximum number of units for a group home (6 units); or

(7) Request assistance for housing that you currently own or lease that has been occupied by people with disabilities for longer than one year prior to the application deadline date;

(8) Request assistance for an ineligible activity as defined in Section IV.E., Funding Restrictions, of this program NOFA;

(9) Are an ineligible applicant (see Section III.A., Eligible Applicants of this program NOFA).

b. *Other Criteria.* (1) You, or a Co-Sponsor, must have experience in providing housing or services to persons with disabilities.

(2) You and any Co-Sponsor must be eligible nonprofit organizations with tax-exempt status under Section 501(c)(3) of the Internal Revenue Service code.

(3) Your application must contain evidence of site control or the identification of a site. Section 811(d)(3) of the National Affordable Housing Act requires you to provide either evidence of site control or a reasonable assurance that you will have control of a site within six months of the date of the Agreement Letter notifying you that you have been selected to receive a Section 811 fund reservation. Accordingly, you must include in your application, the required information specified below for evidence of site control, or the required information specified below under site identification as a reasonable assurance that site control will be obtained within six months of the date of the Agreement Letter. If you submit the required information for an identified site(s), you must include a specific street address for each identified site or the application will be rejected.

(a) *Evidence of Site Control*—If you have control of a site at the time you submit your application, you must provide the information in Exhibit 4(d) in IV.B. of this NOFA relative to site control, or

(b) *Site Identification*—If you do not have site control of one or more of your sites, you must provide the information required in Exhibit 4(e) in IV.B. of this NOFA under ''Identification of a Site'' for any site not under control as a reasonable assurance that site control will be obtained within six months of fund reservation notification.

If your application contains evidence of site control where either the evidence or the site is not approvable, your application will *not* be rejected provided you indicate in your application that you are willing to seek an alternate site and provide an assurance that site control will be obtained within six months of fund reservation notification. During the selection process, all applications with acceptable evidence of site control for all proposed sites and all proposed sites that have been found approvable will be grouped in Category A. All applications that are submitted as ''site identified'' as well as those that are submitted with site control but the evidence of control and/or site(s) are not approvable (if the Sponsor indicates that it is willing to seek a different site if the proposed site is unapprovable) will be grouped in Category B. All applications in Category A will be selected before any applications are selected from Category B. See Section V.B.4. for further information on the selection process.

(c) *Historic Preservation.* If you submit an application with evidence of site control, you are required to send a letter to the State/Tribal Historic Preservation Officer (SHPO/THPO) that attempts to initiate consultation with their office and requests their review of your determinations and findings with respect to the historical significance of your proposed project. A HUD's website at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm* contains a sample letter to the SHPO/THPO that you may adapt for your use, if you so choose. You must include a copy of your letter to the SHPO/THPO in your application. You must then also include in your application either:

(i) The response letter(s) from the SHPO/THPO, or

(ii) A statement from you that you have not received a response letter(s) from the SHPO/THPO.

(d) *Contamination.* HUD must determine if a proposed site contains contamination and, if so, HUD must be satisfied that it is eliminated to the extent necessary to meet non site-specific Federal, State or local health standards. If you submit an application with evidence of site control, you must assist HUD by doing the following:

(i) Phase I Environmental Site Assessment (ESA)—You must submit a Phase I ESA, prepared in accordance with the ASTM Standards E 1527–05, as

amended, completed or updated no earlier than six months prior to the application deadline date, in order for the application to be considered as an application with site control. The Phase I ESA must be completed and included in your application. Therefore, it is important that you start the Phase I ESA process as soon after publication of the SuperNOFA as possible. To help you choose an environmentally safe site, HUD invites you to review the document ''Choosing An Environmentally Safe Site'' and ''Supplemental Guidance, Environmental Information'', which are available on HUD's website at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

(ii) Phase II ESA—If the Phase I ESA indicates the possible presence of contamination and/or hazards, you must decide whether to continue with this site or choose another site. Should you choose another site, the same Phase I ESA process identified above must be followed for the new site. However, if you choose to continue with the original site on which the Phase I ESA indicated contamination or hazards, you must undertake a detailed Phase II ESA by an appropriate professional. In order for your application to be considered as an application with site control, the Phase II must be received in the local HUD office on or before the deadline date of June 26, 2006.

(iii) Clean-up—If the Phase II ESA reveals site contamination, the extent of the contamination and a plan for clean-up of the site must be submitted to the local HUD office. The plan for clean-up must include a contract for remediation of the problem(s) and an approval letter from the applicable federal, state, and/or local agency with jurisdiction over the site. In order for your application to be considered as an application with site control, this information must be received by the appropriate local HUD office on or before the application deadline date of June 26, 2006.

Note: Clean-up could be an expensive undertaking. You must pay for the cost of any clean-up and/or remediation. If the application is approved, clean-up must be completed prior to initial closing. Completion of clean-up means that hud must be satisfied that the contamination has been eliminated to the extent necessary to meet non site-specific federal, state or local health standards, with no active or passive remediation still taking place, no capping over of any contamination, and no monitoring wells. however, it is acceptable if contamination remains solely in groundwater that is at least 25 feet below the surface.

(e) *Asbestos.* asbestos is a hazardous substance commonly used in building products until the late 1970s. Therefore, if you submit an application with evidence of site control, you must submit one of the following with your application:

(i) If there is no pre-1978 structure on the site, a statement to this effect, or

(ii) If there is a pre-1978 structure on the site, an asbestos report which is based on a thorough inspection to identify the location and condition of asbestos throughout any structures. In those cases where suspect asbestos is found, it would either be assumed to be asbestos or would require confirmatory testing. If the asbestos report indicates the presence of asbestos or the presence of asbestos is assumed, and if the application is approved, HUD will condition the approval on an appropriate mix of asbestos abatement and an asbestos Operations and Maintenance Plan.

(4) There must be a market need for the number of units proposed in the area of the project location.

(5) Your application must contain a Supportive Services Plan and a Certification from the appropriate state or local agency that the Supportive Services Plan is well designed to address the individual health, mental health and other needs of persons with disabilities who will live in your proposed project. Exhibit 5 in Section IV.B. below outlines the information that must be in the Supportive Services Plan. You must submit one copy of your Supportive Services Plan to the appropriate State or local agency well in advance of the application submission deadline date for the state or local agency to review your Supportive Services Plan and complete the Supportive Services Certification and return it to you so that you can include it in the application you submit to HUD.

(i) HUD will reject your application if the Supportive Services Certification:

A Is not submitted with your application *and* is not submitted to HUD within the 14-day cure period; or

B Indicates that the provision of supportive services is not well designed to address the individual health, mental health and other needs of persons with disabilities who will live in your project; or

C Indicates that the provision of supportive services will not enhance independent living success or promote the dignity of the persons with disabilities who will live in your proposed project.

(ii) In addition, if the agency completing the certification will be a major funding or referral source for your proposed project or be responsible for licensing the project, HUD will reject your application if either the agency's Supportive Services Certification indicates—or, where the agency fails to complete item 3 or 4 of the certification, HUD determines that:

A You failed to demonstrate that supportive services will be available on a consistent, long-term basis; and/or

B The proposed housing is not consistent with state or local agency plans/policies addressing the housing needs of people with disabilities.

Any prospective resident of a Section 811 project who believes he/she needs supportive services must be given the choice to be responsible for acquiring his/her own services or to take part in your Supportive Services Plan which must be designed to meet the individual needs of each resident.

You must not require residents to accept any supportive services as a condition of occupancy or admission.

(6) Delinquent Federal Debt. Refer to the General Section for information regarding delinquent federal debt.

3. *Program Requirements.* By signing Form HUD–92016–CA, Supportive Housing for Persons with Disabilities Section 811, Application for Capital Advance Summary Information, you are certifying that you will comply with the program requirements listed in the General Section as well as the following requirements:

a. *Statutory and Regulatory Requirements.* In addition to the statutory, regulatory, threshold and public policy requirements listed in the General Section, you must comply with all statutory and regulatory requirements listed in Sections I and III of this NOFA.

b. *Project Size Limits.*

(1) *Independent living project.* The minimum number of units for persons with disabilities that can be applied for in one application is five units for persons with disabilities. All of the units are not required to be in one structure and they may be on scattered sites. The maximum number of persons with disabilities that can be housed in an independent living project on one or adjacent sites is 14 plus one additional one-or two-bedroom unit for a resident manager, if necessary. If the proposed independent living project will be located on a site already containing housing for persons with disabilities or on an adjacent site containing such housing, the total number of persons with disabilities housed in both the existing and the proposed project cannot exceed 14.

(2) *Exception to project size limit for an independent living project.* If you are submitting an application for an independent living project with site

control, you may request an exception to the above project size limit by providing the information required in Exhibit 4(d)(xii) of Section IV.B. below NOFA.

(3) *Group home.* The minimum number of persons with disabilities that can reside in a group home is two, and the maximum number is six. There are no exceptions to the maximum project size limit for a group home. An additional one-bedroom unit can be provided for a resident manager. Only one person per bedroom is allowed, unless two residents choose to share one bedroom or a resident determines he/she needs another person to share his/her bedroom. If you are applying for more than one group home, they cannot be located on the same or adjacent sites.

(4) *Condominium Units.* Condominium units are treated the same as units in an independent living project except that you cannot request an additional condominium unit for a resident manager.

c. *Minimum Capital Investment.* If selected, you must provide a minimum capital investment of one-half of one percent of the HUD-approved capital advance amount, not to exceed a maximum of $10,000 in accordance with 24 CFR 891.145.

d. *Accessibility.* Your project must meet accessibility requirements published at 24 CFR 891.120, 24 CFR 891.310 and Section 504 of the Rehabilitation Act of 1973, and, if new construction, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100. In addition, 24 CFR 8.4(b)(5) prohibits the selection of a site or location which has the purpose or effect of excluding persons with disabilities from the Federally assisted program or activity. Refer to Section V.A. below and the General Section for information regarding the policy priority of encouraging accessible design.

e. *Conducting Business in Accordance With Core Values and Ethical Standards.* You are not subject to the requirements of 24 CFR parts 84 and 85 as outlined in the General Section except for the disposition of real property, which may be subject to 24 CFR Part 84. However, you are still subject to the core values and ethical standards as they relate to the conflict of interest provisions in 24 CFR 891.130. To ensure compliance with the program's conflict of interest provisions, you are required to sign a Conflict of Interest Resolution and include it in your Section 811 application. Further, if awarded a Section 811 fund reservation, the officers, directors, board members, trustees, stockholders and authorized agents of the Section 811 Sponsor and Owner entities will be required to submit to HUD individual certifications regarding compliance with HUD's conflict of interest requirements.

f. *National Environmental Policy Act.* You must comply with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and applicable related environmental authorities at 24 CFR 50.4, HUD's programmatic implementing regulations at 24 CFR part 50 and 24 CFR 891.155(b), especially, but not limited to, the provision of information to HUD at 24 CFR 50.31(b), and you must comply with any environmental ''conditions and safeguards'' at 24 CFR 50.3(c).

Under 24 CFR Part 50, HUD has the responsibility for conducting the environmental reviews. HUD cannot approve any site for which you have site control unless it first completes the environmental review. In rare cases where HUD is not able to complete the environmental review, it is due to a complex environmental issue that could not be resolved during the time period allocated for application processing. Thus, if you submit an application with evidence of site control, HUD requires you to attempt to obtain comments from the State/Tribal Historic Preservation Officer (see Exhibit 4(d)(ix) of Section IV.B. below) to help HUD complete the environmental review on time. It is also why HUD may contact you for additional environmental information. So that you can review the type of information that HUD needs for its preparation of the environmental review as well as the type of information requests that HUD may make to you, you are invited to go to the following website to view the HUD form 4128, including the Sample Field Notes Checklist, which HUD uses to record the environmental review: *http://www.hud.gov/utilities/intercept.cfm?/offices/cpd/energyenviron/environment/compliance/forms/4128.pdf.*

g. *Lead-Based Paint.* You must comply with the requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and implementing regulations at 24 CFR part 35.

h. *Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.* Refer to the General Section.

i. *Fair Housing Requirements.* Refer to the General Section.

j. *Economic Opportunities for Low and Very Low-Income Persons (Section 3).* You must comply with Section 3 of the Housing and Urban Development Act of 1968, U.S.C. 1701u (Economic Opportunities for Low and Very Low-Income Persons) and its implementing regulations at 24 CFR part 135. You must ensure that training, employment and other economic opportunities shall, to the greatest extent feasible, be directed toward low and very low-income persons, particularly those who are recipients of government assistance for housing and to business concerns which provide economic opportunities to low and very-low income persons. To comply with Section 3 requirements you are hereby certifying that you will strongly encourage your general contractor and subcontractors to participate in local apprenticeship programs or training programs registered or certified by the Department of Labor's Office of Apprenticeship, Training, Employer and Labor Services or recognized State Apprenticeship Agency. Although not a NOFA requirement, you are nonetheless encouraged to submit with your application a description on how you plan to incorporate the Section 3 requirements into your proposed project with goals for expanding training and employment opportunities for low and very low-income (Section 3) residents as well as business concerns. You will receive up to two (2) points if you provide a description of your plans for doing so under Exhibit 3(m) of this program NOFA.

k. *Design and Cost Standards.* You must comply with HUD's Section 811 project design and cost standards (24 CFR 891.120 and 891.310), the Uniform Federal Accessibility Standards (24 CFR 40.7), Section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8, and for covered multifamily dwellings designed and constructed for first occupancy after March 13, 1991, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100, and, where applicable, the Americans with Disabilities Act of 1990.

HUD has adopted a wide-ranging energy action plan for improving energy efficiency in all program areas. As a first step in implementing the energy plan, HUD, the Environmental Protection Agency (EPA) and the Department of Energy (DoE) have signed a joint partnership to promote energy efficiency in HUD's affordable housing efforts and programs. The purpose of the Energy Star partnership is not only to promote energy efficiency of the affordable housing stock, but also to help protect the environment. Although

it is not a requirement, you are nonetheless encouraged to promote energy efficiency in design and operations and your application will receive one (1) point if you describe your plans for doing so in the proposed project. You are especially urged to purchase and use Energy Star-labeled products. For further information about Energy Star, see *http://www.energystar.gov* or call 888–STAR–YES (1–888–782–7937) or for the hearing-impaired, 888–588–9920 TTY.

l. *Formation of Owner Corporation.* You must form an ''Owner'' entity (in accordance with 24 CFR 891.305) after issuance of the capital advance fund reservation and must cause the Owner entity to file a request for determination of eligibility and a request for capital advance, and must provide sufficient resources to the Owner entity to ensure the development and long-term operation of the project, including capitalizing the Owner entity at firm commitment processing in an amount sufficient to meet its obligations in connection with the project over and above the capital advance amount.

m. Davis-Bacon. You must comply with the Davis-Bacon Requirements (42 U.S.C. 8013(j)(6)) and the Contract Work Hours and Safety Standards Act in accordance with 24 CFR 891.155(d).

IV. Application and Submission Information

A. Address to Request Application Package. All information required to complete and return a valid application is included in the General Section and this NOFA, including other related documents. Copies of the General Section, this NOFA, the required forms, and other related documents are available and may be downloaded from the Grants.gov Web site at *http://www.Grants.gov*. Search for the program using the CFDA Number, Competition ID OR Funding Opportunity Number.

You may request general information, copies of the General Section and this NOFA (including related documents), and required forms from the NOFA Information Center (800–HUD–8929 or 800–HUD–2209 (TTY)) Monday through Friday, except on federal holidays. When requesting information, please refer to the name of the program you are interested in.

B. Content and Form of Application Submission. The exhibits to be included in your application are contained in the body of this NOFA below. Before preparing your application, you should carefully review the requirements of the regulations (24 CFR Part 891) and general program instructions in Handbook 4571.2, Section 811 Capital Advance Program for Housing Persons with Disabilities. *Note: Section 1001 of Title 18 of the United States Code (Criminal Code and Criminal Procedure, 72 Stat. 967) applies to all information supplied in the application submission.* (18 U.S.C. 1001, among other things, provides that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.)

The Application for a Section 811 Capital Advance consists of four parts with a total of eight Exhibits. Included with the eight Exhibits are prescribed forms, certifications and resolutions. The components of the Application are:

Part 1—Application Form for Section 811 Supportive Housing—Capital Advance (Exhibit 1).

Part 2—Your Ability to Develop and Operate the Proposed Project (Exhibits 2 and 3).

Part 3—The Need for Supportive Housing for the Target Population in the Area to be Served, Site Control and/or Identification of Site, Suitability of Site, Adequacy of the Provision of Supportive Services and of the Proposed Project (Exhibits 4 and 5).

Part 4—General Application Requirements, Certifications and Resolutions (Exhibits 6 through 8).

The following additional information, which may assist you in preparing your application, is available on HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

- Listing of Local HUD Offices
- Letter Requesting SHPO/THPO Review
- Choosing an Environmental Safe Site
- Supplemental to Choosing An Environmentally Safe Site

Your application must include all of the information, materials, forms, and exhibits listed below (unless you were selected for a Section 811 fund reservation within the last three funding cycles). If you qualify for this exception, you are not required to submit the information described in Exhibit 2(a), (b), and (c), which are the articles of incorporation (or other organizational documents), by-laws, and the IRS tax exemption, respectively. If there has been a change in any of these documents since your previous HUD approval, you must submit the updated information in your application. The local HUD office will verify your previous HUD approval by checking the project number and approval status with the appropriate local HUD office based on information submitted.

In addition to this relief of paperwork burden in preparing applications, you are able to use information and exhibits previously prepared for prior applications under Section 811, Section 202, or other funding programs. Examples of exhibits that may be readily adapted or amended to decrease the burden of application preparation include, among others, those on previous participation in the Section 202 or Section 811 programs, your experience in the provision of housing and services, supportive services plans, community ties, and experience serving minorities.

For programmatic information, you MUST contact the appropriate local HUD office about the submission of applications within the jurisdiction of that Office. A listing of the local HUD offices is available on HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

Please submit your application using the following format provided in this NOFA. You are strongly encouraged to submit your application electronically via Grants.gov as it is a goal of the Department to increase the number of successfully submitted electronic applications for FY 2006. For applications to be submitted electronically, in which you have created files to be attached to the electronic application, you should number the pages of the attached file and include a header that identifies the exhibit that it relates to. For applicants that received a waiver of the electronic application submission requirement, you must number the pages of each file, narratives and other attached files. Include the name of your organization and your DUNS number, and the exhibit number that you are responding to on the header of each document.

1. Table of Contents (This is also to be used as a checklist to assist you in submitting a complete application. For applicants who received a waiver of the electronic application submission, after your application is complete, you must insert the page number after each Exhibit or portion of the Exhibit item listed below.)

a. Part I—Application Form for Section 811 Supportive Housing—Capital Advance

(1) Exhibit 1: Form HUD–92016–CA, Supportive Housing for Persons with Disabilities Section 811, Application for Capital Advance Summary Information.

b. Part II—Your Ability to Develop and Operate the Proposed Project

(1) Exhibit 2: Your Legal Status:

(a) Articles of Incorporation (or other organizational documents)
(b) By-laws
(c) IRS Tax Exemption Ruling

[Exception: See Exhibit to determine if you may be exempt from submitting these documents.]

(d) The number of people on your board and the number of board members who have disabilities

(2) Exhibit 3: Your purpose, community ties, and experience:

(a) Purpose(s), current activities, how long you have been in existence
(b) Ties to the community at large, to the target population, and description of geographic areas served
(c) Local government support for project
(d) Letters of support for your organization and for the proposed project
(e) Housing and/or supportive services experience
(f) Efforts to involve target population
(g) Description of practical solutions to be implemented
(h) Project Development Timeline
(i) Description of how project will remain viable including:
(i) If service funds are depleted
(ii) For State-funded services, if State changes policy
(iii) If the need for project changes
(j) Identification/coordination with other organizations
(k) Description of consultation with Continuum of Care organizations
(l) Description of efforts to remove barriers to affordable housing
(m) Description of your plans to incorporate Section 3 requirements, Economic Opportunities for Low and Very-Low Income Persons, in proposed project (optional, but required to receive up to 2 points)

c. Part III—The Need for Supportive Housing for the Target Population in the Area To Be Served, Site Control and/or Identification of Site and Suitability of Site, Adequacy of the Provision of Supportive Services and of the Proposed Project

(1) Exhibit 4: Project information including:

(a) Evidence of need for project
(b) How project will benefit target population and community
(c) A narrative description of the project, including:
(i) Building design
(ii) Whether and how project will promote energy efficiency
(iii) If applicable, description of plans and actions to create a mixed-finance project for additional units and the number of additional units

Evidence of Site Control

(d) Evidence of site control and permissive zoning (If you do not have site control, skip to (e), Identification of a Site, below):
(i) Site control document(s)
(ii) Evidence site is free of limitations, restrictions, or reverters
(iii) Evidence of permissive zoning or statement of proposed action required to make project permissible
(iv) Evidence of compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) site notification requirement
(v) Narrative topographical/demographic description of site/area suitability, how site will promote greater housing opportunities for minorities/target population
(vi) Racial composition/concentration map of site
(vii) Phase I Environmental Site Assessment
(viii) Asbestos Statement or Report
(ix) Letter to State/Tribal Historic Preservation Officer (SHPO/THPO) and a statement that SHPO/THPO failed to respond to you OR a copy of the response letter received from SHPO/THPO
(x) Willingness to seek an alternate site
(xi) Request for exception to project size limits (if applicable)—why site was selected and (ILP with site control only):
(A) Preference/acceptance of people with disabilities to live in proposed housing
(B) Increased number of people warranted by market conditions in area
(C) Compatibility of project with other residential development and population density of the area
(D) Increased number of people will not prohibit successful integration into the community
(E) Marketability of project in the community
(F) Project size consistent with State and/or local policies governing similar housing
(G) Willingness to have application processed at project size limit
(e) Identification of a Site:
(i) Location of site
(ii) Steps undertaken to identify site; what must be done to obtain site control
(iii) Whether site is properly zoned
(iv) Status of the sale of the site
(v) Whether the site would involve relocation

(2) Exhibit 5: Supportive Services Plan:

(a) Description of occupancy
(b) Request for approval to limit occupancy, if applicable, including:
(i) Description of population to which occupancy will be limited
(ii) Why it is necessary to limit occupancy, including:
(A) How Section 811 program goals will still be achieved
(B) Why housing and services needs cannot be met in a more integrated setting
(iii) Experience in providing housing and/or supportive services to proposed population
(iv) How you will ensure occupants will be integrated into neighborhood and community
(c) Supportive services needs of proposed population
(d) List of community service providers with letters of intent
(e) Evidence of each service provider's capability and experience
(f) Extent of State and local agency involvement in project
(g) Letter indicating your commitment to make services available or coordinate their availability
(h) How residents will be afforded employment opportunities
(i) Whether project will include manager's unit
(j) Statement that you will not condition occupancy on the resident's acceptance of supportive services

d. Part IV—General Application Requirements, Certifications and Resolutions

(1) Exhibit 6: Other Applications

(a) A list of applications, if any, you are submitting to any other local HUD Office in response to the FY 2006 Section 202 or Section 811 NOFA, and required information about each.

(b) A list of all FY 2005 and prior year Section 202 or Section 811 projects to which you are a party and the required information about each.

(2) Exhibit 7: Applies to applications with site control only a statement that:

(a) Identifies all persons occupying property on application submission date
(b) Indicates estimated cost of relocation payments/other services
(c) Identifies staff organization that will carry out relocation activities
(d) Identifies all persons who have moved from site within past 12 months

(3) Exhibit 8: Standard Forms, Certifications and Resolutions:

(a) Standard Form 424, Application for Federal Assistance with a copy of the letter you sent to the State Point of Contact, if applicable

(b) Standard Form 424 Supplement, Survey on Ensuring Equal Opportunity for Applicants
(c) Standard Form LLL, Disclosure of Lobbying Activities, if applicable
(d) Form HUD–2880, Applicant/Recipient Disclosure/Update Report
(e) Form HUD–2991, Certification of Consistency with the Consolidated Plan
(f) Form HUD–92041, Sponsor's Conflict of Interest Resolution
(g) Form HUD–92042, Sponsor's Resolution for Commitment to Project
(h) Form HUD–2990, Certification of Consistency with the RC/EZ/EC–II Strategic Plan, as applicable
(i) Form HUD–92043, Certification for Provision of Supportive Services
(j) Form HUD–96010, Program Outcome Logic Model
(k) Form HUD–27300, Questionnaire for HUD's Initiative on Removal of Regulatory Barriers, including any required documentation or URL references (optional form, but required in order to receive up to 2 policy priority points)
(l) Form HUD–96011, Facsimile Transmittal, must be used as the cover page for any facsimile submitted using the facsimile solution. See the General Section for instructions
(m) HUD–2994–A, You Are Our Client Survey (optional)

2. Programmatic Applications Requirements

a. Part I—Application Form for Section 811 Supportive Housing—Capital Advance

(1) Exhibit 1—Form HUD–92016–CA, Supportive Housing for Persons with Disabilities Section 811 Application for Capital Advance Summary Information. Found in the instruction download at *http://www.grants.gov.*

b. Part II—Your Ability To Develop and Operate the Proposed Project

(1) Exhibit 2—Evidence of your legal status (Nonprofit with 501(c)(3) IRS tax exemption) (If another organization(s) is co-sponsoring the application with you, each Co-Sponsor must also submit the following):

(a) Articles of Incorporation, constitution, or other organizational documents
(b) By-laws
(c) IRS tax exemption ruling (this must be submitted by all Sponsors, including churches)

Note: Based on a HUD review of your articles of incorporation, constitution, or other organizational documents, HUD must determine, among other things, that (1) you are an eligible nonprofit entity with a 501(c)(3) IRS tax exemption status, (2) your corporate purposes are sufficiently broad to provide you the legal authority to sponsor the proposed project for the disabled, to assist the Owner, and to apply for a capital advance, (3) no part of the Sponsor's net earnings inures to the benefit of any private party, and (4) that you are not controlled by or under the direction of persons seeking to derive profit or gain there from. [Exception: If you received a Section 811 Fund Reservation within the last three funding cycles, you are not required to submit the documents described in (a), (b), and (c) above. Instead, submit the project number of the latest application and the local HUD office to which it was submitted. If there have been any modifications or additions to the subject documents, indicate such, and submit the new material.]

(d) The number of people on your board and the number of board members who have disabilities.

(2) Exhibit 3—Your purpose, community ties, and experience:

(a) A description of your purpose(s), current activities, including your ability to enlist volunteers and raise private local funds and how long you have been in existence.

(b) A description of your ties to the community in which your project will be located and to the minority and disability communities in particular, including a description of the specific geographic area(s) in which you have served.

(c) A description of local government support for the project (including financial assistance, donation of land, provision of services, etc.).

(d) Letters of support for your organization and for the proposed project from organizations familiar with the housing and supportive services needs of the target population (*e.g.*, the local center for independent living, the Statewide Independent Living Council) that you expect to serve in the proposed project.

(e) A description of your housing and/or supportive services experience. The description should include any rental housing projects (including any integrated housing developments) and/or supportive services facilities that you sponsored, own and/or operate, your past or current involvement in any programs other than housing that demonstrates your management capabilities (including financial management) and experience, your experience in serving the target population (persons with disabilities and minorities); and the reasons for receiving any increases in fund reservations for developing and/or operating previously funded Section 202 or Section 811 projects. The description should include data on the facilities and services provided, the racial/ethnic composition of the populations served, if available, and information and testimonials from residents or community leaders on the quality of the activities. Examples of activities that could be described include housing counseling, nutrition and food services, special housing referral, screening and information projects.

(f) A description of your efforts to involve members of the target population (persons with disabilities including minority persons with disabilities and persons with disabilities similar to those of the prospective residents) in the development of the application as well as your intent to involve the target population in the development and operation of the project.

(g) A description of the practical solutions you will implement which will enable residents of your project to achieve independent living and economic empowerment. In addition, describe the educational opportunities you will provide for the residents and how you will provide them. This description should include the activities you will undertake to improve computer access, literacy and employment opportunities (*e.g.*, provide programs that can teach residents how to use computers to become educated as well as achieve economic self-sufficiency through job training and placement). And, finally, describe how your proposed project will be an improved living environment for the residents when compared to their previous place of residence.

(h) Describe your plan for completing the proposed project. Include a project development timeline which lists the major development stages for the project with associated dates that must be met in order to get the project to initial closing and start of construction within the 18-month fund reservation period as well as the full completion of the project, including final closing. Completion of Exhibit 8(j), Logic Model, will assist you in completing your response to this Exhibit.

(i) Describe how you will ensure that your proposed project will remain viable as housing with the availability of supportive services for the target population for the 40-year capital advance period. This description should address the measures you would take should any of the following occur:

(i) Funding for any of the needed supportive services becomes depleted;

(ii) If, for any state-funded services for your project, the state changes its policy regarding the provision of supportive

services to projects such as the one you propose; or

(iii) If the need for housing for the population you will be serving wanes over time, causing vacancies in your project.

(j) A description of the steps you took to coordinate your application with other organizations (*e.g.*, the local center for independent living) that will not be directly involved in your project but with which you share common goals and objectives, to complement and/or support the proposed project so that the project will provide a comprehensive and holistic solution to the needs of persons with disabilities.

(k) A description of your efforts to consult with Continuum of Care organizations in the community where the project will be located about the ways you can assist persons with disabilities who are chronically homeless as defined in the General Section.

(l) A description of the successful efforts the jurisdiction in which your project will be located has taken in removing regulatory barriers to affordable housing. To obtain up to 2 points for this policy priority, you must complete the optional Form HUD–27300, ''Questionnaire for HUD's Initiative on Removal of Regulatory Barriers'' in Exhibit 8(k) of the application AND provide the necessary URL references or submit the documentary evidence.

(m) A description on how you plan to incorporate the Section 3 requirements into your proposed project with goals for expanding training and employment opportunities for low and very low-income (Section 3) persons as well as business concerns. This exhibit is optional, but to obtain up to 2 points for this policy priority, you must submit this exhibit and adequately address your plans to provide opportunities to train and employ low and very low-income residents of the project area and award substantial contracts to persons residing in the project area.

c. Part III—The Need for Supportive Housing for the Target Population, Site Control and/or Identification of Site and Suitability of Site, Adequacy of the Provision of Supportive Services and of the Proposed Project

(1) Exhibit 4—Need and Project Information:

(a) Evidence of need for supportive housing. Include a description of the proposed population and evidence demonstrating sustained effective demand for supportive housing for the proposed population in the market area to be served, taking into consideration the occupancy and vacancy conditions in existing comparable subsidized housing for persons with disabilities, state or local needs assessments of persons with disabilities in the area, the types of supportive services arrangements currently available in the area, and the use of such services as evidenced by data from local social service agencies. Also, a description of how information in the community's or (where applicable) the State's Consolidated Plan, Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues was used in documenting the need for the project.

(b) A description of how the proposed project will benefit the target population and the community in which it will be located.

(c) Description of the project.

(i) Narrative description of the building(s) including the number and type of structure(s), number of units with bedroom distribution if independent living units including dwelling units in multifamily housing developments, condominiums and cooperatives, number of bedrooms if group home, number of residents with disabilities, and any resident manager per structure; identification of all commercial and community spaces, amenities or features planned for the housing and a description of how the spaces, amenities, or features will be used, and the extent to which they are necessary to accommodate the needs of the proposed residents. A narrative description of the building design (both interior and exterior), including any special design features, as well as any features that incorporate visitability standards and universal design. Also include a description of how the design of the proposed project will facilitate the integration of the residents into the surrounding community and promote the ability of the residents to live as independently as possible.

Note: If the community spaces, amenities, or features do not comply with the project design and cost standards of 24 CFR 891.120 (a) and (c), the special project standards of 24 CFR 891.310 (a), and the limitations on bedroom sizes as required by paragraph 1–11.E.2.a of HUD Handbook 4571.2 REV–1, you must demonstrate your ability and willingness to contribute both the incremental development cost and continuing operating cost associated with the community spaces, amenities, or features.

(ii) Describe whether and how the project will promote energy efficiency (in accordance with the requirements set forth in Section III.C.3.k. of this NOFA), including any plans to incorporate energy efficiency features in the operation of the project through the use of Energy Star labeled products and appliances and, if applicable, innovative construction or rehabilitation methods or technologies to be used that will promote efficient construction.

(iii) For site control applications, if you are proposing to develop a mixed-finance project by developing additional units (*i.e.*, in addition to the 811 units), a description of any plans and actions you have taken to create such a mixed-finance project with the use of Section 811 capital advance funds, in combination with other funding sources. Provide the number of non-Section 811 units to be included in the mixed-finance project (also provide the number of additional units in the appropriate space on Form HUD–92016–CA). Also, provide copies of any letters you have sent seeking outside funding for the non-Section 811 units and any responses thereto. You must also demonstrate your ability to proceed with the development of a Section 811 project that will not involve mixed-financing, as proposed in your application, in the event you are later unable to obtain the necessary outside funding or HUD disapproves your proposal for a mixed-finance project for additional non-Section 811 units for persons with disabilities.

Notes: (1) A proposal to develop a mixed-finance project for additional units must occur at the application for fund reservation stage. You cannot decide after selection that you want to do a mixed-finance project for additional units. (2) Section 811 capital advance amendment money will not be approved for projects proposing mixed-financing. (3) If approved for a reservation of capital advance funds, you will be required to submit with your Firm Commitment Application, the additional documents required by HUD for mixed-finance proposals. (4) A mixed-finance project does not include the development of a mixed-use project in which the Section 811 units are mortgaged separately from the other uses of the structure. (5) For a Section 811 mixed-finance project, the additional units cannot cause the project to exceed the project size limit for the type of project proposed, unless you request and receive HUD approval to exceed the project size limit if the project will be an independent living project (See IV.B.2.c.(1)(d)(xii)) or the additional units will house people who do not have a disability.

(d) Evidence of site control and permissive zoning.

Note: If you are applying for Section 811 funding without control of any or all of your proposed sites, you must provide the information under (e), Identification of a Site, below for any site you are submitting without evidence of control of that site.

(i) Acceptable evidence of site control is limited to any one of the following:

(A) Deed or long-term leasehold which evidences that you have title to or a leasehold interest in the site. If a leasehold, the term of the lease must be 50 years with renewable provisions for 25 years except for sites on Indian trust land, in which case, the term of the lease must be at least 50 years with no requirements for extensions;

(B) Contract of sale for the site that is free of any limitations affecting the ability of the seller to deliver ownership to you after you receive and accept a notice of Section 811 capital advance. (The only condition for closing on the sale can be your receipt and acceptance of the capital advance.) The contract of sale cannot require closing earlier than the Section 811 closing;

(C) Option to purchase or for a long-term leasehold, which must remain in effect for six months from the date on which the applications are due, must state a firm price binding on the seller, and be renewable at the end of the six-month period. The only condition on which the option may be terminated is if you are not awarded a fund reservation;

(D) If the site is covered by a mortgage under a HUD program, (*e.g.*, a previously funded Section 202 or Section 811 project or an FHA-insured mortgage) you must submit evidence of site control as described above AND evidence that consent to release the site from the mortgage has been obtained or has been requested from HUD (all required information in order for a decision on the request for a partial release of security must have been submitted to the local HUD office) and from the mortgagee, if other than HUD Approval to release the site from the mortgage must be done before the local HUD office makes its selection recommendations to HUD Headquarters. Refer to Chapter 16 of HUD Handbook 4350.1 Rev-1, Multifamily Asset Management and Project Servicing, for instructions on submitting requests to the local HUD Office for partial release of security from a mortgage under a HUD program; or

(E) For sites to be acquired from a public body, evidence is needed that the public body possesses clear title to the site and has entered into a legally binding agreement to lease or convey the site to you after you receive and accept a notice of Section 811 capital advance. Where HUD determines that time constraints of the funding round will not permit you to obtain all of the required official actions (*e.g.*, approval of Community of Planning Boards) that are necessary to convey publicly-owned sites, you may include in your application a letter from the mayor or director of the appropriate local agency indicating that conveyance or leasing of the site is acceptable without imposition of additional covenants or restrictions, and only contingent on the necessary approval action. Such a letter of commitment will be considered sufficient evidence of site control.

(ii) Whether you have title to the site, a contract of sale, an option to purchase, or are acquiring a site from a public body, you must provide evidence (a current title policy or other acceptable evidence) that the site is free of any limitations, restrictions, or reverters which could adversely affect the use of the site for the proposed project for the 40-year capital advance period under HUD's regulations and requirements (*e.g.*, reversion to seller if title is transferred). If the title evidence contains restrictions or covenants, copies of the restrictions or covenants must be submitted with the application. If the site is subject to any such limitations, restrictions, or reverters, the site will be rejected and the application will be considered a ''site identified'' application. Purchase money mortgages that will be satisfied from capital advance funds are not considered to be limitations or restrictions that would adversely affect the use of the site. If the contract of sale or option agreement contains provisions that allow a Sponsor not to purchase the property for reasons such as environmental problems, failure of the site to pass inspection, or the appraisal is less than the purchase price, then such provisions are not objectionable and a Sponsor is allowed to terminate the contract of sale or the option agreement.

Note: A proposed project site may not be acquired or optioned from a general contractor (or its affiliate) that will construct the Section 811 project or from any other development team member.

(iii) Evidence that the project, as proposed, is permissible under applicable zoning ordinances or regulations, or a statement of the proposed action required to make the proposed project permissible AND the basis for the belief that the proposed action will be completed successfully before the submission of the firm commitment application (*e.g.*, a summary of the results of any requests for rezoning and/or the procedures for obtaining special or conditional use permits on land in similar zoning classifications and the time required for such rezoning, or preliminary indications of acceptability from zoning bodies, etc.).

Note: You should be aware that under certain circumstances the Fair Housing Act requires localities to make reasonable accommodations to their zoning ordinances or regulations to offer persons with disabilities an opportunity to live in an area of their choice. If you are relying upon a theory of reasonable accommodation to satisfy the zoning requirement, then you must clearly articulate the basis for your reasonable accommodation theory.

(iv) Evidence of compliance with the URA requirement that the seller has been provided, in writing, with the required information regarding a voluntary, arm's length purchase transaction (*i.e.*, (1) applicant does not have the power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement, and (2) of the estimate of the fair market value of the property).

Note: This information should have been provided before making the purchase offer. However, in those cases where there is an existing option or contract, the seller must be provided the opportunity to withdraw from the agreement or transaction, without penalty, after this information is provided.

(v) Narrative describing topographical and demographic aspects of the site, the suitability of the site and area (as well as a description of the characteristics of the neighborhood), how use of the site will promote greater housing opportunities for minority persons with disabilities, and how use of the site will affirmatively further fair housing.

Note: You can best demonstrate your commitment to affirmatively furthering fair housing by describing how your proposed activities will assist the jurisdiction in overcoming impediments to fair housing choice identified in the applicable jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice, which is a component of the jurisdiction's Consolidated Plan or any other planning document that addresses fair housing issues. The applicable Consolidated Plan and AI may be the community's, the county's, or the state's, to which input should have been provided by local community organizations, agencies in the community and residents of the community. Alternatively, a document that addresses fair housing issues and remedies to barriers to fair housing in the community that was previously prepared by a local planning, or similar organization, may be used. Applicable impediments could include a lack of units that are accessible to persons with disabilities, a lack of transportation services or other assistance that would serve persons with disabilities, or the need for improved quality and services for all persons with disabilities.

(vi) A map showing the location of the site, the racial composition of the neighborhood, and any areas of racial concentration.

Note: For this competition, when determining the racial and ethnic composition of the neighborhood surrounding the proposed site, use data from the 2000 Census of Population. Data from the 2000 Census may be found at *http://www.factfinder.census.gov/servlet/BasicFactsServlet.*

(vii) A Phase I Environmental Site Assessment (ESA), in accordance with the ASTM Standards E 1527–05, as amended, must be completed and submitted with the application. In order for the Phase I ESA to be acceptable, it must have been completed or updated no earlier than six months prior to the application deadline date. Therefore, it is important to start the site assessment process as soon after the publication of the NOFA as possible.

If the Phase I ESA indicates possible presence of contamination and/or hazards, you must decide whether to continue with this site or choose another site. Should you choose another site, the same Phase I ESA process identified above must be followed for the new site. If the property is to be acquired from the FDIC/RTC, include a copy of the FDIC/RTC prepared Transaction Screen Checklist or Phase I ESA and applicable documentation, per the FDIC/RTC Environmental Guidelines. If you choose to continue with the original site on which the Phase I ESA indicated contamination or hazards, you must undertake a detailed Phase II ESA by an appropriate professional. If the Phase II Assessment reveals site contamination, you must submit the extent of the contamination and a plan for clean-up of the site including a contract for remediation of the problem(s) and an approval letter from the applicable federal, state and/or local agency with jurisdiction over the site to the local HUD office. The Phase II ESA and any necessary plans for clean-up do not have to be submitted with the application but must be received in the local HUD office by June 26, 2006. If it is not received by that date, the site will be rejected and the application will be placed in Category B for selection purposes.

Note: You must pay for the cost of any clean-up or remediation which can be very expensive. [See NOTE at Section III.C.2.ciii.]

(viii) If you submit an application with evidence of site control, you must submit one of the following:

(A) If there is no pre-1978 structure on the site, a statement to this effect, or

(B) If there is a pre-1978 structure on the site, an asbestos report which is based on a thorough inspection to identify the location and condition of asbestos throughout any structures.

Note: In those cases where suspect asbestos is found, it would either be assumed to be asbestos or would require confirmatory testing. If the asbestos report indicates the presence of asbestos, or the presence of asbestos is assumed, and if the application is approved, HUD will condition the approval on an appropriate mix of asbestos abatement and an asbestos Operations and Maintenance Plan.

(ix) The letter you sent to the State/Tribal Historic Preservation Officer (SHPO/THPO) initiating consultation with their office and requesting their review of your determinations and findings with respect to the historical significance of your proposed project. A sample letter that you may adapt and send to the SHPO/THPO can be found on HUD's Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm* under the Section 811 Supportive Housing for Persons with Disabilities Program.

(x) The SHPO/THPO response to your letter or a statement that you have not received a response letter from the SHPO/THPO.

(xi) A statement that you are willing to seek a different site if the preferred site is unapprovable and that site control will be obtained within six months of notification of fund reservation.

(xii) If an exception to the project size limits is being requested, describe why the site was selected and demonstrate the following: (Only for applications for independent living projects and condominium units [not group homes] with site control)

(A) People with disabilities have indicated their acceptance or preference to live in housing with as many units/people as proposed for the project.

(B) The increased number of units/people is warranted by the market conditions in the area in which the project will be located.

(C) Your project is compatible with other residential development and the population density of the area in which the project is to be located.

(D) The increased number of people will not prohibit their successful integration into the community.

(E) The project is marketable in the community.

(F) The size of the project is consistent with state and/or local policies governing similar housing for the proposed population.

(G) A statement that you are willing to have your application processed at the project size limit should HUD not approve the exception.

(e) Identification of a Site. If you have identified a site, but do not have it under control, you must submit the following information:

Note: If an application is submitted without evidence of site control and does not provide a specific street address for the identified site(s) (*e.g.*, only an indication that the project will be developed in a particular part of town but a site(s) has not been chosen) the application will be rejected.

(i) A description of the location of the site, including its street address or block and lot number(s), its unit number (if condominium), neighborhood/community characteristics (to include racial and ethnic data), amenities, adjacent housing and/or facilities, how the site will promote greater housing opportunities for minority persons with disabilities and affirmatively further fair housing. You can best demonstrate your commitment to affirmatively furthering fair housing by describing how your proposed activities will assist the jurisdiction in overcoming impediments to fair housing choice identified in the community's AI or any other planning document that addresses fair housing issues. Examples of the applicable impediments include the need for improved housing quality and services for minority persons with disabilities and the need for quality services for persons with disabilities within the type and quality of similar services and housing in minority areas.

(ii) A description of the activities undertaken to identify the site, as well as what actions must be taken to obtain control of the site, if approved for funding.

(iii) An indication as to whether the site is properly zoned. If it is not, an indication of the actions necessary for proper zoning and whether these can be accomplished within six months of fund reservation award, if approved for funding.

(iv) A status of the sale of the site.

(v) An indication as to whether the site would involve relocation.

(2) Exhibit 5—Supportive Services Plan:

Note: Your supportive services plan and the Supportive Services Certification (Exhibit 8(k)) must be sent to the appropriate state or local agency (identified by the local HUD office) far enough in advance of the application deadline date so that the agency can review the plan, complete the certification and return both to you for inclusion in your application to HUD.

(a) A detailed description of whether the housing is expected to serve persons with physical disabilities, developmental disabilities, or chronic mental illness or any combination of the three. Include how and from whom/where persons will be referred and admitted for occupancy in the project. You may, with the approval of the

Secretary, restrict occupancy within housing developed under this NOFA to a subcategory of one of the three main categories of disability noted above (*e.g.*, AIDS is a subcategory of physical disability). However, the Owner must permit occupancy by any qualified person with a disability that qualifies under the applicable main category of disability.

(b) If requesting approval to restrict occupancy, also submit the following:

(i) A description of the population of persons with disabilities to which occupancy will be limited.

(ii) An explanation of why it is necessary to restrict occupancy of the proposed project(s) to the population described in (i) above, including the following:

(A) An explanation of how restricting occupancy to a subcategory of persons with disabilities promotes the goals of the Section 811 program.

(B) An explanation of why the housing and/or service needs of this population cannot be met in a more integrated setting.

(iii) A description of your experience in providing housing and/or supportive services to proposed occupants.

(iv) A description of how you will ensure that occupants of the proposed project will be integrated into the neighborhood and community.

(c) A detailed description of the supportive service needs of the persons with disabilities that the housing is expected to serve.

(d) A list of community service providers, (including consumer-controlled providers), including letters of intent to provide services to proposed residents from as many potential providers as possible.

(e) The evidence of each service provider's capability and experience in providing such supportive services (even if you will be the service provider).

(f) Identification of the extent of state and/or local agency involvement in the project (*i.e.*, funding for the provision of supportive services, referral of residents, or licensing the project). If there will be any state or local agency involvement, a description of the state/local agency's philosophy/policy concerning housing for the population to be served and a demonstration that your application is consistent with state and/or local agency plans and policies governing the development and operation of housing for persons with disabilities.

(g) If you will be making any supportive services available to the residents or will be coordinating the availability of any supportive services, a letter providing:

(i) A description of the supportive services that you will make available to the residents or, if you will be coordinating the availability of any supportive services, a description of the supportive service(s) and how the coordination will be implemented;

(ii) An assurance that any supportive services that you will make available to the residents will be based on their individual needs; and

(iii) A commitment to make the supportive services available or coordinate their availability for the life of the project.

(h) A description of how the residents will be afforded opportunities for employment.

(i) An indication as to whether the project will include a unit for a resident manager.

(j) A statement that you will not condition admission or occupancy on the resident's acceptance of any supportive services.

d. Part IV—General Application Requirements, Certifications and Resolutions

(1) Exhibit 6: Other Applications:

(a) A list of the applications, if any, you are submitting to any other local HUD office in response to the FY 2006 Section 202 or Section 811 NOFA. Indicate by local HUD office, the proposed location by city and state and the number of units requested for each application.

(b) Include a list of all FY2005 and prior year Section 202 and Section 811 capital advance projects to which you are a party. Identify each by project number and local HUD office and include the following information:

(1) Whether the project has initially closed and, if so, when;

(2) If the project was older than 24 months when it initially closed (specify how old) or if older than 24 months now (specify how old) and has not initially closed, provide the reasons for the delay in closing;

(3) Whether amendment money was or will be needed for any project in (2) above; and,

(4) Those projects which have not been finally closed.

(2) Exhibit 7: A statement that: (applicable to applications with site control only)

(a) Identifies all persons (families, individuals, businesses and nonprofit organizations) by race/minority group, and status as owners or tenants occupying the property on the date of submission of the application for a capital advance.

(b) Indicates the estimated cost of relocation payments and other services.

(c) Identifies the staff organization that will carry out the relocation activities.

(d) Identifies all persons that have moved from the site within the past 12 months.

Note: If any of the relocation costs will be funded from sources other than the Section 811 capital advance, you must provide evidence of a firm commitment of these funds. When evaluating applications, HUD will consider the total cost of proposals (*i.e.*, cost of site acquisition, relocation, construction and other project costs).

