

Chapter 2: PRE-AWARD

2-1: Program Purpose and Instrument Selection

As outlined in 2 CFR 200.201, HUD uses three types of instruments: contracts, grants, and cooperative agreements for procurement and assistance relationships to achieve its mission. The Federal Grant and Cooperative Agreement Act (FGCA) (31 U.S.C. 6301-08) distinguishes procurement relationships from assistance relationships with non-Federal entities.

A. OVERVIEW

1. Grant agreements and cooperative agreements are the legal instruments used for HUD's financial assistance relationships. The main difference between a grant and a cooperative agreement is the degree of Federal participation or involvement during the performance of work activities. A grant agreement is the appropriate instrument when HUD anticipates no substantial involvement. When HUD expects substantial involvement with the recipient, a cooperative agreement is appropriate.
2. When selecting the award instrument to be used, the Program Office must first look to the specific authorizing statute or appropriation Act to determine if there is specific guidance on the funding instrument. (Note the authorizing statute may use different terminology, e.g., Annual Contributions Contract, but the instrument must be either a grant or a cooperative agreement.) Program Offices are advised to discuss this with their program counsel to ensure the proper funding instrument is selected. In making the selection of the funding instrument, Program Offices should consider:
 - a. The program purpose;
 - b. The purpose of the individual transaction; and
 - c. The purpose of the relationship between the award recipient and HUD. Does HUD intend to have substantial involvement or is substantial involvement not anticipated?
3. For more information on Grants and Cooperative Agreements, see Section 1 – 4 of this Handbook, Federal Financial Assistance.

B. BASIS FOR AWARD

1. HUD Authorizing Officials must make awards based on one of the following:
 - a. Plans submitted in response to a notice as is the case with non-discretionary awards and Congressionally directed awards;
 - b. Applications received resulting from a NOFO for discretionary funding or notice; or

- c. An unsolicited proposal, if permitted under program requirements. For more information, see Section 2 – 11 of this Handbook, Unsolicited Proposals.
2. Unless otherwise stated in appropriation Acts, HUD Authorizing Officials must always attempt to solicit applications for discretionary funds on a competitive basis, in accordance with the HUD Reform Act, and in concert with program requirements.

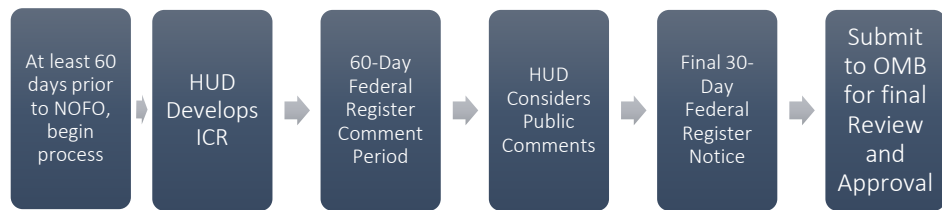
2-2: Paperwork Reduction Act and Assistance Listings

A. PAPERWORK REDUCTION ACT (PRA) of 1995 REQUIREMENTS

1. The PRA requires HUD to obtain OMB approval before requesting most types of information from the public. These “information collections” include forms, surveys, interviews and recordkeeping requirements.
2. Program Offices must adhere to HUD PRA policy requirements and use the PRA approval process to obtain OMB approval for Federally sponsored data, or information collection requests (ICR). (2 CFR 200.207) HUD’s Office of the Chief Information Officer (OCIO) oversees the PRA process for HUD.

B. PRA PROCESS FOR INFORMATION COLLECTIONS INCLUDED IN NOFOs AND AWARD RENEWALS

1. NOFOs submitted for Departmental Clearance must include OMB-approved forms, sample formats, or other information collection requests to be submitted by the applicant. ***Note: It is required that all submitted NOFOs meet the accessibility standards set forth by Section 508 of the Rehabilitation Act of 1973.**
2. Only NOFOs with a current OMB approval number for information collection requests can be published on Grants.gov. In addition, to publish on HUD’s website, the Program Office cannot issue a notice for award renewals, unless the information collection request has a current OMB approval number.
3. Program Offices should submit their PRA requests to OMB at least 60 calendar days prior to the proposed publication date of the NOFO to ensure adequate time for OMB clearance. Program Offices are also reminded to include time for Departmental clearance, the 60-day public comment period, comment review and package revisions, and the final 30-day notice period.



4. The process for obtaining an OMB approval number includes publishing the requested information collection instrument or form and the estimated burden hours in the Federal Register for a 60-day public review and comment period after Departmental clearance. At the end of the comment period, comments must be addressed prior to publication of a 30-day Notice, OMB review and final approval.
5. OCIO (PRA Office) will advise and provide guidance to Program Offices on how to complete the required OMB form 83-I, the Supporting Statement. The Supporting Statement explains the request and the required Federal Register Notice. OCIO (PRA Office) will also help coordinate the placement of approved program forms for NOFOs on the HUD Client and Information Policy System (HUDCLIPS) web page.
6. Program offices may use the following PRA resource tools:
 - a. <http://hudatwork.hud.gov/HUD/gc/doc/praogcquickguidetopracompliance33623.pdf>- PRA Compliance Guide
 - b. <https://www.reginfo.gov> - Track the status of pending and current PRAs.