(3) Exhibit 8: Certifications and Resolutions—You are required to submit completed copies of the following forms which are included either in the General Section or with this NOFA and copies of the forms are available on *http://www.hud.gov/offices/adm/grants/fundsavail.cfm:*

(a) Standard Form 424—Application for Federal Assistance, including a DUNS number, an indication of whether you are delinquent on any federal debt, and compliance with Executive Order 12372 (a certification that you have submitted a copy of your application, if required, to the State agency (Single Point of Contact) for state review in accordance with Executive Order 12372). If required by the State's Single Point of Contact (SPOC), a copy of your application needs to be submitted to the SPOC before the application deadline date, but in no event later than the application deadline date. Refer to the General Section and Section IV.D. of this program NOFA to find out if your State has a SPOC and additional information on compliance with Executive Order 12372.

Note: For Section 811 program purposes, item 12, Areas Affected by Project, of SF–424, provide the names of the City, County and State where the project will be located (not the largest political entities as indicated on the instructions page of SF–424).

(b) Standard Form 424 Supplement, Survey on Ensuring Equal Opportunity for Applicants. Although the information on this form will not be considered in making funding decisions, it will assist the federal government in ensuring that all qualified applicants have an equal opportunity to compete for federal funding.

(c) Standard Form LLL—Disclosure of Lobbying Activities (if applicable). A disclosure of activities conducted to influence any federal transactions.

(d) Form HUD–2880, Applicant/Recipient Disclosure/Update Report, including Social Security and Employee Identification Numbers. A disclosure of assistance from other government

sources received in connection with the project.

(e) Form HUD–2991, Certification of Consistency with the Consolidated Plan (Plan), for the jurisdiction in which the proposed project will be located. The certification must be made by the unit of general local government if it is required to have, or has, a complete Plan. Otherwise, the certification may be made by the state, or by the unit of general local government if the project will be located within the jurisdiction of the unit of general local government authorized to use an abbreviated strategy, and if it is willing to prepare such a Plan. All certifications must be made by a public official responsible for submitting the Plan to HUD. The certifications must be submitted as part of the application by the application submission deadline date set forth in this NOFA. The Plan regulations are published in 24 CFR part 91.

(f) Form HUD–92041, Sponsor's Conflict of Interest Resolution. A certified Board Resolution that no officer or director of the Sponsor or Owner has or will have any financial interest in any contract with the Owner or in any firm or corporation that has or will have a contract with the Owner, including a current listing of all duly qualified and sitting officers and directors by title and the beginning and ending dates of each person's term.

(g) Form HUD–92042, Sponsor's Resolution for Commitment to Project. A certified Board Resolution acknowledging responsibilities of sponsorship, long-term support of the project(s), your willingness to assist the Owner to develop, own, manage and provide appropriate services in connection with the proposed project, and that it reflects the will of your membership. Also, it shall indicate your willingness to fund the estimated start-up expenses, the Minimum Capital Investment (one-half of one-percent of the HUD-approved capital advance, not to exceed $10,000), and the estimated cost of any amenities or features (and operating costs related thereto) that would not be covered by the approved capital advance.

(h) Form HUD–2990, Certification of Consistency with the RC/EZ/EC Strategic Plan. A certification that the project is consistent with the RC/EZ/EC–IIs strategic plan, is located within the RC/EZ/EC–II, and serves RC/EZ/EC–II residents. (This certification is not required if the project site(s) will not be located in an RC/EZ/EC–II.) A copy of the RC/EZ/EC–II Certification form is contained in the online application; and

(i) Form HUD–92043, Certification for Provision of Supportive Services. A certification from the appropriate state or local agency (identified in the application or obtained from the local HUD office), indicating whether the:

(i) Provision of supportive services is well designed to serve the needs of persons with disabilities the housing is expected to serve;

(ii) The provision of supportive services will enhance independent living success and promote the dignity of those who will access your proposed project;

(iii) Supportive services will be available on a consistent, long-term basis; and

(iv) Proposed housing is consistent with state or local plans and policies addressing the housing needs of people with disabilities if the state or local agency will provide funding for the provision of supportive services, refer residents to the project or license the project. (The name, address, and telephone number of the appropriate agency can also be obtained from the appropriate local HUD Office.)

(j) Form HUD–96010, Program Outcome Logic Model. In addition to the Project Development Timeline to be submitted in Exhibit 3(h) above, the information provided in the Logic Model will be used in rating your application for Rating Factor 5, Achieving Results and Program Evaluation.

(k) Form HUD–27300, Questionnaire for HUD's Initiative on Removal of Regulatory Barriers (optional form). To receive up to 2 points, you must submit this form and provide a reference, URL or brief statement documenting the successful efforts in removing barriers to affordable housing by the jurisdiction in which your project will be located. This Questionnaire will be considered in the rating of your application for Rating Factor 3.j.

(l) Form HUD–96011, Facsimile Transmittal to be used for faxing third party letters and other documents for your electronic applications in accordance with the instructions in the General Section.

Note: HUD will not accept entire applications by fax. If you submit the application entirely by fax, it will be disqualified.

(m) Form HUD–2994–A, You Are Our Client Survey. This is an optional form that may be used to provide suggestions and comments to the Department regarding your application submission experience.

C. Submission Dates and Time. Your application must be received and validated electronically by Grants.gov no later than 11:59:59 PM eastern time on the application deadline date of May 26, 2006, unless a waiver of the electronic delivery process has been approved by HUD. Please refer to the General Section for instructions on applying for a waiver. If you are seeking a waiver of the electronic submission requirement, you must submit the waiver request to the following HUD official and address: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9100, Washington, DC 20410–8000, Telephone Number: (202) 708–2601. Applicants that are granted a waiver of the electronic submission requirement will not be afforded additional time to submit their applications. Therefore, HUD strongly recommends that you submit your waiver request to the above address approximately 15 days before the application deadline date. If a waiver is granted, you may submit copies of the application through the United States Postal Service or other type of mail service so that it can be received at the appropriate local HUD office no later than 11:59:59 p.m. on the application deadline date of May 26, 2006. The letter granting the waiver will provide instructions regarding the number of copies and where they must be sent. HUD will accept hand delivery of applications.

D. Intergovernmental Review. 1. *State Review.* This funding opportunity is subject to Executive Order (EO) 12372, ''Intergovernmental Review of Federal Programs.'' You must contact your State's Single Point of Contact (SPOC) to find out about and comply with the state's process under EO 12372. The names and addresses of the SPOCs are listed in the Office of Management and Budget's Web site at *http://www.whitehouse.gov/omb/grants/spoc.html.* If required by the state, the submission to the state needs to occur before the Section 811 application deadline date, but in no event later than the application deadline date. It is recommended that you provide the state with sufficient time to review the application. Therefore, it is important that you consult with the SPOC for state review time frames and take that into account when submitting the application. If the SPOC requires a review of your application, you must include a copy of the cover letter you sent to the SPOC in Exhibit 8(a) of your Section 811 application.

2. HUD/RHS Agreement. HUD and the Rural Housing Service (RHS) have an agreement to coordinate the administration of the agencies'

respective rental assistance programs. As a result, HUD is required to notify RHS of applications for housing assistance it receives. This notification gives RHS the opportunity to comment if it has concerns about the demand for additional assisted housing and possible harm to existing projects in the same housing market area. HUD will consider RHS comments in its review and application selection process.

E. Funding Restrictions: 1. *Ineligible Activities.* Section 811 funds may not be used for any of the following:

a. Supportive Services

b. Housing that you currently own or lease that has been occupied by people with disabilities for longer than one year prior to the application deadline date;

c. Nursing homes, infirmaries and medical facilities;

d. Transitional housing;

e. Mobile homes;

f. Intermediate care facilities;

g. Assisted living facilities;

h. Community centers, with or without special components for use by persons with disabilities;

i. Sheltered workshops and centers for persons with disabilities;

j. Headquarters for organizations for persons with disabilities; and

k. Refinancing of Sponsor-owned facilities without rehabilitation.

Note: You may propose to rehabilitate an existing currently-owned or leased structure (if the structure already serves persons with disabilities, it cannot have operated as housing for persons with disabilities for longer than one year prior to the application deadline date); however, the refinancing of any federally funded or assisted project or project insured or guaranteed by a federal agency is not permissible under this Section 811 NOFA. HUD does not consider it appropriate to utilize scarce program resources to refinance projects that have already received some form of assistance under a federal program or that have been operating as housing for persons with disabilities for longer than one year prior to the application deadline date. (For example, Section 202, Section 202/8 or Section 202/PAC direct loan projects cannot be refinanced with capital advances and project rental assistance.)

2. *Application Limits (Units/Projects).* A Sponsor or Co-Sponsor may not apply for more than 70 units of housing or 4 projects (whichever is less) for persons with disabilities in a single Hub or more than 10 percent of the total units allocated to all local HUD offices. Affiliated entities (organizations that are branches or offshoots of a parent organization) that submit separate applications are considered a single entity for the purpose of these limits. In addition, no single application may propose more units in a given local HUD office than allocated for the Section 811 program in that local HUD office. If the proposed project will be an independent living project, your application must request at least five units for persons with disabilities, not necessarily in one structure. If your proposed project will be a group home, you must request at least two units for persons with disabilities per group home. If your proposed project will be a combination of an independent living project and a group home, your application must request at least the minimum number of units for each project type (*i.e.*, 5 units for an independent living project and 2 units for a group home).

3. *Development Cost Limits.* a. The following development cost limits, adjusted by locality as described in Section IV.E.3.b. below must be used to determine the capital advance amount reserved for projects for persons with disabilities.

Note: The capital advance funds awarded for this project are to be considered the total amount of funds that the Department will provide for the development of this project. Amendment funds will only be provided in exceptional circumstances (*e.g.*, to cover increased costs for construction delays due to litigation or unforeseen environmental issues resulting in a change of sites) that are clearly beyond your control. Otherwise, you are responsible for any costs over and above the capital advance amount provided by the Department as well as any costs associated with any excess amenities and design features.

(1) For independent living projects and dwelling units in multifamily housing developments, condominium and cooperative housing: The capital advance amount for the project attributable to dwelling use (less the incremental development cost and the capitalized operating costs associated with any excess amenities and design features and other costs you must pay for) may not exceed:

Non-elevator structures:

$42,980 per family unit without a bedroom

$49,557 per family unit with one bedroom

$59,766 per family unit with two bedrooms

$76,501 per family unit with three bedrooms

$85,225 per family unit with four bedrooms

For elevator structures:

$45,232 per family unit without a bedroom

$51,849 per family unit with one bedroom

$63,049 per family unit with two bedrooms

$81,563 per family unit with three bedrooms

$89,531 per family unit with four bedrooms

(2) For group homes only (the development cost limits are capped by type of occupancy and number of person with disabilities):

TYPE OF DISABILITY

Residents	Physical/developmental	Chronic mental illness
2	$172,303	$166,325
3	185,287	178,860
4	198,273	189,995
5	211,257	201,130
6	224,228	212,265

(3) These cost limits reflect those costs reasonable and necessary to develop a project of modest design that complies with HUD minimum property standards; the minimum group home requirements of 24 CFR 891.310(a) (if applicable); the accessibility requirements of 24 CFR 891.120(b) and 891.310(b); and the project design and cost standards of 24 CFR 891.120. b. Increased development cost limits.

(1) HUD may increase the development cost limits set forth above, by up to 140 percent in any geographic area where the cost levels require, and may increase the development cost limits by up to 160 percent on a project-by-project basis. This increase may include covering additional costs to make dwelling units accessible through rehabilitation.

Note: In applying the applicable high cost percentage, the local HUD office may use a percentage that is higher or lower than that which is assigned to the local HUD office if it is needed to provide a capital advance amount that is comparable to what it typically costs to develop a Section 811 project in that area.

(2) If HUD finds that high construction costs in Alaska, Guam, the Virgin Islands or Hawaii make it unfeasible to construct dwellings, without the sacrifice of sound standards of construction, design, and livability, within the development cost limits provided in Section IV.E.3.a.(1) and IV.E.3.b.(1) above, the amount of capital advances may be increased to compensate for such costs. The increase may not exceed the limits established under this section (including any high cost area adjustment) by more than 50 percent.

(3) For group homes only, local HUD offices may approve increases in the development cost limits in Section IV.E.3.a.(2), above, in areas where you can provide sufficient documentation that high land costs limit or prohibit project feasibility. An example of acceptable documentation is evidence of at least three land sales that have actually taken place (listed prices for land are not acceptable) within the last two years in the area where your project is to be built. The average cost of the documented sales must exceed ten percent of the development cost limit for your project in order for an increase to be considered.

4. *Commercial Facilities.* A commercial facility for the benefit of the residents may be located and operated in the Section 811 project. However, the commercial facility cannot be funded with the use of Section 811 capital advance or PRAC funds. The maximum amount of space permitted for a commercial facility cannot exceed 10 percent of the total project cost. An exception to this 10 percent limitation is if the project involves acquisition or rehabilitation and the additional space was incorporated in the existing structure at the time the proposal was submitted to HUD. Commercial facilities are considered public accommodations under Title III of the Americans with Disabilities Act of 1990 (ADA), and thus must comply with all the accessibility requirements of the ADA.

5. *Expiration of Section 811 Funds.* The Department of Housing and Urban Development Appropriations Act, 2006, requires HUD to obligate all Section 811 funds appropriated for FY 2006 by September 30, 2009. Under 31 U.S.C. 1551, no funds can be disbursed from this account after September 30, 2014. Under Section 811, obligation of funds occurs for both capital advances and project rental assistance upon fund reservation and acceptance. If all funds are not disbursed by HUD and expended by the project Owner by September 30, 2014, the funds, even though obligated, will expire and no further disbursements can be made from this account. In submitting an application, you need to carefully consider whether your proposed project can be completed through final capital advance closing no later than September 30, 2014. Furthermore, all unexpended balances, including any remaining balance on PRAC contracts, will be cancelled as of October 1, 2014. Amounts needed to maintain PRAC payments for any remaining term on the affected contracts beyond that date will have to be funded from other current appropriations.

F. Other Submission Requirements: 1. *Address for Submitting Applications.* Applications must be submitted electronically through the *http://www.Grants.gov* Web site, unless the applicant receives a waiver from the electronic submission requirement. See the General Section for information on applying online and requesting a waiver from the electronic application requirement. The applications submitted electronically via Grants.gov will be downloaded and forwarded to the appropriate local HUD Office for processing and review. If you apply for and receive a waiver from the electronic application requirement, you must submit an original and four copies of your completed application to the Director of the appropriate local HUD office. Refer to HUD's website at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm* for a listing of local HUD offices. The applications submitted electronically via *http://www.Grants.gov* will be downloaded and forwarded to the appropriate local HUD office.

2. *For Section 811 applications that have more than one applicant, i.e., Co-Sponsors.* The applicants must designate a single individual to act as the authorized representative for all Co-Sponsors of the application. The designated authorized representative of the organization submitting the application must be registered with Grants.gov, the Federal Central Contractor Registry and with the credential provider for E-Authentication. Information on the Grants.gov registration process is found at *http://www.grants.gov/GetStarted.* When the application is submitted through Grants.gov, the name of the designated authorized representative will be inserted into the signature line of the application. Please note that the designated authorized representative must be able to make legally binding commitments for each Co-Sponsor to the application.

Each Co-Sponsor must complete the documents required of all co-sponsoring organizations to permit HUD to make a determination on the eligibility of the Co-Sponsor(s) has pledged to the project. Therefore, each Co-Sponsor must submit the following information using the scanning and/or faxing method described in Section IV. of the General Section: Standard Form 424, Application for Federal Assistance; Standard Form 424 Supplement, Survey for Ensuring Equal Opportunity for Applicants; Standard Form LLL, Disclosure of Lobbying Activities (if applicable); Form HUD–92016–CA, Section 811 Application for Capital Advance, Summary Information; Form HUD–92041, Sponsor's Conflict of Interest Resolution; Form HUD–92042, and Sponsor's Resolution for Commitment to Project. The forms identified above are discussed in the Program instructions package and can be downloaded from HUD's Website at *http://www.hud.gov/offices/adm/grants/nofa06/snofaforms.cfm.* The downloaded and completed forms should be saved as separate electronic files and attached to the electronic application submission following the requirements of Section IV.

As stated in Section IV of the General Section, scanning documents to create electronic files increases the size of the file. Therefore, applicants may not submit scanned files unless using the facsimile method as stated in the General Section. If the facsimile method does not work, forms and other documents from Co-Sponsors may be scanned to create an electronic file and submitted as an attachment to the application. These documents should be labeled and numbered so the HUD reviewer can identify the file and its contents. If the applicant is creating an electronic file, the file should contain a header that identifies the name of the Sponsor submitting the electronic application, that Sponsor's DUNS Number, and the unique ID that is found at the top of the Facsimile Transmission form found in the electronic application package. The naming convention for each electronic file should correspond to the labeling convention used in the application Table of Contents found in Section IV.B.1. of this NOFA. For example, the organizational documents of a Co-Sponsor would be included under Part II, Exhibit 2(a) of the Section 811 application.

The signed documents and other information required to be submitted

with the electronic application should be transmitted via fax, using Form HUD–96011, Facsimile Transmittal as the cover page to the facsimile. The Form HUD–96011 is found in the electronic application package. Co-Sponsors should use the Form HUD–96011 provided by the Sponsor that is submitting the electronic application. The submitting Sponsor should fill in the SF 424 form prior to giving the Form 96011 to the Co-Sponsors. By following these directions, the Form HUD–96011 will be pre-populated with the submitting Sponsor's organizational information exactly as the submitting Sponsor has provided it on the electronic application. In addition, HUD will be using the unique identifier associated to the downloaded application package as a means of matching the faxes submitted with applications received via Grants.gov. The Facsimile Transmittal form also has space to provide the number of pages being faxed and information on the type of document. Co-Sponsors or the submitting applicant can insert the document name in the space provided labeled Program Component and should ensure that the form that is used is the cover sheet to the facsimile transmittal.

Do not insert any additional or other cover pages as it will cause problems in electronically matching the pieces of the application.

V. Application Review Information

A. Criteria

Policy Priorities. HUD encourages applicants to undertake specific activities that will assist the Department in implementing its policy priorities and which help the Department achieve its strategic goals for FY2006. Refer to the General Section for information regarding HUD's Strategic Goals and Policy Priorities. For the Section 811 program, applicants who include work activities that specifically address the policy priorities of encouraging accessible design features by incorporating visitability standards and universal design, ending chronic homelessness, removing barriers to affordable housing, promoting energy efficiency in design and operations, and expanding training and employment opportunities for low and very low-income persons and business concerns (Section 3 requirements) will receive additional points. A Notice pertaining to the removal of barriers to affordable housing was published in the **Federal Register** and may be downloaded from the HUD website at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

Rating Factors. HUD will rate applications that successfully complete technical processing using the Rating Factors set forth below and in accordance with the application submission requirements in this NOFA. The maximum number of points an application may receive under this program is 102. This includes two (2) RC/EZ/EC-II bonus points, as described in the General Section of the SuperNOFA and Section V.A.6 below.

1. Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (28 Points). This factor addresses the extent to which you have the organizational resources to successfully implement the proposed activities in a timely manner. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 3(a), 3(b), 3(e), 5 and 6 of Section IV.B. of this NOFA. In rating this factor, HUD will consider the extent to which your application demonstrates your ability to develop and operate the proposed housing on a long-term basis, considering the following:

a. (13 points) The scope, extent, and quality of your experience in providing housing or related services to those proposed to be served by the project and the scope of the proposed project (*i.e.*, number of units, services, relocation costs, development, and operation) in relationship to your demonstrated development and management capacity as well as your financial management capability.

b. (10 points) The scope, extent, and quality of your experience in providing housing or related services to minority persons or minority families and your ties to the community at large and to the minority and disability communities in particular.

(1) (5 points) The scope, extent, and quality of your experience in providing housing or related services to minority persons or families.

(2) (5 points) The scope, extent, and quality of your ties to the community at large and to the minority and disability communities in particular.

To earn the maximum number of points under subcriteria (b)(1) above, you must describe significant previous experience in providing housing and/or supportive services to minorities generally and to minority persons with disabilities, in particular. For the purpose of this competition, ''significant previous experience'' means that the previous housing assistance or related services to minorities, *i.e.*, the percentage of minorities being provided housing or related services in your current developments, was equal to or greater than the percentage of minorities in the housing market area where the previous housing or services occurred. To earn the maximum number of points under subcriteria (b)(2) above, you should submit materials that demonstrate your efforts to make housing available to the community at large and the minority and disability communities in particular and your relationships over time with the community, including the minority and disability communities. Examples of documents that may be submitted to earn the maximum number of points under subcriteria (b)(2), include letters of support from community leaders (including minority and disability community leaders) that give information about applicant's relationship over time with the community (including the minority and disability community). You may also submit copies of your affirmative marketing plan and the advertising/outreach materials you utilize to attract minority communities (including limited English proficient communities), disabled community and the community at large. Regarding your advertising/outreach materials, you should identify when advertising/outreach materials are circulated, whom they are circulated to, where they are circulated, and how they are circulated. Descriptions of other advertising/outreach efforts to the minority (including limited English proficient communities) and disabled communities and the dates and places of such advertising/outreach efforts should also be included.

c. (−3 to −5 points) HUD will deduct (except if the delay was beyond your control) 3 points if a fund reservation you received under either the Section 811 program of Supportive Housing for Persons with Disabilities or the Section 202 program of Supportive Housing for the Elderly in FY2000 or later has been extended beyond 24 months, 4 points if beyond 36 months, and 5 points if beyond 48 months. Examples of delays beyond your control include, but are not limited to, initial closing delays that are: (1) directly attributable to HUD, (2) directly attributable to third party opposition, including litigation, and (3) due to a disaster, as declared by the President of the United States.

d. (−3 to −5 points). HUD will deduct from 3 points to 5 points if amendment money was required in connection with a fund reservation you received under either the Section 202 Program of Supportive Housing for the Elderly or the Section 811 Program of Supportive Housing for Persons with

Disabilities in FY 2001 or later based on the following.

(1) (−3 points). The amount of the amendment money required was *25% or less* of the original capital advance amount approved by HUD.

(2) (−4 points). The amount of the amendment money required was between *26% and 50%* of the original capital advance amount approved by HUD.

(3) (−5 points). The amount of the amendment money required was over *50%* of the original capital advance amount approved by HUD.

e. (5 points) You have experience in developing integrated housing and/or the proposed project will be an integrated housing model (*e.g.*, condominium units scattered within one or more buildings or non-contiguous independent living units on scattered sites).

2. Rating Factor 2: Need/Extent of the Problem (13 Points). This factor addresses the extent to which there is a need for funding the proposed activities to address a documented problem in the target area. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 4(a) and 4(b) of Section IV.B. of this NOFA. HUD will consider the following in evaluating this factor:

The extent of the need for the project in the area based on a determination by the local HUD office. In making this determination, HUD will consider your evidence of need in the area, as well as other economic, demographic, and housing market data available to the local HUD office. The data should include a general assessment of the current conditions in the market for the type of housing proposed, an estimate of the demand for additional housing of the type proposed in the applicable housing market area; as well as, information on the numbers and types of existing comparable subsidized housing for persons with disabilities, current occupancy in such housing and recent market experience, comparable subsidized housing for persons with disabilities under construction or for which fund reservations have been issued, and, in accordance with an agreement between HUD and RHS, comments from RHS on the demand for additional comparable subsidized housing and the possible harm to existing projects in the same housing market area. The Department also will review more favorably those applications which establish a connection between the proposed project and the community's Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues and is prepared by a local planning or similar organization. You must show how the proposed project will address an impediment to fair housing choice described in the AI or meet a need identified in the other type of planning document.

If a determination has been made that there is sufficient sustainable long-term demand for additional supportive housing for persons with disabilities in the area to be served, the project is to be awarded 10 points. If not, the project is to be awarded 0 points. No other point values are allowed.

3. Rating Factor 3: Soundness of Approach (42 Points). This factor addresses the quality and effectiveness of your proposal, the extent to which you involved persons with disabilities, including minority persons with disabilities, in the development of the application and will involve them in the development and operation of the project, the extent to which you coordinated your application with other organizations, including local independent living centers, with which you share common goals and objectives and are working toward meeting these objectives in a holistic and comprehensive manner, whether you consulted with Continuum of Care organizations to address efforts to assist persons with disabilities who are chronically homeless as defined in the General Section, whether the jurisdiction in which your project will be located has undertaken successful efforts to remove regulatory barriers to affordable housing, whether you will promote energy efficiency in the design and operation of the proposed housing, and your plans to expand economic opportunities for low and very low-income persons as well as business concerns (Section 3). There must be a clear relationship between the proposed design, the proposed activities, the community's needs and purposes of the program funding for your application to receive points for this factor. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 2(d), 3(f), 3(j), 3(k), 3(l), 3(m), 4(c)(i), 4(c)(ii), 4(d)(iii), 4(d)(v), 4(d)(vi), 4(e)(i), 5, and 8(l) of Section IV.B. of this NOFA. In evaluating this factor, HUD will consider the following:

a. (14 points) Site approvability—The proximity or accessibility of the site to shopping, medical facilities, transportation, places of worship, recreational facilities, places of employment, and other necessary services to the intended occupants; adequacy of utilities and streets, and freedom of the site from adverse environmental conditions (based on site visit for site control projects only); and compliance with site and neighborhood standards in 24 CFR 891.125(a), (d), and (e) and 24 CFR 891.320. Sites where amenities are accessible other than by project residence or private vehicle will be rated more favorably;

b. (−1 point) One or more of your proposed sites is not permissively zoned for the intended use.

c. (10 points) The suitability of the site from the standpoints of promoting a greater choice of housing opportunities for minorities and persons with disabilities and affirmatively furthering fair housing. In reviewing this criterion, HUD will assess whether the site meets the site and neighborhood standards at 24 CFR 891.125(b) and (c) by examining relevant data in your application or in the local HUD office. If appropriate, HUD may visit the site.

(1) The site will be deemed acceptable if it increases housing choice and opportunity by expanding housing opportunities in non-minority neighborhoods (if located in such a neighborhood). The term ''non-minority area'' is defined as one in which the minority population is lower than 10 percent. If the site will be in a minority neighborhood, the site will be deemed acceptable if it contributes to the revitalization of and reinvestment in the minority neighborhood, including improvement of the level, quality and affordability of services furnished to minority persons with disabilities. You should refer to the Site and Neighborhood Standards provisions of the regulations governing the Section 811 Supportive Housing Program (24 CFR 891.125(b) and (c)) when considering sites for your projects.

(2) For the purpose of this competition, the term ''minority neighborhood (area of minority concentration)'' is defined as one where any one of the following statistical conditions exists:

(a) The percentage of persons of a particular racial or ethnic minority is at least 20 points higher than the minority's or combination of minorities' percentage in that housing market as a whole;

(b) The neighborhood's total percentage of minority persons is at least 20 points higher than the total percentage of minorities for the housing market area as a whole; or

(c) In the case of a metropolitan area, the neighborhood's total percentage of minority persons exceeds 50 percent of its population.

d. (2 points) Site and Neighborhood Standards and Persons with Disabilities: The extent to which the proposed design of the project (exterior and interior) and its placement in the neighborhood will meet the individual needs of the residents and will facilitate their integration into the surrounding community and promote their ability to live as independently as possible.

e. (1 point) The extent to which the proposed design incorporates visitability standards and universal design in the construction or rehabilitation of the project. Refer to the General Section for further information.

f. (4 points) Your board is comprised of persons with disabilities.

g. (3 points) You involved persons with disabilities (including minority persons with disabilities) in the development of the application, and will involve persons with disabilities (including minority persons with disabilities) in the development and operation of the project.

h. (2 points) The extent to which you coordinated your application with other organizations (including local independent living centers; a list of such can be obtained from the local HUD office) that will not be directly participating in your project, but with which you share common goals and objectives and are working toward meeting these goals and objectives in a holistic and comprehensive manner.

i. (1 point) You consulted with the Continuum of Care organizations in the community in which your proposed project will be located and have developed ways in which the proposed project will assist persons with disabilities who have been experiencing chronic homelessness become more productive members of society. Refer to the General Section for further information.

j. (2 points) The extent to which the jurisdiction in which your project will be located has undertaken successful efforts to remove regulatory barriers to affordable housing. (**NOTE:** To receive *up to 2 points*, the applicant must have submitted the *optional* Form HUD–27300, Questionnaire for HUD's Initiative on Removal of Regulatory Barriers, AND provided URL references or submitted the required documentary evidence.)

k. (1 point) The extent to which you will promote energy efficiency in the design and operation of the proposed housing. (**NOTE:** Optional, but to receive the 1 point, the applicant must have adequately addressed their plans to promote energy efficiency in the design and operation of the proposed project.) Refer to Section III.C.3.k. of this NOFA.

l. (2 points). The extent to which you have described your plans for expanding economic opportunities for low and very low-income persons (provisions of Section 3). **NOTE:** To receive up to 2 points, the applicant must have adequately addressed the following in Exhibit 3(m) of the application. Refer to the General Section for further information.

(1) (1 point). Provide opportunities to train and employ low and very low-income residents of the project area.

(2) (1 point). Award substantial contracts to persons residing in the project area.

4. *Rating Factor 4: Leveraging Resources (5 Points).* This factor addresses your ability to secure other funding sources and community resources that can be combined with HUD's program resources to achieve program purposes. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 3(a), 3(b), 3(c), 3(d), 3(e), and 5(f) of Section IV.B. of this NOFA.

a. (0 point). The application contains general support and/or written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (*e.g.*, private local community and government sources) where the dollar value totals *5% or less* of the capital advance amount as determined by HUD.

b. (1 point). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (*e.g.*, private local community and government sources) where the dollar value totals between *6% and 10%* of the capital advance amount as determined by HUD.

c. (2 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (*e.g.*, private local community and government sources) where the dollar value totals between *11% and 15%* of the capital advance amount as determined by HUD.

d. (3 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (*e.g.*, private local community and government sources) where the dollar value totals between *16% and 20%* of the capital advance amount as determined by HUD.

e. (4 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (*e.g.*, private local community and government sources) where the dollar value totals between *21% and 25%* of the capital advance amount as determined by HUD.

f. (5 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (*e.g.*, private local community and government sources) where the dollar value totals *over 25%* of the capital advance amount as determined by HUD.

5. *Rating Factor 5: Achieving Results and Program Evaluation (12 Points).* This factor reflects HUD's goal to embrace high standards of ethics, management and accountability and, as such, emphasizes HUD's commitment to ensuring that you keep the promises made in your application. This factor requires that you clearly identify the benefits or outcomes of your project and develop an evaluation plan to measure performance, which includes what you are going to measure, how you are going to measure it, and the steps you will have in place to make adjustments to your project development timeline should you not be able to achieve any of the major milestones. Completion of Exhibit 8(j), Program Outcome Logic Model, will assist you in completing your response to this rating factor. This rating factor also addresses the extent to which your project will implement practical solutions that result in residents achieving independent living, economic empowerment, educational opportunities and improved living environments. Finally, this factor addresses the extent to which the long-term viability of your project will be sustained for the duration of the 40-year capital advance period. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 3(e), 3(g), 3(h), 3(i), 6(b), and 8(k) of Section IV.B. of this NOFA.

a. (5 points) The extent to which your project development timeline is indicative of your full understanding of the development process and will,

therefore, result in the timely development of your project.

b. (2 points) The extent to which your past performance evidences that the proposed project will result in the timely development of the project. Evidence of your past performances could include the development of previous construction projects, including but not limited to Section 202 or Section 811 projects.

c. (2 points) The extent to which your project will implement practical solutions that will result in assisting residents in achieving independent living, economic empowerment, educational opportunities, and improved living environments (*e.g.*, activities that will improve computer access, literacy and employment opportunities).

d. (3 points) The extent to which you demonstrated that your project will remain viable as housing with the availability of supportive services for very low income persons with disabilities for the 40-year capital advance period.

6. Bonus Points (2 bonus points) Location of proposed site in an RC/EZ/EC–II area, as described in the General Section. Submit the information responding to the bonus points in accordance with the Application Submission Requirements in Exhibit 8(i) of Section IV.B. of this NOFA.

B. Reviews and Selection Process: 1. *Review for Curable Deficiencies.* Upon receipt of the application by HUD staff, HUD will screen all applications to determine if there are any curable deficiencies. For applicants receiving a waiver to submit a paper application, submitting fewer than the required original and four copies of the application is not a curable deficiency and will cause your application to be considered non-responsive to the NOFA and returned to you. A curable deficiency is a missing Exhibit or portion of an Exhibit that will not affect the rating of the application. Refer to the General Section for additional information regarding procedures for corrections to deficient applications. The following is a list of the only deficiencies that will be considered curable in a Section 811 application:

Exhibit	Description
1	Form 92016–CA (Application Form)*.
2(a)	Articles of Incorporation*.
2(b)	By-laws*.
2(c)	IRS tax exemption ruling*.
4(d)(i)	Evidence of site control.
4(d)(ii)	Evidence site is free of limitations, restrictions or reverters.
4(d)(iv)	Evidence of compliance with URA site notification requirement.
4(d)(vii)	Phase I ESA.
4(d)(viii)	Asbestos Statement or Survey.
4(d)(ix)	Letter to the State/Tribal Historic Preservation Officer (SHPO/THPO) and a statement that the SHPO/THPO failed to respond OR the letter from the SHPO/THPO.
4(d)(x)	Willingness to seek an alternate site.
4(d)(xi)	Exception to project size limit.
4(e)(ii)	Steps undertaken to identify site.
4(e)(iv)	Status of the sale of the site.
4(e)(v)	Whether the site would involve relocation.
5	Supportive Services Plan.
7	Relocation.
8(a)	Standard Form 424, Application for Federal Assistance, Letter sent to the State Point of Contact (SPOC)*.
8(b)	Standard Form 424 Supplement, Survey on Ensuring Equal Opportunity for Applicants Standard Form LLL, Disclosure of Lobbying Activities (if applicable).
8(c)	Form HUD–2880, Applicant/Recipient Disclosure/Update Report.
8(d)	Form HUD–2991, Certification of Consistency with Consolidated Plan.
8(e)	Form HUD–92041, Sponsor's Conflict of Interest Resolution.
8(f)	Form HUD–92042, Sponsor's Resolution for Commitment to Project*.
8(g)	Form HUD–92043, Supportive Services Certification.
8(i)	

The local HUD office will notify you in writing if your application is missing any of the above exhibits or portions of exhibits and will provide you with a specified deadline to submit the information required to cure the noted deficiencies. The items identified by an asterisk (*) must be dated on or before the application submission date. If an Exhibit or portion of an Exhibit listed above as curable is not discovered as missing until technical processing, HUD will provide you with a deadline to cure the deficiency.

2. *Rating.* HUD will review and rate your application in accordance with the Reviews and Selection Process in the General Section except as described in ''3. Appeal Process'' below. Your application will be either rated or technically rejected at the end of technical review. If your application meets all program eligibility requirements after completion of technical review, it will be rated according to the rating factors in Section V.A. above.

3. *Appeal Process.* HUD will not reject your application based on technical review without notifying you of the rejection with all the reasons for rejection and providing you an opportunity to appeal. You will have 14 calendar days from the date of HUD's written notice to appeal a technical rejection to the local HUD office. In HUD's review of any appeal, it should be noted that in conformance with its regulations at 24 CFR part 4, subpart B, HUD will not consider any unsolicited information that you, the applicant, may want to provide. The local HUD office will make a determination on any appeals before making its selection recommendations.

4. *Ranking and Selection Procedures.* Applications that have a total base score of 75 points or more (without the addition of RC/EC/EZ–II bonus points) and meet all of the applicable threshold requirements in the General Section and this NOFA will be eligible for selection and will be placed in rank order in two categories; Category A and Category B. Category A will consist of approvable applications that contain acceptable evidence of control of all proposed sites and all proposed sites have been found approvable. Category B will consist of the following approvable applications: (a) Those that were submitted with identified sites; (b) those that were submitted with evidence of site control where the evidence and/or any of the proposed sites were found unapprovable provided you indicate your willingness to locate another site(s) should the proposed site(s) be found unapprovable; and (c) those that were submitted with a combination of sites under control and identified sites. Each HUD Multifamily Program Center will select applications, after adding any bonus points for RC/EC/EZ–II, based on rank order, from Category A first that most closely approximates the capital advance authority available in its allocation. If capital advance authority remains after selecting all approvable applications from Category A, each HUD Multifamily Program Center shall then select applications, in rank order, from Category B that most closely

approximates the capital advance authority remaining in its allocation. HUD Multifamily Program Centers will not skip over any applications in order to select one based on the funds remaining. After making the initial selections from the applicable category, however, HUD Multifamily Program Centers may use remaining available funds to select the next rank-ordered application in that category by reducing the number of units by no more than 10 percent, rounded to the nearest whole number, provided the reduction will not render the project unfeasible. For this purpose, however, HUD will not reduce the number of units in projects of five units or less.

After the HUD Multifamily Program Centers have funded all possible projects based on the process above, residual funds from all HUD Multifamily Program Centers within each Multifamily Hub will be combined. First, these funds will be used to restore units to projects reduced by HUD Multifamily Program Centers based on the above instructions. Second, additional approvable applications within each Multifamily Hub will be selected in Hub-wide rank order, first from Category A, and if sufficient funds remain, from Category B, with only one application selected per HUD Multifamily Program Center. More than one application may be selected per HUD Multifamily Program Center if there are no approvable applications in other HUD Multifamily Program Centers within the Multifamily Hub. This process will continue until there are no more approvable applications within the Multifamily Hub that can be selected with the remaining funds. Applications may not be skipped over to select one based on funds remaining. However, the Multifamily Hub may use any remaining residual funds to select the next rank-ordered application in the applicable category by reducing the number of units by no more than 10 percent rounded to the nearest whole number, provided the reduction will not render the project infeasible or result in the project being less than 5 units.

Funds remaining after the Multifamily Hub selection process is completed will be returned to Headquarters. HUD Headquarters will use these residual funds first to restore units to projects reduced by HUD Multifamily Program Center or Multifamily Hub as a result of the instructions for using their residual funds. Second, HUD Headquarters will use these funds for selecting applications based on HUD Program Centers' rankings, beginning with the highest rated application nationwide in Category A. Only one application will be selected per HUD Multifamily Program Center in Category A from the national residual amount. Headquarters may skip over a higher rated Category A application to ensure that only one application is selected from each HUD Multifamily Program Center. This process will continue until the remaining available funds are used to select Category A applications, to the maximum extent possible. If all Category A applications are selected, Category B applications will then become eligible for selection in rank order, beginning with the highest rated application. Only one Category B application per HUD Multifamily Program Center will be selected from the remaining national residual amount. Headquarters may skip over a higher rated Category B application in order to ensure that only one application is selected from each HUD Multifamily Program Center. This process will continue until the remaining available funds are used to select approvable applications. If there are no approvable applications in Category A in other HUD Multifamily Program Centers, then the next highest rated application in Category B in another HUD Multifamily Program Center will be selected.

5. *HUD Error.* In the event HUD commits an error that, when corrected, would have resulted in the selection of an otherwise eligible applicant during the funding round of this NOFA, HUD may select that applicant when sufficient funds become available.

VI. Award Administration Information

A. Award Notices

1. *Agreement Letter.* If you are selected to receive a Section 811 fund reservation, you will receive an Agreement Letter that stipulates the terms and conditions for the Section 811 fund reservation award as well as the submission requirements following the fund reservation award. The duration of the fund reservation award for the capital advance is 18 months from the date of issuance of the fund reservation.

Immediately upon your acceptance of the Agreement Letter, you are expected to begin work towards the submission of a Firm Commitment Application, which is the next application submission stage. You are required to submit a Firm Commitment Application to the local HUD office within 180 days from the date of the Agreement Letter. Initial closing of the capital advance and start of construction of the project are expected to be accomplished within the duration of the fund reservation award. Final closing of the capital advance is expected to occur no later than six months after completion of project construction.

2. *Non-selection Letter.* If your application is approvable but unfunded due to insufficient funds or receives a rating that is below the minimum threshold score established for funding eligibility, you will receive a letter to this effect.

3. *Debriefing.* Refer to the General Section for further information regarding debriefings except that the request must be made to the Director of Multifamily Housing in the appropriate local HUD office.

B. Administrative and National Policy Requirements

1. *Ensuring the Participation of Small Businesses, Small Disadvantaged Businesses, and Women-Owned Businesses.* Although the Section 811 program is not subject to the provisions of 24 CFR 85.36(e) as described in the corresponding paragraph in the General Section you are required to comply with Executive Order 12432, Minority Business Enterprise Development and Executive Order 11625, Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise as they relate to the encouragement of HUD grantees to utilize minority business enterprises.

2. *Acquisition and Relocation.* You must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (49 CFR part 24 and 24 CFR part 891.155(e)) (URA), which covers the acquisition of sites, with or without existing structures, and with 24 CFR 8.4(b)(5) of the Section 504 regulations which prohibits discrimination based on disability in determining the site or location of a federally-assisted facility. However, you are exempt from complying with the site acquisition requirements of the URA if you do not have the power of eminent domain and prior to entering into a contract of sale, option to purchase or any other method of obtaining site control, you inform the seller of the land *in writing*: (1) That you do not have the power of eminent domain and, therefore, you will not acquire the property if negotiations fail to result in an amicable agreement, and (2) of the estimate of the fair market value of the property. An appraisal is not required to meet this requirement; however, your files must include an explanation (with reasonable evidence), of the basis for the estimate. *Evidence of compliance with this advance notice requirement must be included in Exhibit 4(d)(iv) of your application.*

3. *Flood Disaster Protection Act of 1973 and Coastal Barriers Resources Act.* You must comply with the requirements under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128) and the Coastal Barrier Resources Act (16 U.S.C. 3601).

C. Reporting

The Program Outcome Logic Model (Form HUD–96010) must be completed indicating the results achieved against the proposed output goal(s) and proposed outcome(s) which you stated in your approved application and agreed upon by HUD. Based on the information you provided in the Program Outcome Logic Model. These reporting requirements are to be submitted to HUD as follows:

Program Outcome Logic Model. You, as the Sponsor, and the Owner, when formed, are required to report annually, beginning from the date of the Agreement Letter, on the results achieved against the output goal(s) and outcome(s), which you proposed in the Program Outcome Logic Model that was submitted in your application. For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment (ROI) statement. HUD will be publishing a separate notice on the ROI concept.

2. The Regulatory Agreement (Form HUD–92466–CA) requires the Owner of the Section 811 project to submit an annual financial statement for the project. This financial statement must be audited by an Independent Public Accountant who is a Certified Public Accountant or other person accepted by HUD and filed electronically with HUD's Real Estate Assessment Center (REAC) through the Financial Assessment Subsystem for Multifamily Housing (MF–FASS). The submission of annual financial statements is required throughout the 40-year term of the mortgage.

VII. Agency Contact(s)

Technical Assistance. For technical assistance in downloading an application package from *www.grants.gov/Apply,* contact the Grants.gov help desk at 800–518–Grants or by sending an email to *support@grants.gov*.

Programmatic Information. For programmatic information, you may contact the appropriate local HUD office, or Frank Tolliver at HUD Headquarters at (202) 708–3000 (this is not a toll-free number), or access the Internet at: *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* Persons with hearing and speech impairments may access the above number via TTY by calling the toll-free Federal Relay Service at 800–877–8339.

VIII. Other Information

A. *Field Office Workshop.* HUD encourages minority organizations and grassroots organizations (*e.g.*, civic organizations, faith-communities and grassroots faith-based and other community-based organizations) to participate in this program and strongly recommends prospective applicants attend the local HUD office workshop. At the workshops, HUD will explain application procedures and requirements, as well as address concerns such as local market conditions, building codes and accessibility requirements, contamination identification and remediation, historic preservation, floodplain management, other environmental requirements, displacement and relocation, zoning, and housing costs. If you are interested in attending the workshop, make sure that your name, address and telephone number are on the appropriate local HUD office's mailing list so that you will be informed of the date, time and place of the workshop. Persons with disabilities should call the appropriate local HUD office to assure that any necessary arrangements can be made to enable their attendance and participation in the workshop.

If you cannot attend the workshop, call the appropriate local HUD office if you have any questions regarding the submission of applications to that particular office and to request any materials distributed at the workshop.

B. Satellite Broadcast. HUD will hold an information broadcast via satellite for potential applicants to learn more about the program and preparation of the application. It is strongly recommended that potential applicants, especially those who may be applying for Section 811 funding for the first time, tune in to this broadcast, if at all possible. Copies of the broadcast tapes are also available from the NOFA Information Center. For more information about the date and time of the broadcast, you should consult the HUD website at: *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

C. Related Programs. Section 811 funding for tenant-based assistance is administered by public housing agencies and nonprofit organizations through the Mainstream Housing Opportunities for Persons with Disabilities Program.

D. Paperwork Reduction Act. The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2502–0462. 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 number. Public reporting burden for the collection of information is estimated to average 35.92 hours per annum per respondent for the application and grant administration. 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 derived.

BILLING CODE 4210–01–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CONTINUUM OF CARE HOMELESS ASSISTANCE

SUPPORTIVE HOUSING PROGRAM (SHP)

SHELTER PLUS CARE (S+C)

SECTION 8 MODERATE REHABILITATION SINGLE ROOM OCCUPANCY FOR HOMELESS INDIVIDUALS (SRO)

Billing Code 4210-01-C

Continuum of Care (COC) Program

Overview Information

A. Federal Agency Name: Department of Housing and Urban Development, Office of Community Planning and Development.

B. Funding Opportunity Title: Funding Availability for Continuum of Care (CoC) Homeless Assistance Programs.

C. Announcement Type: Initial Announcement.

D. Funding Opportunity Number: The **Federal Register** number is FR–5030–N–32. The OMB Approval number is pending.

E. Catalog of Federal Domestic Assistance (CFDA) Numbers:

1. 14.235, Supportive Housing Program (SHP)
2. 14.238, Shelter Plus Care (S+C) and
3. 14.249, Section 8 Moderate Rehabilitation Single Room Occupancy (SRO).

F. Dates: Application Deadline Date: Applications should be submitted no later than May 25, 2006. Please see Section IV of this NOFA for application submission and timely receipt requirements.

G. Additional Overview Content Information: 1. *Purpose of the Programs:* The purpose of the CoC Homeless Assistance Programs is to assist homeless persons to move to self-sufficiency and permanent housing.

2. *Available Funds:* Approximately $1.2 billion is available for funding.

3. *Eligible Applicants:* The program summary chart in Section III.A.3 identifies the eligible applicants for each of the three programs under the CoC Homeless Assistance Programs.

4. *Match:* Matching funds are required from local, state, federal or private resources.

Full Text of Announcement

I. Funding Opportunity Description

A. Program Description

1. *Overview.* The purpose of the CoC Homeless Assistance Programs is to reduce the incidence of homelessness in CoC communities by assisting homeless individuals and families to move to self-sufficiency and permanent housing. CoCs and their projects that sustain current successful interventions and advance the goals of ending chronic homelessness will be scored higher.

2. The authorizing legislation and implementing regulations for all programs covered by this NOFA are outlined on the chart in Section III.A.3.

3. *Changes for 2006.* This list includes all major changes to the CoC NOFA:

a. Chart format—The 2006 CoC application has eliminated many required narratives and replaced them with tables that gather the same or similar information. This will reduce the time that CoCs and project sponsors will need to fill out the application, and it prepares for an electronic application in 2007. Because of the chart format, there is no longer a page limit on Exhibit 1. Tables have replaced narratives in the following areas of Exhibit 1:

(1) The CoC's planning process;

(2) The CoC's past performance in addressing chronic homelessness, and long-term strategy for ending chronic homelessness;

(3) The CoC's coordination with other state and local plans;

(4) The community's methods for conducting the unsheltered count, collecting annual data for the Housing Inventory Chart and Populations and Subpopulations Chart, and describing the basis for its determination of unmet need;

(5) The CoC's project review and selection process; and

(6) The CoC's progress and strategies for implementation of an HMIS in the community.

b. The 2006 application has consolidated Exhibits 2, 2R, 3, 3R, and 4 into a single Exhibit 2. This streamlined format will make it easier for project sponsors to complete the required forms.

c. Exhibit 1 has been reorganized into four major divisions: Part I: CoC Organizational Structure, Part II: CoC Housing and Service Needs, Part III: CoC Strategic Planning, and Part IV: CoC Performance. Scoring of these sections will allocate 8, 12, 10, and 18 points to each part, respectively.

d. Checkboxes regarding the frequency of meetings in the new ''Groups and Meetings Chart'' in Exhibit 1 (CoC-C) replace the required listing of all CoC meeting dates.

e. A new chart in Exhibit 1, ''CoC Governing Process'' focuses on the planning and decision-making structure of the CoC. HUD has requested that Congress pass legislation to consolidate the three CoC programs, and additional governance is intended to help CoCs implement this new legislation.

f. The Project Leveraging Chart (CoC-S) in Exhibit 1 chart requires that CoCs enter a single number—the total leveraging amount requested by all projects on the priority chart. Each project will now submit specific leveraging amounts and details in Exhibit 2.

g. The Chronic Homeless Progress Chart (CoC-V) in Exhibit 1 emphasizes HUD's goal to end chronic homelessness by asking CoCs to provide information on funding of beds for the chronically homeless.

h. The CoC 10-Year Plan Chart in Exhibit 1 eliminates narrative discussion of long-term planning and replaces it with a chart containing five HUD/national objectives. The chart is called the CoC 10-Year Plan, Objectives, and Action Steps Chart. CoCs will list their action steps and measurable achievements for 1, 5, and 10 years with respect to these objectives.

i. The Achievements Chart (CoC-U) in Exhibit 1 requires CoCs to report on their achievements with respect to their 2005 goals. In the 2007 application, CoCs will be reporting on their achievements with respect to the five HUD/national objectives and action steps contained in the 2006 application.

j. The CoC Section 3 Employment Policy Chart (CoC-AB) in Exhibit 1 requires CoCs to identify the employment policies of projects in the Continuum to whom Section 3 of the Housing and Urban Development Act of 1968 applies.

k. Housing Emphasis points will be calculated using Shelter Plus Care renewal amounts as well as the housing activities in transitional and other permanent housing requests.

l. HUD has streamlined this NOFA and removed those portions not immediately pertaining to the selection process. These include: program requirements upon conditional award (relating to coordination of mainstream resources and prevention strategies/discharge policies); renewals of Shelter Plus Care SRO projects expiring in 2006; and information about Annual Progress Reports. These sections are now located on the HUD web site at: *www.hud.gov*.

m. The ''Questions and Answers Supplement'' contains additional information and should be thoroughly reviewed. It is now available on the web at *www.hud.gov/offices/adm/grants/fundsavail.cfm.*

4. *Developing and Coordinating CoC Systems:* Developing a CoC system should be an inclusive process that brings together participants from the state, local, private and nonprofit sectors to reduce homelessness. This NOFA emphasizes HUD's determination to integrate and align plans, including U.S. Interagency Council on Homelessness-sponsored jurisdictional state and city ten-year plans (jurisdictional ten-year plans) and Consolidated Plans, into the CoC plans. These plans serve as the vehicle for a community to comprehensively identify each of its needs and to coordinate a plan of action for addressing them. For a community to successfully address the complex and interrelated problems

related to homelessness, the community must marshal its varied resources—community and economic development resources, social service resources, business, health care, philanthropy, law enforcement, and housing and homeless assistance resources—and use them in a coordinated and effective manner.

5. *CoC Components.* A CoC system consists of five basic components, as follows:

a. A system of outreach, engagement, and assessment for determining the needs and conditions of an individual or family who is homeless, and necessary support to identify, prioritize, and respond to persons who are chronically homeless;

b. Emergency shelters with appropriate supportive services to help ensure that homeless individuals and families receive adequate emergency shelter and referral to necessary service providers or housing search counselors;

c. Transitional housing with appropriate supportive services to help homeless individuals and families prepare to make the transition to permanent housing and independent living; and

d. Permanent housing, or permanent supportive housing, to help meet the long-term needs of homeless individuals and families.

e. Prevention strategies play an integral role in a community's plan to eliminate homelessness by effectively intervening for persons in public systems—*e.g.*, corrections, foster care, mental health, and other institutions—so that they do not enter the homeless system. By law, prevention activities are ineligible activities in the three programs for which funds are awarded in this competition but are eligible for funding under the Emergency Shelter Grants block grant program.

6. *CoC Planning Process.* A CoC system is developed through a community-wide or region-wide process involving nonprofit organizations (including those representing persons with disabilities), government agencies, public housing agencies, community and faith-based organizations, other homeless providers, service providers, housing developers, private health care organizations, businesses and business associations, law enforcement and corrections agencies, school systems, private funding providers, and homeless or formerly homeless persons. A CoC system should address the specific needs of each homeless subpopulation: those experiencing chronic homelessness, veterans, persons with serious mental illnesses, persons with substance abuse issues, persons with HIV/AIDS, persons with co-occurring diagnoses (may include diagnoses of multiple physical disabilities or multiple mental disabilities or a combination of these two types), victims of domestic violence, youth, and any others. To ensure that the CoC system addresses the needs of homeless veterans, it is particularly important that you involve veteran service organizations with specific experience in serving homeless veterans.

7. *CoC Funding* is provided through the programs briefly described below. Please refer to the CoC Homeless Assistance Programs Chart in Section III.A.3 for a more detailed description of each program:

a. *The Supportive Housing Program* (SHP) provides funding for the development of transitional and permanent supportive housing and services that help homeless persons transition from homelessness to living as independently as possible. Some services are also funded to assist in achieving the goal of self-sufficiency.

b. *The Shelter Plus Care (S+C) Program* provides funding for rental assistance and requires grantees to identify service dollars. This gives applicants flexibility in devising appropriate housing and supportive services for homeless persons with disabilities.

c. *The Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program* provides rental assistance on behalf of homeless individuals in connection with the moderate rehabilitation of SRO dwellings.

8. *Glossary of Terms.* a. *Applicant.* An entity that applies to HUD for funds. See the CoC Homeless Assistance Programs Chart in Section III.A.3 for a list of entities that are eligible. An applicant must submit a SF–424. If selected for funding, the applicant becomes the grantee and is responsible for the overall management of the grant, including drawing grant funds and distributing them to project sponsors. The applicant is also responsible for supervision of project sponsor compliance with grant requirements. The applicant may also be a project sponsor.

b. *Applicant Certification.* The form, required by law, in which an applicant certifies that it will adhere to certain statutory requirements, such as the Civil Rights Act of 1964.

c. *Chronically Homeless Person.* An unaccompanied homeless individual with a disabling condition who has either been continuously homeless for a year or more OR has had at least four (4) episodes of homelessness in the past three (3) years. A disabling condition is defined as ''a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability, including the co-occurrence of two or more of these conditions.'' In defining the chronically homeless, the term ''homeless'' means ''a person sleeping in a place not meant for human habitation (*e.g.*, living on the streets) or in an emergency homeless shelter.''

d. *Consolidated Plan.* A long-term housing and community development plan developed by state and local governments and approved by HUD. The Consolidated Plan contains information on homeless populations and should be coordinated with the CoC plan. It can be a source of information for the Unmet Need sections of the Housing Activities Chart. The plan contains both narratives and maps, the latter developed by localities using software provided by HUD.

e. *Consolidated Plan Certification.* The form, required by law, in which a state or local official certifies that the proposed activities or projects are consistent with the jurisdiction's Consolidated Plan and, if the applicant is a state or unit of local government, that the jurisdiction is following its Consolidated Plan.

f. *Continuum of Care (CoC).* A collaborative funding approach that helps communities plan for and provide a full range of emergency, transitional, and permanent housing and service resources to address the various needs of homeless persons.

g. *Continuum of Care Hold Harmless Amount.* This is the total of the one-year amount of all SHP projects eligible for renewal. CoCs shall receive the higher of: (1) The preliminary pro rata need (PRN) or (2) the CoC hold harmless amount. CoCs receiving the CoC hold harmless amount have the opportunity to reallocate their PRN funds in order to create new permanent supportive housing projects.

h. *Current Inventory.* A complete listing of the community's existing beds and supportive services.

i. *Homeless Management Information Systems (HMIS).* An HMIS is a computerized data collection application designed to capture client-level information over time on the characteristics and service needs of men, women, and children experiencing homelessness, while also protecting client confidentiality. It is designed to aggregate client-level data to generate an unduplicated count of clients served within a community's system of homeless services. An HMIS may also cover a statewide or regional area, and include several CoCs. The HMIS can

provide data on client characteristics and service utilization.

j. *Homeless Person* means a person sleeping in a place not meant for human habitation or in an emergency shelter; and a person in transitional housing for homeless persons who originally came from the street or an emergency shelter. For a more detailed discussion, see the Questions and Answers Supplement available on the web at *www.hud.gov/offices/adm/grants/fundsavail.cfm*. The programs covered by this NOFA are not for populations who are at risk of becoming homeless.

k. *NOFA.* Notice of Funding Availability, published in the **Federal Register** to announce available funds and application requirements.

l. *Private Nonprofit Status.* Private nonprofit status is documented by submitting either: (1) A copy of the Internal Revenue Service (IRS) ruling providing tax-exempt status under Section 501(c)(3) of the IRS Code; or (2) documentation showing that the applicant is a certified United Way agency; or (3) a certification from a designated official of the organization that no part of the net earnings of the organization inures to the benefit of any member, founder, contributor, or individual; that the organization has a voluntary board; that the organization practices nondiscrimination in the provision of assistance; and that the organization has a functioning accounting system that provides for each of the following (mention each in the certification):

(1) Accurate, current and complete disclosure of the financial results of each federally sponsored project.

(2) Records that identify adequately the source and application of funds for federally sponsored activities.

(3) Effective control over and accountability for all funds, property and other assets.

(4) Comparison of outlays with budget amounts.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the use of the funds for program purposes.

(6) Written procedures for determining the reasonableness, allocability and allowability of costs.

(7) Accounting records, including cost accounting records, which are supported by source documentation.

m. *Project Sponsor.* The organization that is responsible for carrying out the proposed project activities. A project sponsor does not submit a SF–424, unless it is also the applicant. To be eligible to be a project sponsor, you must meet the same program eligibility standards as applicants do, as outlined in Section III.A.3, except in the Sponsor-based rental assistance (SRA) component of the S+C Program. Eligible sponsors for the SRA component are statutorily precluded from applying for S+C funding.

n. *Public Nonprofit Status.* Public nonprofit status is documented for community mental health centers by including a letter or other document from an authorized official stating that the organization is a public nonprofit organization.

o. *SF 424.* The application cover sheet required to be submitted by applicants requesting HUD Federal Assistance.

p. *Safe Haven.* A Safe Haven is a form of supportive housing funded and administered under the Supportive Housing Program serving hard-to-reach homeless persons with severe mental illness and other debilitating behavioral conditions who are on the streets and have been unwilling or unable to participate in supportive services. Safe Havens may be transitional supportive housing, or permanent supportive housing if it has the characteristics of permanent housing and requires participants to sign a lease.

q. *Samaritan Housing Initiative.* The Samaritan Initiative (formerly known as the Permanent Housing Bonus) will be integrated into this NOFA as part of the larger CoC process and is only for projects serving exclusively chronically homeless persons. It is 15 percent of a CoC's preliminary pro rata need amount or $6 million, whichever is less. Applicants may use no more than 20 percent of this bonus for case management costs to enable program participants to remain successfully housed. See Section V.A.2.b(3) for additional information on this subject.

9. *Applicant Roles and Responsibilities.* An applicant will be responsible for the overall management and administration of a particular grant, including drawing down the grant funds from HUD, distributing them to the project sponsors, overseeing project sponsors, reporting to HUD, providing performance data to the CoC for community-level analysis, and collecting information to provide the CoC with counts of the homeless through HMIS. Applicants can submit applications for projects on behalf of project sponsors, who will actually carry out the proposed project activities. Applicants can also carry out their own projects. In these cases, the applicant is responsible for both administering and managing a grant (as the grantee) and carrying out the project activities (as the project sponsor).

II. Award Information

A. Amount Allocated. Approximately $1.2 billion is available for this CoC competition in FY 2006. Any unobligated funds from previous CoC competitions or additional funds that may become available as a result of deobligations or recaptures from previous awards or budget transfers may be used in addition to FY 2006 appropriations to fund applications submitted in response to this NOFA. The FY 2006 HUD Appropriations Act requires HUD to obligate all CoC homeless assistance funds by September 30, 2008. These funds will remain available for expenditure for five (5) years following that date. The only exception is that $20 million will remain available until expended for 10-year term projects.

1. *Distribution of Funds:* HUD will not specify amounts for each of the three programs. Instead, the distribution of funds among the three programs will depend largely on locally determined priorities and overall demand.

a. *Permanent Housing Requirement.* Local priorities notwithstanding, the FY 2006 HUD Appropriations Act requires that not less than 30 percent of this year's Homeless Assistance Grants (HAG) appropriation, excluding amounts provided for one-year renewals under the Shelter Plus Care Program, must be used for permanent housing projects for all homeless populations.

b. *Chronic Homelessness Requirement.* The Administration has established as a policy priority the goal of ending chronic homelessness. CoCs are strongly encouraged to use the funds available in this NOFA to target persons experiencing chronic homelessness in their communities. HUD encourages communities to select projects that will contribute to the achievement of this important goal. The CoC strategy to end chronic homelessness is now referred to as the CoC Ten-Year Plan (see Chart N in Exhibit 1), and the 2006 application adds annual action plans and performance measures into the plan. CoCs should integrate their CoC 10-year plans with other plans, including jurisdictional ten-year plans and applicable Consolidated Plans. To work towards this goal, HUD is targeting the Samaritan Initiative for projects that exclusively serve individuals who are experiencing chronic homelessness. In addition, at least 10 percent of the appropriation will be awarded to new or renewal, transitional or permanent housing projects where at least 70 percent of the project's clients are expected to be chronically homeless (as defined by HUD) immediately prior to

entry into the project. Housing projects include: SHP transitional housing, permanent housing and Safe Havens; S+C; and SRO projects. Since the housing funding allocation set-aside requirements are expected to continue in future competitions and may affect project funding selections, you are strongly encouraged to begin planning for new housing projects, particularly those serving individuals experiencing chronic homelessness, and include them as part of your submission in this competition. See Sections V.B.3.a and V.B.3.b of this NOFA for additional information on the permanent housing and chronic homeless requirements.

c. *Lower-rated SHP Renewals.* HUD reserves the authority to conditionally select for one year of funding lower-rated eligible SHP renewal projects that are assigned 40 need points in a CoC application receiving at least 25 points under the CoC scoring factor that would not otherwise receive funding for these projects. (See Sections V.A.2.a and V.A.2.b of this NOFA for information on project rating and scoring.) Therefore, the projects must receive a minimum score of 65 points. Although these lower-rated SHP renewal projects will have scored below the otherwise recognized funding line, their funding allows homeless persons to continue to be served and move towards self-sufficiency. Not renewing these projects would likely result in the closure of these projects and displacement of the homeless people being served.

2. *Prioritizing Projects for Funding.* Project priority decisions are best made by members of the local community, including local government and community and faith-based organizations, which represent the various economic, housing and social resources within that community. For example, if HUD has funds available only to award 8 of 10 proposed projects, then it will award funding to the first 8 eligible projects listed, except as may be necessary to achieve the 30 percent overall permanent housing and the 10 percent chronic homelessness requirements; see Sections V.B.3.a. and V.B.3.b. of this NOFA for additional information. In such cases, higher priority non-permanent housing projects may be de-selected to fund lower priority permanent housing projects and housing projects predominantly serving those persons experiencing chronic homelessness.

3. *Grant Term.* See chart in Section III.A.3. of this NOFA for information on the term of assistance for each of the three CoC programs covered in this NOFA.

III. Eligibility Information

A. Eligible Applicants

1. Eligible applicants for each program are those identified in the following chart.

2. *Renewal Applicants.* As a project applicant, you are eligible to apply for renewal of a grant only if you have executed a grant agreement for the project directly with HUD for SHP or S+C programs under a CoC NOFA. If you are a project sponsor or sub-recipient who has not signed such an agreement, you are not eligible to apply for renewal of these projects.

3. CONTINUUM OF CARE HOMELESS ASSISTANCE PROGRAMS

Elements	Supportive housing	Shelter plus care	Section 8 SRO
Authorizing legislation	Subtitle C of Title IV of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11381.	Subtitle F of Title IV of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11403.	Section 441 of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11401.
Implementing regulations	24 CFR part 583	24 CFR part 582	24 CFR part 882, subpart H, except that all persons receiving rental assistance must meet the McKinney-Vento definition of homelessness.
Eligible applicant(s)	• States • Units of general local government • Special purpose units of government, e.g. PHAs. • Private nonprofit organizations. • Community Mental Health Centers that are public nonprofit organizations.	• States • Units of general local government • PHAs.	• PHAs • Private nonprofit organizations.
Eligible components	• Transitional housing • Permanent housing for disabled persons only. • Supportive services not in conjunction with supportive housing. • Safe Havens. • Innovative supportive housing. • Homeless Mngt. Info. System (HMIS).	• Tenant-based housing • Sponsor-based housing • Project-based housing. • SRO-based housing.	• SRO housing
Eligible activities See footnotes 1, 2 and 3.	• Acquisition • Rehabilitation • New construction. • Leasing. • Operating costs. • Supportive services.	• Rental assistance	• Rental assistance.
Eligible populations See footnote 2.	• Homeless individuals and families	• Homeless disabled individuals • Homeless disabled individuals & their families.	• Homeless individuals.
Populations given special consideration.	• Homeless persons with disabilities • Homeless families with children	Homeless persons who are seriously mentally ill. Have chronic problems with alcohol and/or drugs. Have AIDS & related diseases.	N/A.

3. CONTINUUM OF CARE HOMELESS ASSISTANCE PROGRAMS—Continued

Elements	Supportive housing	Shelter plus care	Section 8 SRO
Initial term of assistance ..	2 or 3 years for new SHP	5 years: TRA, SRA, and PRA without rehab.	10 years.
	1, 2 or 3 years for new HMIS	10 years: SRO, and PRA with rehab.	

Footnote 1: Homeless prevention activities are statutorily ineligible under these programs.
Footnote 2: Persons at risk of homelessness are statutorily ineligible for assistance under these programs.
Footnote 3: Acquisition, construction, rehabilitation, leasing, and operating costs for emergency shelters are statutorily ineligible for assistance under Shelter Plus Care and Section 8 SRO.

B. Matching (Cost Sharing)

You must match Supportive Housing Program funds provided for acquisition, rehabilitation, and new construction with an equal amount of cash from other sources. Since SHP by statute can pay no more than 75 percent of the total operating budget for supportive housing, you must provide at least a 25 percent cash match of the total annual operating costs. In addition, for all SHP funding for supportive services and Homeless Management Information Systems (HMIS) you must provide a 25 percent cash match. This means that of the total supportive services budget line item, no more than 80 percent may be from SHP grant funds. The cash source may be your agency, other Federal programs, state and local governments, or private resources.

You must match rental assistance provided through the Shelter Plus Care Program in the aggregate with supportive services. Shelter Plus Care requires a dollar for dollar match; the recipient's match source can be cash or in kind.

Documentation of the match requirement must be maintained in the grantee's financial records on a grant-specific basis.

C. Other

1. *Eligible Activities*. Eligible activities for the SHP, S+C, and SRO Programs are outlined in the preceding CoC Homeless Assistance Programs Chart at Section III.A.3.

2. *Threshold Requirements.*

a. *Project Eligibility Threshold*. HUD will review projects to determine if they meet the following eligibility threshold requirements. If HUD determines that these standards are not met by a specific project or activity, the project or activity will be rejected from the competition.

(1) Applicants and sponsors must meet the eligibility requirements of the specific program as described in program regulations and provide evidence of eligibility and appropriate certifications as specified by the attachments in Section VIII.

(2) The population to be served must meet the eligibility requirements of the specific program as described in the program regulations, and the application must clearly establish eligibility of program participants to be served pertaining to homelessness and disability status.

(3) The only persons who may be served by new and renewal permanent housing projects are those who come from the streets, emergency shelters, or transitional housing who originally came from the streets or emergency shelter. As participants leave currently operating projects, participants who meet this new eligibility standard must replace them.

(4) Projects that involve rehabilitation or new construction must meet the accessibility requirements of Section 504 of the Rehabilitation Act of 1973, the design and construction requirements of the Fair Housing Act and the accessibility requirements of the Americans with Disabilities Act, as applicable.

(5) The project must be cost-effective, including costs associated with construction, operations and supportive services with such costs not deviating substantially from the norm in that locale for the type of structure or kind of activity.

(6) For those applicants applying for the Innovative component of SHP, whether or not a project is considered innovative will be determined on the basis that the particular approach proposed is new and can be replicated.

(7) Renewal applications should be submitted as part of a CoC application, and must either be listed on the priority list or accompanied by a certification from the CoC saying that they have determined that the project is still needed.

(8) Under the Sponsor-based rental assistance S+C component, an applicant must subcontract the funding awarded with an eligible sponsor: a private nonprofit organization or a community mental health agency established as a public nonprofit organization, that owns or leases the housing where participants will reside.

(9) For the Section 8 SRO program, only individuals meeting HUD's definition of homeless are eligible to receive rental assistance. Therefore, any individual occupying a unit at commencement of the unit's rehabilitation will not receive rental assistance if they return to their unit (or any other) upon completion of its rehabilitation.

(10) Applicants agree to participate in a local HMIS system when it is implemented in their community.

b. *Project Quality Threshold*. HUD will review projects to determine if they meet the following quality threshold requirements with clear and convincing evidence. A S+C or SHP project renewal will be considered as having met these requirements through its previously approved grant application unless information to the contrary is received. The housing and services proposed must be appropriate to the needs of the program participants and the community. HUD will assess the following:

(1) The type, scale and general location of the housing fit the needs of the participants and that the housing is readily accessible to community amenities.

(2) That all of the proposed participants come from the streets, homeless shelters or transitional housing for homeless persons.

(3) The type, scale and location of the supportive services fit the needs of the participants and the mode of transportation to those services is described.

(4) The specific plan for ensuring clients will be individually assisted to obtain the benefits of the mainstream health, social service, and employment programs for which they are eligible is provided.

(5) How participants are helped to obtain and remain in permanent housing is described.

(6) How participants are assisted to both increase their incomes and live independently using mainstream housing and service programs is described.

(7) Applicants and sponsors must evidence satisfactory performance for existing grant(s).

c. *Project Renewal Threshold*. Your local needs analysis process must

consider the need to continue funding for projects expiring in calendar year 2007. HUD will not fund competitive renewals out of order on the priority list except as may be necessary to achieve the 30 percent overall permanent housing requirement and the 10 percent requirement for individuals experiencing chronic homelessness requirement. It is important that SHP renewals and S+C non-competitive renewals meet minimum project eligibility, capacity and performance standards identified in this NOFA or they will be rejected from consideration for either competitive or non-competitive funding.

d. *Civil Rights Thresholds:* Applicants and the project sponsors must be in compliance with the threshold requirements of the General Section.

3. *Program Requirements.*

a. Projects funded under this NOFA shall operate in a fashion that complies with applicable civil rights laws and Executive Orders, including the requirement to Affirmatively Further Fair Housing (AFFH), and does not deprive any individual of any right protected by the Fair Housing Act (42 U.S.C. 3601–19), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 109 of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5309), or the Age Discrimination Act of 1975 (42 U.S.C. 6101).

b. *Local Resident Employment.* To the extent that any housing assistance (including rental assistance) funded through this NOFA is used for housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair, and replacement) or housing construction, then it is subject to section 3 of the Housing and Urban Rehabilitation Act of 1968, and the implementing regulations at 24 CFR part 135. Section 3, as amended, requires that economic opportunities generated by certain HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be given to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

c. *Relocation.* The SHP, S+C, and SRO programs are subject to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA). These requirements are explained in HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition. Also see General Section.

d. *Environmental Reviews.* All CoC assistance is subject to the National Environmental Policy Act and applicable related Federal environmental authorities. Conditional selection of projects under the CoC Homeless Assistance competition is subject to the environmental review requirements of 24 CFR 582.230, 583.230 and 882.804(c), as applicable. The recipient, its project partners and their contractors may not acquire, rehabilitate, convert, lease (under S+C/TRA where participants are required to live in a particular structure or area as described in Section III.C.3.h(3)(a)), repair, dispose of, demolish or construct property for a project under this CoC NOFA, or commit or expend HUD or local funds for such eligible activities, until the responsible entity has completed the environmental review procedures required by Part 58 and the environmental certification and Request for Release of Funds (RROF) have been approved or HUD has performed an environmental review under Part 50 and the recipient has received HUD approval of the property. The expenditure or commitment of Continuum of Care assistance or nonfederal funds for such activities prior to this HUD approval may result in the denial of assistance for the project under consideration.

e. *CoC Geographic Area.* In deciding what geographic area you will cover in your CoC strategy, you should be aware that the single most important factor in being awarded funding under this competition will be the strength of your CoC strategy when measured against the CoC rating factors described in this NOFA. When you determine what jurisdictions to include in your CoC strategy area, include only those jurisdictions that are fully involved in the development and implementation of the CoC strategy.

The more jurisdictions you include in the CoC strategy area, the larger the pro rata need share that will be allocated to the strategy area (as described in Section V.B.2.b. of this NOFA). If you are a rural county, you may wish to consider working with larger groups of contiguous counties to develop a region-wide or multi-county CoC strategy covering the combined service areas of these counties. The areas covered by CoC strategies should not overlap.

f. *Expiring/Extended Grants.* If your SHP or S+C Program grant will be expiring in calendar year 2007, or if your S+C Program grant has been extended beyond its original five-year term and is projected to run out of funds in FY 2007, you may apply as a renewal under this CoC NOFA to get continued funding.

g. *Participation in Energy Star.* In keeping with the Administration's policy priority of promoting energy efficient housing while protecting the environment, applicants applying for new construction or rehabilitation funding, who maintain housing or community facilities or provide services in those facilities, are encouraged to promote energy efficiency and are specifically encouraged to purchase and use Energy Star-labeled products. All applicants must complete the questions on the Energy Star Chart (Chart CoC–AA) in Exhibit 1. Refer to the General Section for detailed information about this requirement.

h. *Program-Specific Requirements.* Please be advised that where an applicant for the SHP funding is a state or unit of general local government that utilizes one or more nonprofit organizations to administer the homeless assistance project(s), administrative funds provided as part of the SHP grant must be passed on to the nonprofit organization(s) in proportion to the administrative burden borne by them for the SHP project(s). HUD will consider states or units of general local government that pass on at least 50 percent of the administrative funds made available under the grant as having met this requirement. This requirement does not apply to either the SRO Program, since only PHAs administer the SRO rental assistance, or to the S+C Program, since paying the costs associated with the administration of these grants is ineligible by regulation.

HUD will not award funds to rehabilitate leased property. In addition, SHP funds may not be used to lease units or structures owned by the project sponsor, the selectee, or their parent organizations. This includes organizations that are members of a general partnership where the general partnership owns the structure.

(1) *SHP—New Projects:*

(a) Please note that the grant term for new SHP projects is two (2) or three (3) years.

(b) *HUD will require recordation of a HUD-approved use and repayment covenant* (a form may be obtained from your field office) for all grants of funds for acquisition, rehabilitation or new construction. The covenant will enforce the use and repayment requirements found at section 423(b)(1) and (c) of the McKinney-Vento Act and must be approved by HUD counsel before execution and recordation. Proof of

recordation must be provided to HUD counsel before funds for rehabilitation or new construction may be drawn down.

(c) All project sponsors must meet applicant eligibility standards as described in Section III.A.3. As in past years, HUD will review sponsor eligibility as part of the threshold review process. Project sponsors for new projects are required to submit evidence of their eligibility with the application (See Section IV.B.1.b.(3)(a) and Section I.A.8.n).

(2) *SHP—Renewal Projects.*

(a) For the renewal of a SHP project, you may request funding for one (1), two (2) or three (3) years.

(b) The total request for each renewable project cannot exceed the Average Yearly Amount received in your current grant for that project. Within that total request, the administrative amount must be the exact amount awarded in the previous grant. An exception to this rule is grants being renewed whose original expiring award included ''hard'' development costs (acquisition, new construction, and rehab): these must, in the current competition, recalculate their administrative allocation not to exceed five percent of the Average Yearly Amount of the activities being renewed. To calculate administrative amounts for activities in all new projects and renewal projects with these ''hard'' development costs, calculate the subtotal of all requested amounts for activities. Administrative costs cannot exceed 5% of this subtotal. For example, if a project requests $60 for supportive services and $40 for operating expenses, the maximum amount of administration dollars the project can request is $5. Only leasing, operating, supportive services, and administration costs may be renewed. Applicants proposing both to renew an existing project and to expand the number of units or number of participants receiving services in that grant must submit a new project proposal for the expansion portion of the project. HMIS activities being renewed should be included on the HMIS budget chart.

(c) HUD will recapture SHP grant funds remaining unspent at the end of the previous grant period when it renews a grant.

(3) *S+C—New Projects.*

(a) A project may not include more than one component, *e.g.*, combining Tenant-based Rental Assistance (TRA) with Sponsor-based Rental Assistance (SRA) is prohibited within the same grant. Under the TRA component, in order to help provide supportive services or for the purposes of controlling housing costs, a grantee may require participants to live in a particular structure for the first year of assistance or to live in a particular area for the entire rental assistance period. Where this option is exercised, an environmental review and clearance must be performed prior to any commitment to lease a particular structure or unit for participant occupancy as described in Section III.C.3.d, Environmental Reviews.

(b) *S+C/SRO Component.* If you are a state or a unit of general local government, you must subcontract with a public housing agency to administer the S+C assistance. Also, no single project may contain more than 100 units.

(c) *S+C SRA Component.* Project sponsors must submit proof of their eligibility to serve as a project sponsor.

(4) *S+C Renewal Projects.* HUD encourages the consolidation of appropriate S+C renewal grants when the grants are under the same grantee, same component and expire in the same year. However, renewal requests for expiring S+C grants that have not yet been combined should still be listed individually on the CoC priority list and will be awarded as individual renewal grants. Where the grantee wishes to consolidate the renewal grants, this action will be subsequently accomplished by the field office at the point of renewal grant agreement execution. The field office will receive instructions for this process in the S+C Operating Procedures guidance for 2006 awards.

(a) For the renewal of a S+C project, including S+C SROs, the grant term will be one (1) year, as specified by Congress. For the renewal of S+C rental assistance that is Tenant-based (TRA), Sponsor-based (SRA), Project-based (PRA), or Single Room Occupancy-based (SRO), you may request up to the amount determined by multiplying the number of units under lease at the time of your application for renewal funding by the applicable 2006 Fair Market Rent(s) by 12 months. Current FMRs can be found at *www.hudclips.org.* For S+C grants having been awarded one year of renewal funding in 2005, the number of units requested for renewal this year must not exceed the number of units funded in 2005. As is the case with SHP, HUD will recapture S+C grant funds remaining unspent at the end of the previous grant period when it renews a grant. The one-year term of non-competitively awarded S+C renewal projects may not be extended.

(b) Under the FY 2006 HUD Appropriations Act, eligible S+C Program grants whose terms are expiring in 2007 and S+C Program grants that have been extended beyond their original five-year terms but which are projected to run out of funds in 2007, will be renewed for one year provided that they are determined to be needed by the CoC, either as evidenced by their inclusion on the priority chart or as accompanied by a certification from the CoC. These projects must also demonstrate that their applicant and sponsor meet eligibility, capacity and performance requirements described in Section V.A.1 of this NOFA. Non-competitive S+C renewals should be submitted by the application deadline. These S+C renewal projects will not count against a continuum's pro rata need amount, but, if listed on the CoC Priority Chart, should be numbered, continuing the priority sequence. On the other hand, no community hold harmless amount will be computed for any CoC using S+C renewal amounts since these projects are being funded outside of the competition.

(5) *Section 8 Moderate Rehabilitation SRO Program—New Projects.* As an applicant, the following limitations apply to the Section 8 SRO program:

(a) SRO assistance may not be provided to more than 100 units in any structure.

(b) Under 24 CFR 882.802, applicants that are private nonprofit organizations must subcontract with a public housing agency to administer the SRO assistance.

(c) Under 24 CFR 882.802, rehabilitation must involve a minimum expenditure of $3,000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to upgrade conditions to comply with HUD's physical condition standards in 24 CFR part 5, subpart G.

(d) Under section 441(e) of the McKinney-Vento Act and 24 CFR 882.805(d)(1), HUD publishes the SRO per unit rehabilitation cost limit each year to take into account changes in construction costs. This cost limitation applies to eligible rehabilitation costs that may be compensated for in the Housing Assistance Payments (HAP) contract rents. For purposes of Fiscal Year 2006 funding, the cost limitation is raised from $20,000 to $20,500 per unit to take into account increases in construction costs during the past 12-month period.

(e) The SRO Program is subject to the Federal standards at 24 CFR part 882, subpart H.

(f) Individuals assisted through the SRO Program must meet the definition of homeless individual found at section 103 of the McKinney-Vento Act.

(g) Resources outside the program pay for the rehabilitation, and rehabilitation financing. The rental assistance covers operating expenses of the SRO housing, including debt service for rehabilitation financing. Units may contain food preparation or sanitary facilities or both.

(6) *Section 8 Moderate Rehabilitation SRO Program—Renewals.* This program section of the NOFA is not applicable to the renewal of funding under the Section 8 SRO program. The renewal of expiring Section 8 SRO projects is not part of the competitive CoC NOFA process. Rather, expiring Section 8 SROs will be identified at the beginning of the applicable year by the public housing agency and HUD field office. One-year renewal funds for expiring Section 8 SRO HAP contracts will be provided by HUD under a separate, non-competitive process. For further guidance on Section 8 SRO renewals, please contact your local HUD field office.

i. *Timeliness Standards.* As an applicant, you are expected to initiate your approved projects promptly in accordance with Section VI.A of this NOFA. In addition, HUD will take action if you fail to satisfy the following timeliness standards:

(1) *SHP:* HUD will deselect your award if you do not demonstrate site control within one (1) year of the date of your grant award letter, as required by the McKinney-Vento Act (see 42 USCs 11386(a)(3)) and implemented in program regulations at 24 CFR 583.320(a). Subsequent loss of site control beyond the 12-month statutory limit will be cause for cancellation of the award and recapture of funds. HUD may deobligate SHP funds if the following additional timeliness standards are not met:

(a) You must begin construction activities within eighteen (18) months of the date of HUD's grant award letter and complete them within thirty-six (36) months after that notification.

(b) For activities that cannot begin until construction activities are completed, such as supportive service or operating activities that will be conducted within the building being rehabilitated or newly constructed, you must begin these activities within three (3) months after you complete construction.

(c) You must begin all activities that may proceed independent of construction activities, including HMIS, within twelve (12) months of the date of HUD's grant award letter. HUD may reduce a grant agreement term to one (1) year where implementation delays have reduced the amount of funds that reasonably can be used in the original term.

(2) *S+C Except SRO Component.* HUD may deobligate S+C funds if you do not meet the following timeliness standards:

(a) For Tenant-based Rental Assistance, for Sponsor-based Rental Assistance, and for Project-based Rental Assistance without rehabilitation, you must start the rental assistance within twelve (12) months of the date of HUD's grant award letter.

(b) For Project-based Rental Assistance with rehabilitation, you must complete the rehabilitation within twelve (12) months of the date of HUD's grant award letter.

(3) *Section 8 Moderate Rehabilitation SRO Program and SRO Component of the S+C Program.* For projects carried out under the Section 8 SRO program and the SRO component of the S+C program, the rehabilitation work must be completed and the HAP contract executed within twelve (12) months of execution of the Annual Contributions Contract. HUD may reduce the number of units or the amount of the annual contribution commitment if, in HUD's determination, the Public Housing Agency fails to demonstrate a good faith effort to adhere to this schedule.

IV. Application and Submission Information

A. Application Package. A checklist of forms needed to complete the application is provided, as described in Section VIII below. Exhibits 1, 2, and the Applicant Certifications are attachments. The Exhibits, Geographic Codes, Initial Pro Rata Need Amounts, Applicant Certifications, and the Questions and Answers Supplement can be accessed at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* An applicant may also obtain a copy of the General Section and this NOFA by calling the NOFA Information Center at 1–800–HUD–8929 (voice) (this is a toll free number) or you may download it from the website at *http://www.grants.gov*. Please note that all sections of the General Section are critical and must be carefully reviewed to ensure your application can be considered for funding.

B. *Content and Form of Application Submission.* The only option for submitting a viable application under this NOFA is to submit the entire Continuum of Care application, with all of its projects, together in a single package mailed to HUD. Each application will consist of one Continuum of Care Exhibit and submissions from one or more applicants and project sponsors. Although HUD will accept an application for a project exclusive of participation in any community-wide or region-wide CoC development process, projects will receive few, if any, points under the CoC rating factors and are very unlikely to be funded. Please note that Exhibits 1 and 2 should only include the actual application questions and responses being provided and should not include the HUD application instructions or any blank tables and charts. The General Section contains certifications that the applicant will comply with fair housing and civil rights requirements, program regulations, and other Federal requirements, and (where applicable) that the proposed activities are consistent with the HUD-approved Consolidated Plan of the applicable state or unit of general local government. Section IV of Exhibit 2 of this NOFA contains program-specific Applicant Certifications.

1. *Application Submission Requirements:*

a. A completed application will include one Exhibit 1 (CoC) and any number of Exhibits 2, depending on the number of projects and type of programs proposed for funding. For example, if your CoC were proposing five SHP Renewal projects and one S+C New project, then you would submit one Exhibit 1 and six Exhibits 2, filling out the applicable charts in Exhibit 2 for each project. Refer to Assembly Order below for full assembling instructions.

b. Assembly Order: Each CoC must submit the entire CoC application, with all of its parts, in a single package to HUD. There are three separate sections to a CoC submission: the CoC Exhibit 1, all applicant documentation, and all project documentation. The application must be assembled in the following order:

(1) Section I—Exhibit 1 Narrative and Charts:

(a) Exhibit 1, the CoC plan with all charts completed as applicable.

(b) HUD–27300, Questionnaire for HUD's Initiative on Removal of Regulatory Barriers;

(c) HUD 2993, Acknowledgment of Application Receipt; and

(d) HUD 2994, Client Comments and Suggestions (optional).

(2) Section II—Applicant Documentation:

(a) SF–424 Application for Federal Assistance. Submit one SF–424 for each applicant in the Continuum. Attached to each SF–424 must be a list of all the applicant's projects in priority number order, with project name and requested amount. Each SF–424 must also include the applicant's DUNS number. Please see the General Section for more

information on obtaining a DUNS number. The SF–424 SUPP, Survey on Ensuring Equal Opportunity for Applicants, is for private nonprofit applicants only and completion/submission of this survey is voluntary. Additionally, each applicant must attach the following documentation (i–v) to its SF–424:

(i) Documentation of Applicant Eligibility. Only applicants for new projects must include documentation of eligibility as defined in the chart in Section III.A.3. Also, see Section I.A.8.l. & m. of this NOFA for information on the documentation required to validate non-profit status.

(ii) SF–LLL, Disclosure of Lobbying Activities, where applicable.

(iii) Applicant Code of Conduct. (New applicants and applicants awarded HUD funding prior to 2006 who have not previously submitted a Code of Conduct).

(iv) HUD 40090–4, Applicant Certifications, located in Section IV of Exhibit 2.

(3) Section III—Project Documentation: Each project applying under Exhibit 2 must be submitted in its priority list order with all Exhibit 2 required forms completed for every project. The following documentation must be included after each project submission:

(a) Documentation of Sponsor Eligibility. Only sponsors for new projects must include documentation of eligibility as defined in the chart in Section III.A.3. See also Section I.A.8.n. for information on the documentation required to validate sponsor eligibility.

(b) HUD–96010, Logic Model (for Logic Model instructions, see the General Section of the NOFA and pages included with the Exhibit 2 instructions);

(c) HUD–2880, Applicant/Recipient Disclosure/Update Report;

(d) HUD–2991, Certification of Consistency with the Consolidated Plan; and

(e) SF 424–SUPP, Survey on Ensuring Equal Opportunity for Applicants (for private nonprofit applicants only—completion of survey is voluntary).

2. Assembly Format:

a. The standard font that should be used for narratives is Times New Roman, size 12 (pitch). Number all pages within each exhibit sequentially and insert tabs marking each exhibit.

b. Please use a two-hole punch to insert holes at the top of your application.

c. Please do not bind your application, since this impedes processing.

C. Submission Dates and Times: 1. *Application Deadline Date.* Your completed application should be submitted on or before May 25, 2006 to the addresses shown below. HUD will not accept faxed or hand delivered applications.

a. *Timeliness.* Your application will be considered filed in a timely manner if your application is postmarked on or before 11:59:59 p.m. on the application deadline date and received by HUD on or within fifteen (15) days of the application deadline date. Applicants may use any type of mail service provided by the USPS to have their application package delivered to HUD in time to meet the timely submission requirements. Applicants using the United States Postal Service (USPS) must obtain and save a Certificate of mailing showing the date when you submitted your application. The Certificate of Mailing will be your documentary evidence that your application was timely filed. If your application is sent by overnight delivery or express mail, other than the United States Postal Service, your application will be timely filed if it is placed in transit with the overnight/express mail service on or before the application submission date. Applicants should retain a receipt from these services showing that it was submitted for delivery by the application submission date and time.

b. *Field Office Copies.* The HUD Field Office must also receive one copy of your application, with the same due date and timely filing requirements as described in Section IV.C.1.a above. In the rare event that a CoC's entire application is not received at HUD Headquarters on time, HUD may similarly request proof that the Headquarters and Field Office copy was filed on time and, if so, may use the copy received by the Field Office for review.

D. Intergovernmental Review. Not applicable.

E. Funding Restrictions. Funding Restrictions are outlined in Sections V.B.3.a and V.B.3.b.

F. Other Submission Requirements: 1. *Addresses for Submitting Applications:*

a. *To HUD Headquarters.* Once you have downloaded the forms from the web site and completed the application and all documentation, submit your original completed application (the application with the original signed documentation) and one additional copy of Exhibit 1 only to: HUD Headquarters, Robert C. Weaver Building, 451 Seventh Street, SW, Room 7270, Washington, DC 20410, Attention: Continuum of Care Programs.

b. *To the Appropriate CPD Field Office.* Also submit one copy of your completed application to the Community Planning and Development Division of the appropriate HUD Field Office for your jurisdiction. Please see the following web site for Field Office addresses: *http://www.hud.gov/localoffices.cfm.*

2. *Security Procedures.* HUD recommends that applications be mailed or shipped express using the United States Postal Service (USPS). However, applications shipped via United Parcel Service (UPS), FedEx, DHL, or Falcon Carrier will also be accepted. Due to HUD security regulations, *no other delivery service is permitted into HUD Headquarters without escort. You must, therefore, use one of the four carriers listed above.*

V. Application Review Information

A. Criteria. Your application will receive a higher score under the CoC scoring factors if the application demonstrates the achievement of four basic goals:

—One, that you have successfully identified and developed partnerships with nonprofit organizations (including those representing persons with disabilities), government agencies, public housing agencies, faith-based and other community-based organizations, other homeless providers, housing developers and service providers, private businesses and business associations, law enforcement agencies, funding providers, and homeless or formerly homeless persons, and that your CoC structure and decision-making processes are inclusive of all of these parties. Also, other jurisdictional ten-year plans within your CoC's geographic area must be integrated with the CoC plan;

—Two, that you have created, maintained, and built upon a community-wide inventory of housing and services for homeless families and individuals (both HUD and non-HUD funded); identified the full spectrum of needs of homeless families and individuals; and coordinated efforts to fill gaps between the current inventory and existing needs. This coordinated effort must appropriately address all aspects of the continuum, especially permanent housing;

—Three, that you have instituted a CoC-wide strategy to achieve the CoC's goals, especially to end chronic homelessness. This can be accomplished through careful planning, coordination with other state and local plans, and through

leveraging resources from multiple sources; and

—Four, that your Continuum is working toward the HUD/national performance objectives (the objectives listed in Section VI.B.1 below and on Chart N in Exhibit 1, the new CoC 10-Year Plan, Objectives, and Action Steps Chart), that you are reporting on progress toward the CoC's goals, and that you are coordinating homeless assistance with mainstream health, social services, and employment programs.

1. *Applicant and sponsor eligibility, capacity and performance.* HUD will review applications to ensure that the applicant and project sponsor meet the eligibility and capacity standards outlined in this section. If HUD determines these standards are not met, the project will be rejected from the competition. The eligibility, capacity and performance standards are as follows:

a. You must be eligible to apply for the specific program.

b. You must demonstrate ability to carry out the project(s). With respect to each proposed project, this means that, in addition to knowledge of and experience with homelessness in general, the organization carrying out the project, its employees, or its partners, must have the necessary experience and knowledge to carry out the specific activities proposed, such as housing development, housing management, and service delivery.

c. If you or the project sponsor is a current or past recipient of assistance under a HUD McKinney-Vento Act program, there must have been no delay in meeting applicable program timeliness standards unless HUD determines the delay in project implementation is beyond your or the project sponsor's control, there are no serious unresolved HUD monitoring finding, and no outstanding audit finding of a material nature regarding the administration of the program.

2. *Review, Rating and Conditional Selection.* HUD will use the same review, rating, and conditional selection process for all three programs (SHP, S+C and SRO). The standard factors for award identified in the General Section have been modified in this NOFA as described below. Only the factors described in this NOFA—Continuum of Care and Need—will be used to assign points. Parts 2a and 2b in this section describe selection factors. Up to 100 points will be assigned using these factors, including rating points for HUD's policy priority of ending chronic homelessness; and the policy priority for removing regulatory barriers to affordable housing (see Section V.A.3.a. and V.A.5. below on both policy priorities). There are no bonus points for proposing projects in an RC/EZ/EC-IIs.

a. *Continuum of Care.* HUD will award up to 60 points as follows:

(1) Organizational Structure: HUD will award up to 8 points based on the extent to which your application demonstrates:

(a) The existence of a coordinated, inclusive, and outcome-oriented community process, including organizational structure(s) and decision-making processes for developing and implementing a CoC strategy;

(b) That this process includes nonprofit organizations (such as veterans service organizations, organizations representing persons with disabilities, faith-based and other community-based organizations, and other groups serving homeless and other low-income persons), state and local governmental agencies, public housing agencies, housing developers and service providers, school systems, law enforcement, hospital and medical entities, funding providers, local businesses and business associations, and homeless or formerly homeless persons; and

(c) That the CoC has a process in place to achieve fair and impartial project review and selection, with representation and input from diverse parties such as those outlined under Criteria for Application Review.

(2) CoC Housing and Service Needs: HUD will award up to 12 points based on the extent to which your application demonstrates:

(a) That a well-defined and comprehensive strategy has been developed which addresses the components of a CoC system (*i.e.*, outreach, intake and assessment; emergency shelter; transitional housing; permanent supportive housing; permanent supportive housing, and prevention), and that the strategy has been designed to serve all homeless subpopulations in the community (*e.g.*, seriously mentally ill, persons with multiple diagnoses, veterans, persons with HIV/AIDS), including those persons living in emergency shelters, supportive housing for homeless persons, or in places not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. Having high-quality data is important, and your application in this section must demonstrate the CoC's data collection methods.

(b) HMIS Implementation. Of these 12 points, HUD will award up to 5 points based upon the extent to which your application demonstrates progress in the planning, implementation and operation of an HMIS system covering at a minimum all street outreach, emergency shelters and transitional housing programs so that a reliable, unduplicated count of homeless persons on the street and in shelters may be conducted.

(3) CoC Strategic Planning: HUD will award up to 10 points based on the extent to which your application demonstrates:

(a) The existence of a performance-based 10-year strategy for ending chronic homelessness that establishes specific action steps to achieve the five objectives listed in Chart N, the CoC 10-Year Plan, Objectives, and Action Steps Chart, with measurable achievements. It should be integrated with other ten-year plans in the community to eliminate chronic homelessness (if applicable), the local HUD Consolidated Plan, and other state and local plans related to homelessness;

(b) Your Continuum's progress in working with the appropriate local government entity to develop and implement a discharge policy for persons leaving publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in persons entering the homeless system;

(c) Proposes projects that are consistent with identified unmet needs and correctly completes the priority chart (note: if you do not provide a Project Priority Chart in Exhibit 1, all proposed projects may lose up to 30 points of the 40-point Need total);

(d) Provides estimates of renewal funds needed through 2011 for SHP and S+C projects; and

(e) Demonstrates leveraging of funds requested under this NOFA with other resources, including private, other public, and mainstream services and housing programs, for proposed projects and ongoing efforts (*Leveraging Supplemental Resources*).

(4) CoC Performance: HUD will award up to 18 points based upon the CoC's progress in reducing homelessness, including chronic homelessness. Please note that HUD will award at least a minimum score in this section to continuums located in areas affected by Hurricanes Katrina and Rita that President Bush has declared to be major disaster areas under Title IV of the Robert T. Stafford Act, as follows: for each completed chart in Part IV, CoC Performance, CoCs in these areas will receive no less than one half of the full

points allotted. CoC Performance will be measured by demonstrating:

(a) That the CoC has taken specific action steps and made progress toward achieving its goals;

(b) That the CoC has increased the number of permanent housing beds for the chronically homeless and made progress toward eliminating chronic homelessness;

(c) Program participants' success in moving to and maintaining permanent housing as reported in the most recent APR;

(d) The extent to which participants successfully become employed and access mainstream programs. These measures emphasize HUD's determination to assess grantees' performance in the prior program year and to determine if they are meeting the overall goal of the homeless assistance grants under which they are funded. Both housing and supportive services only projects will be assessed, using the data submitted in Exhibit 1, Charts W and X;

(e) That the CoC has no unexecuted grants;

(f) That projects within the CoC have policies and practices in place to hire low and very low-income employees and subcontractors, under Section 3 of the Housing and Urban Development Act of 1968 (HUD will award up to 2 points for this chart, within the 18 points for this rating factor); and

(g) Removal of Regulatory Barriers to Affordable Housing: As provided for in the General Section, HUD will award up to 2 points, within the 18 points for this rating factor, based on the extent that the CoC's application demonstrates a local plan and/or existing policy to remove regulatory barriers to the production of affordable housing. Applicable activities include the support of state and local efforts to streamline processes, eliminate redundant requirements, statutes, regulations, and codes that impede the availability of affordable housing. The response (one questionnaire per CoC) should be submitted for consideration as a completed HUD Form 27300, Questionnaire for HUD's Initiative on Removal of Regulatory Barriers. The Continuum should submit the questionnaire for the local jurisdiction where the majority of its CoC assistance will be provided. Please identify the name of the jurisdiction reported on the top of the first page of the returned questionnaire. This questionnaire can be found in the attachments to the General Section and should be submitted with Exhibit 1.

(5) *Emphasis on Housing Activities:* HUD will award up to 12 points based upon the relationship between funds requested for housing activities (*i.e.*, transitional and permanent) and funds requested for supportive service activities among projects assigned 40 need points (including S+C renewals). Points will be awarded on a sliding scale with the Continuums with the highest percentage of approvable requests for funds for housing activities receiving the highest points. HUD will count as housing activity all approvable requests for funds for rental assistance and approvable requests for funds for acquisition, rehabilitation, construction, leasing and operations when used in connection with housing. HMIS costs and administrative costs will be excluded from this calculation.

b. *Need:* HUD will award up to 40 points for need. There is a three-step approach to determining the need scores to be awarded to projects.

(1) *Step 1—HUD's Determination of preliminary pro rata need:* To determine the homeless assistance need of a particular jurisdiction, HUD will use nationally available data, including the following factors as used in the Emergency Shelter Grants (ESG) program; data on poverty, housing overcrowding, population, age of housing, and growth lag. Applying those factors to a particular jurisdiction provides an estimate of the relative need index for that jurisdiction compared to other jurisdictions applying for assistance under this NOFA.

(2) *Step 2—Determining CoC hold harmless pro rata need:* In CoCs where the total amount needed to fund, for one year, all SHP grants eligible for renewal in this competition exceeds the preliminary pro rata need amount for that CoC, the CoC will receive this higher amount, referred to as the CoC hold harmless amount. This adjustment was formerly known as the renewal bonus. SHP grants eligible for renewal are those that expire between January 1, 2007 and December 31, 2007. No adjustment will be made for S+C renewals. To provide communities with maximum flexibility in addressing current needs, CoCs have the discretion to not fund or to reduce one or more SHP renewal project applications and still receive the benefit of the hold harmless amount if the CoC proposes to use that amount of reduced renewal funds for new permanent supportive housing projects. Please be advised that the new projects (and the renewal dollars attached) proposed through this reallocation are subject to the competitive process, i.e., the CoC must score above the national funding line for the projects to be funded.

(3) *Step 3—Samaritan Housing Initiative:* Formerly referred to as the Permanent Housing Bonus, this special incentive to promote permanent supportive housing for the chronically homeless is provided to CoC systems that place an eligible, new permanent supportive housing project in the number one priority position on the priority list. If the number one priority project qualifies as an eligible, new permanent housing project exclusively serving the chronically homeless, then the full amount of that project's eligible housing activities, up to a maximum 15 percent of the CoC's preliminary pro rata need, will be added to the pro rata need amount for the Continuum. The only eligible activities that will be counted toward this bonus are housing activities and for SHP, case management, and administration. Applicants may use no more than 20 percent of this bonus for case management costs. Please note: any amount of the proposed project that exceeds the limitations described above will be applied against the pro rata need for the CoC. For the SHP program, housing activities are acquisition, new construction, rehabilitation, leasing of housing and operating costs when used in connection with housing. S+C and SRO rental assistance are defined as housing activities and are eligible under the incentive as well. HMIS costs will be excluded from this calculation.

The dollar amount determined after application of each of these steps, as applicable, is referred to as the ''final pro rata need amount.'' Please be advised that the final funding amount awarded to Shelter Plus Care or Section 8 SRO projects may be different from the requested amount due to changes in the FMRs. HUD will apply FMR changes after selection.

(4) *Awarding need points to projects:* Once HUD establishes the final pro rata need, HUD will apply it against the priority project list in the application. Starting from the highest priority project, HUD will proceed down the list to award need points to each project. Any project not falling fully within the 40 point need range will receive 10 need points. Thereafter, HUD will proceed further down the priority project list and award 10 points for need to each project if it falls fully within the ''second level'' of pro rata need amount for that CoC. The ''second level'' is the amount between the pro rata need and twice the pro rata need for the CoC. Remaining projects each receive 5 points. If the projects for the Continuum are not prioritized, then all projects will receive 0 points for Need.

B. Reviews and Selection Process. 1. *Review, Rating and Ranking.* HUD may employ rating panels to review and rate applications. See the General Section for more information on rating panels. Two types of reviews will be conducted—threshold review and selection factor (CoC and Need) rating. Applicant and Sponsor Eligibility and Capacity as well as Project Eligibility and Project Quality are threshold reviews. Threshold reviews are explained in Section III.C.2 of this NOFA, which covers eligible applicants and projects. HUD will add the score for the CoC to the Need score to obtain a total score for each project. The projects will then be ranked nationally from highest to lowest according to the total combined score.

2. *Conditional Selection and Adjustments to Funding.*

a. *Conditional Selection.* Whether a project is conditionally selected, as described in Section VI.A, will depend on its overall ranking compared to others, except that HUD reserves the right to select lower rated eligible projects in order to meet the 30 percent overall permanent housing requirement, as well as the 10 percent chronic homeless requirement. Projects that are included in the 10 percent chronic homeless requirement may also be part of the 30 percent overall permanent housing requirement. (See Section V.B.3 below for additional selection considerations regarding these requirements.)

When insufficient funds remain to fund all projects in the competition having the same total score, HUD will first fund permanent housing projects if necessary to achieve the 30 percent overall permanent housing requirement. HUD will then fund non-permanent housing, safe haven-TH and transitional housing projects that predominantly serve individuals experiencing chronic homelessness in order to achieve the 10 percent chronic homeless requirement. HUD will then break ties among the remaining projects with the same total score by comparing scores received by the projects for each of the following scoring factors, in the order shown: Need, Overall CoC score, CoC Organizational Structure, CoC Housing and Service Needs, CoC Strategic Planning, CoC Performance, CoC Supplemental Resources, Housing Emphasis and Performance. The final tie-breaking factor is the priority number of the competing projects on the applicable CoC priority list(s).

HUD has determined that the Congressional goal of enhancing homeless data collection at the CoC level is best achieved by assisting CoCs seeking dedicated Homeless Management Information Systems (HMIS) to receive Supportive Housing Program funds. To this end, HUD reserves the right to fund for at least one year lower rated eligible dedicated HMIS projects receiving 40 need points and at least 25 Continuum points.

b. *Adjustments to Funding:* HUD has determined that geographic diversity is an appropriate consideration in selecting homeless assistance projects in the competition. HUD believes that geographic diversity can be achieved best by awarding grants to as many CoCs as possible. To this end, in instances where any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa does not have at least one funded CoC, HUD reserves the right to fund eligible project(s) receiving 40 Need points in the CoC with the highest total score in that jurisdiction. To qualify for funding, the total score for these first-level projects on the CoC priority list must be at least 65 points. In the case of two or more CoCs with the same total score, HUD will use the tie-breaking rules described above. In addition, if the highest priority project passing threshold requirements within a CoC fails to meet the criteria for receiving 40 Need points, HUD reserves the right to reduce the total requested amount for that project to allow it to qualify for 40 Need points. If you do not submit clear project priority designations for the Continuum or if HUD, at its sole discretion, cannot determine the CoC's priority designations, then HUD will give all such projects 0 Need points. If the CoC requests a new permanent housing project as the highest priority, and HUD determines that it is not a permanent housing project, HUD reserves the right to not award funds to that project rather than reclassify the component. The intent of this provision is to preserve PRN for lower ranking projects. Finally, if the total amount that would be awarded for first level projects in a CoC exceeds the final pro rata need amount for that CoC, the lowest priority first level project being selected for funding will be reduced to the amount that is wholly within the higher need level. HUD may otherwise adjust funding of applications in accordance with the provisions of the General Section.

In addition, HUD reserves the right to ensure that a project that is applying for, and eligible for, selection under this competition is not awarded funds that duplicate activities. If the geography included in your CoC strategy substantially overlaps that of another application, projects within the CoC application that receive the highest CoC score will be eligible for up to 40 Need points. Projects in the competing CoC application with the lower CoC score will receive 0 need points. In no case will the same geographical area be used more than one time in assigning Need points. The local HUD Field Office can help you determine if any of the areas proposed for inclusion by your CoC system is also likely to be claimed under another CoC system in this competition.

3. *Additional Selection Considerations.* HUD also will apply the limitations on funding described below in making conditional selections.

a. *Thirty Percent Permanent Housing Requirement.* In accordance with the appropriation for homeless assistance grants in the Fiscal Year 2006 HUD Appropriations Act, HUD will use not less than 30 percent of the total FY 2006 Homeless Assistance Grants appropriation, excluding amounts provided for renewals under the S+C Program, to fund projects that meet the definition of permanent housing. Projects meeting the definition of permanent housing for this purpose are:

(1) New and renewal projects under the SHP that are designated as either permanent housing for homeless persons with disabilities or Safe Haven projects designated as having the characteristics of permanent housing for homeless persons with disabilities, including having leases with all program participants. All such permanent housing projects chosen for this purpose must have received at least 10 Need points, and must be submitted as part of a CoC application receiving at least 25 points under the CoC scoring factor. However, no CoC applicant may receive more than 30 percent of its pro rata need, up to $3 million, for ''second-level'' permanent housing projects assigned 10 Need points that are selected for funding under this procedure. (See Section V.A.2.b (4) for definition of ''second-level.'') HUD will award no less than 30 percent of the total FY 2006 Homeless Assistance Grants appropriation, excluding amounts for S+C renewals, for permanent housing projects unless an insufficient number of approvable permanent housing projects are submitted. In order to meet this permanent housing funding requirement and stay within the total funding amount available, initially selected Supportive Service Only (SSO) and non-permanent housing projects will be deselected if necessary to add an adequate number of permanent housing projects, even if they are lower scoring housing projects. HUD will, if necessary, first proceed to de-select new

SSO projects initially selected, starting with lowest scoring new projects and proceeding to higher scoring new SSO projects initially selected. If the funding line is still exceeded, HUD will proceed to de-select the lowest scoring new non-permanent housing projects initially selected and proceed to higher scoring new non-permanent housing projects. Finally, if the funding line is still exceeded HUD will proceed to de-select SSO and then other non-permanent housing renewal projects until all selected projects are within the funding line.

(2) New S+C projects; and

(3) SRO projects.

b. *Ten Percent Housing for Chronic Homeless Requirement:* HUD has implemented a requirement that at least 10 percent of the appropriation must be awarded for projects predominantly serving individuals experiencing chronic homelessness. To be considered predominantly serving chronically homeless people, at least 70 percent of the persons served in this project must meet HUD's definition of chronic homelessness. Permanent housing, transitional and safe haven housing projects, whether new or renewal, that commit to predominantly serving persons experiencing chronic homelessness will be counted for this purpose. To meet this requirement, HUD will also include permanent housing projects selected for the 30 percent requirement that predominantly serve chronically homeless persons. S+C renewals will then be screened to count projects predominantly serving chronically homeless persons. If the 10 percent requirement is not yet met, permanent, transitional and safe haven housing projects below the funding line that predominantly serve chronically homeless persons will also be selected to achieve this requirement.

c. *Distribution of Selections:* In accordance with section 429 of the McKinney-Vento Act, HUD will award Supportive Housing Program funds as follows: Not less than 25 percent for projects that primarily serve homeless families with children; not less than 25 percent for projects that primarily serve homeless persons with disabilities; and not less than 10 percent for supportive services not provided in conjunction with supportive housing. After projects are rated and ranked, based on the factors described above, HUD will determine if the conditionally selected projects achieve these minimum percentages. If not, HUD will skip higher-ranked projects in order to achieve these minimum percentages.

In accordance with section 463(a) of the McKinney-Vento Act, at least 10 percent of S+C funds will be awarded for each of the four components of the program: Tenant-based Rental Assistance; Sponsor-based Rental Assistance; Project-based Rental Assistance; and Single Room Occupancy (provided there are sufficient numbers of approvable projects to achieve these percentages). After projects are rated and ranked, based on the factors described above, HUD will determine if the conditionally selected projects achieve these minimum percentages. If necessary, HUD will skip higher-ranked projects in order to achieve these minimum percentages.

In accordance with section 455(b) of the McKinney-Vento Act, no more than 10 percent of the assistance made available for S+C in any fiscal year may be used for programs located within any one unit of general local government. In accordance with section 441(c) of the McKinney-Vento Act, no city or urban county may have SRO Section 8 projects receiving a total of more than 10 percent of the assistance made available under this program. HUD is defining the 10 percent availability this fiscal year as $10 million for S+C and $10 million for Section 8 SRO. However, if the amount awarded under either of these two programs exceeds $100 million, then the amount awarded to any one unit of general local government (for purposes of the S+C Program) or city or urban county (for the purposes of the Section 8 SRO Program) cannot exceed 10 percent of the actual total amount awarded for that program.

Lastly, HUD reserves the right to reduce the amount of a grant if necessary to ensure that no more than 10 percent of assistance made available under this NOFA will be awarded for projects located within any one unit of general local government or within the geographic area covered by any one Continuum of Care. If HUD exercises a right it has reserved under this NOFA, that right will be exercised uniformly across all applications received in response to this NOFA.

4. *Corrections to Deficient Applications.* The General Section provides the procedures for corrections to deficient applications.

VI. Award Administration Information

A. Award Notices

1. *Action on Conditionally Selected Applications.* HUD will notify conditionally selected applicants in writing. HUD may subsequently request them to submit additional project information, which may include documentation to show the project is financially feasible; documentation of firm commitments for cash match; documentation showing site control; information necessary for HUD to perform an environmental review; a copy of your Code of Conduct; and such other documentation as specified by HUD in writing to the applicant, that confirms or clarifies information provided in the application. HUD will notify SHP, SRO, S+C and S+C/SRO applicants of the deadline for submission of such information. If an applicant is unable to meet any conditions for fund award within the specified timeframe, HUD reserves the right not to award funds to the applicant and add them to funds available for the next competition for the applicable program.

2. *Applicant Debriefing:* See the General Section for applicant debriefing procedures.

3. *Appeals Process:* Applicants may appeal the results of HUD's review and selection process if they believe a HUD error has occurred. Appeals must be submitted in writing to the Assistant Secretary for Community Planning and Development and must state what HUD error the applicant believes has occurred.

B. Administrative and National Policy Requirements

1. *Administrative and Other Program Requirements.* a. The Government Performance and Results Act (GPRA) require Federal agencies to measure the performance of their programs. HUD captures this information not only from monitoring visits and APRs, but also on the data gathered in annual competitions. For example, the description of methods used in determining the project priority order submitted in Exhibit 1, CoC–Q, Project Priorities Chart, provides verification that projects are performing satisfactorily and are effectively addressing the needs for which they were designed. HUD's homeless assistance programs are measured in 2006 by the objective to ''end chronic homelessness and to move homeless families and individuals to permanent housing.'' This objective has a number of measurable indicators, five of which relate directly to the Continuum of Care homeless assistance programs. These five indicators are:

(1) At least 390 functioning CoC communities will have a Homeless Management Information System (HMIS) in 2005. This information is collected via Exhibit 1, Chart CoC–M, HMIS Charts;

(2) The percentage of formerly homeless individuals who remain

housed in HUD permanent housing projects for at least 6 months will be at least 71 percent. Stability in this permanent housing is addressed in Exhibit 1, Chart CoC–W, CoC Housing Project Performance Chart;

(3) The percentage of homeless persons who have moved from HUD transitional housing into permanent housing will be at least 61 percent. The success of transitional housing is addressed in Exhibit 1, Chart CoC–W, CoC Housing Project Performance Chart; and

(4) The employment rate of persons exiting HUD homeless assistance projects will be at least 11 percentage points higher than the employment rate of those entering. Obtaining employment is addressed in Exhibit 1, Chart CoC–X, CoC Mainstream Programs and Employment Project Performance Chart.

b. To achieve this objective and each of these measurable indicators, HUD needs your community's help. The emphasis in this year's competition on housing chronically homeless persons, using HUD funds for transitional and especially permanent housing, helping clients access mainstream service programs and jobs, and implementing HMIS are all aligned with this GPRA objective and its performance indicators.

c. *Executive Order 13202, ''Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.''* Please see the General Section for further information.

d. *Procurement of Recovered Materials.* Please see the General Section for further information.

e. Please reference the General Section of the NOFA for other administrative requirements.

2. *Sanctions.* Should HUD determine, in its sole discretion, that sufficient evidence exists to confirm that the entity responsible for convening and managing the CoC process in a community has failed to follow locally established or accepted procedures governing the conduct of that process or has failed to provide for a fair process, including a project priority selection process that gives equal consideration to projects proposed by nonprofit organizations, HUD reserves the authority to impose sanctions up to and including a prohibition on that entity and the individuals comprising that entity from participating in that capacity in the future. In making this determination, HUD will consider as evidence court proceedings and decisions, or the determinations of other independent and impartial review bodies. This authority cannot be exercised until after a description of procedural safeguards, including an opportunity for comment and appeal, and the specific process and procedures for imposing a prohibition or debarment, have been published in the **Federal Register**.

C. Reporting

Once conditionally selected applications advance to full award and execution of a grant agreement, grantees are required to submit an Annual Progress Report (APR) and a completed Logic Model showing outputs and outcomes achieved for the year to both HUD Headquarters and the respective Field Office each year. In addition, grantees must also respond to the management questions contained in the Logic Model.

For FY2006, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment statement. HUD will be publishing a separate notice on the ROI concept.

Also, Grantees who expend $500,000 or more in a year in Federal awards are reminded they must have a single or program-specific audit for that year in accordance with the provisions of 24 CFR 45 and OMB Circular No. A–133.

VII. Agency Contacts

A. For Further Information. You may contact the HUD Field Office serving your area, at the telephone number shown in the General Section, or you may contact the NOFA Information Center at 1–800–483–8929 or by Internet at: *http://www.hud.gov.* Individuals who are hearing- or speech-impaired should use the Information Relay Service at 1–800–877–8339 (these are toll-free numbers).

B. For Technical Assistance. Before the application deadline, HUD staff will be available to provide you with general guidance. HUD staff, however, cannot provide you with guidance in actually preparing your application. HUD Field Office staff also will be available to help you identify organizations in your community that are involved in developing the CoC system. Following conditional selection of applications, HUD staff will be available to assist selected applicants in clarifying or confirming information that is a prerequisite to the offer of a grant agreement or Annual Contributions Contract by HUD. However, between the application deadline and the announcement of conditional selections, HUD will accept no information that would improve the substantive quality of your application pertinent to HUD's funding decision.

C. Satellite Broadcast. HUD will hold one or more information broadcasts via satellite for potential applicants to learn more about the program and preparation of the application. Viewing of these broadcasts, which will provide critical information on the application process, is highly recommended. For more information about the date and time of the broadcast, you should consult the HUD Web site at *http://www.hud.gov.*

VIII. Other Information

A. Paperwork Reduction Act

The information collection requirements contained in this document have been submitted for approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and OMB approval is pending. 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 *200* hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application, semi-annual reports and final report. 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. Attachments. This final section lists the attachments that are critical to the application process. Please see Section IV.B.1.b of this NOFA for a complete description of the forms and certifications required and the order of assembly. In addition to applicant and sponsor documentation of eligibility, please provide:

1. Forms to complete for Exhibit 1, Continuum of Care.

Form HUD–40090–1—Exhibit 1, Continuum of Care Application. All of the following charts comprise this form:

A: CoC Lead Organization Chart
B: CoC Geography Chart
C: CoC Groups and Meetings Chart
D: CoC Planning Process Organizations Chart
E: CoC Governing Process Chart
F: CoC Project Review and Selection Chart
G: Written Complaints Chart
H: CoC Services Inventory
I: Housing Inventory Charts

J: Housing Inventory Data Sources and Methods Chart
K: CoC Point-in-Time Homeless Population and Subpopulations Chart
L: CoC Homeless Population and Subpopulations Data Sources and Methods Chart
M: CoC HMIS Charts
N: CoC 10-Year Plan, Objectives, and Action Steps Chart
O: CoC Discharge Planning Policy Chart
P: CoC Coordination Chart
Q: CoC Project Priorities Chart
R: CoC Pro Rata Need (PRN) Reallocation Chart
S: CoC Project Leveraging Chart
T: CoC Current Funding and Renewal Projections Chart
U: CoC Achievements Chart
V: CoC Chronic Homeless (CH) Progress Chart
W: CoC Housing Performance Chart
X: Mainstream Programs and Employment Project Performance Chart
Y: Enrollment and Participation in Mainstream Programs Chart
Z: Unexecuted Grants Awarded Prior to the 2005 CoC Competition Chart
AA: CoC Participation in Energy Star Chart
BB: Section 3 Employment Policy Chart
Form HUD–27300—Questionnaire for HUD's Initiative on Removal of Regulatory Barriers
Form HUD–2993—Acknowledgment of Application Receipt
Form HUD–2994—Client Comments and Suggestions

2. Forms to complete for each applicant. These include:

SF–424—Application for Federal Assistance
HUD–40090–4—Applicant Certifications (located at the end of Exhibit 2)
Form HUD–2880—Applicant/Recipient Disclosure/Update Report
SF–424 SUPP—Voluntary Survey on Ensuring Equal Opportunity

3. Forms to complete for each project (Exhibit 2). These include:

Form HUD–40090–2—Exhibit 2, Continuum of Care Project Application
Form HUD–96010—Logic Model
Form HUD–2991—Certification of Consistency with the Consolidated Plan

Note: This year, the Questions and Answers Supplement can be accessed at: *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.*

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Federal Register

Wednesday,
March 8, 2006

Part III

Environmental Protection Agency

40 CFR Parts 158 and 172

Pesticides; Data Requirements for Biochemical and Microbial Pesticides; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 158 and 172

[EPA–HQ–OPP–2004–0415; FRL–7763–4]

RIN 2070–AD51

Pesticides; Data Requirements for Biochemical and Microbial Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to update and revise its data requirements for the registration of microbial and biochemical pesticide products to reflect current scientific knowledge. These proposed revisions are intended to provide EPA with data and other information necessary to support the registration of a biochemical and microbial pesticide product, and will improve the Agency's ability to make regulatory decisions about the human health and environmental effects of these pesticide products. EPA is also proposing to update the definitions of a biochemical pesticide and a microbial pesticide to more accurately describe these categories of pesticides, and to make a conforming change to the definition of microbial pesticide. EPA is announcing its policy to provide assistance to applicants when needed in determining what data are appropriate to support registration of a biochemical or microbial pesticide and encouraging applicants to request pre-submission meetings to discuss these data issues. EPA is announcing its intent to provide assistance to applicants in some narrow circumstances in preparation of an applicant's data waiver.

DATES: Comments must be received on or before June 6, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2004–0415, by one of the following methods:

Federal eRulemaking Portal:*http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

Mail: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503.

Hand Delivery: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OPP–2006–0415. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at*http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Candace Brassard or Nathanael Martin, U.S. Environmental Protection Agency (7506C), 1200 Pennsylvania Ave. NW., Washington, DC 20460, telephone: 703–305–6598 or 703–305–6475, e-mail: *brassard.candace@epa.gov* or *martin.nathanael@epa.gov*. Do not e-mail your comments to these contacts. Submit your comments according to the instructions under **ADDRESSES**.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this notice if you are a producer or registrant of a biochemical or microbial pesticide product. This proposal also may affect any person or company who might petition the Agency for new tolerances for biochemical or microbial pesticides, or hold a pesticide registration with existing tolerances, or any person or company who is interested in obtaining or retaining a tolerance in the absence of a registration, that is, an import tolerance for biochemical or microbial pesticides. The following is intended as a guide to entities likely to be regulated by this action. The North American Industrial Classification System (NAICS) codes are provided to assist you in determining whether or not this action applies to you. Potentially affected entities may include, but are not limited to:

- Chemical Producers (NAICS 32532), e.g., pesticide manufacturers or formulators of pesticide products, importers or any person or company who seeks to register a pesticide or to obtain a tolerance for a pesticide.
- Crop Production (NAICS 111).
- Animal Production (NAICS 112).
- Food Manufacturing and Processing (NAICS 311).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed could also be affected. If you have questions regarding the applicability of this action to a particular entity, please consult the appropriate Branch Chief in the U.S. EPA Biopesticides and Pollution Prevention Division of the Office of Pesticide Programs at 703–308–8712, fax number at 703–308–7026 or visit the following website: *http://www.epa.gov/pesticides/biopesticides/*.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Overview of EPA's Proposal

EPA is proposing to update and revise its data requirements for the registration of microbial and biochemical pesticide products to reflect current scientific knowledge. These proposed revisions are intended to provide EPA with data and other information necessary to support the registration of a biochemical and microbial pesticide product, and will improve the Agency's ability to make regulatory decisions about the human health and environmental effects of these pesticide products.

Since the data requirements were first codified in 1984, information needed to support the registration of a biochemical and microbial pesticide has evolved as the general scientific understanding of the potential hazards posed by pesticides has grown. Since 1984, EPA has developed new and revised data requirements with public participation, extensive involvement by the scientific community, and review by the Scientific Advisory Panel (SAP) under Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which have been imposed on a case-by-case basis. By codifying these data requirements, the pesticide industry, along with other partners in the regulated community, will have a better understanding of and could better prepare for the registration process for biochemical and microbial pesticides. In addition, the Agency is proposing certain new data requirements in response to the need for strengthened risk assessment mandated by the Food Quality Protection Act (FQPA) and FIFRA.

EPA is also proposing to update the definitions of a biochemical pesticide and a microbial pesticide to more accurately describe these categories of pesticides, and to make a conforming change to the definition of microbial pesticide in 40 CFR part 172. EPA is announcing its policy to provide assistance to applicants when needed in determining what data are appropriate to support registration of a biochemical or microbial pesticide and encouraging applicants to request pre-submission meetings to discuss these data issues. EPA is announcing its intent to provide assistance to applicants in some narrow circumstances in preparation of an applicant's data waiver.

This proposed rule is one in a series of proposals to update and clarify pesticide data requirements. EPA proposed data requirements for conventional pesticides (70 FR 12276, March 11, 2005) and is developing data requirements specific to antimicrobial pesticides. In the future, EPA expects to develop data requirements for plant-incorporated protectants.

III. Statutory Authorities and Regulatory Framework

EPA is authorized to regulate pesticides under two Federal statutes. FIFRA regulates the sale, distribution, and use of pesticide products through a licensing (registration) scheme. The Federal Food, Drug, and Cosmetic Act (FFDCA), among other things, regulates the safety of pesticide residues in food and feed. Both FIFRA and FFDCA were amended in 1996 by the FQPA to strengthen the protections offered, with particular emphasis on protection of children.

This action is issued under the authority of sections 3, 4, 5, 12, and 25 of FIFRA (7 U.S.C. 136–136y) and section 408 of FFDCA (21 U.S.C. 346a). The data required for a registration, reregistration, experimental use permit, or tolerance are listed in 40 CFR part 158.

A. FIFRA

In general, under FIFRA, every pesticide product must be registered (or specifically exempted from registration under FIFRA section 25(b)) with EPA before it may be sold or distributed in the United States. To obtain a registration, an applicant or registrant must demonstrate to the Agency's satisfaction that, among other things, the pesticide product, when used in accordance with widespread and commonly recognized practice, will not cause ''unreasonable adverse effects'' to humans or the environment. This determination, as defined in the statute, requires the Agency to consider the risks and benefits associated with the use of a pesticide. EPA must determine that the safety standard contained in FIFRA is met before granting a Federal pesticide registration.

1. *Registration.* Section 3 of FIFRA contains the requirements for registration. Specifically, FIFRA sec. 3(c)(2) provides EPA broad authority, before and after registration, to require scientific testing and submission of the resulting data to the Agency by registrants and applicants of pesticide products. An applicant for registration must furnish EPA with substantial amounts of data on the pesticide, its composition, toxicity, potential human exposure, environmental fate properties, ecological effects, as well as information on its efficacy in certain cases. Although the data requirements are imposed primarily as a part of initial registration, EPA is authorized under FIFRA sec. 3(c)(2)(B) to require a registrant to develop and submit additional data to maintain a registration. Thispost-registration data call-in authority recognizes that the scientific underpinnings of risk assessment change, and is another means by which EPA may keep data for use in risk assessment current with the evolving science.

2. *Reregistration.* FIFRA sec. 4 requires that EPA reregister each pesticide product first registered before November 1984. This date was chosen based upon the fact that pesticides registered since 1984 were subject to the 40 CFR part 158 requirements of the 1984 regulations. Additional data for

older pesticides were called in where gaps in the scientific data base occurred. The Agency has used its data call-in authority to require on a case-by-case basis the submission of most of the data requirements contained in this proposal.

3. *Experimental use permits.* Subject to some exemptions, FIFRA sec. 5 requires persons seeking experimental use of pesticides under field conditions to obtain an experimental use permit (EUP). An EUP allows limited distribution and use of a pesticide for specified experimental and data collection purposes intended to support future registration of the pesticide. Because an EUP is for limited use under controlled conditions, the data needed to support issuance of the permit are correspondingly less than those required for full registration. For example, when performing crop field trials, a registrant may opt to destroy the treated crop rather than generate the needed residue chemistry data to establish a temporary tolerance. The regulations governing the issuance of EUPs are found in 40 CFR part 172.

B. FFDCA

FFDCA mandates EPA to determine that the level of pesticide chemical residues in food and feed will be safe for human consumption. An applicant must petition the Agency for a tolerance (maximum residue level) for a pesticide that is to be used in or around food or feed commodities, or could otherwise come in contact with food or feed. The safety standard set under FFDCA sec. 408(b) and (c) defines safe as ''a reasonable certainty that no harm'' will result from exposures to pesticide chemical residues. In making this determination, EPA is directed to assess multiple sources of pesticide exposure, including anticipated food, drinking water, and other non-occupational exposures for which there is reliable information. Under FFDCA sec. 408(b)(2)(C), EPA must make a separate finding of safety for infants and children. In addition, EPA must take into account a variety of other factors, enumerated in sec. 408(b)(2)(D), including the cumulative risks associated with pesticides having a common mechanism of toxicity. The combination of aggregate exposure and cumulative risk increases the nature and scope of EPA's risk assessment, and potentially the types and amounts of data needed to determine that the FFDCA safety standard is met.

1. *Establishing tolerances.* Under FFDCA sec. 408, EPA is authorized to establish tolerances for pesticide residues in food and feed, or to exempt a pesticide from the requirement of a tolerance, if warranted. As previously mentioned, in 1996, the FQPA modified the FFDCA to establish a single health-based standard for tolerance-setting and enhanced the risk assessment process to more clearly focus on pesticide risks to children. (In this preamble, references to tolerances include exemptions from tolerance since the standards and procedures for both are essentially the same.) The new safety standard applies to tolerances in a number of regulatory situations, including:

- Permanent tolerances that support registration under FIFRA;
- Tolerances for imported products are established to allow importation of pesticide-treated commodities, but for which no U.S. registration is sought;
- Time-limited tolerances which are established for FIFRA sec. 18 emergency exemptions; and
- Temporary tolerances established for experimental use permits under FIFRA sec. 5.

2. *Reassessing tolerances.* Under FFDCA sec. 408(q), EPA must reassess each tolerance established before August 3, 1996, on a prescheduled 10–year schedule. The Agency has reassessed many tolerances under its reregistration program. Numerous regulatory decisions have been made based upon available data and information required by the existing data requirements, and supplemented by additional data provided by registrants through data call-ins or voluntary submissions.

C. Linking FIFRA and FFDCA Safety Standards

Unless EPA is able to establish or maintain a needed tolerance or exemption under FFDCA, a pesticide cannot be registered under FIFRA for a food/feed use. FQPA created a specific linkage (FIFRA sec. 2(bb)) between the ''unreasonable adverse effects'' finding under FIFRA and the determination of pesticide residue safety of ''reasonable certainty of no harm'' under FFDCA. In essence, a pesticide that is inconsistent with, or does not meet, the FFDCA sec. 408 safety standard poses an unreasonable adverse effect that precludes new or continued registration. Thus, both FIFRA and FFDCA standards must be met for pesticides to be registered in the United States for food or feed uses.

Given this linkage between registration and tolerances, it makes sense for EPA to define data requirements for both purposes: the data required to support a determination of ''reasonable certainty of no harm'' under FFDCA are an integral part of the data needed for an ''unreasonable adverse effects'' determination under FIFRA. Consequently, when promulgated, these proposed data requirements will encompass the basic data requirements for both registration and tolerance-setting determinations. EPA will retain its authority to require additional data on a case-by-case basis.

IV. Background

A. What is the Context for Today's Proposal?

Under FIFRA, as previously stated, every pesticide product must be registered (or specifically exempted from registration under FIFRA section 25(b)) with EPA before it may be sold or distributed in the United States. To obtain a registration, an applicant or registrant must demonstrate to the Agency's satisfaction that, among other things, the pesticide product, when used in accordance with widespread and commonly recognized practice, will not cause ''unreasonable adverse effects'' to humans or the environment. This safety determination, as defined in the statute, requires the Agency to consider the risk of the use of the pesticide and weigh this against its benefit. EPA must determine that the safety standard contained in FIFRA is met before granting a Federal registration. The establishment of tolerances, if appropriate, is part of the registration process.

B. Why does EPA Require Data for Pesticide Registrations?

Under the FFDCA and the FIFRA, anyone seeking to register a pesticide product is required to provide information to EPA that demonstrates the product can be used without posing unreasonable risk to human health and the environment, and for food uses, that there is a reasonable certainty that no harm will result from exposures to the residues of the pesticide product. As appropriate for the particular pesticide product, EPA uses the information provided to evaluate the pesticide for a wide range of adverse human health effects, from eye and skin irritation to cancer and birth defects, and to assess how the pesticide affects animal and plant species, nontarget insect species and to determine what happens to the pesticide in soil, water, and air.

C. What are the Data Requirements?

First promulgated in 1984, the data requirements in 40 CFR part 158 (49 FR 42856, October 24, 1984) outline the kinds of data and related information typically needed to register a pesticide. The data requirements are organized by major pesticide type (e.g., conventional,

biochemical, microbial, etc.), scientific discipline (e.g., toxicology, etc.), and major use sites (e.g., outdoor vs. indoor, terrestrial, aquatic, greenhouse). Part 158 also outlines the associated procedures for submitting the data, requesting a waiver from a requirement(s), and other associated procedures. Since there is much variety in pesticide chemistry, exposure, and hazard, part 158 is designed to be flexible. Table notes (referred to as test notes) to each data requirement explain under what conditions data are typically needed. The Agency also recognizes, however, that due to the particular nature and risk of some pesticides, registrants may seek to obtain data waivers or may suggest alternative approaches to satisfying requirements.

In essence, the data requirements identify the questions that the registrant will need to answer regarding the safety of a pesticide product before the Agency can register it. Data requirements address both components of a risk assessment, i.e., what hazards do the pesticide present, and estimated level of exposure to humans or nontarget species. The answer to one question may inform the kind of information needed in others. For example, a pesticide that is persistent and toxicologically potent may require more extensive exposure data to help establish a safe level of exposure. If there is negligible exposure then extensive hazard data may not be required since any conceivable risk would be low.

1. *The establishment of standardized data requirements.* Until 1984, data requirements were based on longstanding requirements initially put in place when pesticides were regulated by the U.S. Department of Agriculture (USDA) and the Food and Drug Administration (FDA). However, because virtually all EPA decisions relating to the registration of pesticides or the establishment of tolerances depend on Agency evaluation of scientific studies, EPA has throughout the years developed standardized data requirements and test guidelines, and established evaluation procedures and peer review processes to ensure the quality and consistency of scientific studies.

The current provisions in part 158 were originally promulgated in October 1984. Prior to this, data requirements for the registration of pesticides were contained in a variety of guidance documents, not in regulatory form. Part 158 was intended to be a concise presentation of what data were required and under what circumstances. Once codified, part 158 specified standard hazard and exposure studies required for registration and tolerance setting and also identified conditions under which more specialized studies might be required. Guidelines, i.e., instructions and test methods on how to perform a study, had meanwhile been issued as a series of Pesticide Assessment Guidelines. These documents, updated in 1996, describe acceptable protocols, test conditions, and data reporting guidelines to ensure that EPA's regulatory decisions are based on sound scientific data.

2. *Relationship between the harmonized test guidelines and part 158 requirements.* EPA has established a unified library for test guidelines issued by the Office of Prevention, Pesticides, and Toxic Substances (OPPTS) for use in testing chemical substances to develop data for submission to EPA under the Toxic Substances Control Act (TSCA), FFDCA, or FIFRA. This unified library of test guidelines represents an Agency effort that began in 1991 to harmonize the test guidelines within OPPTS, as well as to harmonize the OPPTS test guidelines with those of the Organization for Economic Cooperation and Development (OECD), which includes representation of countries throughout the world (including the United States). The process for developing and amending the test guidelines included several opportunities for public participation and the extensive involvement of the scientific community, including peer review by the FIFRA SAP and the Science Advisory Board (SAB) and other expert scientific organizations.

The purpose for harmonizing these guidelines into a single set of OPPTS guidelines is to minimize variations among the testing procedures that must be performed to meet the Agency's data requirements under FIFRA and TSCA. The guidelines themselves do not impose mandatory requirements. Instead, they provide recognized standards for conducting acceptable tests, guidance on reporting data, definition of terms, consistent with the purpose of the data requirement and the test standard and recommended study protocols. As such, pesticide registrants may also use a nonguideline protocol to generate the data required by part 158. Typically the registrant will use the available guideline, in which case the study protocol would simply cite the relevant guideline. If the registrant deviates from these guidelines, or is asked to provide data where there isn't yet a final guideline available, the registrant is expected to fully justify the methods chosen in the study protocol. Nonguideline protocols may be accepted, provided that the study protocol meets the purpose of the data requirement and provides data of suitable quality and completeness as typified by the protocols cited in the guidelines. More information about the unified library and these guidelines is available a *http://www.epa.gov/opptsfrs/home/guidelin.htm.* Please see the docket for the complete crosswalk for old guideline numbers to new guideline numbers (Ref. 2).

D. Why have EPA's Data Needs Changed Since 1984?

1. *1988 FIFRA amendments.* In 1988, FIFRA was amended to ensure that older pesticides met the scientific standards of the day. Among other things, the amendments provided for the acceleration of the reregistration program by establishing statutory deadlines and new procedures. During the registration process, EPA recognized that some of the 1984 data requirements were becoming out of date. The Agency then called in additional information in order to complete the registration process.

2. *The National Academy of Sciences 1993 Report.* With increasing emphasis on protecting children's health, EPA began to examine its data requirements relative to evaluating the potential risks from pesticides to sensitive subpopulations. The Agency sought the advice of the National Academy of Sciences' National Research Council (NRC) to assess its risk assessment methodologies and to provide additional information on the extent to which children may be at risk given emerging scientific information and technologies. In their 1993 report entitled, ''Pesticides in the Diets of Infants and Children,'' NRC offered recommendations for further protecting infants and children from pesticides in their diet. The NRC called for the Agency to require more data and adopt better risk assessment methodologies. For example, the Council called for increased testing in the area of immune function and reproductive testing (National Research Council, 1993, pp. 152–156) (Ref. 3), which applies to biochemical and microbial pesticides. NRC also suggested adding a thyroid screen to existing subchronic and chronic toxicity tests and additional tests of age-related physiological changes and pharmacokinetics in immature animals. At the time the 1993 report was released, EPA had already begun work on many of the recommendations to improve the quality of its risk assessments. New testing guidelines and protocols were developed. Since then, many of the

testing requirements recommended by the NRC have been incorporated into the Agency's standard evaluation requirements and practices.

3. *Scientific Advisory Panel Review of 1994.* The FIFRA SAP completed a review of a set of scientific issues regarding the Environmental Protection Agency's Proposed Rule: Pesticide Registration Data Requirements, 40 CFR part 158 (Ref. 4). The Panel commended the Agency for presenting this regulation in such a clear and understandable manner, and generally endorsed the revisions. The Panel addressed individual scientific issues where necessary for both biochemicals and microbial pesticides and the data needed to address risk.

4. *The Food Quality Protection Act of 1996 (FQPA).* Passage of FQPA in 1996 reformed the nation's pesticide and food safety laws, resulting in changes in EPA's approach to protecting human health from risks associated with pesticide use. As mentioned, FQPA modified both FIFRA and FFDCA and established a single health-based standard for food-use pesticides and added protections for infants and children. Since the early 1990s, EPA has been continually working on improving data requirements. Under FFDCA, as amended by FQPA, EPA must reassess all existing pesticide tolerances and exemptions against the expanded and more rigorous safety standard. Beginning in 1994, and increasingly since the enactment of FQPA, EPA has changed aspects of its data requirements and risk assessment process to improve its ability to assess exposure more accurately and to strengthen its understanding of the potential pesticide risk to children. As mentioned, risk assessments must now consider data relating to aggregate exposure (exposure to pesticides from food, drinking water, and nonoccupational routes such as home and garden uses) and cumulative risk (effects from exposures to multiple pesticides that share a common mechanism of toxicity). These measures necessitate collection of additional data on drinking water and nonoccupational and residential exposure.

5. *Pesticide reregistration.* Recognizing that pesticides registered in the past may not meet today's safety standards, EPA is reviewing and reregistering older pesticides and taking action to reduce risks where appropriate. On July 13, 2005, EPA published a notice of proposed rulemaking (NPRM) to establish procedural regulations for conducting registration review (70 FR 40251, July 13, 2005), as required in FIFRA section 3(g). Registration review will replace EPA's one-time pesticide reregistration and tolerance reassessment programs starting in 2006. The Agency will conduct a review of each pesticide at least every 15 years to ensure that registrations continue to meet statutory standards for registration. EPA plans to make decisions on almost 50 registration review cases, or about 80 active ingredients, each year. Under the reregistration process required by FIFRA section 4, EPA has been reviewing older pesticides (those initially registered before November 1, 1984) to consider their health and environmental effects and to make decisions about their future use. EPA is committed to completing the reregistration process by the end of fiscal 2008.

V. Scope, Purpose, and Request for Comments on this Proposal

A. General Background on the Phased Rulemaking Approach

EPA is responsible for registration of the following categories of pesticides: Biochemicals, microbials and plant-incorporated protectants, conventional pesticides, and antimicrobial pesticides. The various processes include differing data requirements that registrants must take into account in their submittals.

On March 11, 2005, EPA published a proposed rule to update and revise its data requirements for the registration of conventional pesticides (70 FR 12276) (Ref. 5). In addition to proposing specific changes to the data requirements for registration of conventional pesticides, EPA proposed a number of other changes to the general provisions of part 158. Specifically, subpart A of the proposed rule for conventional chemicals describes general provisions including definitions, format of data submissions, policies on Confidential Business Information (CBI), flagging criteria, waivers, and minor uses. Subpart B of the proposed rule for conventional chemicals describes expanded use patterns, clarifications on using the data tables, identifying data for Experimental Use Permits (EUPs), test guidelines, and purpose of the registration data requirements. That proposed rule also proposed to upgrade the structure of part 158, assigning biochemical data requirements to subpart L, and microbial pesticide data requirements to subpart M of part 158.

Today's proposed rule proposes to update and revise the data requirements for the registration of biochemical and microbial pesticides, and to maintain the structure proposed in the earlier proposed rule for conventional pesticides, by placing the proposed data requirements for biochemical and microbials in new subparts L and M, respectively. When the proposed rule for conventional pesticides is finalized, the general provisions of subparts A and B of that rule will apply to the other data specific subparts, such as subparts L and M as proposed today, unless otherwise specified. Future rulemakings will address the data requirements for antimicrobials and plant-incorporated protectants.

B. Summary of this Proposal

EPA is proposing a number of changes to the current data tables. The proposed rule would:

1. Codify current data requirements that do not appear in part 158, but which are routinely required.
2. Add new data requirements.
3. Revise certain existing data requirements, such as by updating test notes.
4. Clarify the definitions of both ''biochemical pesticide'' and ''microbial pesticide'' to reflect our current application of those terms, and make a conforming change in the part 172 definition of ''microbial pesticide.''
5. Add additional definitions needed to apply the data requirements properly.
6. Make necessary reorganizing and formatting revisions, such as renaming data requirements.

EPA will retain its current tiering system for both biochemical and microbial pesticide data requirements.

C. What are the Purposes of this Proposal?

EPA has a number of objectives in proposing this regulation to update and revise the data requirements in 40 CFR part 158.

1. *Ensuring high quality data to meet EPA's mandates.* Although most of the specific requirements in part 158 have not changed since the data requirements were first published in 1984, aspects of the requirements may be out of date or may be unclear because the underlying science has advanced (e.g., National Academy of Sciences (NAS) in 1993 suggested changes to better protect children) or the Agency's legislative mandate has been broadened to address new concerns. For example, given the stricter mandates imposed by the 1988 FIFRA amendments and the 1996 FQPA amendments to FIFRA and FFDCA (emphasis on exposure to population subgroups), EPA finds that it is more frequently requesting certain data, and the Agency believes it should detail more specifically the conditions under which these tests will be required.

In light of this background, the primary purpose of this proposal is to

transparently identify the data EPA needs and will require to support a determination of ''reasonable certainty of no harm'' under FFDCA and ''unreasonable adverse effects'' determination under FIFRA. In developing this proposed rule, EPA has evaluated its data needs to conduct the expanded risk assessments required by new statutory mandates. Thus, the proposed changes entail both new tests and broadened requirements for some current tests, reflecting the changes in data requirement practices that have evolved since the 1984 data requirement rule was promulgated and addressing data needed to meet requirements created by statutory amendments to FIFRA and FFDCA.

2. *Ensuring a sound scientific basis that is consistent with advances in scientific understanding and works toward harmonization to avoid duplicative data.* Relatedly, these proposed revisions are intended to ensure that the data requirements in part 158 reflect current scientific understanding and scientific advances since the data requirements were first issued in 1984. As discussed throughout this document, these proposed revisions have been presented to, and reflect the advice and recommendations of, the NAS and FIFRA SAP. Issues and related materials that are brought by EPA to the FIFRA SAP undergo a public review and comment opportunity before the FIFRA SAP issues its report with recommendations to the Agency.

To the extent feasible, the proposed revisions are a reflection of the scientific advances within OECD countries. The United States participates in OECD activities to harmonize international testing standards and, where appropriate, reference to the OECD testing standards have been included in this proposal. However, since EPA continues to allow applicants to submit and use their own study protocols consistent with the purpose of the requirement to generate data that they subsequently submit to EPA, and there are differences in the mandate and authorities between EPA and the governing authorities within OECD countries, the data submitted to EPA under part 158 would be expected to satisfy OECD testing standards under most circumstances for microbial testing (because OECD has agreed to use the U.S. microbial pesticide testing guidelines) and for a number of countries some of the U.S. biochemical testing guidelines would be satisfied. A few of the governing authorities within the OECD countries may want additional studies that would not normally be required in the United States, but protocols for these studies are generally acceptable to all countries.

3. *Improving the depth and transparency of the scientific basis for pesticide registration decisions.* In general, the information developed as a result of the revisions, if finalized as proposed today, is expected to improve the depth and transparency of the Agency's understanding of the health and environmental effects of pesticides to which individuals and the environment may be exposed. For example, the proposed rule includes a test note for the human health assessment data requirements indicating data are not required to support straight chain lepidopteran pheromones when used at certain application rates. In addition, EPA is proposing to continue using the tiered testing system, as given in the current §§ 158.690 and 158.740, since many of the higher tiered data will not be required unless the results from the lower tiered studies indicate a concern for adverse effects.

4. *Improving utility of the part 158 data tables.* As described in the Notice of Proposed Rulemaking on Conventional Pesticides (70 FR 12276, March 11, 2005), EPA has proposed to reorganize and reformat part 158 subpart A (General Provisions) and subpart B (How to Use Data Tables), and reorganize and redesignate subpart D (Data Requirement Tables) into several individual subparts (see Table 1 in Unit VI). In the proposed reorganization, subpart L is designated for biochemicals (§ 158.900) and subpart M (§ 158.1000) is designated for microbials. Within both subpart L and M, there are definitions, examples, applicability, and then the series of data requirements in tables addressing product chemistry, residue chemistry, human health assessment or toxicology, nontarget organism, and environmental fate.

Many of the revisions proposed in this document are intended to improve the usefulness of part 158 data tables by better identifying the specific data requirements that could apply to a particular pesticide application. As with the original design of part 158 in 1984, given the variety in pesticide chemistry, exposure, and hazard, these revisions are intended to retain a fair amount of flexibility in their application, while improving clarity and transparency to the regulated community.

5. *Reducing burdens where consistent with need for data.* In proposing new and revised data requirements, EPA expects that fewer data waivers will be needed where the issue is well resolved, e.g., straight chain lepidopteran pheromones (SCLPs), and physical chemical properties criteria outlined in test notes when data are not required. There are also more transparent test notes indicating when data are required, while providing assistance to avoid generation of data where unnecessary. There is also an opportunity to reduce cost of preparation of waiver requests by providing pre-submission/post-submission meetings where appropriate.

D. What are Some of the Benefits of this Proposal?

Discussed in more detail in the document entitled ''Economic Analysis of the Proposed Change in Data Requirements Rule for Biochemical and Microbial Pesticides,'' which is available in the docket for this rulemaking (Ref. 6), the following briefly highlights the benefits anticipated from this proposal:

1. *More refined assessments mean clearer understanding of real risks.* EPA's current applicator/user exposure data base is not comprehensive, especially regarding exposures to pesticides in nonagricultural settings. The new data that would be collected under this proposal would allow the Agency to conduct improved exposure assessments for applicators/users (i.e., especially for insect repellents). This will benefit growers, other workers, and consumers by allowing EPA to make better informed regulatory decisions that are neither too stringent nor too lenient.

2. *Clarity and transparency to regulated community means savings.* The enhanced clarity and transparency of the information presented in part 158, subparts L and M should enhance the ability of industry to avoid wasted time and effort. Registrants may save time and money by understanding when studies are needed. This should allow products to enter the market earlier, thereby registering safer pesticides sooner and potentially reducing risks as well as increasing profits. The addition of some data requirements is likely to further communicate to domestic and world-wide marketplaces that pesticide products and items treated with them are safer, thus enhancing the reputation of American agricultural and nonagricultural products and registered pesticides as tools for public health.

3. *Enhanced international harmonization means less duplication.* EPA participates with OECD countries in the development of harmonized international standards and, to the extent possible, we have included these revisions in our proposal. The OECD Biopesticide Steering Group has agreed to use U.S. EPA Harmonized Guidelines for the conduct of microbial pesticide studies and we continue to work

together to harmonize our approach to evaluating and reviewing these data. However, because other OECD countries do not use the tiered approach to the data requirements, but instead decide on the data needed for registration on a case-by-case basis, there may be differences in the actual data required for registration for the United States compared with other OECD countries. We are presently working with key OECD biopesticide regulatory representatives to develop OECD guidance for waiving data, which will bring actual data requirements closer together. OECD has also recognized pheromones, a certain type of biochemical pesticide, as warranting a separate, unique set of reduced data requirements similar to the U.S. data requirements.

4. *EPA information assists other communities in assessing pesticide risks.* Scientific, environmental, and health communities find pesticide toxicity information useful to respond to a variety of needs. For example, medical professionals are concerned about the health of patients exposed to pesticides; poison control centers make use of and distribute information on toxicity and treatment associated with poisoning; and scientists use toxicity information to characterize the effects of pesticides and to assess risks of pesticide exposure. Similarly those responsible for protection of nontarget wildlife need reliable information about pesticides and assurance that pesticides do not pose an unreasonable threat. The proposed changes will help the scientific, environmental, and health communities by increasing the breadth, quality, and reliability of Agency regulatory decisions by improving their scientific underpinnings.

5. *Better informed users means informed risk-reduction choices.* Better regulatory decisions resulting from the proposed changes should also mean that the label will provide better information on the use of the pesticide. A pesticide label is the user's direction for using pesticides safely and effectively. It contains important information about where to use, or not use, the product, health and safety information that should be read and understood before using a pesticide product, and how to dispose of that product. This benefits users by enhancing their ability to obtain pesticide products appropriate to their needs, and to use and dispose of products in a manner that is safe and environmentally sound. Farmers (as well as other applicators/users) may benefit from label information based on the data submitted to the extent it helps inform their decisions about whether or how to use particular pesticides to avoid potential exposure.

E. How will this Proposal Affect Existing Registrations?

- This proposal codifies existing practices by requiring data that are necessary to complete a risk assessment that are not included in the current data requirements.
- This proposal imposes new requirements for future registrations, as is the case for applicator/user exposure data to assess impacts from insect repellents.
- In rare circumstances, the Agency may find it necessary to call in data on certain existing registrations, as warranted by emerging risk issues.

F. Request for Comments

The Agency invites the public to provide its views on the various options proposed or present any data or information for the Agency to consider during the development of the final rule. Specifically, the Agency welcomes specific comments on the following topics of particular interest to the Agency.

The Agency welcomes specific comments on the need for, value of, and any alternatives to, the data requirements described in this document to meet its mandates.

The Agency welcomes comments on the scientific basis of this proposed rule.

The Agency welcomes specific comments on the clarity of the proposed data requirements for biochemical and microbial pesticides and the relationship between the proposed data requirements and EPA's statutory determinations.

The Agency welcomes specific comments on the transparency of the proposed definitions, examples, and applicability for both biochemical and microbial pesticides.

The Agency welcomes comments on its economic analysis of the proposed rule, as well as on its underlying assumptions, economic data, and high- and low-cost options and alternatives. Describe any assumptions and provide any technical information and data used in preparing your comments. Explain estimates in sufficient detail to allow for it to be reproduced for validation. As indicated in Unit V.B.1, EPA's underlying principle in developing the proposed revisions has been to strike an appropriate balance between the need for adequate data to make the statutorily mandated determinations and informed risk management decisions, while minimizing data collection burdens on biochemical and microbial pesticide applicants.

VI. Background on Regulation of Biochemical and Microbial Pesticides and Preparation of this Proposed Rule

A. Background of Regulating Biochemical and Microbial Pesticides

The Agency finalized the data requirements to support the registration of biochemical and microbial pesticides (49 FR 42856, October 24, 1984) more than 20 years ago. When promulgated in 1984, EPA distinguished ''biochemical and microbial pesticides'' from ''conventional chemical pesticides'' by ''their unique modes of action, low use volume, target species specificity or natural occurrence.'' EPA recognized that biochemical pesticides are inherently different from conventional pesticides since they are generally naturally-occurring and have a non-toxic mode of action.

As a result, biochemicals are expected to pose lower potential risk compared to conventional pesticides. Due to the non-toxic mode of action and low risk to humans, certain studies are not included in the Tier I data requirements for biochemical pesticides. This adjustment in the tiered data requirements was intended to serve as a safety mechanism. If Tier I testing indicates a toxic mode of action, the biochemical would be treated as a conventional pesticide, and virtually the same toxicology and residue data would be required as is required for a conventional pesticide.

The Agency has confirmed in the past 20 years of regulating biochemical pesticides that indeed biochemical pesticides can be classified and regulated with the data requirement tables that have been designated for biochemical pesticides. The Agency recognizes that at the time of application for registration there are instances where a biochemical may not fit the biochemical category and in such cases the Agency evaluates the pesticide in question as a conventional pesticide. Ultimately, if a pesticide were to exceed the criteria established for a biochemical pesticide, the data requirements in the higher tiers would be required and the process would take longer than if the application were made as a conventional pesticide, since all data requirements would not be clearly identified from the onset.

Microbial pesticides are living organisms and, as such, present much different risk concerns than chemical toxicants. The main concern for a microbial pesticide is whether it could survive within, and be pathogenic to, a nontarget species or humans. As a result, required studies specifically address the potential for these unique

risks. Some microorganisms do produce toxins. If comparisons of the microorganisms indicates that taxonomically similar microorganisms have been reported to be pathogenic, the data set is configured to allow for use of conventional toxicity testing if needed to evaluate any toxins.

B. History of Development of Biochemical and Microbial Pesticide Data Requirements and Guidelines

1. *Biochemical pesticides history for regulatory activities.* The following provides the history in the regulatory development of the data requirements for biochemical pesticides since 1984.

• 1984—Promulgation of 40 CFR part 158 subpart A: § 158.65 Biochemical and Microbial Pesticides and subpart D: § 158.690 Biochemical Pesticide Data Requirements and Microbial Data Requirements (49 FR 42856, October 24, 1984).

• 1987—Report of SAP Recommendations: A Set of Issues Being Considered by the Agency in Connection with Proposed Revision to Subdivision M, Immunotoxicity Testing of Biochemical Pest Control Agents (Ref. 7).

• 1989—Issuance of Subdivision M of the Pesticide Testing Guidelines Microbial and Biochemical Pest Control Agents (Ref. 8). Although titled as such, this guideline did not include a discussion on biochemical guidelines. The Agency still relies on 1982 Pesticide Assessment Guidelines Subdivision M Biorational Pesticides (Ref. 9) for the guidelines pertaining to biochemicals (880 series) if there is not a designated guideline in the conventional pesticide series (i.e., 870 series and 850 series).start here next

• 1994—Presentation to SAP to discuss data requirements for all pesticides, including biochemical and microbial pesticides (Ref. 4). Some data requirements were presented to support conventional pesticides, i.e., applicator/user exposure data to support insect repellents (Ref. 10).

2. *Microbial pesticides history for regulatory activities.* The following provides the history in the regulatory development of the data requirements for microbials since 1984.

• 1984—Promulgation of 40 CFR part 158 subpart A: § 158.65 Biochemical and Microbial Pesticides and subpart D: § 158.690 Biochemical Pesticide Data Requirements and Microbial Pesticide Data Requirements (49 FR 42856, October 24, 1984).

• 1987—Presentation to SAP in 1987 for microbial pesticides in preparation for updating the guidelines (Ref. 7) on immunotoxicity testing.

• 1989—Issuance of Subdivision M of the Pesticide Testing Guidelines Microbial and Biochemical Pest Control Agents (Ref. 8). This was a culmination of the 1987 SAP and public comments.

• 1994—Presentation to SAP to discuss data requirements for all pesticides, including biochemical and microbial pesticides (Ref. 4).

This proposed rule proposes to codify the draft data requirements outlined and presented to the FIFRA SAP in 1994 and in subsequent meetings. However, EPA is proposing certain revisions for biochemicals that are also discussed fully in the Agency's proposal for conventional chemicals (70 FR 12276, March 11, 2005) (Ref. 5). The Agency developed a complete list of data requirements for biochemicals and microbials and the year each were presented to FIFRA SAP (Ref. 11). This reference, the SAP final reports, and relevant documents presented to the SAP are available in the docket for this proposed rulemaking.

C. EPA Activities in Preparation for this Proposed Rule

1. *Consideration of redesigning data requirement tables.* While preparing for this proposed rule, the Agency considered redesigning data requirements based on subcategories of biochemical and microbial pesticides. Each subcategory was evaluated based on mode of action and potential for risk to human health and the environment, with each subcategory requiring different data to support registration. The subcategories for biochemical pesticides were as follows: pheromones (including arthropod, lepidopteran, and straight chain lepidopteran pheromones), growth regulators (insect and plant), repellents (insect and others), and other biochemicals (which includes all other biochemicals). The microbial pesticides includes the following subcategories: protozoa, viruses, bacteria, and fungi.

In the economic analysis for this proposed rule, the Agency analyzed the test cost data submitted based on each subcategory to determine the different data requirements (Ref. 12). Based on the analysis, the Agency decided it was more appropriate to make the test notes more clear and transparent, and only update the data requirement tables without redesigning them based on subcategory.

2. *Consistencies between current part 158 and proposed part 158 design of data requirement tables for biochemical and microbial pesticides.* EPA is proposing to continue using the tiered testing system, as given in the current § 158.690 and § 158.740. For these specific types of pesticides, it is appropriate to ask for studies in a tiered scheme because many of the higher tiered data will not be required unless the results from the lower tiered studies indicate a concern for adverse effects.

3. *Consultations with stakeholders.* During the pre-rulemaking process, the Agency actively sought consultations with industry, academia, and non-profit organizations (i.e., environmental groups) on the current regulatory requirements for data and requested input on the universe of possible changes to the regulatory text. For parties interested in discussing the development of this rule with EPA, consultations were held in-person, by telephone conference, and via-email. During these pre-proposal stage consultations, the Agency did not request feedback on the changes being proposed today, whether the proposed changes are newly imposed, newly codified data, or revisions to existing data requirements. Feedback from these consultations included the following topics: existing data requirements, industry burden in fulfilling data requirements, tiered testing approach, and issuance of guidance specific to test protocols. All the stakeholder comments are available in the docket (Ref. 13).

D. Consultations with Applicants

In an effort to improve transparency, increase efficiencies and reduce burdens, EPA is announcing a policy to provide assistance to applicants when needed in determining what data or information are appropriate to support registration of a biochemical or microbial pesticide. EPA is encouraging applicants to request pre-submission meetings to discuss these data issues. EPA is also announcing its intent to provide assistance to applicants in some narrow circumstances in preparation of an applicant's data waiver after submission of an application.

EPA notes that applications for biochemical and microbial pesticides frequently involve substances that present low risk (i.e., naturally-occurring, non-toxic mode of action, minimal exposure). Data requirements - even as proposed—may overstate the Agency's need, or may be satisfied by existing data in the open literature or other available data or information. In some cases, the applicant may not be aware of a potential rationale for a waiver or be able to identify available data or information that may satisfy a data requirement in lieu of generating new data. Thus, EPA encourages applicants to seek pre-submission meetings to discuss the appropriate data or information to support their product

and the opportunity for requesting data waivers.

1. *Pre-submission process.* During a pre-submission meeting, EPA may be aware that certain data requirements are already satisfied by available data or information. Sources of existing data include public literature and/or studies submitted by another registrant, which may be cited with data compensation procedures. EPA may also be aware of sound scientific rationales that certain data requirements should not be imposed. For example, the question the required data is intended to answer might be addressed by a combination of other information or data, and therefore might be able to be waived. In either case, during the pre-submission meeting, EPA would discuss with the applicant the grounds for citing other information or data to conclude that a data requirement has been met or the grounds for requesting a waiver where other information or data otherwise addresses the need for a specific piece of data required by the regulations have been satisfied. The applicant may then submit an application based on the discussion with EPA. The application should include a signed copy of the minutes of the pre-submission meeting listing each data requirement and the reason why EPA and the company believe a waiver is appropriate. The applicant is encouraged to submit a copy of the pre-submission meeting minutes to EPA for concurrence prior to submission of its application for a waiver.

To some extent, EPA currently offers this assistance to applicants and is simply encouraging applicants to request pre-submission meetings and suggesting a process for ensuring consistent reflection of discussions at the pre-submission meeting.

2. *Post-submission process.* Even after submission of an application for registration, EPA may find that either of these scenarios exist (i.e., basis for citing to other data/information or waiver of a data requirement). Again, EPA may discuss these issues with the applicant and the applicant may choose to amend its application by citing to other data/information or requesting a waiver.

EPA is also announcing its intention to assist applicants in the actual preparation of a data waiver in some narrow circumstances. Specifically, in the course of reviewing an application, EPA may find that in its judgment, data otherwise required by part 158 would not be necessary to grant the application or are available from other sources. EPA would notify the applicant and explain the basis for its belief in writing. If the data are compensable or exclusive in use, the applicant may submit EPA's letter with the appropriate offer to pay or an authorization, as an amendment to its application. If the Agency explains in its correspondence that the data may be waived, the applicant may use EPA's correspondence to support a waiver request by signing the correspondence and submitting it as an amendment to its application. Because the correspondence only includes citation or discussion of existing data or information, EPA is proposing not to consider such amendments to an application to be ''data'' subject to the formatting provisions of § 158.32(a) as proposed on March 11, 2005 (70 FR 12276).

This pre-submission and post-submission process for ensuring that the data requirements are either satisfied or waived is specific to the review of biochemical and microbial registration applications, due primarily to the specific nature and circumstances unique to these pesticides (e.g., information already known to the Agency) and thus the Agency does not anticipate this process being widely applicable to other types of pesticides, such as conventional or antimicrobial pesticides.

EPA notes that in providing this assistance during the pre-submission and post-submission process, it will only consider readily accessible information, such as information found in Agency databases, and will not search for applicable information, data, or literature. Further, although intending to help applicants in supporting their applications, EPA does not encourage applicants to rely on this process to fill informational data gaps; doing so may be at the expense of timely review or may ultimately result in rejection of an application or petition.

Finally, providing assistance in this manner does not effectively allow applicants to circumvent the data requirements or the requirement to submit a waiver of a data requirement. The applicant must at all times submit the waiver request; EPA is simply providing assistance in what requirements are likely to be waived for a particular product or, in some narrow circumstances, assistance in the preparation of the waiver request. Throughout these mechanisms EPA is flexible in implementing the regulation. Thus, the waiver provisions currently codified and the recent proposed amendments to the waiver provisions do not need to be amended.

One of the benefits of providing this pre-submission and post-submission assistance is the reduction in burden. Prior to finalization of this proposed rule (e.g., codifying that some data may no longer be required or adding conditions that result in data not being required), the number of opportunities for requesting waivers or citing to existing data will not change. Thus, providing assistance in this manner prior to finalization of this proposed rule may avoid the generation, processing and review of unnecessary data, and thereby ultimately save the Agency and applicant expenses, while providing the same level of protection for human health and the environment. In addition, although this proposal attempts to refine the test notes in order to be more transparent when data are required and necessary to support registration, there will continue to be opportunities to reference existing data or information or request waivers based on information that may be readily accessible to the Agency, and again avoid the generation, processing, and review of unnecessary data or information. Thus, the Agency expects to reduce burdens on both the applicants and EPA during and after the rulemaking process.

E. Agency Coordination with the APHIS Permitting Process

As a result of the comments received during the Interagency review process, the Agency and USDA have discussed the registration process of microbial pesticides and the need for coordination when an Animal and Plant Health Inspection Service (APHIS) movement permit under 7 CFR part 340 is required by USDA. USDA suggested that the registrants should be required to submit a copy of the applicable APHIS permits as part of the registration application to EPA. The Agency is seeking public comment on the most appropriate method to ensure APHIS permitting and EPA registrations are coordinated. In particular, EPA is interested in your specific suggestions on whether there should be a requirement for pesticide registration applicants to include copies or otherwise attest to the applicability of and their compliance with the APHIS requirements when they submit their registration application to EPA.

F. Differences Between the Proposed Biochemical Data Requirements and the Proposed Conventional Data Requirements

There are several revisions that were included in the proposal to amend part 158 for conventional pesticides, but were considered not appropriate for biochemical pesticides. For example, neurotoxicity studies (including acute, subchronic, delayed, and developmental neurotoxicity studies; OPPTS Test

Guidelines 870.6100, 870.6200, 870.7620, etc.) are required to support conventional pesticides. In addition, the recent proposal (70 FR 12276, March 11, 2005) identifies developmental neurotoxicity to be critical in some cases. If the Agency identifies a biochemical pesticide to be a potential neurotoxicant, then the Agency would evaluate the pesticide as a conventional pesticide, and it would then require the neurotoxicity data to support registration. The Agency prepared an overview of the proposed data requirements for biochemical pesticides as compared to conventional pesticides (Ref. 14).

G. Similarities Between Both Biochemical and Microbial Proposed Rule Development and Proposed Rule for Conventional Pesticides

The Agency proposes to retain certain data requirements when they are appropriate. For instance, biochemical pesticides data requirements for product chemistry are the same as is required for conventional pesticides (§ 158.320 through § 158.355).

Certain revisions for proposed conventional pesticides (70 FR 12276, March 11, 2005) were considered appropriate for biochemicals and/or microbials and are included in this proposed rule, i.e., registrations introducing significant exposure require applicator/user exposure data. As previously mentioned, the consistent designation of CR and R within the data tables remains the same as it is in the current part 158 for both conventional pesticides and microbial and biochemical pesticides. The proposed conventionals retains the CR and R designation, and this proposed rule retains this designation as well, within the data tables.

H. Proposed Amendments and Reference to Harmonized Guidelines

The following units VII and VIII identify the proposed revisions to the current data requirements for biochemicals and microbials. In each preamble unit, the Agency explains the basis for the proposed amendments and for ease of reference to the public, identifies the harmonized guideline that is applicable to the proposed data requirement. EPA is not proposing changes to these harmonized guidelines as they have gone through a public review. The reference is simply for ease in understanding the proposed revisions.

VII. Biochemical Pesticide Data Requirements (Subpart L)

A. Definition of Biochemical

The Agency is proposing to revise the definition of biochemical. Although the current definition provides examples of biochemicals, it does not really explain what a biochemical is. The language in the current definition was constrained by the need for including microbial pesticides in the same definition that defined biochemical pesticides. The new format for this regulation allows for a separation of the two classes of pesticides. The proposed definition of biochemical is intended to reflect a more useful and transparent definition, in accordance with the original scientific rationale for creating the biochemical class of pesticides while being consistent with the examples. The current definition is listed in § 158.65 and reads as follows:

Biochemical and microbial pesticides are generally distinguished from conventional pesticides by their unique modes of action, low use volume, target species specificity or natural occurrence. ... (a) Biochemical pesticides include, but are not limited to, products such as semiochemicals (e.g., insect pheromones), hormones (e.g., insect juvenile growth hormones), natural plant and insect regulators, and enzymes. When necessary the Agency will evaluate products on an individual basis to determine whether they are biochemical or conventional chemical pesticides.

EPA is proposing to relocate the definition of biochemical to § 158.900, which would immediately precede the data requirements in part 158 for the respective categories of biochemicals. EPA is also proposing to amend the definition so that it would state the following:

A biochemical pesticide is a pesticide that:

(1) Is a naturally-occurring substance or structurally similar and functionally identical to a naturally-occurring substance;

(2) has a history of exposure to humans and the environment demonstrating minimal toxicity, or in the case of a synthetically derived biochemical pesticides, is equivalent to a naturally-occurring substance that has such a history; and

(3) Has a non-toxic mode of action to the target pest(s).

EPA is proposing to continue the requirement that a biochemical pesticide be naturally-occurring. In addition, based on a long established policy, EPA is proposing to include a clarification that a ''naturally-occurring'' biochemical pesticide may be synthetically produced if it is ''equivalent'' (structurally similar and functionally identical) to the naturally-occurring chemical. A synthetically derived chemical may often be more pure or economically feasible to produce but have the same properties as its naturally-occurring equivalent. An example of a synthetic substance that meets the criteria for classification as a biochemical is an insect pheromone manufactured by man. These insect pheromones are structurally and functionally identical to the substances that are produced by the insects, but the currently registered products are not naturally-occurring because it would be very difficult to extract them directly from an insect in a usable form.

Second, the current regulation does not explicitly indicate that inherent non-toxicity is a means of defining a biochemical. EPA is proposing to add a criterion to the definition of biochemical that requires that there be a history of exposure to the naturally-occurring pesticide or, for synthetically-derived pesticides, to the equivalent naturally-occurring pesticide, and that exposure demonstrates minimal toxicity. The original intent for specifying natural occurrence in § 158.65 was to allow EPA to use information derived from the pesticide's natural exposure to humans and non-target species to decide if the pesticide is inherently toxic. This is described in the 1982 Pesticide Assessment Guidelines, Subdivision M for Biorational Pesticides, section V(A)(2)(1) (Ref. 9), which states that the fact that the chemical is naturally-occurring is to be used to predict whether ''these compounds are generally not innately toxic.'' Therefore, the criterion for having a history of adequate exposure was added in order to have confidence that if the naturally-occurring pesticide were not ''innately'' toxic, it would have to be present in the environment at sufficient levels and locations to predict significant exposure to humans and/or non-target species. If the pesticide is naturally-occurring but inherently toxic, EPA would use the data requirements for the conventional pesticides to ensure it could conduct an adequate assessment of the risks from the proposed use of the pesticide.

Thus, rather than giving the impression that natural occurrence alone defines whether the pesticide should be classified as a biochemical pesticide, the Agency is proposing to include the criterion that there be a history of exposure demonstrating minimal toxicity. In order to make this determination, the naturally-occurring pesticide or the naturally-occurring equivalent to the synthetically derived pesticide must be present in the environment in sufficient quantities so that if it is innately toxic, there would be a good chance that this toxicity

would already have been recognized because of its effect on humans or representative non-target organisms. EPA has often used public literature to demonstrate that the substance is either widely used, and/or widely known (supported by extensive information and low toxicity) as part of the decision whether a pesticide may be adequately reviewed using the reduced data set for biochemical pesticides. The natural occurrence of a pesticide does not necessarily mean that it has a non-toxic mode of action to the target pest. An example might be pyrethrins, which are naturally-occurring toxins that occur in chrysanthemum plants. The new criteria in the biochemical definition would clearly allow us to classify this as a conventional chemical pesticide that would be subject to the conventional pesticide data requirements, which is consistent with past Agency decisions.

Third, the current regulation refers to a unique mode of action, which is an attempt to describe the mode of action of both microbial and biochemical pesticides together. EPA is proposing to add a criterion to the definition of biochemical to better describe that the unique mode of action for biochemical pesticides must be one that is non-toxic to the target pest(s). This was the original intent for the biochemical pesticide mode of action as described in the 1982 Pesticide Assessment Guidelines, Subdivision M for Biorational Pesticides. That guideline explained in section I(A)(1) (Ref. 9) that ''some of the characteristics that typically distinguish biorational from conventional pesticides are their unique non-toxic mode of action, ...,'' and in section V(A)(2)(1) that a characteristic of biochemical pesticides is that ''their pesticidal action is not the result of target organism toxification.'' Thus, the third element of the definition adds that the biochemical must have a non-toxic mode of action to the target pest. This toxic mode of action criterion would preclude pyrethrins and other clearly toxic naturally-occurring pesticides from being classified as biochemicals.

In addition to the proposed language noted previously, EPA is proposing to amend the examples provided in the current definition of biochemical to better represent the kinds of biochemical pesticides we have actually seen since the original rule was published and move the examples from the actual definition to a subsequent paragraph. The proposed definition removes hormones from the example list because hormones fall into the growth regulator class, which is already in the list. The new ''Examples'' section is proposed to read as follows:

Biochemical pesticides include, but are not limited to: (1) Semiochemicals (e.g., insect pheromones and kairomones), (2) natural plant and insect regulators, (3) naturally-occurring repellents and attractants, and (4) enzymes.

At the present time, the Agency will review requests for classification as a biochemical pesticide, but does not believe this needs to be part of the regulatory language because the proposed revised definition is much more definitive than the current definition.

As a final note, although not always the case, EPA recognizes that biochemical pesticides tend to have a limited range of target species, are often effective against their target pest(s) in relatively low quantities, and usually decompose rapidly after application in the environment.

B. Applicability of Biochemical Pesticide Data Tables

EPA is also proposing to use table descriptors NR (not required), R (required), and CR (conditionally required) to be used as markers along a spectrum of the likelihood that a data requirement applies. In other words, it should be assumed that a required (R) data requirement is required typically all the time. There may be some narrow or rare conditions identified in test notes when data are not required. For example, acute oral toxicity data are required to support registration for biochemical pesticides unless the proposed pesticide is a gas or highly volatile (which is rare). In contrast, a conditionally required (CR) data requirement is less likely to be triggered compared to a required (R) data requirement. Conditionally required data are more likely to include test notes indicating conditions when data are typically required. For example, the 90–day dermal toxicity test is currently conditionally required (CR) for biochemical pesticides. The test note indicates it is required (R) to support uses involving purposeful application to human skin or which would result in comparable prolonged human exposure to the product (e.g., insect repellents). Specific criteria are identified with the test note.

C. Product Chemistry Data Requirements

1. *General.* The Agency uses product chemistry information to determine whether impurities of toxicological or environmental concern are present in biochemical pesticides and their formulated products. Product chemistry data requirements include product identity and composition, the physical and chemical characteristics of data on the pesticide, the identity of any intentionally added ingredients, and impurities in the final pesticide product.

The Agency is continuing to list the data requirements in the table for product identification, description of starting materials, production and formulation process, discussion of formation of impurities, preliminary analysis, certified limits, and physical and chemical characteristics, as currently listed in § 158.690. The following is a discussion about the changes from the current data requirements to support ''biochemical product analysis data requirements'' to the proposed ''biochemical product chemistry data requirements'' for biochemicals. The revised title of the proposed table more accurately reflects the current types of data required to support biochemical pesticides.

In addition, the proposed rule for conventional pesticides (70 FR 12276, March 11, 2005) identifies the following sections where this proposed rule will also require the same information/data and are indicated in the test notes within the proposed product chemistry data requirement table: §§ 158.320, 158.325, 158.330, 158.335, 158.340, 158.345, 158.350, 158.355.

2. *Proposed product chemistry data requirements.* The Agency proposes to codify one study (particle size, fiber length, and diameter distribution) and to make minor revisions to existing data requirements to support product chemistry data requirements. The Agency is also proposing to require studies to support experimental use permits (EUPs) as well as registration for certain studies, (i.e., certified limits). In addition, certain studies (i.e., enforcement analytical method) would require a different test substance (for example, TGAI or both EP and MP). One study, which is currently required to satisfy environmental fate and expression data requirements, is proposed to be moved from environmental fate and expression to the product chemistry data requirements (ultraviolet (UV)/light absorption) table. The Agency is also proposing to delineate the physical and chemical properties into subcategories, depending on the formulation type (e.g., solid versus liquid) and provide test notes identifying conditions when data are required (i.e., flammability). In other words, the current product chemistry data requirement table lists physical and chemical properties as one data requirement, whereas the proposed rule identifies the individual studies that make up physical and chemical

properties (e.g., color, odor, vapor pressure, pH). Additional test notes concerning the physical and chemical properties identifying when each data requirement is required (i.e., solid versus liquid at room temperature, water insoluble substances (10^{-6} grams/liter (g/l)) are also included.

i. *New requirements.* None.

ii. *Newly codified requirements—particle size, fiber length, and diameter distribution.* The Agency proposes to add the conditional requirement (CR) for data on particle size, fiber length, and diameter distribution. This data requirement is proposed to be conditionally required (CR), the condition being that the test substance is water insoluble ($<10^{-6}$ g/l) or fibrous with diameter ≥ 0.1 μm (micrometer). Data from this study are needed to complete the environmental fate assessment to estimate potential pesticide drift to nontarget areas.

iii. *Revisions to existing requirements.* a. ''Certification of limits'' data are currently conditionally required (CR) to support all proposed use patterns/applications, except for EUPs for nonfood crops. The Agency proposes to change the conditionally required (CR) to required (R) ''Certified limits'' data to support proposed use patterns to ensure we have proper product chemistry information on all registrations for enforcement purposes.start

b. *UV/visible light absorption.* The Agency currently requires (R) these data to satisfy one of the nontarget organism, fate and expression data requirements. The Agency proposes to relocate this data requirement from environmental fate and expression data tables to the proposed product chemistry data table. The endpoints measured by this data, characterization, and identification of a compound are more appropriately considered product chemistry data. This is not a new data requirement, merely a relocation. This information will be used in conjunction with the ''photodegradation in water'' study to determine if photodegradation is a possible route of dissipation in the environment. In order for a pesticide to undergo direct photolysis in the environment, it must absorb energy in the wavelength range emitted by sunlight. The UV/visible light absorption spectrum will indicate whether the pesticide is absorbed in this range.

c. *Revision of names.* The Agency proposes to revise names of certain studies to correspond with OPPTS Test Guidelines (Ref. 2) and to synchronize with the name changes taking place in the updating of part 158 for conventional pesticides. The following three name changes are proposed in this section: (1) '' Product identity'' to ''Product identity and composition''; (2) ''Discussion of formation of unintentional ingredients'' to ''Discussion of formation of impurities''; and (3) ''Manufacturing process'' to ''Description of starting materials, production and formulation process.''

D. Residue Chemistry Data Requirements

1. *General.* The Agency is proposing to codify two data requirements which identify the use pattern under which they are proposed to be required. EPA is also proposing to consolidate the nonfood use patterns into the following four categories: terrestrial nonfood; greenhouse nonfood; forestry; and domestic outdoor, and to do so for all residue data requirements except for chemical identity and directions for use. Those will remain conditionally required (CR) for all uses. This would not change the number of times the data are required, but merely consolidate the uses that have the same data required under the same conditions.

In addition, the Agency is proposing to delete the test note stipulating data conditionally required (CR) if the application rate of 0.7 ounces was exceeded. This test note is no longer considered relevant. Therefore, all the proposed residue chemistry studies would be required regardless of the application rate. It was originally incorporated in the data requirements as explained in the October, 1982, Subdivision M guidelines (pages 31 and 32, Section VI, Residue Analysis) as an estimate of a ''low application rate'' since the original definition for biochemical and microbial pesticides (40 CFR 158.65) mentioned that they are generally distinguished from conventional pesticides by various characteristics including ''low use volume.'' The Agency has determined that the key to whether residue data (which is needed only to support a numerical tolerance) are needed for biochemical (and microbial) pesticides is toxicity, not exposure by itself.

2. *Residue data requirements*— i. *New requirements.* None.

ii. *Newly codified requirements*—a. *Nature of the residue: plants; livestock.* These data are currently not required (NR) to support indoor food use. The Agency, however, proposes to conditionally require (CR) these studies to support registration of indoor food use. There have been instances where certain biochemical pesticides are applied to food crops indoors (e.g., for treatment of stored potatoes), and these potato peels are then fed to cattle for feed. Therefore, the nature of residues on plants is needed to determine potential residues on the treated crop. The 0.7 ounces per acre restriction is no longer a trigger for requiring the submittal of data. The Agency also proposes to eliminate ''Nature of residue: livestock'' to support domestic outdoor use, since the data are needed for potential food uses outside of the home, and domestic outdoor use is for porches, patios, yards, home gardens, etc. EPA also proposes to no longer require testing on Pure Active Ingredient Radio Labeled (PAIRA) but instead to use the TGAI because it is difficult to isolate pure active ingredient from a naturally-occurring substance.

b. *Residue analytical method.* This data requirement is currently conditionally required (CR) for terrestrial, aquatic, and greenhouse food use with the 0.7 ounce per acre limitation (data not required if applied at rate less than or equal to) restriction. The Agency proposes these data to be required (R) for greenhouse use and continue to conditionally require (CR) data for terrestrial, aquatic, and indoor food use but without the less than 0.7 ounce active ingredient (a.i.)/per acre/year exemption. It would remain conditionally required (CR) for indoor food use. The residue analytical method data are needed to address enforcement issues, i.e. ability to measure the pesticide.

iii. *Revisions to existing requirements*—a. *Chemical identity and Directions for use.* These data are currently conditionally required (CR) based on a series of conditions including if the application rate exceeds 0.7 ounces (20 grams) active ingredient per acre per year. EPA proposes not to include the application rate conditions (data required only if application rate exceeds 0.7 ounce a.i./acre/year). EPA proposes test note revisions for both the chemical identity and directions for use, but preserves one test note addressing domestic outdoor use. However, EPA is proposing to continue to conditionally require (CR) this data only for all biochemicals for which residue data are required since chemical identity and directions for use are considered to be essential to understanding the pesticide. The Agency has determined that throughout the years of registration activities for all biochemicals, the chemical identity and the directions for use information are always submitted before processing the application. The directions for use are included as part of the labeling information along with the submission.

b. *Multiresidue method.* Multiresidue methodology data are currently part of

the residue analytical method requirement. The Agency proposes to codify an existing multiresidue method study (guideline 860.1360) and designate it as a separate requirement. These data, which are currently submitted to support registration, are important in designing pesticide monitoring and enforcement programs. In food monitoring programs, it is not practical or feasible to test for individual pesticides. Since the residue analytical method requirement is intended to refer to a method that is specific for one pesticide (sometimes called a ''single residue method'') and the multiresidue procedures currently used are designed to allow analysis of as many pesticides as possible, it is clearer to list these as two separate data requirements. The test note indicates that any analytical methodology must be evaluated for its ability to detect metabolites included in the tolerance expression.

c. *Magnitude of residue data.* All the studies in this category (guidelines 860.1400 through 860.1650) no longer have the application rate of 0.7 ounces a.i./per acre/ per year exemption.

d. *Submittal of analytical reference standards.* The Agency currently conditionally requires (CR) this data as ''submittal of samples'' as a product analysis data requirement. The Agency is proposing to revise the name to ''Submittal of Analytical Reference Standards'' (quideline 860.1650) and continue to conditionally require (CR) the data. The requirement for submittal of samples was moved to the residue data requirements because it is considered a residue data requirement rather than a product analysis data requirement. Biochemical pesticides are generally of low toxicity because of their non-toxic mode of action, but, if the Agency does identify toxicity concerns, then an analytical reference standard requirement will be triggered to analyze potential residues.

E. Human Health Assessment Data Requirements

1. *General.* The current ''Toxicology'' data requirement is proposed to be renamed from ''toxicology'' to ''human health assessment'' to include toxicology and applicator/user exposure data requirements. Toxicology studies are required by the Agency to assess the hazard of the pesticide to humans and domestic animals. These hazard data, when combined with exposure data, form the basis for the human health risk assessment. For example, an insect repellent registration would require significantly more human health assessment data compared to a application for SCLP. The duration of the toxicity study approximates the estimated duration of human exposure, while considering species differences in maturational milestones and overall life span.

The proposed table in subpart L (§ 158.950) contains the human health assessment data requirements EPA would rely on to identify potential hazards to humans and domestic animals for biochemical pesticides, and is expected to improve the Agency's understanding of the potential pesticide hazard to animals and humans, including subpopulations such as infants and children and possible environmental effects. This proposal retains the requirements for pesticides in current 40 CFR 158.690, as well as revisions that reflect the current practices due to FQPA implementation and the evaluation of regulating biochemical pesticides.

The Agency is continuing to require toxicity studies where use patterns indicate high exposure, such as food use biochemical pesticides, as well as exposure studies required to support certain use patterns (e.g., insect repellents). The exposure data assess exposure to both the person to and for whom the repellent is being applied as well as the person who is applying the repellent (i.e., parent to child) and it also assesses hand to mouth contact (i.e. children), which often occurs under these circumstances. Other toxicity studies, e.g., 90–day dermal, 90–day inhalation, 90–day oral toxicity for nonfood use, etc., remain as conditionally required on a case-by-case basis, depending on the category of pesticide (e.g., SCLPs, growth regulators, repellents), the patterns of use (food and nonfood), and estimated exposure and the results of lower tiered studies.

2. *Human health assessment data requirements.* The following identifies the revisions from the current ''Biochemical pesticides toxicology data requirements'' in 40 CFR 158.690 to the proposed ''Biochemical pesticides human health assessment data requirements.'' The title of the data table has been revised to reflect that the primary use of the data is to assess the potential risk to humans. The proposed revised table includes the toxicology data requirements and exposure studies (the latter to support insect repellent uses). There are few new studies which are proposed which were not identified until the 1986 Science Advisory Panel discussing applicator/user exposure data requirements (Ref. 10) and conditions under which data are appropriate (except the companion animal safety data). The following lists the individual data requirements, and what the proposed rule requires and when it requires these data. There is also a discussion on why the Agency proposes companion animal safety data in this proposed rule as well.

i. *New requirements.*—a. *Exposure (applicator/user).* The Agency proposes exposure studies (guidelines 875.1000 through 875.1500) to be conditionally required (CR). These data are triggered when Tier I toxicology data indicate that the biochemical may pose a hazard. The Tier II human health assessment data (toxicology and/or exposure) requirements are not required if the results from the Tier I toxicity studies indicate no expected risk. The Agency recommends that registrants consult with the Agency prior to study initiation to determine what exposure studies are appropriate based on the nature of the adverse effects seen in the Tier I data. The following are the various types of applicator/user exposure data that could be required:

(1) *Dermal exposure.* The Agency proposes to conditionally require (CR) data for both outdoor and indoor dermal exposure studies (guidelines 875.1100 and 875.1200) in order to estimate the dermal exposure to persons directly handling pesticides. Dermal applicator/ user exposure studies employ passive dosimetry techniques which estimate the amount of a pesticide impinging on the surface of the skin. The amount of pesticide potentially available for absorption through the skin can be estimated by trapping the material using patches that absorb pesticides or by removing the material that has contacted the skin before it has been absorbed.

(2) *Inhalation exposure.* To estimate inhalation exposure to pesticide residues, the Agency proposes to conditionally require (CR) both outdoor and indoor inhalation exposure studies (guideline 875.1300 and 875.1400). It has become apparent to the Agency that insect repellents when applied often result in inhalation exposure to the user (either to the person it is being applied (e.g., child) as well as to the person applying the insect repellent (e.g., adult)) and therefore the Agency would like the flexibility to require these data for this use when triggered by results from lower tier studies or estimated exposure.

(3) *Biological monitoring.* Data from biological monitoring studies (guideline 875.1500) provide the Agency with estimates of the internal dose or amount of a pesticide in the body. EPA proposes to allow the submission of biological monitoring data in addition to, or to

satisfy, dermal or inhalation exposure data requirements provided the human pharmacokinetics of the pesticide residue are sufficiently understood to permit calculation to determine the total internal dose. Biological monitoring offers the advantage of assessing the actual internal dose, as opposed to the estimated exposure or amount of pesticide coming in contact with the surface of the skin or available for inhalation in the lungs as measured using passive dosimetry techniques. For example, biological monitoring could consist of evaluating blood for cholinesterase activity; if it is low in a blood sample, the person may have been exposed to a cholinesterase inhibitor by any route including dermal or inhalation. Also, biological monitoring may indicate whether a given substance has been absorbed through the skin or inhaled in enough quantities to be of concern.

b. *Companion animal safety data.* Companion animal safety data (guideline 870.7200) is being proposed to be part of conditionally required (CR) special testing. This data would be triggered if the product's use would result in exposure to domestic animals through, but not limited to, direct application (e.g., topical application as in insect repellents) or consumption of treated feed. This new data requirement is based on recent Agency experiences with biochemical pesticides, specifically, that there are currently no data requirements addressing potential toxicity to domestic animal species from biochemical pesticides. Fulfillment of this conditionally required data would address such potential risk concerns. This is considered part of the human health battery of studies, as it is considered for conventionals.

ii. *Newly codified data requirements.*—a. *Hypersensitivity incidents.* Currently, the Agency conditionally requires (CR) these data when they are reported. The Agency proposes to augment this data requirement to include incidents to be reported from conditionally required (CR) to required (R) for all preregistered (EUP's) and registered products. Incidents can occur from application of an EUP as well as registered products, which, if reported, would be essential to making a well informed finding. Registrants are reminded that FIFRA section 6(a)(2) requires the submission of such information for registered products (see 40CFR part 159).

b. *Product use information.* EPA is proposing to require (R) product use information (guideline 875.1700) to provide information on how the pesticide is used and applied per day. Data would at least include: Typical application methods, typical values for application rates, timing and number of applications per season or per year, any available surveys that provide use information for insect repellents, and other use information relevant to potential exposure following a repellent application. Such use information enables the Agency to appropriately trigger other conditional data requirements, i.e., identification of potential exposure (risk), and conduct more accurate and realistic risk assessments, thus enabling the Agency to levy appropriate limitations on use to mitigate any potential risks. This data requirement is newly codified since this information is already submitted with the label and the Agency could not complete a risk determination (estimate exposure) without the information.

c. *Test note revisions and other conditions exempting data.* The Agency is proposing to add the following conditions at the onset to Tier I, Tier II, and Tier III Human Health Assessment Data Tables: Straight chain Lepidopteran pheromones are exempt if applied at a rate less than or equal to 150 grams active ingredient/per acre/year (Ref. 15). EPA is no longer requiring these data for SCLPs because the past 20 years of scientific literature supports waiving the data. SCLP's do not pose a risk to human health when applied at a rate not to exceed 150 grams active ingredient per acre. This is consistent with current implementation, e.g., § 180.1124 requirements.

The Agency proposes to provide a test note identifying when certain data are required (acute oral, acute dermal, primary dermal irritation), unless the test material is a gas or highly volatile (vapor pressure $>10^4$ torr). The current data tables do not specify the trigger for vapor pressure. Thus, the proposed rule provides criteria and clarity.

iii. *Revisions to existing requirements*—a. *Primary eye irritation and primary dermal irritation.* The Agency currently requires (R) these data for MP or EP. The Agency is proposing to require (R) these data for TGAI and MP test substances since effects may result from active ingredient or other (inert) ingredients in the end-use product.

b. *Dermal sensitization.* The Agency conditionally requires (CR) ''Hypersensitivity study'' (152–15) in current § 158.690. EPA proposes to substitute dermal sensitization data (guideline 870.2600) and to require (R) the data, since the dermal sensitization guideline measures the same endpoints and more accurately describes the nature of the type of data required in that it identifies dermal sensitivity. The Agency considers this information a method for accurately classifying the dermal sensitization potential of the pesticide and for determining whether any observed adverse effects are inherent to the active ingredient, or caused by the presence of other ingredients. In addition, the Agency currently requires (R) this data for MP or EP. The Agency is proposing to require (R) this data for TGAI and MP test substances since effects may result from active ingredient or other (inert) ingredients in the end-use product.

c. *Mutagenicity.* The Agency proposes to change the name of the battery of studies from ''Studies to detect genotoxicity'' (152–17) to specific mutagenicity studies including the following: Bacterial Reverse Mutation Test (guideline 870.5100), *In vitro* Mammalian Cell Gene Mutation Test (guideline 870.5300), and In-vivo Cytogenetics (guideline 870.5385 and 870.5395) (Mammalian Bone Marrow Chromosomal Aberration Test and Mammalian Erythrocyte Micronucleus Test, respectively). The Agency proposes to split existing genotoxicity data requirement (152–17) into four different data requirements. The following are proposed as Tier I requirements: Bacterial Reverse Mutagenicity (guideline 870.5100) and *In vitro* Mammalian Cell Gene Mutation TEst (guideline 870.5300) are proposed to be required (R) for food uses and conditionally required (CR) for nonfood uses. The following are proposed Tier II requirements: *In vivo* Cytogenetics (guideline 870.5385 and 870.5395). Second, the proposed Tier II studies, mammalian spermatagonial chromosomal aberration and mammalian bone marrow chromosomal aberration (guideline 870.5385 and 870.5395), are conditionally required (CR) for food uses if Tier I data indicate mutagenicity. The Agency is proposing these organizational changes because the original genotoxicity data requirement was actually composed of multiple studies and the actual data requirements are more clearly described when separated as found in today's proposal. For example, the current Tier II data is required on mammals and would be unnecessary if the Tier I data shows no mutagenicity concerns. In addition, the guideline under which the old genotoxicity data requirement references is 152–17 in the 1982 guidelines and it says ''Data derived from short-term microbial mutagenicity tests are required...'' and it mentions gene mutations, structural chromosomal aberrations, and direct DNA damage and

repair (Ref. 9). The Agency designates these as mutagenicity tests today and the overall way the Agency cumulatively test for mutagenicity has evolved since then.

d. *Prenatal developmental toxicity.* The Agency proposes to change the name of this requirement from ''Teratogenicity'' to ''Prenatal developmental toxicity'' to better correspond with the focus of the study and current terminology. The Agency currently conditionally requires (CR) this study for Tier I. The Agency proposes to require (R) this study for Tier I for food uses since food use has the highest potential exposure to humans during pregnancy; this guideline will provide sound data if needed to address prenatal development. EPA encourages preregistration meetings to determine if the data requirement can be waived because of minimal exposure; or existing data on the product in the scientific literature indicating there is not a concern for developmental toxicity. EPA will continue to conditionally require (CR) these data for a nonfood use. EPA is also proposing to conditionally require (CR) these data on a second test species for food and nonfood uses as a Tier II data requirement based on the condition that there are reproductive effects (e.g., fetotoxicity, retarded development, structural abnormalities, behavioral abnormalities and/or death) evident in Tier I, Prenatal Developmental Toxicity (guideline 870.3700).

The Agency currently does not require a reproduction study as Tier III, and EPA is proposing to conditionally require (CR) a reproduction and fertility data requirement as a Tier III study depending on the results of the Tier I and II data requirements (i.e. subchronic toxicity, prenatal development, mutagenicity studies) in order to address potential risks that may be identified in lower tier studies.

In summary, for biochemical pesticides, the tiered principle of testing requirements for developmental toxicity is as follows: identify the hazard potential in Tier I for one species; if that study is positive, another study is required (2nd species) for use in reducing the uncertainties of species-to-species extrapolation (Tier II). If positive mutagenicity or effects on reproductive organs are observed in subchronic (Tier II) studies, then the reproduction study (Tier III) would be required for greater certainty in risk characterization.

e. *Immunotoxicity.* The Agency currently requires (R) Immune Response data (152–18). The Agency has renamed the guideline name and number to Immunotoxicity (guideline 880.3550) and is proposing to conditionally require (CR) such data as part of Tier II, with a test note indicating this data is required if there are effects on hematology, clinical chemistry, lymphoid organ weights and histopathology observed in the 90–day studies, or if the results of the Tier I mutagenicity tests are positive. The proposed change would make it consistent with current evaluation process for determining if a pesticide is expected to pose immunotoxicity. This is consistent with the Office of Pesticide Programs historic waiver of this requirement for SCLP's, as well as when there are no effects on hematology, clinical chemistry, lymphoid organ weights, etc. or when there is no evidence of mutagencity concerns in Tier I data.

The Immunotoxicity study (guideline 880.3550) provides information on health hazards likely to arise from subchronic exposure to a pesticide, usually after dosing by the oral route (emphasis added). Tests are selected to provide quantitative and qualitative data on the capacity of a pesticide to adversely affect components of antibody-mediated and specific and non-specific cell-mediated immunity. This purpose suggests that the oral route is preferred, but the conditions for requiring immunotoxicity testing indicate that any route that is relevant to each pesticide's use pattern (primary route of exposure under conditions of use) is acceptable. (Results from one insect repellent study that was done by the dermal route *p*-menthane-3,8-diol (Ref. 16) did not show any effects on the immune system.)

EPA is also proposing to rename and move a Tier II immune response data requirement (152–24) to a Tier III data requirement (immune response guideline 880.3800). The Agency proposes to continue to conditionally require (CR) these data depending on the results of the study completed to satisfy the Tier II Immunotoxicity data requirement. The Agency believes these data address the endpoints more suitably then the results found in the Immune Response Study.

In summary, the Agency decided to raise the level of tiers for the required immunotoxicity data from Tier I to II and from Tier II to Tier III, based on the triggers used to require the immunotoxicity data. In other words, the results of the 90 day studies requested under Tier I may trigger Tier II immunotoxicity studies, but the Agency would not be able to make that determination until the data from Tier I was reviewed. This is different from what was proposed in conventional pesticides (70 FR 12275, March 11, 2005), which requires the data (though not the same guideline (conventional pesticides requires guideline 870.7800)), since it is proposed to be required as Tier I. The Agency discussed the variability, and decided for biochemical pesticides, given their low risk, it was appropriate to defer until the data in Tier I are reviewed and determined if there was a potential for adverse effects to the immune system.

f. *Carcinogenicity.* The Agency proposes to change the name of the ''Oncogenicity study'' to ''Carcinogenicity study'' (guideline 870.4200) to reflect current terminology.

g. *90 Day–Oral Subchronic Testing.* The Agency currently conditionally requires (CR) these data for food uses. The Agency is proposing to require (R) these data for food uses since people eat food for periods longer than one day, and since biochemicals have a non-toxic modes of action, there is a need for some data comparable to dietary exposure to assure us that nothing adverse is likely to happen when there are higher than normal levels of the biochemical in our food. For instance, eating too much of a given vitamin can be toxic or too much of an essential element like iron can have some unpleasant effects.

F. Nontarget Organisms and Environmental Fate Data Requirements

1. *General.* The Agency uses a tiered system of ecological effects and environmental fate testing to assess the potential exposure and risks of pesticides to aquatic and terrestrial vertebrates, invertebrates, and plants. These tests include studies arranged in a hierarchy from basic laboratory tests to applied field tests. Laboratory tests provide a screening tool for what can potentially occur in the field, whereas the field study data indicate the potential adverse effects in the field. The results of each tier are evaluated to determine the potential impacts on fish, wildlife and other nontarget organisms, and to indicate whether further laboratory and/or field studies (e.g., Tier II, Tier III, and Tier IV) are needed. Tier I ecological effects testing generally consists of the basic data requirements that are necessary to determine the acute toxicity to nontarget fish, invertebrate, plant, and wildlife species. Tier II environmental fate data requirements (there are no Tier I environmental fate data requirements) revolve around the characterization of the pesticide in the environment, e.g., hydrolysis, soil and aquatic metabolism

rate, photodegradation rate in soil and water, etc.

Higher tiered studies may be conditionally required when basic Tier I data indicate there is potential for adverse effects to nontarget species. Tier II data requirements include an array of environmental fate data requirements and subchronic/chronic ecological effects tests to further refine the potential for exposure and/or risk to the environment. Tier III data requirements include a further array of field studies that address ecotoxicity concerns for terrestrial and aquatic animal species as well as nontarget plants and insects. These data provide a foundation for ecological risk assessment, which allows the Agency to determine any appropriate precautionary statements or mitigation measures necessary to support registration concerning toxicity or potential adverse effects to nontarget organisms (including endangered species).

With respect to some of the environmental fate data requirements, the Agency is providing two sets of guideline numbers where needed, the first guideline numbers are what are currently used by the Agency. The second set which are in (parentheses) are guidelines the Agency has in draft stage and hope to finalize in the near future. To avoid confusion on the types of data that are required, both numbers are provided for each data requirement as an interim measure until the guidelines are finalized.

2. *Nontarget organisms and environmental fate data requirements.* The Agency is proposing to add the redwing blackbird, *Agelaius phoenicius*, to the list of species that may be substituted for the other species (i.e., mallard or bobwhite quail). This test species could be used for the avian oral toxicity study because current data requirements do not adequately characterize the risks that pesticides pose to songbirds. Other changes include revisions in the test substance, conditions under which the test is conducted, and clarification of test notes.

i. *New data requirements.* None.

ii. *Newly codified data requirements.* a. *Regulatory text revision*. The current part 158 for biochemicals does not include regulatory text provisions within the data table section discussing the exemptions of data to support arthropod pheromones (§ 158.960(a)(2)).The Agency is proposing the following language to be part of the regulatory text in the proposed rule:

(2) The data in this section (§ 158.960) are not required for arthropod pheromones when applied at up to a maximum use rate of 150 grams active ingredient/acre/year except when the product is expected to be available to avian species (i.e. granular formulation).

It makes it clear from the onset under what conditions these data are required. Based on a survey of data and the literature since 1984, EPA believes that arthropod pheromones pose minimal risk to nontarget species when applied at this rate or less (Ref. 15). As a result of this finding, EPA has historically waived these data and is revising the test note to reflect the current practice.

b. *EP testing.* Where nontarget and environmental fate data are required, the Agency currently requires (R) that the TGAI be used as the test substance, and does not generally require (R) or conditionally require (CR) the EP to be tested. EPA is proposing to conditionally require (CR) EP testing when any end-use formulation may contain other ingredients that may be toxic to nontarget organisms or to support arthropod pheromones that would be available to avian wildlife (e.g., granular product).

c. *Anerobic aquatic metabolism (162–3 or guideline 835.4400) and anerobic soil metabolism (162–2 or guideline 835.4200), are currently not required (NR).* The Agency is proposing to conditionally require (CR) anerobic soil metabolism for terrestrial use and anerobic aquatic metabolism for both terrestrial and aquatic uses. The Agency believes that anerobic aquatic metabolism is necessary if the pesticide is intended for application to standing water and/or low oxygen environments, e.g., rice paddies, cranberry bogs, wetlands in natural areas and would already be required under these circumstances under typical registration practices for biochemicals.

iii. *Revisions to existing requirements.* The Agency is proposing a reduction or clarification in following five data requirements: avian oral, avian dietary, freshwater fish, freshwater invertebrate, and plant toxicity testing. The Agency is proposing to not require (NR) these studies for terrestrial uses of arthropod pheromones as defined in § 158.900. Other proposed changes are as follows:

a. *Avian acute oral (guideline 850.2100)—Redwing Blackbird.* Part 158 currently only offers two test species for testing, mallard and the bobwhite quail. The Agency is proposing revisions to the Avian Acute Oral data requirement, specifically to add an optional test species (i.e. redwing blackbird), in order to address potential exposure to passerine species in a terrestrial environment. In addition, the Agency is proposing to conditionally require (CR) EP testing if the formulation would be available to avian wildlife, e.g., granular formulation. Testing on a passerine species (i.e., redwing blackbird) may be required (R) for outdoor uses if the use pattern lends itself to higher exposure to passerine species compared to upland game or waterfowl species. EPA is requesting comments on whether this species should replace the existing bobwhite/mallard species for a biochemical pesticide, or otherwise be presented as an optional species for the conduct of the test. If so, comments are also sought on the specific criteria to be used to determine when the testing on this particular species would be required.

In addition, the Agency is proposing to conditionally require (CR) EP testing when the following apply: when any end-use formulation may contain other ingredients that may be toxic to nontarget organisms or when the end-use formulation is used to support arthropod pheromones that would be available to avian wildlife (e.g., granular product).

b. *Avian dietary (guideline 850.2200).* Part 158 currently requires (R) TGAI testing for this data requirement. In addition, the Agency is proposing to conditionally require (CR) EP testing when the following apply: when any end-use formulation may contain other ingredients that may be toxic to nontarget organisms or when the end-use formulation is used to support arthropod pheromones that would be available to avian wildlife (i.e., granular product).

c. *Fish acute toxicity test (freshwater) (guideline 850.1075), aquatic invertebrate acute toxicity (freshwater)test (guideline 850.1010).* The Agency currently requires (R) these data for all terrestrial, aquatic, forestry, and domestic outdoor uses. The Agency conditionally requires (CR) the data for greenhouse and indoor use. The Agency proposes to add two test notes to the current standards. The first proposed test note indicates when EP data are conditionally required (CR), the second test note does not require testing for compounds which are highly volatile.

d. *Seedling emergence (guideline 850.4100) and vegetative vigor (guideline 850.4250).* Part 158 currently requires (R) these data as Nontarget Plant Toxicity testing to support terrestrial and aquatic nonfood uses and forestry uses. The Agency proposes to require (R) these data for all outdoor uses. Currently there is one test note with three conditions identifying when these data are required. The Agency is proposing to eliminate these test note conditions, but add a test note requiring

EP testing when the end-use formulation may contain other ingredients that may be toxic to nontarget plants.

e. *Nontarget insect testing (guideline 880.4350).* Currently the Agency conditionally requires (CR) nontarget insect testing (154–11) data with two test note conditions. The Agency proposes to be more transparent and require (R) these data, for all uses except indoor use. This is because it has become apparent to the Agency throughout the years, that is appropriate to require insect testing especially with these types of biochemical pesticides, to ensure they are insect specific. In addition, the actual test guideline recommends that the guideline 850.3020 be conducted on the honeybee initially, but that additional nontarget insect species may be required. The honeybee study is required since that is what has been typically submitted and addresses the issues for risk assessments for biochemical pesticides.

f. *Sediment and soil adsorption/desorption for parent and degradates; 161–1 or guideline 835.1230, and soil column leaching (163–1 or guideline 835.1240) currently designated as adsorption-desorption.* These data are currently not required (NR) for greenhouse use. Hydrolysis (161–1 or guideline 835.2120) and Aerobic Aquatic Metabolism (162–4 or guideline 835.4300) are also not required (NR) for greenhouse use. The Agency is proposing to conditionally require (CR) these data for greenhouse use. The proposed test note is also revised to indicate all these data are conditionally required (CR) depending on the results of any of the Tier I data, not limited to environmental fate data, since it is the experience of the Agency that there may be other indicators other than exposure data which would trigger the need for these data.

g. *Laboratory volatilization from soil (163–2 or guideline 835.1410) designated as volatility in current data requirements, and Aerobic soil metabolism, 161–1 or guideline 835.4100.* The Agency currently conditionally requires (CR) these data to support aquatic uses and do not require (NR) these data to support greenhouse use. The Agency is proposing to not require (NR) these data to support aquatic uses, and to conditionally require (CR) these data to support greenhouse use. Since the exposure is in the soil, it is appropriate not to require data in the water/sediment and it is appropriate to require these data for land type use. In other words, this revision is consistent with the purpose and implementation, as well as with the guidelines.

h. *Photodegradation on soil (161–3 or guideline 835.2410) and photodegradation in water (161–2 or guideline 835.2240) identified as Soil photolysis and Aquatic photolysis in current guidelines.* Part 158 currently conditionally requires (CR) these data for all uses except greenhouse and indoor use. That study is designed to measure photolysis of a pesticide on the surface of the soil. Water will attenuate the amount of sunlight reaching underlying sediments in a water body, thereby making photolysis of a sediment bound pesticide unlikely. In that case, measuring photolysis of the pesticide in the water column would be more appropriate. Therefore, the Agency proposes to not require (NR) photodegradation of parent and degradates in soil for aquatic (food and nonfood), since photodegradation cannot be measured in the soil under the water, but the Agency is continuing to conditionally require (CR) the direct photolysis rate of parent and degradates in water, since photolysis can be measured. The Agency proposes to add a condition for terrestrial, greenhouse, and forestry uses, when the results of Tier I studies demonstrate a concern for toxicity, and an evaluation of potential exposure (environmental fate) is needed to make a risk determination. EPA also proposes to change the names of these studies from ''soil photolysis'' to ''photodegradation on soil'' as designated in (161–3 or guideline 835.2410) and from ''aquatic photolysis'' to ''photodegradation in water'' also identified as direct photolysis rate of parent and degradates in water (161–2 or guideline 835.2240). In essence, the proposed data requirements are in line with the proposed use patterns, where the exposure is eminent.

i. *Partition coefficient (n-octanol/water) (guidelines 830.7550, 830.7560, and 830.7570).* Part 158 currently conditionally requires (CR) this study when results from Tier1 tests indicate environmental fate data are needed. The Agency proposes to relocate this requirement under the product chemistry data requirements. As further explained in that section of the preamble, the study would no longer be dependent on Tier I studies, but would be conditionally required (CR) for organic chemicals unless they dissociate in water or are partially or completely soluble in water.

j. *UV/light absorption (guideline 830.7050).* Part 158 currently conditionally requires (CR) this study for all uses except greenhouse (food and nonfood) and indoor use. As explained elsewhere, the Agency proposes to transfer this data requirement to product chemistry data requirements and to require (R) this for all as part of the basic data in the characterization and identification of a compound. This information will be used in conjunction with the ''photodegradation in water'' study to determine if photodegradation is a possible route of dissipation in the environment. In order for a pesticide to undergo direct photolysis in the environment, it must absorb energy in the wavelength range emitted by sunlight. The UV/visible light absorption spectrum will indicate whether or not the pesticide absorbs in this range.

k. *Dispenser-water leaching (guideline 880.4425).* Part 158 currently does not require (NR) this study to support greenhouse uses and indoor use. The proposed rule conditionally requires (CR) this study for greenhouse use and does not require (NR) for aquatic uses. This proposed change brings the data table in line with the guideline and only require the data when the pesticide is applied to land in a passive dispenser.

l. *Terrestrial wildlife, aquatic animal, nontarget plant, and insect testing.* The Agency currently divides Tier III studies into four categories: terrestrial, aquatic animal, nontarget plant, and nontarget insect testing. The Agency proposes to identify individual studies and their respective guideline numbers that may be conditionally required (CR) when results from lower tiered data indicate the potential need for additional studies. The test notes have not been revised, therefore the conditions under which these data are required will not be revised. However, the Agency is updating the guideline numbers. As a result guideline 850.2300 through 850.2500 apply to various terrestrial data requirements (avian and mammal), guideline 850.1025 through 850.1500 for aquatic animal data requirements (freshwater and marine fish and invertebrate species), and guideline 850.4225 through 850.4450 for nontarget plant studies.

The Agency currently conditionally (CR) requires Tier III nontarget insect testing depending on the results of the lowered testing for nontarget insects. The Agency proposes to conditionally require (CR) field pollinator testing (to address risks to bees) data (guideline 850.3040) as Tier III, if the product is expected to be transported during application to air, soil, or water, which is determined in the Tier II environmental fate studies. Based on industry information, and fate data indication potential for exposure, we

might then require some type of Tier III testing. This testing would have to be preceded by consultation with OPP, because it would be directed at the problem identified earlier. We would need to consider the species at risk, route of exposure, etc. Additional insect species may have to be tested if necessary to address issues raised by use patterns and potential exposure of important insect species, e.g., beneficial insects, endangered species. The guideline number is guideline 850.4030.

m. *Product performance.* Currently the Agency relies on § 158.640 for product performance data requirements for biochemicals and microbial pesticides. The Agency is proposing to include product performance in the regulatory text for both biochemicals and microbial pesticides to improve transparency. Product performance verification can be important, especially for public health pests, for some of the biochemical and microbial pesticides since we have seen independent reports that some do not work as well as the conventional pesticide products.

VIII. Microbial Pesticides Data Requirements (Subpart M)

A. Definition of Microbial Pesticide

Amendment to part 158. The Agency is proposing a revision in the definition of a microbial pesticide. The current definition at § 158.65 of microbial pesticides is:

Biochemical and microbial pesticides are generally distinguished from conventional pesticides by their unique modes of action, low use volume, target species specificity or natural occurrence. In addition, microbial pesticides are living entities capable of survival, growth reproduction and infection. ... Microbial pesticides include microbial entities such as bacteria, fungi, viruses, and protozoans. The data requirements apply to all microbial pesticides, including those that are naturally-occurring as well as those that are genetically modified. Each ''new'' variety of subspecies, or strain of an already registered microbial pest control agent must be evaluated, and may be subject to additional data requirements.

The definition of a microbial pesticide in the proposed rule is as follows:

Microbial pesticide means a microorganism intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, that: (1) Is a eucaryotic microorganism including, but not limited to, protozoa, algae, and fungi; (2) Is a procaryotic microorganism, including, but not limited to, bacteria; or (3) Is an autonomous replicating microscopic element, including, but not limited to, viruses.

This proposed definition of microbial pesticide is based on the language in the current definition of microbial pesticide at § 158.65 and the class of nonexempt biological control agents in § 152.20(a)(2), but uses a structure for defining microbial pesticide similar to that at 40 CFR 172.43. Specifically, the proposed definition replicates the structure used in § 172.43 that identifies the intent of the microbial pesticide, for example, as the prevention or destruction of a pest. The proposed definition also combines the structure and examples at § 152.20 with the current regulatory structure to clarify the intended scope of the current regulatory definition and relationship to § 152.20. For example, the proposed definition includes references to eucaryotic and procaryotic microorganisms, terms not found in the current definition at § 158.65 but found in § 152.20(a)(3). The proposed definition also clarifies that microbial pesticides include viruses and other similar infective elements, while the ''autonomous replicating'' language is intended to exclude pesticide components of microscopic cells that are not able to replicate as separate entities, such as genetic constructs inserted intentionally into the cells. None of these proposed amendments are intended to change the scope of the current regulatory definitions of microbial pesticide at § 158.65 or of the exemption provision at § 152.20(a)(3).

EPA is also proposing not to include in the definition of microbial pesticide the phrase from current § 158.65 distinguishing microbial pesticides from conventional pesticides because the original definition was more of a description of those characteristics that might be shared by both biochemical pesticides and microbial pesticides. In this rule, we have described biochemical pesticides separately and we can now be more specific in defining microbial pesticides.

EPA notes that microorganisms are known to produce many pesticidal substances. These pesticidal substances, when used independently of the microorganism, are considered to be biochemical pesticides, conventional chemical pesticides, or antimicrobial pesticides, depending on the mode of action and the use. The microorganism would then usually be considered part of the manufacturing process. For example, streptomycin, an antibiotic produced by a bacterium, *Streptomyces griseus*, is registered as a conventional chemical fungicide.

B. Applicability of Microbial Pesticide Data Tables

EPA is proposing to create a new applicability provision expressly providing that the microbial pesticide data tables apply to microbial pesticides, as described previously, and to add to that paragraph specifics on the types of microbials subject to the subpart M data requirements.

First, the language in current § 158.65 states that ''each new variety of subspecies, or strain of an already registered microbial pest control agent must be evaluated, and may be subject to additional data requirements.'' The proposed refinement now reads ''each new isolate of a microbial pesticide is treated as a new strain and must be registered independently of any similar registered microbial pesticide strain and supported by data required in this subpart.'' This refinement is simply intended to clarify the intent of the current regulatory language.

The second sentence added to the applicability provision states that genetically modified microbial pesticides may be subject to additional data or information requirements on a case-by-case basis depending on the particular microorganism and/or its parent microorganism(s), the proposed pesticide use pattern, and the manner and extent to which the organism has been genetically modified. That language is moved from current § 158.65.

The final sentence reads ''pest control organisms such as insect predators, nematodes, and macroscopic parasites are exempt from the requirements of FIFRA as authorized by section 25 (b) of FIFRA and specified in § 152.20 (a) of this chapter.'' That sentence is moved from current § 158.65 as well.

In addition, the current regulatory text at § 158.65 specifies that the microbial ''data requirements apply to all microbial pesticides, including those that are naturally-occurring as well as those that are genetically modified.'' This language is not needed in the definition; the use of the data requirements for microbial pesticides is fully described in the section immediately following the definition.

Other portions of the current text at § 158.65 are proposed to be moved to the applicability subsection of subpart M, § 158.1000, or the other provision that seems generic § 158.1010 to avoid confusion on the definition of microbial pesticide. Specifically, EPA is proposing to move current § 158.65(b)(2) to proposed § 159.1010.

EPA is also proposing to use table descriptors NR (not required), R

(required), and CR (conditionally required) to be used as markers along a spectrum of the likelihood that a data requirement applies. In other words, it should be assumed that a required (R) data requirement is required typically all the time. There may be some narrow or rare conditions identified in test notes when data are not required. For example, acute injection toxicity (intraperitoneal or intravenous) not required when the microbial pesticide is a virus. In contrast, a conditionally required (CR) data requirement is less likely to be triggered compared to a required (R) data requirement, but more likely include test notes indicating conditions when data are typically required. For example, the primary dermal irritation is currently conditionally required (CR) for microbial pesticides. The test note indicates it is required (R) when dermal irritation is reported from the acute dermal toxicity study. Specific criteria are identified with the test note.

C. Amendment of Part 172

The Agency is also proposing to replace the definition for a microbial pesticide at 40 CFR 172.43 with the definition proposed here. The proposed definition is broader than the definition at § 172.43 in that it uses the term ''includes'' rather than ''means'' and identifies a category for autonomous replicating microscopic elements, rather than just including viruses. EPA is proposing a broader definition because it has been EPA's experience that there are microorganisms other than viruses that could be used as a pesticide but that would otherwise be excluded by the definition at § 172.43.

D. Product Analysis Data Requirements

1. *General.* The Agency uses product analysis information to determine whether impurities of toxicological or environmental concern are present in the pesticide and formulated products. Product analysis data requirements include product identity and composition data, physical and chemical characteristics of a pesticide, plus any intentionally added ingredients and impurities in the final pesticide product. Included in this category are the specific, detailed requirements for product identity and chemical analysis. The title of the data requirements, ''microbial pesticides product chemistry data requirements,'' is proposed to be revised to ''microbial pesticides product analysis data requirements'' to better reflect the extra identification procedures necessary to analyze living organisms. The following discussion addresses the proposed data requirements.

2. *Product analysis data requirements.* Currently, the Agency groups all the physical and chemical properties studies under one section. The Agency proposes instead to list the individual studies that are included in the category of data requirements to support registration (guideline 830.6302 through 830.7300). The Agency currently requires (R) all product chemistry data to support registration, except for analysis of samples and submittal of samples, which is proposed to be required under residue chemistry data requirements.

i. *New requirements.* None.

ii. *Newly codified requirements.* None.

iii. *Revisions to existing requirements.* a. Product identity, manufacturing process, and deposition of a sample in a nationally recognized culture collection. Currently these data are required as guideline numbers 151–20, 151–21, and 151–22. The Agency proposes that these data requirements would remain the same as before. However, we are proposing to list each as a separate study: product identity; manufacturing process; and, discussion of formation of unintentional ingredients. The Agency proposes to list them as follows: product identity (guideline 885.1100), manufacturing process and deposition of a sample in a nationally recognized culture collection (guideline 885.1200), and discussion of formation of unintentional ingredients (guideline 885.1300).

b. *Physical and chemical characteristics.* The Agency currently requires (R) physical and chemical characteristics data. The Agency proposes to require (R) that the same studies and same endpoints be evaluated, however the Agency is trying to be more clear by identifying the individual pieces of the data requirement and separately identify each in the data table. Specifically the studies are identified as: color, physical state, odor, stability, storage stability, miscibility, corrosion characteristics, pH, viscosity, and density (guidelines 830.6302 through 870.7300).

c. *Analysis of samples.* This study (guideline 885.1400) is currently conditionally required (CR) for EUPs and registrations. The Agency proposes to revise this data requirement to be required (R), since it is critical to have an analysis of samples to understand the composition of the microbial pesticide and the potential for contamination with other microorganisms.

d. *Certification of limits.* This study is currently required (R) except for nonfood uses. The Agency is proposing to expand this data requirement to be required (R) for all uses. These studies are needed to confirm the claims made on the label and to validate the confidential statement of formula.

e. *Analytical methods.* The analytical methods would typically assure that you could quantify the confidential statement of formula. This study is currently required (R), and the Agency proposes to continue to require (R) these data, but under product identity and discussion of unintentional ingredients data requirements, which provide these data.

f. *Submittal of samples.* This provision is typically intended to enable EPA to identify the active ingredient and provide standards to governmental agencies needing to monitor chemical pesticide residues and is conditionally required (CR). The Agency proposes to require (R) these data as a product analysis requirement to be deposited in a nationally recognized culture collection to allow EPA to validate strain identity if issues arise (guideline 885.1200).

Since the Agency does not have capacity to store the variety of microbial pesticides that may be submitted, EPA did not set up a nationally recognized culture collection. There are several nationally recognized culture collections in this country (and abroad) such as the American Type Culture Collection and a microbial collection maintained in Peoria, Ill., by the USDA. These facilities have a vast number of microbial and cell cultures that are dedicated to transferring, maintaining and identifying. Rather than duplicate this effort, EPA chose to refer microbial pesticide producers to these facilities who have the routine expertise to keep and distribute (or protect) microbial cultures. There is a certain element of required expertise but really the cost and small number of our microbial pesticides would make it prohibitively expensive for the Agency to do this collection rather than direct the companies to these specialized facilities.

E. Residue Chemistry Data Requirements

1. *General.* The Agency uses residue chemistry information to determine the potential bioavailability of pesticide residues on food. Included in this subpart are the detailed requirements for chemical identity, analytical methods for plants and animals, nature of residue, stability, and magnitude of residue.

2. *Residue chemistry data requirements.* The residue chemistry

data table currently requires residue data under one data requirement. The Agency is proposing to delineate the residue data to clearly identify the endpoints being measured. In other words, there is only one data requirement, and in the proposed rule there are several data requirements listed (guideline 885.2000 through 885.2350), but no more additional data are actually required. In addition, the current test note in part 158 delays the residue study requirement until Toxicology Tier II and Tier III data are required (R). The Agency is proposing the data requirement not be dependent on the Tier Data in II and III, but to conditionally require (CR) these data when the results of testing (indicated in test note).

i. *New requirements.* None.

ii. *Newly codified requirements.* None.

iii. *Revisions to existing requirements.* Part 158 currently requires residue data (153–4) for microbial pesticides, but does not lay out clearly the various underlying studies for fulfilling the actual requirement. EPA proposes the following be listed to provide greater clarity and transparency of the data that are actually required (R) to support registration: Background for residue analysis of microbial pest control agents (guideline 885.2000), chemical identity (guideline 885.2100), nature of residue (guideline 885.2200, 885.2250), analytical methods (guideline 885.2300,885.2350), storage stability, magnitude of residue (guideline 885.2500, 885.2550, 885.2600). These data are currently required (R), therefore there is no revision in the proposed rule.

F. Toxicology Data Requirements

1. *General.* Toxicology data requirements encompass studies expected to improve the Agency's understanding of the potential pesticide hazard to humans, including subpopulations such as infants and children, and domestic animals, for all microbial pesticides. These data requirements include acute toxicity/ infectivity studies (oral, dermal, inhalation, pulmonary injection), a cell culture study, and hypersensitivity incidents (guideline 885.3050 through 885.3500) to be submitted. In addition, acute toxicity studies (oral, dermal, and inhalation) and the primary eye and dermal irritation studies (guidelines 870.1100 through 870.2500) are also required. The Agency wants to specially note that we are inviting public comment as to whether or not hypersensitivity incidents (guideline 885.4300) is addressed adequately via the § 152.125, FIFRA section 6 (a)(2) data requirement, also discussed in the preamble for biochemical pesticides.

The following identifies the revisions to the current § 158.740 for microbial toxicology data requirements. Revisions include name changes, test note clarifications, revisions under which use pattern data are triggered (e.g., food use versus non-food use), and clarification of other circumstances under which data are required.

2. *Toxicology data requirements.* The Agency generally discourages a registrant from pursuing registration of a microbial pesticide that is a known human pathogen, even one reported to be an opportunistic human pathogen, because it would be difficult to support a risk assessment that would show no unreasonable risk to humans. However, in some cases, a candidate microbial pesticide may:

(a) Be very closely related to a human pathogen but lack the toxins or invasive factors responsible for that disease;

(b) Be taxonomically distinct from known human pathogens, but may have picked up a toxin or other factor that could cause mammalian disease as detected by Tier I and II studies; or,

(c) Provide significant benefits that would offset some risk that might additionally be mitigated by certain use/ exposure considerations.

The Agency has encountered several cases where microbial pesticides are a member of a taxonomic group containing mammalian toxins. In these instances, data gathering beyond the codified data requirements may be required to account for potential human health risks. For most applications, this kind of testing is not needed.

Generally, toxicology data from Tier I is sufficient to address the hazards related to the human health risk assessment for pathogenicity and infectivity of microbial pesticides. The most common reason for needing Tier II or higher tests is the appearance of unexplained toxicity, unusual persistence, lethality, or adverse effects related to treatment with the microbial pesticide in the Tier I studies.

Some microbial products may be lethal to rodents at the Tier I and/or Tier II levels, where the mode of action may not be sufficiently clear to allow for specific toxin or other infectivity factors to be analyzed. Furthermore, due to the nature of some microorganisms, the possibility exists that rodents may not be a truly representative test animal for determining effects on humans of a microbial pesticide.

The Agency proposes to conditionally require (CR) Infectivity/ pathogenicity as a Tier III data requirement. This requirement allows for the possible use of alternative test species, including primates as described in the testing guidelines.

In addition, there are ten revisions, primarily name changes to the data requirements.

i. *New requirements—Infectivity/ pathogenicity.* Currently this study is not required. The Agency is proposing to conditionally require (CR) a Tier III infectivity/pathogenicity analysis (guideline 885.3000) when the microbial pesticide appears to be a mammalian pathogen that might sufficiently affect humans or nontarget mammals. While it is possible that the registrant would not want to pursue a microbial registration if such testing were triggered, the Agency believe it is appropriate to establish a Tier III toxicity study requirement to evaluate the microbial pesticides potential effects in higher animals. The Agency believes this type of data would rarely be required. However, if all criteria established in the revised test notes has been exceeded, it is appropriate to require the data.

ii. *Newly codified requirements.* None.

iii. *Revisions to existing requirements*— a. *Acute oral toxicity/ pathogenicity.* Currently this study is required (R) with no test notes. For clarity, the Agency is proposing a name change to the more descriptive one used in the updated guidelines (guideline 885.3050). EPA also proposes a reduction in the number of test substances required to be tested. Currently, part 158 requires both MP or EP and TGAI. The proposed rule would only require (R) the TGAI to be tested. TGAI is only required for the acute oral toxicity/pathogenicity and can be done with MP or EP to avoid the ''normal'' acute oral toxicity for the EP if all endpoints and dosing are confirmed. The endpoint examined in the toxicity/ pathogenicity include clearance and immune functioning of the test rodent. These endpoints, once determined, are not necessary for more than the TGAI. The MP and the EP are not expected to dramatically alter the pathogenicity character of the microbe so the extra testing does not add to the safety assessment. The Agency is also proposing to add a test note, indicating the acute oral study toxicity/ pathogenicity can be combined with the unit dose portion of acute oral toxicity study (guideline 870.1100) if the new protocol is designed to address the endpoints of concern.

b. *Acute pulmonary toxicity/ pathogenicity.* The Agency currently requires (R) the acute inhalation study

(152–31) under Tier I. The Agency is proposing acute pulmonary toxicity/pathogenicity (guideline 885.3150) to be required in lieu of the acute inhalation study. EPA also proposes a reduction in number of test substances required to be tested, currently both MP or EP and TGAI are required. The proposed rule would only require (R) the TGAI to be tested. These endpoints, once determined, are not needed for more than the TGAI. As discussed previously, the MP and the EP are not expected to dramatically alter the pathogenicity character of the microbe so the extra testing does not add to the safety assessment.

c. *Acute injection toxicity/pathogenicity (Intravenous or Intraperitoneal).* The Agency currently requires (R) I.V., I.C., I.P. injection study. The Agency is proposing acute injection toxicity/pathogenicity (either intraperitoneal or intravenous) to also be required (R), with the test note indicating the pathway under what conditions the intravenous or intraperitoneal would be required. Intracerebral is no longer required since it has been determined that exposure would most likely result in intravenous or intraperitoneal exposure. Under this revised data requirement, the data would not be required if the active ingredient of the pesticide product is a virus.

d. *Primary dermal irritation.* The Agency currently requires (R) this data under Tier I. The Agency is proposing to conditionally require (CR) these data as Tier I, with proposed test notes better defining the conditions when the data requirement would apply. This study would be conditionally required (CR) only if dermal irritation was indicated in the acute dermal toxicity study, since it would be evident in the results of the acute dermal toxicity study if primary dermal toxicity effects could occur.

e. *Acute inhalation toxicity.* Currently the Agency conditionally requires (CR) an acute inhalation study (151–41) in Tier II on MP or EP product when data in a Tier I acute inhalation study indicate potential adverse effects (e.g., survival, replication, infectivity, toxicity). The Agency is proposing to require (R) the acute inhalation toxicity study (guideline 870.1300) as a Tier I, limiting it to testing MP or EP, no longer requiring TGAI testing, but with a test note indicating data are required only if the product can be inhaled.

f. *Hypersensitivity study and hypersensitivity incidents.* Currently the Agency requires (R) the hypersensitivity study and conditionally requires (CR) hypersensitivity incidents. The Agency is proposing to not require (NR) the hypersensitivity study and to require (R) hypersensitivity incident reporting data. The hypersensitivity study are currently submitted as part of product characterization on known microbial hazards such as toxins and allergens.

As indicated, the Agency proposes to revise hypersensitivity incidents from the current conditionally required (CR) to proposed required (R), even under conditions of EUP's. While these types of data are already required under § 152.125, FIFRA 6(a)(2), the status of hypersensitivity incidents reporting is unclear for microbial products that have not been registered or are under an EUP. Therefore, the Agency included a requirement for hypersensitivity incident reporting for EUP's in lieu of the hypersensitivity study. As previously indicated, EPA is inviting comment as to whether or not this study is needed, since the data must already be submitted to the Agency as 6(a)(2) data.

g. *Cell culture.* The Agency proposes to rename the currently required (R) tissue culture study for all viruses to the cell culture data requirement (guideline 885.3500), since this study is a more appropriate name for the tissue culture study and would only be required when the product's active ingredient is a virus.

h. *Reproductive fertility effects.* The Agency currently conditionally requires (CR) teratogenicity data. The Agency is proposing to conditionally require (CR) reproductive and fertility effects data (guideline 885.3650). This study replaces both guidelines 152–47 and 152–53. This is actually a replacement, since the data are basically assessing the same endpoints. The Agency is also proposing to not require these data as Tier II, but as Tier III since the triggers for this study rely on toxicity endpoints which are collected in Tier II studies, i.e., guideline 885.3600.

G. Nontarget Organisms and Environmental Fate Data Requirements

1. *General.* The Agency uses a tiered system of ecological effects testing to assess the potential risks of pesticides to nontarget aquatic and terrestrial vertebrates, invertebrates, and plants. These tests include studies arranged in a hierarchy from basic laboratory tests to applied field tests. The results of each tier are evaluated to determine the potential impacts on fish, wildlife, and other nontarget organisms, and to indicate whether further laboratory and/or field studies are needed. These data requirements provide the Agency with ecological effects information, which, in turn, allows the Agency to determine if precautionary statements concerning toxicity or potential adverse effects to nontarget organisms are necessary, or whether the pesticide should be registered for certain use patterns at all.

Higher tiered nontarget organisms and environmental fate studies may be required when basic human health assessment data and predicted exposure levels or environmental conditions suggest the potential for adverse effects. Field data are used to examine acute and chronic adverse effects on captive or monitored populations under natural or near-natural environments. Such studies would be required only when the potential for adverse effects is indicated by the results of lower tier studies, or to confirm the need for mitigation measures. In some cases, the results of field studies may also give rise to the need for further testing.

2. *Nontarget organisms and environmental fate data requirements.* The proposed nontarget organisms and environmental fate data table reflects the data that are currently required to support registration of new microbials. Conditions under which data may be required are stipulated in the test notes. In addition, there are a few studies that would be replaced by more appropriate studies to measure the endpoint of concern, and other studies would be deleted. These data revisions are not be expected to substantively increase the nature or burden of the existing data requirements.

i. *New requirements.* None.

ii. *Newly codified requirements.* None.

iii. *Revisions to existing requirements.* a. Avian Inhalation Toxicity/Pathogenicity. The Agency currently requires (R) an avian injection test. The Agency proposes to replace the avian injection test (154–17) with the avian inhalation test (guideline 885.4100) to provide a more appropriate endpoint to assess risks to avian species. The Agency is also proposing to conditionally require (CR) this data only when the microbial pesticide appears to have toxins that indicate potential pathogenicity. The inhalation study models a more realistic route of exposure in the wild than intraperitoneal injection.

b. *Fish life-cycle study and aquatic invertebrate range testing.* The Agency proposes to replace conditionally required (CR) aquatic embryo larvae and life cycle studies (154–28) with conditionally required (CR) fish life-cycle studies (guideline 885.4700) and definitive aquatic animal tests (154–27) with aquatic invertebrate range testing (guideline 885.4650) to provide more appropriate endpoints for assessing risks to aquatic species (fish and

invertebrates). The ''fish'' life cycle study is more appropriate because it identifies a particular taxonomic class to be tested as opposed to ''aquatic embryo and life cycle studies'' which do not identify the taxonomic class or species to be tested. ''Definitive aquatic animal tests'' does not say what animal group (species) is to be tested and does not say what test is to be done (''definitive'' is not a test name), whereas ''aquatic invertebrate range testing'' is more appropriate because it specifically instructs the registrant to determine which aquatic invertebrate species are susceptible to the pesticide and which are not susceptible. In summary, the Agency is proposing to revise the titles of the data requirements in order to account for species and life cycles being tested.

c. *Simulated or actual field testing for plants (guideline 850.2500).* The Agency currently conditionally requires (CR) nontarget plant studies (154–31) as Tier III when data in Tier II indicate there is a concern. The Agency proposes to rename the data requirement to simulated or actual field testing for plants (guideline 850.2500), which is currently conditionally required (CR) on a case-by-case basis. The test notes associated with the proposed requirement are more explicit as to when the conditions would be met. In addition, these data are proposed to be conditionally required (CR) as Tier IV.

d. *Product performance.* Currently the Agency relies on § 158.640 for product performance data requirements for biochemicals and microbial pesticides. The Agency is proposing to include product performance in the regulatory text for both biochemicals and microbial pesticides to improve transparency. Product performance verification can be important for some of the biochemical and microbial pesticides since we have seen independent reports that some do not work as well as the conventional pesticide products. It is particularly useful to have product performance data for those products that want to be considered as presenting less risk than a conventional pesticide product.

e. *Subchronic toxicity/pathogenicity.* The Agency proposes to change the name of the subchronic oral toxicity study (152–42) to correspond with the current name of the test guideline.

f. *Carcinogenicity.* The Agency proposes to change the name of the oncogenicity study to carcinogenicity study (guideline 870.4200) to correspond with the current name of the test guideline.

IX. Peer Review

A. National Research Council Recommendations

As discussed in Unit V.A.3, the National Academy of Sciences issued a report in 1993 entitled, ''Pesticides in the Diets of Infants and Children.'' The study, conducted by the National Research Council, was initiated to address the question of whether the current regulatory system adequately protected infants and children from pesticide residues in food. The Council reviewed current EPA practices and data requirements related to dietary risk assessment as well as testing modifications planned by the Agency. The panel of experts concluded that, at that time, EPA approaches to data requirements and risk assessments emphasized the evaluation of the effects of pesticides in mature animals and, in general, there was a lack of data on pesticide toxicity in developing organisms. The Council also expressed the need to investigate the effects of pesticide exposure on immunotoxic responses in infants and children (Ref. 3).

B. FIFRA Scientific Advisory Panel

1. *1994 SAP Review.* In 1994, EPA held a two day meeting of the SAP to review the Agency's proposed amendments to the data requirements for pesticide registrations contained in 40 CFR part 158. The SAP was asked to comment on each data requirement and identify, in their opinion, which ones were necessary to fully and thoroughly evaluate the potential hazard of a chemical compound and which ones were not intrinsically useful in providing practical scientific information. While these data requirements were presented to SAP to support conventional pesticides, the majority of changes to the data requirements presented in this notice were submitted for review as subpart M: Microbial and Biochemical Pesticides Data Requirements. These revisions were generally endorsed by the SAP (Ref. 4). A copy of the 1994 SAP final report can be found in the docket for this rulemaking (docket ID number EPA–HQ–OPP–2004–0415).

The limited issues that were addressed in1994 Panel's specific comments are as follows:

- *Intraperitoneal study.* The issue revolved around whether an intraperitoneal study is appropriate to use when microbial size or physical properties preclude the use of intravenous study. At that time, SAP believed the intraperitoneal study was appropriate to use when microbial size or physical properties preclude the use of intravenous study. This option is included in the proposed rule.
- *Bird species.* The issue revolved around whether the second bird study gives significant additional information for microbial effects, i.e., are the two birds species likely to respond differently to typical biocontrol microbials. At the time, SAP suggested that it was appropriate to use only the more sensitive bird species (the quail) for data requirements. This recommendation has been included in the test note.
- *Fish species.* The issue revolved around whether the second fish study was likely to provide significant information for microbials. At the time, SAP suggested that it was appropriate to use the more sensitive fish species (trout) for data requirements. The SAP recommendation was incorporated into the test note.

Additionally, SAP encouraged the Agency to carefully evaluate the data requirements for genetically engineered microbials. The SAP believed this emerging technology was still, in many respects, an unknown entity. In the future, EPA will develop data requirements for plant-incorporated protectants.

2. *1987 SAP Review—Immunotoxicity testing of biochemical pest control agents (BPCAs) (Ref. 7).* Proposed Guidelines for Immunotoxicity Testing of Biochemical Pest Control Agents were presented to the SAP. In particular the issues revolved around the use of a single sex of test animal in the lower tiered studies. At that time, the 1987 SAP decided that there was no scientific rationale for examining both male and female animals, though this may not apply to compounds that demonstrate estrogenic activity. In this case females may be the sex of choice since they would be more sensitive to immunotoxic effects than males by this class of compounds. A second issue raised at this meeting was the inclusion of a limit test in Tier I, in which no adverse immunological effects are observed at a single high dose, then no further testing is required. The Agency was seeking advice on the scientific criteria that would support the inclusion or exclusion of a limit test in Tier I studies. At that time, the SAP deemed it appropriate for all assays in Tier I to be included since no single test can fully evaluate all cellular or functional components of the immune system. A dose that produces a large amount of general toxicity would be of concern since the general toxicity might indirectly contribute to the immunotoxicity. Immunotoxicity data

should be cautiously evaluated in this context.

3. *1986 SAP Review—Applicator/user exposure monitoring guidelines.* The Series 875, Group A, Applicator/User Exposure Monitoring Guidelines were presented to SAP in January 1986. After EPA addressed SAP comments, the guidelines were finalized. The guidelines were published by the National Technical Information Service (NTIS) in 1987 (Ref. 10).

A comprehensive listing of data requirements and the year that each specific data requirement was reviewed by SAP is available in the docket for this proposed rule (Ref. 11). Additionally, copies of documents reviewed by SAP and the final reports can be found on EPA's website at *http:// www.epa.gov/ scipoly/sap*.

X. Animal Welfare Concerns

The Agency is committed to the development and use of alternative approaches to animal testing. The Agency understands many people's concern about the use of animals for research and data development purposes. EPA has received comments concerning the use of new and revised test methods which would reduce the number of test animals in studies, or refine procedures to make them less stressful to animals. The Agency believes it has taken steps, based on current scientific knowledge and experience, to minimize testing on biochemical and microbial pesticides. With respect to these types of pesticides, the Agency has implemented a tiered testing approach, thereby potentially reducing the number of studies required for registration. Where testing is needed to develop scientifically adequate data, the Agency is committed to reducing or replacing, wherever possible, the number of animals used for testing by incorporating *in vitro* (non-animal) test methods or other alternative approaches that have been scientifically validated and have received regulatory acceptance. EPA considers these goals and commitments to be important considerations in developing health effects data, consistent with the essential need to conduct scientifically sound pesticide hazard/risk assessments in support of the Agency's mission.

Taking into consideration principles of sound science and the requirements of FIFRA to protect humans (including sensitive subpopulations) and the environment from unreasonable uncertainty of no harm from pesticide exposure, the Agency is committed to avoiding unnecessary or duplicative animal testing. For example, currently EPA accepts data on the pH of a pesticide as a screen to judge whether the pesticide may be corrosive to the eye or skin. Making this determination avoids actual testing on animals. Many long-term studies can be combined so that several toxicological end-points can be discerned from fewer studies. The Agency already has bridging and batching policies in place to allow the use of acute toxicity, sensitization, or irritation test data on products to be used to support other products.

The Agency plays an important role in the Federal Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) (*http:// iccvam.niehs.nih.gov/home.htm).* ICCVAM, a standing committee made up of 15 Federal agencies and established through the National Institute of Environmental Health Sciences, which works to (1) encourage the reduction of the number of animals used in testing; (2) seek opportunities to replace test methods requiring animals with alternative test methods when acceptable alternative methods are available; and (3) refine existing test methods to optimize animal use when there is no substitute for animal testing. ICCVAM convenes independent peer review panels to evaluate specific proposed test methods and has developed consensus criteria for judging the validation status of test methods.

Guideline 870.1100 references the use of appropriate alternative test protocols as a means of reducing the number of animals used to evaluate acute effects of pesticide exposure. Yet the Agency and the scientific community also recognize that test guidelines are designed to be updated and supplemented frequently. As new tests and test batteries are validated, the Agency presents them to the SAP. The Agency considers the SAP's determination of the reliability of the test guidelines and their applicability to meeting its regulatory needs under FIFRA. After SAP review, the Agency is planning to incorporate validated *in vitro* screening data for skin corrosion to its test guidelines. As other appropriate alternative or *in vitro* methods become available, they would continue to be added to the test guidelines.

XI. Data Requirements Specific to Endangered Species Assessments and Determinations

Over the last several years, the Agency has been requiring, on a case-by-case basis for certain pesticides (mostly conventional chemical pesticides), data demonstrating specific geographic location(s) of threatened and endangered species (listed species), which can then be compared with areas of potential pesticide use. These data have been required when EPA determined that the estimated environmental concentration of the pesticide when applied according to the labeling appears to exceed the Agency's numeric concern levels for listed species. The specific species for which location information was needed, has been determined on a case-by-case basis based upon the use pattern of the pesticide and the site on which it was authorized to be used.

In general, a biochemical pesticide is not expected to pose endangered species concerns because it is a naturally-occurring chemical or a synthetically-derived equivalent; has a history of exposure to humans and the environment demonstrating minimal toxicity; and has a non-toxic mode of action to the target pest(s). However, the Agency has occasionally required such data for microbial pesticides (e.g., *Metarhizium anisopliae*). The microbial pesticides typically have a limited host range and affect only certain species limiting the potential of such pesticides to pose endangered species concerns. The Agency anticipates that these data could be requested in the future in connection with other registration and reregistration actions for both biochemical and microbial pesticides if lower tier studies show potential adverse effects to nontarget organisms.

In response to a Data Call-In notice on certain conventional pesticides for data on the location of all listed species, an industry taskforce is working to develop a database that may partly fulfill Agency needs, i.e., geographic locations where potentially affected species are thought to occur. Access to the task force data by other registrants who may be required to provide such data in the future would be made available through appropriate data sharing mechanisms. Although the anticipated expanded burden on registrants is not large since it does not entail experimental or laboratory procedures, it is nevertheless not likely to be inconsequential. Thus, the Agency is requesting comment on its utility and appropriateness.

While EPA is using the best available scientific and commercial information to assess risks to listed species, uncertainties still exist. Further research and investigation might help to develop improved risk assessment approaches. The Agency recognizes that such research also could lead, in the long run, to additional data requirements for registration. Accordingly, the Agency seeks input on research areas that may be necessary to effectively characterize potential risks to listed endangered

species from pesticide use. These include research to address the following types of uncertainties:

- Product use information by geographic location below the state and county levels.
- Toxicity data and environmental fate measurements/exposure model predictions with end use products.
- Toxicity data from surrogate species that quantify dose-response relationships for effects relevant to critical life stages of endangered species.
- Measured or estimated values of physiological, biochemical, and morphological characteristics of endangered species and surrogate species to refine chemical-specific interspecies toxicity extrapolations.
- Toxicity, exposure, uptake, and elimination data to better determine any differences in interspecies sensitivity of nontarget and endangered plant species exposed to herbicides.
- Toxicity data to characterize potential effects to aquatic invertebrates (i.e., freshwater mussels).
- Toxicity data to characterize potential effects to reptiles and amphibians.

The Agency seeks comment on:

1. The relative value of each of these research areas in better refining assessments of potential risks to listed species.
2. Input on specific research directions in these areas, including methodologies, protocols etc., that would be appropriate and useful in assessing the potential risks to listed species.
3. Other types of research that would be of value in refining potential risks of a pesticide to a listed species.
4. The extent to which potential research areas reflect uncertainties that apply to pesticides generically; to chemical stressors generically, or to types of pesticides or chemicals stressors.

XII. Research Involving Human Subjects

This proposed rule (see proposed § 158.950) would establish data requirements for applicator/user exposure studies for biochemical pesticides proposed as insect repellents. This data requirement is consistent with § 158.500 of the proposed rule for conventional pesticides (70 FR 12275, March 11, 2005).

On January 26, 2006, the EPA Administrator signed a final rule entitled Protections for Humans Subjects in Research (71 FR 6138, February 6, 2006), (Ref. 23) that significantly strengthens and expands the protections for subjects of ''third-party'' human research (i.e., research that is not conducted or supported by EPA) by (1) prohibiting new research involving intentional exposure of pregnant women or children that is intended for submission to EPA under the pesticide laws; (2) extending the provisions of the Federal Policy for the Protection of Human Subjects of Research (the ''Common Rule'') to other human research involving intentional exposure of non-pregnant adults that is intended for submission to EPA under the pesticide laws; (3) requiring submission to EPA of protocols and related information about covered human research before it is initiated; and (4) establishing an independent Human Studies Review Board to review both proposals for new research and reports of covered human research on which EPA proposes to rely under the pesticide laws.

This rule forbids EPA to rely, in its actions under the pesticide laws, on intentional-exposure human research that either involves pregnant women or children as subjects or is otherwise considered unethical, except in narrowly defined circumstances. Some studies required under this part will also be subject to subparts K, L, and M of 40 CFR part 26—the newly promulgated final rule for the protection of human subjects of research. Subpart K extends the substantive provisions of the ''Common Rule''—the ethical standard that governs research with human subjects conducted or supported by EPA and other Federal departments and agencies to third-party research that involves intentional exposure of non-pregnant adults as subjects, and that is intended for submission to EPA under the pesticide laws. Subpart K also requires submission to EPA of proposals for any covered research, at least 90 days before it is initiated, for review by EPA staff and the Human Studies Review Board. Subpart L categorically prohibits any third-party research that involves intentional exposure of pregnant women, fetuses, or children as subjects, and that is intended for submission to EPA. Subpart M specifies the range of information required to be submitted along with reports of completed research with human subjects to document the ethical conduct of the research.

XIII. Summary of Proposed Changes

The Agency has prepared a document, entitled Summary of the Proposed Changes (Ref. 1), to compare the current data requirements to support the registration of biochemicals and microbials, respectively, with the revised data requirements presented in this proposed rule. The changes include: revision in test notes, revision in guideline names, revisions in tiering the various data requirements, etc. Along with the proposed changes to the data required, the Agency also proposes to revise the definitions of biochemical pesticides and microbial pesticides and to add definitions of pheromones, arthropod pheromones, and straight chain lepidopteran pheromones.

XIV. Summary of Options

What Options did the Agency Evaluate?

The Agency evaluated three regulatory options to revising the existing data requirements. The three options are generally characterized by estimated annual cost or regulatory burden reduction and frequency of requiring data. The options as presented are intended to reflect broad conceptual approaches, and within each broad option there are other options for requiring or reducing data requirements. In addition, whether considered broadly or more narrowly, EPA's approach is based on the primary need for sufficient information to make the FIFRA/FFDCA findings while at the same time being mindful of opportunities to reduce burden and testing where data is not value added. Again, as noted previously, the point is to emphasize first the need to meet statutory mandates.

This section will briefly cover these three options. The specific cost differences between these three regulatory options are discussed in the executive summary of the Economic Analysis for this rulemaking (Ref. 6). Overviews of estimated annual cost or regulatory burden reduction for the proposed rulemaking as a whole may be found in Unit XVI., Regulatory Assessment.

1. *Option 1 (reduced regulatory burden, potential risk).* This low-cost approach was designed to maximize burden reduction based upon the specific nature of biochemical and microbial pesticides. Based on the non-toxic mode of action and naturally-occurring characteristics of many of these compounds, the Agency could perform a complete risk assessment based on a minimal amount of nontarget organisms and environmental fate data. For biochemical pesticides, the Agency would not require Tier I nontarget organisms and Tier II environmental fate data. For example, under this approach, the Agency would not receive any exposure or infectivity/pathogenicity data for biochemical pesticides. For microbial pesticides, the Agency would significantly reduce the

frequency of time (up to 50 percent) that proposed Tier I nontarget organisms and Tier II environmental fate data are required. The nontarget organism tests monitor the effects of proposed pesticides on nontarget birds, wild mammals, fish, insects and plants. The environmental fate tests are used to assess the persistence of biochemicals and microbial pesticides in the environment. This option would only minimally reduce the regulatory burden as compared to the changes being proposed today (described in Option 3). The Agency does not believe the decrease in burden outweighs the loss in benefits to public health and the environment from reduced availability of data for assessing environmental hazard and risk through registration decisions. The cost savings realized in this option are only marginally lower than the savings realized in the proposed option.

2. *Option 2 (significant regulatory burden, adequate risk assessment).* This high-cost approach was evaluated based on an Agency approach of maximizing the completeness of the database. Under this approach, the Agency would require Tier I human health and environmental data requirements 100 percent of the time. For example, under this approach, the Agency would receive all exposure and infectivity/pathogenicity data, with immunotoxicity required as Tier II and Tier III data. This approach would result in significantly higher costs to pesticide registrants and increased burden to the Agency compared to the proposed approach. Additionally, unlike Option 1 and the proposed option, EPA believes that this high-cost approach would substantially raise the cost of registering a biochemical or microbial pesticide, resulting in fewer products being registered and reducing the potential for these biopesticides (generally lower risk) to compete in the marketplace to provide alternatives to conventional pesticides (generally higher risk). The extra cost and time required to register a biochemical or microbial pesticide under this option may discourage use of these safer pesticides, resulting in more, not less environmental risk.

3. *Option 3 (proposed option).* The proposed option provides the Agency with flexibility and is a middle ground between Option 1, representing a minimal cost but potentially significant loss of environmental hazard information, and Option 2, representing the maximum availability of information, but at significantly higher cost. The Agency would require, under certain conditions, human health and environmental data from all tiering levels (I, II, III, IV). The frequency that data is required would be based on current scientific knowledge and conditions specific to the active ingredient and use patterns. For example, the Agency proposes to require immunotoxicity as Tier II and Tier III data, conditionally require infectivity/pathogenicity data, and conditionally require exposure data for insect repellents. The proposed option is a codification of current practice, and is a balance that provides sufficient data for Agency to complete an environmental risk assessment while ensuring the lowest feasible cost and burden to applicants and the Agency.

The Agency believes the changes proposed today best serve to protect human health and the environment and allow for a complete and accurate assessment of risks, while benefitting a large number of parties, including the regulated industry, pesticide users, the general public, other Federal, State, and foreign governments, and others who are affected by or interested in pesticide use or regulation. Additionally, the net benefit of the proposed changes is expected to include a cost savings for existing and future biochemical and microbial pesticide registrants versus the current codified requirements.

Comparing the proposed option to Option 1 (low cost option), EPA believes that the modified and newly-imposed nontarget organisms and environmental fate Tier I data requirements contained in the proposed approach are needed to ensure informed risk assessment and risk management decisions on biochemical and microbial pesticide registrations.

Comparing the proposed option to Option 2 (high cost option), EPA believes that the cost and burden of requiring the Tier I human health and environmental data for all biochemical and microbial registrations would not warrant the modest benefits of marginally valuable information. EPA believes that Option 2 would reduce the adverse externalities of pesticides and unknown risks to consumers only slightly more than the proposed approach. However, the benefits of this additional data are speculative. Based on the specific nature and scientific knowledge of biochemical and microbial pesticides, these additional data (over and above what the proposed option requires) would most likely inform registration decisions very little.

XV. References

The Agency has established a docket for this rulemaking under docket ID number EPA–HQ–OPP–2004–0415. The following is a listing of the documents that are specifically referenced in this proposed rule. These documents, and other supporting materials, are included in the docket. Please note that the official docket includes the documents located in the docket as well as the documents that are referenced in those documents. As indicated previously, not all docket materials are available electronically, but all publicly available docket materials are available as described under **ADDRESSES**.

1. U.S. EPA, 2005. ''Summary of Proposed Changes to Biochemical and Microbial Pesticide Data Requirements.'' FEAD/OPP/U.S. EPA, Washington, D.C.

2. U.S. EPA, 2003. ''OPPTS Test Guidelines.'' OPP/U.S. EPA, Washington, D.C.

3. National Research Council, ''Pesticides in the Diets of Infants and Children,'' National Academy Press, Washington, D.C., 1993. Excerpt pp. 152–156.

4. FIFRA Scientific Advisory Panel (SAP). 1994 SAP Final, November 29, 1994 FIFRA Scientific Advisory Panel Meeting, November 29–30, 1994, held in Arlington, Virginia.

5. U.S. EPA. 2005. Part II. Environmental Protection Agency. Pesticides; Data Requirements for Conventional Pesticides; Proposed Rule. (70 FR 12276, March 11, 2005).

6. U.S. EPA, 2005. ''Economic Analysis of the Proposed Rule Changing Data Requirements for Biochemical and Microbial Pesticides.'' FEAD/OPP/U.S. EPA, Washington, D.C.

7. FIFRA Scientific Advisory Panel (SAP). ''A Set of Scientific Issues Being Considered by the Agency in Connection with Proposed Revision to Subdivision M, Immunotoxicity Testing of Biochemical Pest Control Agents (BPCA's).'' Review from open meeting on March 24, 1987 in Arlington, Virginia.

8. U.S. EPA, 1989. ''Subdivision M of the Pesticide Testing Guidelines, Microbial and Biochemical Pest Control Agents.'' EFED/OPP/U.S. EPA, Washington, D.C.

9. U.S. EPA, 1982. ''Pesticide Assessment Guidelines, Subdivision M, Biorational Pesticides.'' HED/OPP/U.S. EPA, Washington, D.C.

10. U.S. EPA, 1986. ''Series 875, Group A, Applicator/user Exposure Monitoring Guidelines.'' Presented to the FIFRA Scientific Advisory Panel (SAP), January, 1986. OPP/U.S. EPA, Washington, D.C.

11. U.S. EPA, 2005. ''Overview of Proposed Data Requirements and FIFRA SAP Review.'' FEAD/OPP/U.S. EPA, Washington, D.C.

12. U.S. EPA, 2005. ''Analysis of Data Requirements for Biochemical and

Microbial Pesticides from 1997–2004.'' FEAD/OPP/U.S. EPA, Washington, D.C.

13. U.S. EPA, 2005. ''Data Requirements for Biochemical and Microbial Pesticides; Proposed Rule; Consultations.'' FEAD/OPP/U.S. EPA, Washington, D.C.

14. U.S. EPA, 2005. ''Comparison between Current Conventional Pesticides Data Requirements and Proposed Biochemical and Microbial Pesticide Data Requirements.'' FEAD/OPP/U.S. EPA, Washington, D.C.

15. OECD [2002-a] Guidance for Registration Requirements for Pheromones and Other Semiochemicals Used for Arthropod Pest Control. OECD Series on Pesticides, Number 12. Organization for Economic Cooperation and Development. February 26, 2002.

16. U.S. EPA, 2000. ''p-Menthane-3,8-diol (011550) Biopesticide Registration Eligibility Document.'' BPPD/OPP/U.S. EPA, Washington, D.C. Issued May, 2000.

17. OECD [2002–b] Registration of Agricultural Pesticides, Biological Pesticides—Progress on Development of Dossier/Monograph Guidance for Microbials and Pheromones. Working Group on Pesticides. Organization for Economic Cooperation and Development. January 3, 2002.

18. U.S. EPA, 2002. ''Supporting Statement for an Information Collection Request: Tolerance Petitions for Pesticides on Food/Feed Crops and New Inert Ingredients.'' OMB Control No. 2070–0024, EPA ICR No. 0597. OPP/U.S. EPA, Washington, D.C.

19. U.S. EPA, 2002. ''Supporting Statement for an Information Collection Request: Application for New or Amended Pesticide Registration.'' OMB Control No. 2070–0060, EPA ICR No. 0277. OPP/U.S. EPA, Washington, D.C.

20. U.S. EPA, 2001. ''Supporting Statement for an Information Collection Request: ''Data Generation for Reregistration; Phase 4 and 5 Reregistration.'' OMB Control No. 2070–0107, EPA ICR No. 1504. OPP/U.S. EPA, Washington, D.C.

21. U.S. EPA, 2001. ''Supporting Statement for an Information Collection Request: Data Call-Ins for the Special Review and Registration Review Programs.'' OMB Control No. 2070–0057, EPA ICR No. 0057. OPP/U.S. EPA, Washington, D.C.

22.U.S. EPA, 2004. ''Supporting Statement for an Information Collection Request: Plant- Incorporated Protectants; CBI Substantiation and Adverse Effects Reporting.'' OMB Control No. 2070–0142, EPA ICR No. 1693, Washington, D.C.

23. U.S. EPA, 2005. Protections for Subjects in Human Research: Final Rule. (71 FR 6138, February 6, 2006). Document ID No. OPP–2003–0132.

XVI. FIFRA Review Requirements

In accordance with FIFRA section 25(a), the Agency submitted a draft of this proposed regulation to the FIFRA SAP, the USDA, the Committee on Agriculture in the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate.

The FIFRA SAP waived its review of this proposal because the significant scientific issues involved have already been reviewed by the SAP and additional review isn't necessary. USDA participated fully in the interagency review process under Executive Order 12866, during which EPA and USDA discussed the registration process of microbial pesticides and the need for a coordination process when an APHIS movement permit under 7 CFR part 340 is required by USDA. As a part of related comments, USDA suggested that the Agency consider requiring the registrants to submit a copy of the applicable APHIS permits as part of the registration application for a microbial pesticide because it would facilitate coordination and improve compliance with the applicable USDA requirements. As discussed in Unit IIX., the Agency is specifically seeking public comment on the most appropriate method to ensure APHIS permitting and EPA registrations are properly coordinated.

XVII. Regulatory Assessment

A. Regulatory Planning and Review

Under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) has determined that this proposed rule is a ''significant regulatory action'' because the proposed revision of the existing regulation to update the data requirements may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Accordingly, EPA submitted this proposed rulemaking to OMB for review under Executive Order 12866 and any changes made in response to OMB comments have been documented in the docket for this rulemaking as required by sec. 6(a)(3)(E) of the Executive Order.

In addition, EPA has prepared an economic analysis of the potential costs, benefits, and impacts associated with this proposed action, which is contained in a document entitled Economic Analysis of the Proposed Rule Changing Data Requirements for Biochemical and Microbial Pesticides (Ref. 6). A copy of this Economic Analysis is available in the docket for this action, and is briefly summarized here.

The economic analysis considered the incremental effects between the baseline and future biochemical and microbial pesticide registration activity based on the proposed rule and two alternatives. All costs associated with presently codified 40 CFR part 158 data requirements applicable to biochemical and microbial pesticides were considered in the baseline. Future biochemical and microbial registration activity and associated costs were calculated based on a historical examination of actual pesticide registration actions between 1997 and 2004 combined with anticipated effects of new, revised, or modified 40 CFR part 158 subparts L and M data requirements. Review of 1997 to 2004 registration activity considered the type and frequency of the various biochemical and microbial pesticide registration actions that occurred, the related applicability of the various data requirements for those actions, the type and regularity of waivers granted by EPA for certain data requirements, and information about the applicants involved in those actions. Where applicable, these trends and patterns were used to predict future registration activity. Additional effects of the proposed rule due to newly proposed, revised, or modified 40 CFR part 158 subparts L and M data requirements were estimated based on EPA experience and best judgment.

Most of the data requirements contained in this proposal have been applied on a case-by-case basis over the years to reflect the evolution of scientific understanding and concerns. The proposed revisions include newly codified data requirements (i.e., data requirements that are not currently in part 158, but have been, in practice, required on a case-by-case basis), changes to existing requirements (i.e., a change in frequency with which a currently codified data requirement would be imposed. For example, a change from conditionally-required to required, or visa versa, or a change in use pattern for an existing requirement), and newly imposed data requirements (i.e., data requirement have never been previously imposed).

To calculate the potential costs associated with this proposal, EPA first identified the tests necessary to generate the data required, and then gathered information on the prices that laboratories typically charge a firm to conduct these tests. The prices varied

depending on conditions specific to the substance tested. Variations can be related to differences in the assumptions about the test performed (e.g., protocol, species used), or can simply be a difference in the price charged by the laboratory. Average, high, and low cost estimates were obtained for each test where possible. EPA assumed that the data required would always need to be newly generated, but often the data are already available because the registrant generated it for its own use. In such cases, the firm would simply need to submit those data to EPA, which involves less burden than generating it.

EPA then used historical data on pesticide registration actions that occurred over an eight year period (1997–2004) to identify the entities that sought pesticide registration actions in the past (Ref. 12). The data required for each registration action depends on several factors, including the type of registration action (e.g., registration of a new active ingredient food use, registration of a new active ingredient non-food use, registration and amendments to registrations involving a major new use) and use pattern (how the product will be used). To estimate the average incremental cost of a new registration, a baseline testing rate (i.e., the percentage of time a particular test was historically required under the current rule) was estimated by EPA scientists based on their past experience with biochemical and microbial pesticide registrations and their involvement in developing the new data requirements. This baseline data requirement rate was compared with the percentage of time each test was required for registrations between 1997 and 2004. EPA assumes that under the proposed rule, data requirements would be imposed at the same frequency they have been required from 1997 to 2004. Additionally, EPA scientists estimated the frequency that newly imposed data requirements would be required.

Part of the Economic Analysis included preparation of an industry profile using the same historical data on pesticide registration actions to identify the companies involved in those actions, and based it on public information gathered about those companies. EPA also used this industry profile to analyze the potential impacts of the proposed rule on small businesses, the results of which are summarized in Unit XVII.C. The incremental costs and a more detailed discussion of the estimating methodology employed in the analysis are presented in the economic impact analysis prepared for this proposed rule (Ref. 6).

Using the currently codified requirements as the baseline for the impact analysis, the total annual impact to the pesticide industry is estimated to be a regulatory compliance cost reduction of about $3.04 million per year, with an estimated average cost reduction of $60,000 per firm per year.

EPA also considered a low cost alternative and a high cost alternative to the proposed rule. The low cost alternative would waive certain data requirements for biochemical pesticides and reduce the rate at which certain data requirements are required for microbial pesticides. The estimated impact of the low cost alternative is estimated to be a regulatory compliance cost reduction approximately $3.20 million, with an estimated average cost reduction of $63,000 per firm per year. The high cost alternative would require certain groups of data requirements 100 percent of the time, removing the discretion of Agency scientists to decide if the data are needed for a specific registration. This alternative would result in an estimated annual cost increase over current rule requirements of approximately $3.44 million per year, or an estimated cost increase of $67,000 per firm.

The estimated potential costs of the proposed rule acknowledges registrant is likely to request that the Agency waive certain data requirements if the registrant believes that the data are not necessary for determining the effects of a pesticide on human health and the environment. EPA estimated the annual cost savings due to waived data requirements based on both the historical rate and type of waivers granted for the period from 1997–2004, and on an analysis of how the proposed rule is expected to modify the rate at which waivers are granted. EPA estimated that the annual cost savings due to waived data requirements based on the historic waiver rates to be approximately $29.6 million, or $580,000 per firm per year. At the modified waiver rates predicted under the proposed rule, EPA estimated an annual cost savings of $23.96 million, or $470,000 per firm per year.

Since the likely impact of the proposed rule on businesses overall is expected to be mostly beneficial, the Agency believes that the rule would have no effect on the availability of pesticides to users. On balance, the Agency believes that cost savings resulting from the proposed changes to 40 CFR part 158 subparts L and M can be realized without compromising the protection of human health and the environment.

B. Paperwork Reduction Act

This proposed rule does not contain any information collection requirements that require additional approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., an agency may not conduct or sponsor, and a person is not required to respond to an information collection request unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations contained in Title 40 of the CFR, after appearing in the preamble of the final rule, may be listed in 40 CFR part 9, and included on the related collection instrument (e.g., form or survey).

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

EPA has determined that this proposed rule imposes no additional information collection and paperwork burden. The information collection requirements, i.e., the paperwork collection activities, contained in this proposal related to the new data necessary to register a pesticide product are already approved by OMB under several existing information collection requests (ICR). Specifically, the program activities which would generate a paperwork burden under this proposal are covered by the following ICRs:

The activities associated with the establishment of a tolerance are currently approved under OMB Control No. 2070–0024 (EPA ICR No. 0597) (Ref. 18);

The activities associated with the application for a new or amended registration of a pesticide are currently approved under OMB Control No. 2070–0060 (EPA ICR No. 0277) (Ref. 19);

The activities associated with the generation of data for reregistration are currently approved under OMB Control

No. 2070–0107 (EPA ICR No. 1504) (Ref. 20);

The activities associated with the generation of data for special review or registration review are currently approved under OMB Control No. 2070–0057 (EPA ICR No. 0922) (Ref. 21); and

Notification of genetically modified microbial pesticides. OMB Control No. 2070–0142 (EPA ICR No. 1693) (Ref. 22).

These existing ICRs cover the paperwork activities contained in this proposal because these activities already occur as part of existing program activities. These program activities are an integral part of the Agency pesticide program and the corresponding ICRs are regularly renewed as required under the PRA, such that these OMB Control Nos. are maintained valid. The approved burden in these ICRs were increased in 1996 to accommodate the potential increased burden related to the implementation of the new safety standard imposed in 1996 by FQPA and additional burden revisions related to the proposed rule are not necessary.

Based on these existing approvals, the Agency estimates that the total average annual public reporting burden currently approved by OMB for these various activities ranges from 8 hours to approximately 3,000 hours per respondent, depending on the activity and other factors surrounding the particular pesticide product. Additional information about this estimate is provided in the Economic Analysis for this rulemaking.

Direct your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, to EPA using the docket that has been established for this proposed rule (docket ID number EPA–HQ–OPP–2004–0415) at *http://www.epa.gov/edocket/.*

The Agency will consider and address comments received on the information collection requirements contained in this proposal when it develops the final rule.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., after considering the potential economic impacts of today's proposed rule on small entities, the Agency hereby certifies that this proposal will not have a significant adverse economic impact on a substantial number of small entities. This determination is based on the Agency's economic analysis performed for this rulemaking, which is summarized in Unit XVII.A., and a copy of which is available in the docket for this rulemaking. The following is a brief summary of the factual basis for this certification.

Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined in accordance with the RFA as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

Based on the industry profile that EPA prepared using historical data as part of the Economic Analysis prepared for this rulemaking, EPA has determined that this proposed rule is not expected to impact any small not-for-profit organizations or small governmental jurisdictions. As such, the small entity impacts analysis prepared as part of the economic analysis evaluated potentially impacted businesses that could be considered small businesses as defined by the Small Business Administration, which uses the maximum number of employees or sales for businesses in each industry sector, as that sector is defined by NAICS. For example, entities defined as Pesticide and Other Agricultural Chemical Manufacturing (325320) are considered to be a small business if they employ 500 or fewer people.

EPA then used historical data to estimate the impacts of the proposed rule on these small businesses. Out of 51 firms with biochemical or microbial registration actions between 1997 to 2004, financial data for determining company size was available for 40 firms, with 23 of those firms classified as small businesses. According to the analysis, all of these small entities would have realized a reduction in costs based on the proposed rule changes compared to the current part 158 data requirements. Given these estimated impacts on small businesses, EPA concluded that the proposed revisions may benefit and would not likely have a significant adverse economic impact on a substantial number of small entities.

Nonetheless, EPA is particularly interested in receiving comment from small businesses as to the estimated cost savings, expected benefits, and overall impacts of this proposed rule. Any comments regarding the economic impacts that this proposed regulatory action may impose on small entities should be submitted to the Agency in the manner specified in the **ADDRESSES** section.

D. Unfunded Mandates Reform Act

Under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4), EPA has determined that this action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. As described in Unit XVII, the total annual impact to the pesticide industry is estimated to be a regulatory compliance cost reduction of about $3.04 million per year. In addition, since State, local, and tribal governments are rarely a pesticide applicant or registrant, the proposed rule is not expected to significantly or uniquely affect small governments.

Accordingly, this action is not subject to the requirements of sections 202 and 205 of UMRA.

E. Federalism Implications

Pursuant to Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999), EPA has determined that this proposed rule does not have ''federalism implications,'' because it would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Order. Because instances where a State is a registrant are extremely rare, this proposed rule may seldom affect a State government. Thus, Executive Order 13132 does not apply to this proposed rule. In the spirit of the Order, and consistent with EPA policy to promote communications between the Agency and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

F. Tribal Implications

As required by Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000), EPA has determined that this proposed rule does not have tribal implications because it would not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution

of power and responsibilities between the Federal government and Indian tribes, as specified in the Order. At present, no tribal governments hold, or have applied for, a pesticide registration. Thus, Executive Order 13175 does not apply to this proposed rule. In the spirit of the Order, and consistent with EPA policy to promote communications between the Agency and tribal governments, EPA specifically solicits comment on this proposed rule from tribal officials.

G. Protection of Children

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) does not apply to this proposed rule because this action is not designated as an ''economically significant'' regulatory action as defined by Executive Order 12866 (see Unit XVII.A.). Further, this proposal does not establish an environmental standard that is intended to have a negatively disproportionate effect on children. To the contrary, this action would provide added protection for children from pesticide risk. The proposed data requirements are intended to address risks that, if not addressed, could have a disproportionate negative impact on children. EPA would use the data and information obtained by this proposed rule to carry out its mandate under FFDCA to give special attention to the risks of pesticides to sensitive subpopulations, especially infants and children.

H. Energy Implications

This rule is not subject to Executive Order 13211, entitled Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) because it is not likely to have any significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, etc.) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This regulation proposes the types of data to be required to support conventional pesticide registration but does not propose to require specific methods or standards to generate those data. Therefore, this proposed regulation does not impose any technical standards that would require Agency consideration of voluntary consensus standards. The Agency invites comment on its conclusion regarding the applicability of voluntary consensus standards to this rulemaking.

J. Environmental Justice

This proposed rule does not have an adverse impact on the environmental and health conditions in low-income and minority communities. Therefore, under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), the Agency has not considered environmental justice-related issues.

List of Subjects

40 CFR Part 158

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

40 CFR Part 172

Confidential business information, Pesticides and pests, Reporting and recordkeeping requirements, Administrative practice and procedure, Agricultural commodities, Intergovernmental relations, Labeling.

Dated: March 1, 2006.

Stephen L. Johnson,

Administrator.

Therefore, it is proposed that 40 CFR chapter I, parts 158 and 172 be amended as follows:

PART 158—[AMENDED]

1. By revising the authority citation for part 158 to read as follows:

Authority: 7 U.S.C. 136–136y; 21 U.S.C. 346a.

2. By adding § 158.3 to part 158, subpart A to read as follows:

§ 158.3 Definitions.

All terms defined in sec. 2 of the Federal Insecticide, Fungicide, and Rodenticide Act apply to this part and are used with the meaning given in the Act. Applicable terms from the Federal Food, Drug, and Cosmetic Act also apply to this part. Individual subparts may contain definitions that pertain solely to that subpart. The following additional terms apply to this part:

Active ingredient means any substance (or group of structurally similar substances, if specified by the Agency) that would prevent, destroy, repel or mitigate any pest, or that functions as a plant regulator, desiccant, defoliant, or nitrogen stabilizer, within the meaning of FIFRA section 2(b).

End-use product means a pesticide product whose labeling:

(1) Includes directions for use of the product (as distributed or sold, or after combination by the user with other substances) for controlling pests or defoliating, desiccating or regulating growth of plants, or as a nitrogen stabilizer, and

(2) Does not state that the product may be used to manufacture or formulate other pesticide products.

Formulation means: (1) The process of mixing, blending, or dilution of one or more active ingredients with one or more other active or inert ingredients, without an intended chemical reaction, to obtain a manufacturing-use product or an end-use product, or

(2) The repackaging of any registered product.

Impurity means any substance (or group of structurally similar substances if specified by the Agency), in a pesticide product other than an active ingredient or an inert ingredient, including unreacted starting materials, side reaction products, contaminants, and degradation products.

Impurity associated with an active ingredient means:

(1) Any impurity present in the technical grade of active ingredient; and

(2) Any impurity which forms in the pesticide product through reactions between the active ingredient and any other component of the product or packaging of the product.

Inert ingredient means any substance (or group of structurally similar substances if designated by the Agency), other than the active ingredient, which is intentionally included in a pesticide product.

Integrated system means a process for producing a pesticide product that:

(1) Contains any active ingredient derived from a source that is not an EPA-registered product; or

(2) Contains any active ingredient that was produced or acquired in a manner that does not permit its inspection by the Agency under FIFRA sec. 9(a) prior to its use in the process.

Manufacturing-use product means any pesticide product other than an end-use product. A product may consist of the technical grade of active

ingredient only, or may contain inert ingredients, such as stabilizers or solvents.

Starting material means a substance used to synthesize or purify a technical grade of active ingredient (or the practical equivalent of the technical grade ingredient if the technical grade cannot be isolated) by chemical reaction.

Technical grade of active ingredient means a material containing an active ingredient:

(1) Which contains no inert ingredient, other than one used for purification of the active ingredient; and

(2) Which is produced on a commercial or pilot plant production scale (whether or not it is ever held for sale).

§ 158.65 [Removed]

3. By removing § 158.65.

4. By adding subparts L and M to part 158 to read as follows:

Subpart L—Biochemical Pesticides

Sec.
158.900 Biochemical pesticides subject to subpart L.
158.910 Biochemical pesticides data requirements.
158.930 Product chemistry data requirements table.
158.940 Residue data requirements table.
158.950 Human health assessment data requirements table.
158.960 Nontarget organisms and environmental fate data requirements table.
158.970 Biochemical pesticides product performance data requirements.

Subpart M— Microbial Pesticides

Sec.
158.1000 Definition and applicability.
158.1010 Microbial pesticide data requirements.
158.1020 Product analysis data requirements table.
158.1030 Residue data requirements table.
158.1040 Toxicology data requirements table.
158.1050 Nontarget organisms and environmental fate data requirements table.
158.1060 Microbial pesticides product performance data requirements.

Subpart L—Biochemical Pesticides

§ 158.900 Biochemicalpesticides subject to subpart L.

(a) This subpart applies to all biochemical pesticides as defined in paragraphs (b), (c) and (d) of this section.

(b) *Definition*. A *biochemical pesticide* is a pesticide that:

(1) Is a naturally-occurring substance or structurally-similar and functionally identical to a naturally-occurring substance;

(2) Has a history of exposure to humans and the environment demonstrating minimal toxicity, or in the case of a synthetically-derived biochemical pesticides, is equivalent to a naturally-occurring substance that has such a history; and

(3) Has a non-toxic mode of action to the target pest(s).

(c) *Pheromone* is a compound produced by a living organism which, alone or in combination with other such compounds, modifies the behavior of other individuals of the same species.

(1) *Arthropod pheromone* is a pheromone produced by a member of the taxonomic phylum Arthropoda.

(2) *Lepidopteran pheromone* is an arthropod pheromone produced by a member of the insect order Lepidoptera.

(3) *Straight Chain Lepidopteran pheromone* is a lepidopteran pheromone designated by an unbranched aliphatic chain (between 9 and 18 carbons) ending in an alcohol, aldehyde, or acetate functional group and containing up to three bonds in the aliphatic backbone.

(d) *Examples*. Biochemical pesticides include, but are not limited to:

(1) Semiochemicals (insect pheromones and kairomones),

(2) Natural plant and insect regulators,

(3) Naturally-occurring repellents and attractants, and

(4) Enzymes

(e) *Applicability*. The Agency may review on a case-by-case basis, naturally-occurring pesticides that do not clearly meet the definition of a biochemical in an effort, to ensure, to the greatest extent possible, that only the minimum testing sufficient to make scientifically sound regulatory decisions would be conducted. The Agency will reviewapplications for registration of naturally-occurring pesticides to determine whether to review the pesticide under this subpart L.

§ 158.910 Biochemicalpesticides data requirements.

(a) Sections 158.930 through 158.970 identify the data requirements that are required to support registration of biochemical pesticides. Variations in the test conditions are identified within the test notes. Definitions that apply to all biochemical data requirements can be found in§ 158.930.

(b) Each data table includes ''use patterns'' under which the individual data are required, with variations including food and nonfood uses for terrestrial and aquatic applications, greenhouse, indoor, forestry, and residential outdoor applications under certain circumstances.

(c) The categories for each data requirement are ''R'', which stands for required, and ''CR'' which stands for conditionally required. If a bracket appears around the R or CR, the data are required for both the registration and experimental use permit requests. Generally, ''R'' indicates that the data are more likely required than forthose data requirements with CR. However, in each case, the regulatory text preceding the data table and the test notes following the data table must be used to determine whether the data requirement must be satisfied.

(d) Each table identifies the test substance that is required to be tested to satisfy the data requirement. Test substances may include: technical grade active ingredient (TGAI), manufacturing-use product (MP), end-use product (EP), typical end-use product (TEP), residue of concern, and pure active ingredient (PAI) or (All) indicating all of the above. Commasbetween the test substances (i.e., TGAI, EP) indicate that data may be required on the TGAI or EP or both depending on the conditions set forth in the test note. Data requirements which list two test substances (i.e., TGAI and EP) indicate that both are required to be tested. Data requirements that list only the manufacturing product (MP) as the test substance apply toproducts containing solely the technical grade of the active ingredient and manufacturing-use products to which other ingredients have been intentionally added. Data requirements listing the EP as the test substance apply to any EP with an ingredient in the end-use formulation other than the active ingredient that is expected to enhance the toxicity of the product.

(e) The data requirements are organized into a tier-testing system with specified additional studies at higher tiers being required if warranted by adverse effects observed in lower tier studies. The lower tier studies are a subset of those required for conventional pesticides, and the studies overall are generally selected from those required for conventional pesticides.

(f) Two sets of guideline numbers are provided for some of the environmental fate data requirements. For ease of understanding, the current guidelines will be used as an interim measure until the new guidelines (in parentheses) are finalized.

§ 158.930 Product chemistrydata requirements table.

(a) *General*. (1) Sections 158.100 through 158.130 describe how to use this table to determine the product chemistry data requirements for a particular pesticide product. Notes that apply to an individual test and include specific conditions, qualifications, or exceptions to the designated test are listed in paragraph (e) of the section.

(2) Depending on the results of the required product chemistry studies, appropriate use restrictions, labeling requirements, or special packaging requirements may be imposed.

(3) All product chemistry data, as described in this section, are required to be submitted to support a request for an experimental use permit.

(b) *Use patterns*. Product chemistry data are required for all pesticide products and are not use specific.

(c) *Key*. R=Required; [R]=Required for registrations andexperimental use permits; CR=Conditionally required; [CR]=Conditionally required for registrations and experimental use permits; NR=Not required; MP=Manufacturing-use product; EP=End-use product; TEP=Typical end-use product; TGAI=Technical grade of the active ingredient; Residue of concern= the active ingredient and its metabolites, degradates, and impurities of toxicological concern; All= all of the above. Specific conditions, qualifications, or exceptions to the designated test procedures appear in paragraph (e) of this section, and apply to the individual tests in the following table:

(d) *Table*. The following table shows the data requirements for biochemical product chemistry. The test notes are shown in paragraph (e) of this section.

TABLE—BIOCHEMICAL PRODUCT CHEMISTRY DATA REQUIREMENTS

Guideline Number	Data Requirement	All Use Patterns	Test Substance to support		Test notes
			MP	EP	
Product Identity and Composition					
880.1100	Product identity and composition	[R]	TGAI, MP	TGAI, EP	1,2
880.1200	Description of starting materials, production and formulation process	[R]	TGAI, MP	TGAI, EP	2,3
880.1400	Discussion of formation of impurities	[R]	TGAI and MP	TGAI and MP	4
Analysis and Certified Limits					
830.1700	Preliminary analysis	[CR]	TGAI and MP	TGAI and MP	5,8
830.1750	Certified limits	[R]	MP	EP	6
830.1800	Enforcement analytical method	[R]	MP	EP	7
Physical and Chemical Characteristics					
830.6302	Color	[R]	TGAI	TGAI	8
830.6303	Physical state	[R]	TGAI	TGAI and EP	8
830.6304	Odor	[R]	TGAI	TGAI	8
830.6313	Stability to normal and elevated temperatures, metals and metal ions	[R]	TGAI	TGAI	8,17
830.6315	Flammability	[CR]	MP	EP	9
830.6317	Storage stability	[R]	MP	EP	—
830.6319	Miscibility	[CR]	MP	EP	10
830.6320	Corrosion characteristics	[R]	MP	EP	—
830.7000	pH	[CR]	TGAI and MP	TGAI and EP	8,11
830.7050	UV/Visible light absorption	[R]	TGAI	TGAI	—
830.7100	Viscosity	[CR]	MP	EP	12
830.7200	Melting point/melting range	[CR]	TGAI	TGAI	8,13
830.7220	Boiling point/boiling range	[CR]	TGAI	TGAI	8,14

TABLE—BIOCHEMICAL PRODUCT CHEMISTRY DATA REQUIREMENTS—Continued

Guideline Number	Data Requirement	All Use Patterns	Test Substance to support		Test notes
			MP	EP	
830.7300	Density/relative density/bulk density	[R]	TGAI and MP	TGAI and EP	8,18
830.7520	Particle size, fiber length, and diameter distribution	[CR]	TGAI	TGAI	8,15
830.7550 830.7560 830.7570	Partition coefficient (n-Octanol /Water)	[CR]	TGAI	TGAI	16
830.7840	Water solubility	[R]	TGAI	TGAI	8
830.7950	Vapor pressure	[R]	TGAI	TGAI	8,19

(e) *Test notes*. The following test notes are applicable to the data requirements for biochemical product chemistry and are referenced in the last column of the table in paragraph (d) of this section.

1. Data must be provided in accordance with § 158.320.
2. If the MP and EP are produced by an integrated formulation system(non-registered source), these data are also required on TGAI.
3. Data must be provided in accordance with § 158.325,§ 158.330, and § 158.335.
4. Data must be provided in accordance with § 158.340.
5. Data must be provided in accordance with § 158.345. Also, required to support the registration of each manufacturing-use product (including registered TGAIs) and end-use products produced by an integrated formulation system. Data on other end-use products would be required on a case-by-case basis. For pesticides in the production stage, a preliminary product analytical method and data would suffice to support an experimental use permit.
6. Data must be provided in accordance with § 158.350.
7. Data must be provided in accordance with § 158.355.
8. If the TGAI cannot be isolated, data are required on the practical equivalent of the TGAI. EP testing may also be appropriate.
9. Required if the product contains combustible liquids.
10. Required if the product is an emulsifiable liquid and is to be diluted with petroleum solvents.
11. Required if the test substance is soluble or dispersible in water.
12. Required if the product is a liquid.
13. Required when the technical chemical is a solid at room temperature.
14. Required when the technical chemical is a liquid at room temperature.
15. Required for water insoluble test substances ($<10^{-6}$ g/l) andfibrous test substances with diameter ≥0.1 μm.
16. Required for organic chemicals unless they dissociate in water or are partially or completely soluble in water.
17. Data on the stability to metals and metal ions is required only if the active ingredient is expected to come in contact with either material during storage.
18. True density or specific density are required for all test substances. Data on bulk density is required for MPs or EPs that are solid at room temperature.
19. Not required for salts.

§ 158.940 Residue datarequirements table.

(a) *General*. Sections 158.100 through § 158.130 describe how to use this table to determine the biochemical pesticides residue data requirements for a particular pesticide product and the substance that needs to be tested. These data requirements apply to all biochemicals, e.g., semiochemicals, natural plant and insect regulators, naturally-occurring repellents and attractants, and enzymes. Notes that apply to an individual test and include specific conditions, qualifications, or exceptions to the designated test are listed in paragraph (e) of this section.

(b) *Use patterns*. (1) Data are required or conditionally required for all pesticides used in or on food and for residential outdoor uses where food crops are grown. Food use patterns include products classified under the general use patterns of terrestrial food crop use, terrestrial feed crop use, aquatic food crop use, greenhouse food crop use, and indoor food use. Data are also conditionally required for aquatic nonfood use if there is direct application to water.

(2) Data may be required for nonfood uses if pesticide residues may occur in food or feed as a result of the use. Data requirements for these nonfood uses would be determined on a case-by-case basis. For example, most products used in or near kitchens require residue data for risk assessment purposes even though tolerances may not be necessary in all cases. Food uses in general require a more extensive database to characterize the extent of the exposure, whereas nonfood uses which are of shorter duration, may require fewer studies. Uses include products classified under the general use patterns of terrestrial and aquatic food use, greenhouse food use, indoor food use, and indoor residential use.

(c) *Key*. R=Required; [R]=Required for registrations andexperimental use permits; CR=Conditionally required; [CR]=Conditionally required for registrations and experimental use permits; NR=Not required; MP=Manufacturing-use product; EP=End-use product; TEP=Typical end-use product; TGAI=Technical grade of the active ingredient; Residue of concern= the active ingredient and its metabolites, degradates, and impurities of toxicological concern; All= all of the above. Specific conditions, qualifications, or exceptions to the designated test procedures appear in paragraph (e) of this section, and apply to the individual tests in the following table:

(d) *Table*. The following table shows the data requirements for biochemical residue for specific uses. The test notes are shown in paragraph (e) of this section.

TABLE—BIOCHEMICAL RESIDUE DATA REQUIREMENTS FOR SPECIFIC USES

Guideline Number	Data Requirement	Use patterns containing data requirements				Test Substance	Test notes
		Terrestrial Food/Feed	Aquatic Food	Greenhouse Food	Indoor Food		
Supporting Information							
860.1100	Chemical identity	[CR]	[CR]	[CR]	[CR]	TGAI	1,2,4
860.1200	Directions for use	[CR]	[CR]	[CR]	[CR]	TGAI	1,3,4
Nature of Residue							
860.1300	Nature of the residue in plants	[CR]	[CR]	[CR]	[CR]	TGAI	1,4,5,6
860.1300	Nature of the residue in livestock	[CR]	[CR]	[CR]	[CR]	TGAI	1,7,8,10
860.1340	Residue analytical method-plants Residue analytical method-livestock	CR	CR	R	[CR]	Residue of concern	4,9,10
860.1360	Multiresidue method	CR	CR	R	CR	Residue of concern	10,11
Magnitude of the Residue							
860.1400	Potable water	NR	[CR]	NR	NR	TGAI	1,12
860.1400	Fish	NR	[CR]	NR	NR	TGAI	1,13
860.1400	Irrigated crops	NR	[CR]	NR	NR	TGAI	1,14
860.1460	Food handling	NR	NR	NR	[CR]	TGAI	1,15
860.1480	Meat/milk/poultry/eggs	[CR]	[CR]	[CR]	[CR]	TGAI or plant metabolites	1,7,8,10
860.1500	Crop field trials	[CR]	[CR]	[CR]	[CR]	TGAI	1,3,4
860.1520	Processed food/feed	[CR]	[CR]	[CR]	[CR]	TGAI	1,16
860.1540	Anticipated residues	[CR]	[CR]	[CR]	[CR]	Residue of concern	1,10,17
860.1550	Proposed tolerances	[CR]	[CR]	[CR]	[CR]	Residue of concern	1,18
860.1560	Reasonable grounds in support of the petition	[CR]	[CR]	[CR]	[CR]	Residue of concern	1,10
860.1650	Submittal of analytical reference standards	[CR]	[CR]	[CR]	[CR]	TGAI	10,19

(e) *Test notes.* The following test notes are applicable to the data requirements for biochemical residue for specific uses as referenced in the last column of the table contained in paragraph (d) of this section.

1. Residue chemistry data requirements apply to biochemical pesticide products when Tier II or Tier III toxicology data are required, as specified for biochemical agents in the biochemical human health assessment data requirements, § 158.950.

2. The same chemical identity data are required for biochemical product chemistry data requirements,§ 158.930 with an emphasis on impurities.

3. Required information includes crops to be treated, rate of application, number and timing of applications, preharvest intervals, and relevant restrictions.

4. Residue data for outdoor residential uses are required if home gardens are to be treated and the home garden use pattern is different from use patterns where tolerances have been established.

5. Required unless it is an arthropod pheromone applied at a rate less than or equal to 150 grams active ingredient per acre.

6. Required for indoor uses where the pesticide is applied directly to food, in order to determine metabolites and/or degradates.

7. Data on metabolism in livestock are required when residues occur on a livestock feed or if the pesticide is to be applied directly to livestock. If results from the plant metabolism study show differing metabolites in plants from those found in animals, an additional livestock metabolism study involving dosing with the plant metabolite(s) may also be required.

8. Livestock feeding studies are required whenever a pesticide residue is present in livestock feed or when direct application to livestock uses occurs.

9. A residue method suitable for enforcement of tolerances is required whenever a numeric tolerance is proposed.

10. Required for indoor uses if the indoor use could result in pesticide residues in or on food or feed.

11. Data are required to determine whether FDA/USDA multiresidue methodology would detect and identify the pesticides and any metabolites.

12. Data on residues in potable water are required whenever a pesticide is to be applied directly to water, unless it can be determined that the treated water would not be used (eventually) for drinking purposes, by man or animals.

13. Data on residues in fish are required whenever a pesticide is to be applied directly to water inhabited, or that will be inhabited, by fish that may be caught or harvested for human consumption.

14. Data on residues in irrigated crops are required when a pesticide is to be applied directly to water that could be used for irrigation or to irrigation facilities such as irrigation ditches.

15. Data on residues in food/feed in food handling establishments are required whenever a pesticide is to be used in food/feed handling establishments.

16. Data on the nature and level of residue in processed food/feed are required when detectible residues could concentrate on processing.

17. Anticipated residue data are required when the assumption of tolerance level residues would result in predicted exposure at an unsafe level of exposure. Data on the level or residue in food as consumed would be used to obtain a more precise estimate of potential dietary exposure.

18. The proposed tolerance must reflect the maximum residue likely to occur in crops in meat, milk, poultry, or eggs.

19. Required when a residue analytical method is required.

§ 158.950 Human healthassessment data dequirements table.

(a) *General.* (1) Sections 158.100 through 158.130 describe how to use this table to determine the human health assessment data requirements for a particular pesticide product.

(2) The data in this section (158.950) are not required for straight chain lepidopteran pheromones when applied up to a maximum use rate of 150 grams active ingredient/acre/year.

(b) *Use patterns.* (1) Food use patterns, in general, include products classified under the following general uses: terrestrial food crop use; terrestrial feed crop use; aquatic food crop use; greenhouse food crop use.

(2) Nonfood use patterns include products classified under the general use patterns of terrestrial nonfood crop use; aquatic nonfood residential use; aquatic nonfood outdoor use; aquatic nonfood industrial use; greenhouse nonfood crop use; forestry use; residential outdoor use; residential indoor use; indoor food use; indoor nonfood use; indoor medical use.

(c) *Key.* R=Required; [R]=Required for registrations and experimental use permits; CR=Conditionally required; [CR]=Conditionally required for registrations and experimental use permits; NR=Not required; MP=Manufacturing-use product; EP=End-use product; TEP=Typical end-use product; TGAI=Technical grade of the active ingredient; Residue of concern= the active ingredient and its metabolites, degradates, and impurities of toxicological concern; All= all of the above. Specific conditions, qualifications, or exceptions to the designated test procedures appear in paragraph (e) of this section, and apply to the individual tests in the following table:

(d) *Table.* The following table shows the data requirements for biochemical human health assessment. The test notes are shown in paragraph (e) of this section.

TABLE—BIOCHEMICAL HUMAN HEALTH ASSESSMENT DATA REQUIREMENTS

Guideline Number	Data Requirement	Use Patterns		Test substance to support		Test notes
		Food	Nonfood	MP	EP	
Tier I						
Acute Testing						
870.1100	Acute oral toxicity-rat	[R]	[R]	TGAI and MP≤	TGAI and EP	1
870.1200	Acute dermal toxicity	[R]	[R]	TGAI and MP	TGAI and EP	1,2
870.1300	Acute inhalation toxicity—rat	[R]	[R]	TGAI and MP	TGAI and EP	3
870.2400	Primary eye irritation—rabbit	[R]	[R]	TGAI and MP	TGAI and EP	2
870.2500	Primary dermal irritation	[R]	[R]	TGAI and MP	TGAI and EP	1,2
870.2600	Dermal sensitization	R	R	TGAI and MP	TGAI and EP	2,4
none	Hypersensitivity incidents	[R]	[R]	All	All	5
Subchronic Testing						
870.3100	90-day oral (one species)	[R]	CR	TGAI	TGAI	6
870.3250	90-day dermal—rat	CR	CR	TGAI	TGAI	7
870.3465	90-day inhalation—rat	CR	CR	TGAI	TGAI	8
Developmental Toxicity						

TABLE—BIOCHEMICAL HUMAN HEALTH ASSESSMENT DATA REQUIREMENTS—Continued

Guideline Number	Data Requirement	Use Patterns		Test substance to support		Test notes
		Food	Nonfood	MP	EP	
870.3700	Prenatal developmental—rat preferably	[R]	[CR]	TGAI	TGAI	9
Mutagenicity Testing						
870.5100	Bacterial reverse mutation test	[R]	[CR]	TGAI	TGAI	10
870.5300	*In vitro* mammalian cell gene mutation test	[R]	[CR]	TGAI	TGAI	10,11
Tier II						
Mutagenicity Testing (*In vivo* cytogenetics)						
870.5385	Mammalian bone marrow chromosomal aberration	CR	CR	TGAI	TGAI	13
870.5395	Mammalian erythrrocyte micronucleus	CR	CR	TGAI	TGAI	13
Developmental Toxicity						
870.3700	Prenatal developmental	[CR]	[CR]	TGAI	TGAI	9
Special Tests						
880.3550	Immunotoxicity	CR	CR	TGAI	TGAI	12,13
Applicator/User Exposure						
875.1000	Background for application exposure monitoring test guidelines	CR	CR	TGAI	TGAI	15
875.1100	Dermal outdoor exposure	CR	CR	TGAI	TGAI	15
875.1200	Dermal indoor exposure	CR	CR	TGAI	TGAI	15
875.1300	Inhalation outdoor exposure	CR	CR	TGAI	TGAI	15
875.1400	Inhalation indoor exposure	CR	CR	TGAI	TGAI	15
875.1500	Biological monitoring	CR	CR	TGAI	TGAI	15
875.1700	Product use information	[R]	[R]	TGAI	TGAI	—
Tier III						
Chronic Testing/Special Testing						
880.3800	Immune response	CR	CR	TGAI	TGAI	14
870.3800	Reproduction and fertility effects	CR	CR	TGAI	TGAI	16
870.4100	Chronic oral—rodent and nonrodent	CR	CR	TGAI	TGAI	17
870.4200	Carcinogenicity—two species—rat and mouse preferred	CR	CR	TGAI	TGAI	18

TABLE—BIOCHEMICAL HUMAN HEALTH ASSESSMENT DATA REQUIREMENTS—Continued

Guideline Number	Data Requirement	Use Patterns		Test substance to support		Test notes
		Food	Nonfood	MP	EP	
870.5380	Mammalian spermatogonial chromosome aberration test	CR	CR	TGAI	TGAI	19
Special Testing						
870.7200	Companion animal safety	CR	CR	Choice	Choice	20

(e) *Test notes*. The following test notes are applicable to the data requirements for biochemical human health assessment as referenced in the last column of the table in paragraph (d) of this section.

1. Required unless the test material is a gas or highly volatile (vapor pressure >104torr).

P≤2. Required unless the test material is corrosive to skin or has pH <2 or >11.5.

3. Required when the pesticide, under conditions of use, would result in respirable material (e.g., gas, volatile substance or aerosol/particulate), unless it is a straight chain lepidopteran pheromone.

4. Required if repeated contact with human skin is likely to occur under conditions of use.

5. Hypersensitivity incidents must be reported as adverse effects data.

6. Required for non-food uses that are likely to result in repeated oral exposure to humans.

7. Required to support uses involving purposeful application to the human skin or which would result in comparable prolonged human exposure to the product (e.g., insect repellents) and if any of the following criteria are met:

(i) Data from a 90–day oral study are not required.

(ii) The active ingredient is known or expected to be metabolized differently by the dermal route of exposure than by the oral route and the metabolite is of toxicological concern.

(iii) The use pattern is such that the dermal route would be the primary route of exposure.

8. Required if there is a likelihood of significant levels of repeated inhalation exposure to the pesticide as a gas, vapor, or aerosol.

9. Required if the use of the product under widespread and commonly recognized practice may reasonably be expected to result in significant exposure to female humans (e.g., occupational exposure or repeated application of insect repellents directly to the skin). Tier II data is required on a different test species from Tier I data when developmental effects are observed in the first study and information on species-to-species extrapolation is needed.

10. It is required to support nonfood uses if either (i) the use is likely to result in significant human exposure; or (ii) if the active ingredient (or its metabolites) is structurally related to a known mutagen or belongs to any chemical class of compounds containing a known mutagen. Additional mutagenicity tests that may have been performed plus a complete reference list must also be submitted. Subsequent testing may be required based on the available evidence.

11. Choice of assay using either (1) mouse lymphoma L5178Y cells, thymidine kinase (tk) gene locus, maximizing assay conditions for small colony expression or detection; (2) Chinese hamster ovary (CHO) or Chinese hamster lung fibroblast (V79) cells, hypoxanthine-guanine phosphoribosyl transferase (hgprt) gene locus, accompanied by an appropriate *in vivo* test for clastogenicity; or (3) CHO cells strains AS52, xanthine-guanine phosphoribosyl transferase (xprt) gene locus.

12. Required if there are effects on hematology, clinical chemistry, lymphoid organ weights and histopathology are observed in the 90–day studies.

13. Required if results from the Tier I mutagenicity tests are positive. Allowed choice of assays, initial considerations usually given to rodent bone marrow, using either metaphase analysis (aberrations) or micronucleus assay.

14. Required if adverse effects are observed in the Tier II immunotoxicity study. The protocol for evaluating adverse effects to the immune response should be developed after evaluating the effects noted in the immunotoxicity study.

15. These data are required when any human health effects assessment data indicate that the biochemical may pose a potential hazard to the applicator/user. It is recommended that the Agency be consulted prior to study initiation to determine what studies are appropriate based on the nature of the adverse effects seen in the human health assessment data and the available exposure data. Studies performed to support registration of insect repellents may require modifications to these guidelines.

16. Required if there is evidence of: (a) endocrinological effects from the subchronic toxicity studies, (b) developmental effects in the prenatal developmental toxicity study(s), or (c) genotoxicity to mammals based on results from the mutagenicity tests. The use of a combined study that utilizes the two-generation reproduction study in rodents (guideline 870.3800) as a basic protocol for the addition of other endpoints or functional assessments in the immature animal is encouraged.

17. Required if the potential for adverse chronic effects is indicated based on any of the following:

(i) The subchronic effect level established in the following Tier I studies: 90–day feeding toxicity study, the 90–day dermal toxicity study, or the 90–day inhalation toxicity study.

(ii) The pesticide use pattern (e.g., rate, frequency, and site of application).

(iii) The frequency and level of repeated human exposure that is expected.

18. Required if the product meets either of the following criteria:

(i) The active ingredient (or any of its metabolites, degradation products, or impurities) produce(s) in Tier I subchronic studies a morphologic effect (e.g., hyperplasia or metaplasia) in any organ that potentially could lead to neoplastic change.

(ii) Adverse cellular effects suggesting carcinogenic potential are observed in Tier II immunotoxicity and Tier III immune response study or in Tier II mammalian mutagenicity assays.

In addition, a 90–day range finding study in both rats and mice is required to determine the dose levels if carcinogenicity studies are required. If the mouse carcinogenicity study is not required, the 90–day mouse subchronic study is likewise not required.

19. Required if results from lower tiered mutation or reproductive studies indicate there is potential for chromosomal aberration to occur.

20. May be required if the product's use will result in exposure to domestic animals through, but not limited to, direct application or consumption of treated feed.

§ 158.960 Nontarget organismsand environmental fate data requirements table.

(a) *General*. (1) Sections 158.100 through 158.130 describe how to use this table to determine the terrestrial and aquatic nontarget organisms and fate data requirements for a particular pesticide product. Notes that apply to an individual test including specific conditions, qualifications, or exceptions to the designated test are listed in paragraph (e) of this section. In general,

for all outdoor end-use products including turf, the following studies are required: one avian acute oral, one avian dietary, one acute freshwater fish, one acute freshwater invertebrate study, plant toxicity testing and a honeybee acute contact study.

(2) The data in this section are not required for arthropod pheromones when applied at up to a maximum use rate of 150 grams active ingredient/acre/year except when the product is expected to be available to avian species (i.e., granular formulation).

(b) *Use patterns.* The terrestrial use pattern includes products classified under the general use patterns of terrestrial food crop, terrestrial feed crop, and terrestrial nonfood/nonfeed crop. The greenhouse use pattern includes products classified under the general use patterns of greenhouse food crop and greenhouse nonfood crop. The indoor use pattern includes products classified under the general use patterns of indoor food and nonfood use. The remaining terrestrial uses include: forestry and residential outdoor use. Data are also required for the general use patterns of aquatic food and nonfood crop use.

(c) *Key.* R=Required; [R]=Required for registrations and experimental use permits; CR=Conditionally required; [CR]=Conditionally required for registrations and experimental use permits; NR=Not required; MP=Manufacturing-use product; EP=End-use product; TEP=Typical end-use product; TGAI=Technical grade of the active ingredient; Residue of concern= the active ingredient and its metabolites, degradates, and impurities of toxicological concern; All= all of the above. Specific conditions, qualifications, or exceptions to the designated test procedures appear in paragraph (e) of this section, and apply to the individual tests in the following table:

(d) *Table.* The following table shows the data requirements for biochemical nontarget organisms and environmental fate. The test notes are shown in paragraph (e) of this section.

TABLE—BIOCHEMICAL NONTARGET ORGANISMS AND ENVIRONMENTAL FATE DATA REQUIREMENTS

Guideline Number	Data Requirement	Use Groups containing data requirements					Test Substance	Test notes
		Terrestrial	Aquatic	Greenhouse	Forestry, residential outdoor	Indoor		
		Food/feed, nonfood	Food, nonfood	Food, nonfood		Food, nonfood		
Tier I								
Avian Testing								
850.2100	Avian acute oral toxicity	[R]	[R]	CR	[R]	CR	TGAI, EP	1,2,3,4
850.2200	Avian dietary toxicity	[R]	[R]	CR	[R]	CR	TGAI, EP	1,2,3,4
Aquatic Organism Testing								
850.1075	Fish acute toxicity, freshwater	[R]	[R]	CR	[R]	CR	TGAI, EP	2,3,4,5
850.1010	Aquatic invertebrate acute toxicity, freshwater	[R]	[R]	CR	[R]	CR	TGAI, EP	2,3,4,5
Nontarget Plant Testing								
850.4100	Terrestrial Plant Toxicity, Seedling emergence	R	R	NR	R	NR	TGAI, EP	5
850.4150	Terrestrial Plant Toxicity, Vegetative vigor	R	R	NR	R	NR	TGAI, EP	5
Insect Testing								
880.4350	Nontarget Insect Testing	R	R	R	R	NR	TGAI	14
Tier II								
Environmental Fate Testing								
163-1 (835.1230)	Sediment and soil adsorption/desorption for parent and degradates	CR	CR	CR	CR	NR	TGAI	6
163-1 (835.1240)	Soil column leaching	CR	CR	CR	CR	NR	TGAI	6
163-2 (835.1410)	Laboratory volatilization from soil	CR	NR	CR	CR	NR	TEP	7

TABLE—BIOCHEMICAL NONTARGET ORGANISMS AND ENVIRONMENTAL FATE DATA REQUIREMENTS—Continued

Guideline Number	Data Requirement	Use Groups containing data requirements					Test Substance	Test notes
		Terrestrial	Aquatic	Greenhouse	Forestry, residential outdoor	Indoor		
		Food/feed, nonfood	Food, nonfood	Food, nonfood		Food, nonfood		
161-1 (835.2120)	Hydrolysis	CR	CR	CR	CR	NR	TGAI	6
161-1 (835.4100)	Aerobic soil metabolism	CR	NR	CR	CR	NR	TGAI	6
161-2 (835.2240)	Photodegradation in water	CR	CR	CR	CR	NR	TGAI	6
161-3 (835.2410)	Photodegradation on soil	CR	NR	CR	CR	NR	TGAI	6
162-2 (835.4200)	Anerobic soil metabolism	CR	NR	NR	NR	NR	TGAI	6
162-4 (835.4300)	Aerobic aquatic metabolism	CR	CR	CR	CR	NR	TGAI	6
162-3(835.4400)	Anerobic aquatic metabolism	CR	CR	NR	NR	NR	TGAI	6
880.4425	Dispenser -water leaching	CR	NR	CR	CR	NR	EP	8
Nontarget Plant								
850.4225	Seedling emergence	R	R	NR	R	NR	TGAI	9
850.4250	Vegetative vigor	R	R	NR	R	NR	TGAI	9
Tier III								
Aquatic Fauna Chronic, Life Cycle, and Field Studies								
850.1300 850.1400 850.1500	Freshwater fish/ invertebrate testing	CR	CR	NR	CR	NR	TGAI	10
850.1025 850.1035 850.1045 850.1055 850.1350 850.1400 850.1500	Marine/Estuarine fish/ invertebrate animal testing	CR	CR	NR	CR	NR	TGAI	10
850.1950	Aquatic field fish/ invertebratetesting	CR	CR	NR	CR	NR	EP	10
Terrestrial Wildlife								
850.2300	Avian Reproduction	CR	CR	NR	CR	NR	TGAI	11
850.2400	Wild mammal acute toxicity	CR	CR	NR	CR	NR	TGAI	11
850.2500	Terrestrial field testing	CR	CR	NR	CR	NR	EP	11
Beneficial Insects								
850.3040	Field testing for Pollinators	CR	CR	NR	CR	NR	TEP	12
Nontarget Plants								

TABLE—BIOCHEMICAL NONTARGET ORGANISMS AND ENVIRONMENTAL FATE DATA REQUIREMENTS—Continued

Guideline Number	Data Requirement	Use Groups containing data requirements					Test Substance	Test notes
		Terrestrial	Aquatic	Greenhouse	Forestry, residential outdoor	Indoor		
		Food/feed, nonfood	Food, nonfood	Food, nonfood		Food, nonfood		
850.4225 850.4250 850.4300 850.4450	Nontarget plant	CR	CR	NR	CR	NR	TGAI	13

(e) *Test notes*. The following test notes are applicable to the data requirements for biochemical nontarget organisms and environmental fate as referenced in the last column of the table contained in paragraph (d) of this section.

1. Required for the EP when any end-use formulation may contain other ingredients that may be toxic to nontarget organisms or to support arthropod pheromones that would be available to avian wildlife, (e.g., a granular product).

2. Tests for pesticides intended solely for indoor application would be required on a case-by-case basis, depending on use pattern, physical/chemical properties, production volume, and other pertinent factors.

3. Not required for any use groups if the pesticide is highly volatile (estimated volatility >5 X 10^{-5} atm m^3/mol).

4. Preferred test species are bobwhite quail, mallard, or redwing blackbird for avian acute oral toxicity studies; bobwhite quail or mallard for avian dietary studies, rainbow trout for acute freshwater fish studies; and *Daphnia magna* for acute freshwater invertebrate studies.

5. Required for the EP when the end-use formulation may contain other ingredients that may be toxic to nontarget organisms.

6. Required on a case-by-case basis when results from Tier I studies indicate adverse effects.

7. Required when results of any one or more of the nontarget organism studies in Tier I indicate potential adverse effects on nontarget organisms and the pesticide is to be applied on land.

8. Required when results of any one or more of the nontarget organism studies in Tier I indicate potential adverse effects on nontarget organisms and the pesticide is to be applied in a passive dispenser.

9. Required to support registration of known phytotoxicants, i.e. herbicides, desiccants, defoliants, and plant growth regulators.

10. Required if environmental fate characteristics indicate that the estimated environmental concentration of the pesticide in the aquatic environment is >0.01 of any EC_{50} or LC_{50} determined in the aquatic nontarget organism testing.

11. Required if either of the following criteria are met:

(i) Environmental fate characteristics indicate that the estimated concentration of the pesticide in the terrestrial environment is >0.20 the avian dietary LC_{50} or equal to or >0.20 the avian oral single dose LD_{50} (converted to ppm).

(ii) The pesticide or any of its metabolites or degradation products are stable in the environment to the extent that potentially toxic amounts may persist in the avian or mammalian feed.

12. Required when results of Tier I nontarget organism studies indicate potential adverse effects on nontarget insects and results of Tier II tests indicate exposure of nontarget insects. Additional insect species may have to be tested if necessary to address issues raised by use patterns and potential exposure of important nontarget insect species, (e.g., threatened or endangered species).

13. Required if the product is expected to be transported from the site of application by air, soil, or water. The extent of movement would be determined by the results of the Tier II environmental fate studies.

14. Required depending on pesticide mode of action, method and timing of application, and results of any available efficacy data. Typically the honeybee acute toxicity guideline (guideline 850.3020) satisfies this requirement, however additional nontarget insect species may have to be tested if necessary to address issues raised by use patterns and potential exposure of important nontarget insect species, e.g., endangered species.

§ 158.970 Biochemicalpesticides product performance data requirements.

Product performance data must be developed for all biochemical pesticides. However, the Agency typically does not require applicants to submit such efficacy data unless the pesticide product bears a claim to control public health pests, such as pest microorganisms infectious to man in any area of the inanimate environment or a claim to control vertebrates (including but not limited to: rodents, birds, bats, canids, and skunks) or invertebrates (including but not limited to: mosquitoes and ticks) that may directly or indirectly transmit diseases to humans. However, each registrant must ensure through testing that his products are efficacious when used in accordance with label directions and commonly accepted pest control practices. The Agency reserves the right to require, on a case-by-case basis, submission of efficacy data for any pesticide product registered or proposed for registration.

Subpart M—Microbial Pesticides

§ 158.1000 Definition andApplicability.

(a) This subpart applies to all living or dead microbial pesticides as described in paragraphs (b) and (c) of this section.

(b) *Definition*. *Microbial pesticide* is a microorganism intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, that:

(1) Is a eucaryotic microorganism including, but not limited to, protozoa, algae, and fungi;

(2) Is a procaryotic microorganism, including, but not limited to, bacteria; or

(3) Is an autonomous replicating microscopic element, including, but not limited to, viruses.

(c) *Applicability*. (1) In addition to the definition above, the definitions in § 158.3 also apply to this subpart.

(2) Each new isolate of a microbial pesticide is treated as a new strain and must be registered independently of any similar registered microbial pesticide strain and supported by data required in this subpart.

(3) Genetically modified microbial pesticides, may be subject to additional data or information requirements on a case-by-case basis depending on the particular microorganism and/or its parent microorganism(s), the proposed pesticide use pattern, and the manner and extent to which theorganism has been genetically modified. Additional requirements may be required on a case-by-case basis.

(4) Pest control organisms such as insect predators, nematodes, and macroscopic parasites are exempt from the requirements of FIFRA as authorized by section 25(b) of FIFRA and specified in § 152.20 (a) of this chapter.

§ 158.1010 Microbial pesticidedata requirements.

(a) For all microbial pesticides. (1) The following § § 158.1010 through 158.1050 identify the data requirements that are required to support registration of microbial pesticides. The variations in the test conditions are identified within the test notes.

(2) Each data table includes ''use patterns'' under which the individual data are required, with variations including all use patterns, food and nonfood uses for terrestrial and aquatic applications, greenhouse, indoor, forestry, and residential outdoor applications under certain circumstances.

(3) The categories for each data requirement are ''R'', which stands for required, and ''CR'' which stands for conditionally required. If a bracket appears around the R or CR, the data are required for both the registration and experimental use permit requests. Generally, ''R'' indicates that the data are more likely required than for those data requirements with CR. However, in each case, the regulatory text preceding the data table and the test notes following the data table must be used to determine whether the data requirement must be satisfied.

(4) Each table identifies the test substance that is required to be tested to satisfy the data requirement. Test substances may include: technical grade active ingredient (TGAI), manufacturing-use product (MP), end-use product (EP), typical end-use product (TEP), residue of concern, and pure active ingredient (PAI) or (All) indicating all of the above. Commas between the test substances (i.e., TGAI, EP) indicate that data may be required on the TGAI or EP or both depending on the conditions set forth in the test note. Data requirements which list two test substances (i.e., TGAI and EP) indicate that both are required to be tested. Data requirements that list only the manufacturing product (MP) as the test substance apply to products containing solely the technical grade of the active ingredient and manufacturing-use products to which other ingredients have been intentionally added. Data requirements listing the EP as the test substance apply to any EP with an ingredient in the end-use formulation other than the active ingredient that is expected to enhance the toxicity of the product.

(b) Additional data requirements for genetically modified microbial pesticides. Additional requirements for genetically modified microbial pesticides may include but are not limited to: genetic engineering techniques used; the identity of the inserted or deleted gene segment (base sequence data or enzyme restriction map of the gene); information on the control region of the gene in question; a description of the ''new'' traits or characteristics that are intended to be expressed; tests to evaluate genetic stability and exchange; and selected Tier II environmental expression and toxicology tests.

§ 158.1020 Product analysisdata requirements table.

(a) *General*. Sections 158.100 through 158.130 describe how to use this table to determine the product analysis data requirements and the substance to be tested for a particular microbial pesticide. Specific conditions, qualifications, or exceptions to the designated test are identified in (d) of this section, and the test notes appear in paragraph (e) of this section.

(b) *Key*. R=Required; [R]=Required for registrations andexperimental use permits; CR=Conditionally required; [CR]=Conditionally required for registrations and experimental use permits; NR=Not required; MP=Manufacturing-use product; EP=End-use product; TEP=Typical end-use product; TGAI=Technical grade of the active ingredient; All= all of the above. Specific conditions, qualifications, or exceptions to the designated test procedures appear in paragraph (e) of this section, and apply to the individual tests in the following table:

(c) *Table*. The following table shows the data requirements for microbial product analysis. The test notes are shown in paragraph (d) of this section.

TABLE—MICROBIAL PRODUCT ANALYSIS DATA REQUIREMENTS

Guideline Number	Data Requirement	All Use patterns		Test substances to support		Test notes
		Food Use	Nonfood Use	MP	EP	
Product Chemistry and Composition						
885.1100	Product Identity	[R]	[R]	MP	EP	—
885.1200	Manufacturing process	[R]	[R]	TGAI and MP	TGAI and EP	1,2
	Deposition of a sample in a nationally recognized culture collection	[R]	[R]	TGAI	TGAI	—
885.1300	Discussion of formation of unintentional ingredients	[R]	[R]	TGAI and MP	TGAI and EP	2
Analysis and Certified Limits						
885.1400	Analysis of samples	[R]	[R]	TGAI and MP	TGAI and EP	2,3
885.1500	Certification of limits	[R]	R	MP	EP	—
Physical and Chemical Characteristics						
830.6302	Color	[R]	[R]	TGAI	TGAI	—

TABLE—MICROBIAL PRODUCT ANALYSIS DATA REQUIREMENTS—Continued

Guideline Number	Data Requirement	All Use patterns		Test substances to support		Test notes
		Food Use	Nonfood Use	MP	EP	
830.6303	Physical state	[R]	[R]	TGAI	TGAI	—
830.6304	Odor	[R]	[R]	TGAI	TGAI	—
830.6313	Stability to normal and elevated temperatures, metals and metal ions	[R]	[R]	TGAI	TGAI	—
830.6317	Storage stability	[R]	[R]	TGAI and MP	TGAI and EP	—
830.6319	Miscibility	[R]	[R]	MP	EP	4
830.6320	Corrosion Characteristics	[R]	[R]	MP	EP	5
830.7000	pH	[R]	[R]	TGAI	TGAI	—
830.7100	Viscosity	[R]	[R]	MP	EP	6
830.7300	Density/relative density/bulk density (specific gravity)	[R]	[R]	TGAI	TGAI	—

(d) *Test notes*. The following test notes are applicable to the data requirements for microbial product analysis as referenced in the last column of the table contained in paragraph (c) of this section.

1. If an experimental use permit is being sought, and if the pesticide is not already under full-scale production, a schematic diagram and/or description of the manufacturing process suffices.

2. If an experimental use permit is being sought, and if the product is not already under full-scale production, a discussion of unintentional ingredients is required to be submitted to the extent this information is available.

3. Required to support registration of each manufacturing-use product and end-use product. This analysis must be conducted at the point in the production process after which there would be no potential for microbial contamination or microbial regrowth. For pesticides in the production stage, a preliminary product analytical method and data would suffice to support an experimental use permit. For full registration, generally an analysis of samples is a compilation of batches, over a period of time, depending on the frequency of manufacturing.

4. Only required for emulsifiable liquid forms of microbial pesticides.

5. Required when microbial pesticides are packaged in metal, plastic, or paper containers.

6. Only required for liquid forms of microbial pesticides.

§ 158.1030 Residue datarequirements table.

(a) *General*. Sections 158.100 through 158.130 describe how to use this table to determine the residue chemistry data requirements and the substance to be tested for a particular microbial pesticide. Specific conditions, qualifications, or exceptions to the designated test appear in (d) of this section, and the procedures appear in paragraph (e) of this section.

(b) *Key*. R=Required; [R]=Required for registrations and experimental use permits; CR=Conditionally required; [CR]=Conditionally required for registrations and experimental use permits; NR=Not required; MP=Manufacturing-use product; EP=End-use product; TEP=Typical end-use product; TGAI=Technical grade of the active ingredient; All= all of the above. Specific conditions, qualifications, or exceptions to the designated test procedures appear in paragraph (d) of this section, and apply to the individual tests in the following table:

(c) *Table*. The following table shows the data requirements for microbial residue. The test notes are shown in paragraph (d) of this section.

TABLE—MICROBIAL RESIDUE DATA REQUIREMENTS

Guideline Number	Data Requirement	All Use Patterns	Test Substance Data to support MP or EP	Test notes
885.2000	Background for Residue analysis of microbial pest control agents	[CR]	EP	1
885.2100	Chemical Identity	[CR]	EP	1
885.2200	Nature of the Residue in plants	[CR]	EP	1
885.2250	Nature of the Residue in animals	[CR]	EP	1

TABLE—MICROBIAL RESIDUE DATA REQUIREMENTS—Continued

Guideline Number	Data Requirement	All Use Patterns	Test Substance Data to support MP or EP	Test notes
885.2300	Analytical methods—plants	[CR]	TGAI	1
885.2350	Analytical methods-animals	[CR]	TGAI	1
885.2400	Storage Stability	[CR]	EP	1
885.2500	Magnitude of residue in plants	[CR]	EP	1
885.2550	Magnitude of residues in meat, milk, poultry, eggs	[CR]	EP	1
885.2600	Magnitude of residues in potable water, fish, and irrigated crops	[CR]	EP	1

(d) *Test notes*. The following test note is applicable to the data requirements for microbial residue as referenced in the last column of the table contained in paragraph (c) of this section.

1. Required when the results of testing:

i. Indicate the potential to cause adverse human health effects or the product characterization indicates the microbial pesticide has a significant potential to produce a mammalian toxin; andii. The use pattern is such that residues may be present in or on food or feed crops.

§ 158.1040 Toxicology datarequirements table.

(a) *General*. Sections 158.100 through 158.130 describe how to use this table to determine the toxicology data requirements for a particular pesticide product. Notes that apply to an individual test and include specific conditions, qualifications, or exceptions to the designated test are listed in paragraph (e) of this section.

(b) *Use patterns*. (1) This category includes products classified under the following general uses: terrestrial food and nonfood crop use; terrestrial feed crop use; aquatic food and nonfood crop use; greenhouse food and nonfood crop use; forestry; residential outdoor and indoor; and indoor food use.

(2) Nonfood use patterns include products classified under the general use patterns of terrestrial nonfood crop use; aquatic nonfood residential use; aquatic nonfood outdoor use; aquatic nonfood industrial use; greenhouse nonfood crop use; forestry use; residential outdoor use; residential indoor use; indoor food use; indoor nonfood use.

(c) *Key*. R=Required; [R]=Required for registrations andexperimental use permits; CR=Conditionally required; [CR]=Conditionally required for registrations and experimental use permits; NR=Not required; MP=Manufacturing-use product; EP=End-use product; TEP=Typical end-use product; TGAI=Technical grade of the active ingredient; All= all of the above. Specific conditions, qualifications, or exceptions to the designated test procedures appear in paragraph (e) of this section, and apply to the individual tests in the following table:

(d) *Table*. The following table shows the data requirements for microbial toxicology. The test notes are shown in paragraph (e) of this section.

TABLE—MICROBIAL TOXICOLOGY DATA REQUIREMENTS

Guideline Number	Data Requirement	All Use patterns	Test substance	Test notes
Tier I				
885.3050	Acute oral toxicity/pathogenicity	[R]	TGAI	1
885.3150	Acute pulmonary toxicity/pathogenicity	[R]	TGAI	—
885.3200	Acute injection toxicity/pathogenicity/(intravenous) Acute injection toxicity/pathogenicity /(intraperitoneal)	[R]	TGAI	2
885.3400	Hypersensitivity incidents	[R]	All	3
885.3500	Cell culture	[R]	TGAI	4
870.1100	Acute oral toxicity	[R]	MP , EP	1,5
870.1200	Acute dermal toxicity	[R]	MP , EP	5
870.1300	Acute inhalation toxicity	[R]	MP , EP	5,7
870.2400	Acute eye irritation	[R]	MP , EP	5
870.2500	Primary dermal irritation	[CR]	MP , EP	5,6

TABLE—MICROBIAL TOXICOLOGY DATA REQUIREMENTS—Continued

Guideline Number	Data Requirement	All Use patterns	Test substance	Test notes
Tier II				
885.3550	Acute toxicology	CR	TGAI	8
885.3600	Subchronic toxicity/pathogenicity	CR	TGAI	9
Tier III				
885.3650	Reproductive fertility effects	CR	TGAI	10,14
870.4200	Carcinogenicity	CR	TGAI	11,14
870.7800	Immunotoxicity	CR	TGAI	12,14
885.3000	Infectivity/pathogenicity analysis	CR	TGAI	13,14

(e) *Test notes*. The following test notes are applicable to the data requirements for microbial toxicology as referenced in the last column of the table contained in paragraph (d) of this section:

1. The acute oral toxicity/pathogenicity study is required to support the TGAI. However, it can be combined with the unit dose portion of the acute oral toxicity study, with an EP or MP test material to fulfill the requirement for the TGAI and the MP or EP in a single study, if the new protocol is designed to address the endpoints of concern.

2. Data not required for products whose active ingredient is a virus. For test materials whose size or consistency may prevent use of an i.v. injection, the i.p. injection procedure may be employed.

3. Hypersensitivity incidents for registered products must be reported if they occur.

4. Data must be submitted only for products whose active ingredient is a virus.

5. The 870 series studies for the MP and EP are intended to provide data on the acute toxicity of the product. Waivers for any or all of these studies may be granted when the applicant can demonstrate that the combination of inert ingredients is not likely to pose any significant human health risks. Where appropriate, the limit dose approach to testing is recommended.

6. Data are required only if dermal irritation is found after dosing in acute dermal toxicity study.

7. Required when the product consists of, or under conditions of use would result in, an inhalable material (e.g., gas, volatile substances, or aerosol particulate).

8. Data required when significant toxicity, in the absence of pathogenicity and significant infectivity, is observed in acute oral, injection, or pulmonary studies (Tier I). Route(s) of exposure correspond to routes where toxicity was observed in Tier I studies. The toxic component of the TGAI is to be tested.

9. Data required when significant infectivity and/or unusual persistence is observed in the absence of pathogenicity or toxicity in Tier I studies. Routes of exposure (oral and/or pulmonary) correspond to routes in Tier I studies where adverse effects were noted. Data may also be required to evaluate adverse effects due to microbial contaminants or to toxic byproducts.

10. Data are required when any of the following criteria are met:

(i) Significant infectivity of the microbial pest control agent (MPCA) was observed in test animals in the Tier II subchronic study and in which no significant signs of toxicity or pathogenicity were observed.

(ii) The microbial pesticide is a virus which can persist or replicate in mammalian cell culture lines.

(iii) The microbial pesticide is not amenable to thorough taxonomic classification, and is related to organisms known to be parasitic for mammalian cells.

(iv) The microbial pesticide preparation is not well purified, and may contain contaminants which are parasitic for mammals.

11. Data may be required for products known to contain or suspected to contain carcinogenic viruses or for microbial components that are identified as having significant toxicity in Tier II testing.

12. Data may be required for products known to contain or suspected to contain viruses that can interact in an adverse manner with components of mammalian immune system.

13. An analysis of human infectivity/pathogenicity potential using scientific literature, genomic analysis, and/or actual specific cell culture/animal data may be required for products known to contain or suspected of containing intracellular parasites of mammalian cells for products that exhibit pathogenic characteristics in Tier I and/or Tier II, for products which are closely related to known human pathogens based on the Product Analysis data, or for known human pathogens that have been ''disarmed'' or rendered non-pathogenic for humans.

14. Test standards may have to be modified depending on the characteristics of the microorganism. Requirements may vary for these studies depending on the active ingredient being tested. Consultation with the Agency is advised before performing these Tier III studies.

§ 158.1050 Nontarget organismsand environmental fate data requirements table.

(a) *General*. Sections 158.100 through 158.130 describe how to use this table to determine the terrestrial and aquatic nontarget organisms data requirements for a particular microbial pesticide product. Notes that apply to an individual test including specific conditions, qualifications, or exceptions to the designated test are listed in paragraph (e) of this section.

(b) *Use patterns*. Aquatic uses include: food and feed, nonfood uses (e.g., outdoor, residential, and industrial). Terrestrial uses include: Food, Feed, Non-Food, Forestry, Residential outdoor, greenhouse (food and food), Indoor (food and nonfood), and Industrial.

(c) *Key*. R=Required; [R]=Required for registrations and experimental use permits; CR=Conditionally required; [CR]=Conditionally required for registrations and experimental use permits; NR=Not required; MP=Manufacturing-use product; EP=End-use product; TEP=Typical end-use product; TGAI=Technical grade of the active ingredient; All= all of the above. Specific conditions, qualifications, or exceptions to the designated test procedures appear in paragraph (e) of this section, and apply to the individual tests in the following table:

(d) *Table*. The following table shows the data requirements for microbial nontarget organisms and environmental fate. The test notes are shown in paragraph (e) of this section.

TABLE—MICROBIAL NONTARGET ORGANISMS AND ENVIRONMENTAL FATE DATA REQUIREMENTS

Guideline Number	Data Requirement	Aquatic		Terrestrial						Test Substance	Test notes
		Food, Feed	Non-Food Out door,Residential, Industrial	Food, Feed, Non-food	Forestry	Residential outdoor	Greenhouse Food, Non-Food	Indoor Food, Non-Food	Industrial		
Tier I											
885.4050	Avian oral toxicity	R	[R]	[R]	[R]	[R]	CR	CR	CR	TGAI	1,2
885.4100	Avian inhalation toxicity/pathogenicity	CR	CR	CR	CR	CR	CR	CR	CR	TGAI	1,2,3
885.4150	Wild mammal toxicity/pathogenicity	CR	CR	CR	CR	CR	NR	NR	CR	TGAI	1,4
885.4200	Freshwater fish toxicity/ pathogenicity	R	[R]	[R]	[R]	CR	CR	CR	CR	TGAI	1, 2,5
885.4240	Freshwater invertebrate toxicity/ pathogenicity	R	[R]	[R]	[R]	CR	CR	CR	CR	TGAI	1, 2,5
885.4280	Estuarine/Marine fish testing Estuarine and marine invertebrate testing	CR	CR	CR	CR	CR	NR	NR	CR	TGAI	1,6
885.4300	Nontarget plant testing	CR	CR	CR	[R]	CR	NR	CR	CR	TE	1,7
885.4340	Nontarget insect testing	[R]	[R]	[R]	[R]	R	CR	NR	CR	TGAI	1,8
885.4380	Honey bee testing	[R]	[[R]	[R]	[R]	R	CR	NR	CR	TGAI	1
Tier II											
885.5200	Terrestrial environmental expression tests	CR	CR	CR	CR	CR	NR	NR	CR	TGAI or TEP	9
885.5300	Freshwater environmental expression tests	CR	CR	CR	CR	CR	NR	NR	CR	TGAI or TEP	10
885.5400	Marine or estuarine environmental expression tests	CR	CR	CR	CR	CR	NR	NR	CR	TGAI or TEP	11,12
Tier III											
885.4600	Avian chronic pathogenicity and reproduction test	CR	CR	CR	CR	CR	NR	NR	CR	TGAI	12, 13
885.4650	Aquatic invertebrate range testing	CR	CR	CR	CR	CR	NR	NR	CR	TGAI	12, 14
885.4700	Fish life cycle studies	CR	CR	CR	CR	CR	NR	NR	CR	TGAI	12, 14/ ROW≤
885.4750	Aquatic ecosystem test	CR	CR	CR	CR	CR	NR	NR	CR	TGAI	15
Tier IV											

TABLE—MICROBIAL NONTARGET ORGANISMS AND ENVIRONMENTAL FATE DATA REQUIREMENTS—Continued

Guideline Number	Data Requirement	Aquatic		Terrestrial						Test Substance	Test notes
		Food, Feed	Non-Food Out door,Residential, Industrial	Food, Feed, Non-food	Forestry	Residential outdoor	Greenhouse Food, Non-Food	Indoor Food, Non-Food	Industrial		
850.2500 850.1950	Field testing for terrestrial wildlife and Field testing for aquatic organisms	CR	CR	CR	CR	CR	NR	NR	CR	TGAI or TEP	11, 16
850.2500	Simulated or actual field tests (birds, mammals)	CR	CR	CR	CR	CR	NR	NR	CR	TEP	16, 17, 20
850.1950	Simulated or actual field test (aquatic organisms)	CR	CR	CR	CR	CR	NR	NR	CR	TEP	16, 18, 19, 20
850.2500	Simulated or actual field tests (insect predators, parasites)	CR	CR	CR	CR	CR	NR	NR	CR	TEP	16, 18,19, 20
850.3040	Simulated or actual field tests (insect pollinators)	CR	CR	CR	CR	CR	NR	NR	CR	TEP	16, 18,19, 20
850.4300	Simulated or actual field tests (plants)	CR	CR	CR	CR	CR	NR	NR	CR	TEP	16, 18, 19, 20

(e) *Test notes*. The following test notes are applicable to the data requirements for microbial nontarget organism and environmental fate as referenced in the last column of the table contained in paragraph (d) of this section.

1. Tests for pesticides intended solely for indoor application would be required on a case-by-case basis, depending on use pattern, production volume, and other pertinent factors. Tests to support EUP's are based on the application timing and acreage.

2. The preferred species for the avian oral study is either the bobwhite quail or mallard duck. The preferred species for the avian inhalation toxicity/pathogenicity study and the avian chronic toxicity/pathogenicity study is the bobwhite quail. There is also the option to test the redwing black bird if there is a concern for passerine species. The rainbow trout is preferred for freshwater fish testing. However, two species (rainbow trout and bluegill sunfish are the preferred species) must be tested for uses involving direct freshwater exposure. Daphnia magna is the preferred species for freshwater invertebrate testing.

3. Data required when the nature of the microbial pesticide and/or its toxins indicates potential pathogenicity to birds.

4. Required on a case-by-case basis if results of tests required by§ 158.1040 are inadequate or inappropriate for assessment of hazards to wild animals.

5. Required when there will be significant exposure to aquatic organisms (fish and invertebrates).

6. Required if the product is intended for direct application into the estuarine or marine environment or expected to enter this environment in significant concentrations because of expected use or mobility pattern.

7. Required if the microbial pesticide is taxonomically related to a known plant pathogen.

8. Data are not required unless an active microbial ingredient controls the target insect pest by a mechanism of infectivity; i.e. may create an epizootic condition in nontarget insects.

9. Required if toxic or pathogenic effects are observed in any of the following tests for microbial pesticides:

(i) Avian acute oral or avian inhalation studies.

(ii) Wild mammal studies.

(iii) Nontarget plant studies (terrestrial).

(iv) Honey bee studies.

(v) Nontarget insect studies.

10. Required when toxic or pathogenic effects are observed in any of the following Tier I tests for microbial pest control agents:

(i) Freshwater fish studies.

(ii) Freshwater aquatic invertebrate studies.

(iii) Nontarget plant studies (aquatic).

11. Required if product is applied on land or in fresh water or marine/estuarine environments and toxic or pathogenic effects are observed in any of the following Tier I tests for microbial pesticides:

(i) Estuarine and marine animal toxicity and pathogenicity.

(ii) Plant studies—estuarine or marine species.

12. An appropriate dose-response toxicity test is required when toxic effects on nontarget terrestrial wildlife or aquatic organisms (including plants) are reported in one or more Tier I tests and results of Tier II tests indicate exposure of the microbial agent to the affected nontarget terrestrial wildlife or aquatic organisms. The protocols for these tests may have to be modified in accordance with results from the nontarget organism and environmental expression studies.

13. Required when one or more of the following are present:

(i) Pathogenic effects are observed in Tier I avian studies.

(ii) Tier II environmental expression testing indicate that long-term exposure of terrestrial animals is likely.

14. Required when product is intended for use in water or expected to be transported to water from the intended use site, and when pathogenicity or infectivity was observed in Tier I aquatic studies.

15. Required if, after an analysis of the microbial pesticide's ability to survive and multiply in the environment and what ecological habitat it would occupy, the intended use patterns, and the results of previous nontarget organisms and environmental expression tests, it is determined that use of the microbial agent may result in adverse effects on the nontarget organisms in aquatic environments. Testing is to determine if applications of the microbial pest control would be expected to disrupt the balance of populations in the target ecosystem.

16. Tier IV studies may be conducted as a condition of registration aspost-registration monitoring if the potential for unreasonable

adverse effects appears to be minimal during that period of use due to implementation of mitigation measures.

17. Required when both of the following conditions occur:

(i) Pathogenic effects at actual or expected field residue exposure levels are reported in Tier III; and

(ii) The Agency determines that quarantine methods would not prevent the microbial pesticide from contaminating areas adjacent to the test area.

18. Short term simulated or actual field studies are required when it is determined that the product is likely to cause adverse short-term or acute effects, based on consideration of available laboratory data, use patterns, and exposure rates.

19. Data from a long-term simulated field test (e.g., where reproduction and growth of confined populations are observed) and/or an actual field test (e.g., where reproduction and growth of natural populations are observed) are required if laboratory data indicate that adverse long-term, cumulative, or life-cycle effects may result from intended use.

20. Since test standards would be developed on a case-by-case basis, consultation with the Agency and development of a protocol is advised before performing these Tier IV studies.

§ 158.1060 Microbial pesticidesproduct performance data requirements.

Product performance data must be developed for all microbial pesticides. However, the Agency has waived all requirements to submit efficacy data unless the pesticide product bears a claim to control public health pests, such as pest microorganisms infectious to man in any area of the inanimate environment or a claim to control vertebrates (including but not limited to: rodents, birds, bats, canids, and skunks) or invertebrates (including but not limited to: mosquitoes and ticks) that may directly or indirectly transmit diseases to humans. However, each registrant must ensure through testing that his products are efficacious when used in accordance with label directions and commonly accepted pest control practices. The Agency reserves the right to require, on a case-by-case basis, submission of efficacy data for any pesticide product registered or proposed for registration.

PART 172—[AMENDED]

5. The authority citation continues to read as follows:

Authority: 7 U.S.C. 136c, 136w. Section 172.4 is also issued under 31 U.S.C. 9701.

6. In § 172.43 revise the definition for ''microbial pesticide'' to read as follows:

§ 172.43 Definitions.

* * * * *

Microbial pesticide means a microorganism intended for preventing, destroying repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, that:

(1) Is a eucaryotic microorganism including, but not limited to, protozoa, algae and fungi;

(2) Is a procaryotic microorganism, including, but not limited to, bacteria; or

(3) Is an autonomous replicating microscopic element, including, but not limited to, viruses.

* * * * *

[FR Doc. 06–2185 Filed 3–7–06; 8:45 am]

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S. 1989/P.L. 109–175

To desginate the facility of the United States Postal Service located at 57 Rolfe Square in Cranston, Rhode Island, shall be known and designated as the "Holly A. Charette Post Office". (Feb. 27, 2006; 120 Stat. 190)

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