C. ASSISTANCE LISTINGS (FORMERLY CATALOG OF FEDERAL DOMESTIC ASSISTANCE, CFDA) (2 CFR 200.203)

1. The Assistance Listings is a government-wide compilation of Federal programs, projects, services and activities assisting or benefiting the public. The Assistance Listings aids the public with obtaining general information on Federal assistance programs.
2. OMB provides oversight of the collection of Federal domestic assistance program data. GSA operates and maintains the listings on the SAM.gov website under the sub-heading Federal Assistance.
3. To comply with HUD requirements, Program Offices must update program information on the Assistance Listings Workspace at least annually. Program Offices must:
 - a. Designate an *Assistance Listings Liaison* to work with the Assistance Listings Coordinator who is assigned by the OCFO Budget Office;
 - b. Obtain a unique Assistance Listing number for new programs via the Assistance Listings Coordinator, provide a completed Assistance

Listing template, and submit to the OCFO Budget Office for HUD internal review and approval;

- c. Provide the updated program information to the Assistance Listings Coordinator who submits it to the Assistance Listings portal for clearance by GSA and OMB;
 - d. Update program information annually in the Assistance Listings Workspace on SAM.gov; and
 - e. Discontinue or archive programs not funded for more than two fiscal years unless a continuing resolution delayed or was otherwise prohibitive in funding the program.
4. Program Offices must include the Assistance Listing Number and Title in the Grants.gov synopsis, NOFO and the grant or cooperative agreement. (2 CFR 200.211(b)(13)).

2-3: Annual Milestone Plan

A. ANNUAL MILESTONE PLAN FROM PROGRAM OFFICES

1. Program Offices must conduct an annual planning process for financial assistance programs and transactions to ensure decisions and time frames for awarding financial assistance. The annual planning process should address activities for which the Program Office has discretion regarding the timing of the announcement, receipt of applications, and/or whether to award. This includes activities relating to competing and non-competing continuation of on-going awards. This information must be recorded in the Annual Milestone Plan template and submitted to GMO.
2. Program Offices must submit the Annual Milestone Plan for discretionary programs for the next fiscal year. The Milestone Plan should detail clearance timelines, publication, application deadline, award, and obligation dates for discretionary programs. The Milestone Plan must also indicate the estimated funding for the next fiscal year as well as any estimated carryover funding from previous fiscal years. It should also include only estimated award dates for mandatory programs.
3. Proposed funding amounts in the plan should be based upon actual appropriations, or if the program does not yet have an enacted full-year appropriation for the fiscal year (because HUD is operating under a Continuing Resolution), the best information available for proposed funding amounts plus any estimated carryover of funds from prior years available for obligation. Final dollar amount adjustments to the plan must be provided to GMO, as they are known.
4. Program Offices are expected to work closely with their program counsel and Budget Officers when developing their Milestone Plan. Attention should be

paid to the identification of any new programs or program components during a fiscal year and the proposed NOFO publishing date.

5. Program Offices must ensure programs for Federal financial assistance have a valid Assistance Listings Number and OMB Approval Number.

B. ANNUAL AWARD CALENDAR AND NOFO DASHBOARD

1. GMO will host an annual meeting with Program Offices to review milestone plans, annual award calendar and NOFO Dashboard, note any changes from the previous fiscal year, and adjust for the next fiscal year.
2. Based on plan information submitted, GMO will develop the Department's annual Award Calendar. The Award Calendar will be housed on GMO's SharePoint site, [GMOHOME](#).
3. The NOFO Dashboard provides a visual assessment of whether the Department is achieving its NOFO publishing goals in a timely manner.
4. Progress on the Award Calendar will be tracked by GMO and reported to Program Offices and Departmental leadership on a regular basis through the NOFO Dashboard and HUD's Consolidated Management Calendar.

C. GMO PORTFOLIO MANAGER ROLE

1. GMO Portfolio Managers support Program Offices throughout the grant lifecycle. Portfolio Managers are trained grants management staff in GMO assigned to support Program Offices on the development and publication of NOFOs.
2. Throughout the grant lifecycle, GMO Portfolio Managers consult with Program Offices on grants management issues; help strengthen internal controls; and propose enterprise-level solutions to streamline and/or simplify HUD's grants management processes.
3. GMO Portfolio Managers host a monthly meeting for HUD's grants management professionals, produce a quarterly newsletter update and maintain a SharePoint site, [GMOHOME](#), with updated grants information, including training, resources and access to other Federal grants-related websites.

D. HUD FORECAST

1. The Program Office must designate a staff member to develop/draft a Forecast for planned grant opportunities. NOFO Drafters complete the forecast information to include estimated dates, funding, a NOFO description, and statutory authority.
2. The Forecast should contain actual or estimated funding levels for awards the Program Office intends to make during the fiscal year, subject to Congressional appropriations.
3. A Forecast is subject to change and may be modified by the Program Office.

4. If using the GrantSolutions online grants management system, the forecast is the mandatory first stage of the NOFO publication workflow in the Announcement Module (AM).

E. NOFO TIMELINESS POLICIES

1. Milestone Plan - Program offices must create a NOFO Awarding Schedule that aligns with the following action steps:
 - a. **Forecast** - Program Offices must submit a forecast date to [Grants.gov](https://www.grants.gov), identifying when the grant will be published;
 - b. **Draft** - Program Offices must identify a draft timeline and when the NOFO will be submitted to Departmental Clearance;
 - c. **Departmental Clearance** - Program Offices must identify date NOFO will be submitted for Departmental Clearance. This includes OMB review and approval.
 - d. **Publishing** - Program Offices must submit the anticipated date for publishing the NOFO to Grants.gov.
 - e. **Awarding/Obligating Funds** - Program Offices must identify an anticipated date of the award and date award funds will be obligated to grantees.

2-4: Development of a Notice of Funding Opportunity (NOFO)

A. CONTENT (2 CFR 200.204)

1. NOFOs are HUD's equivalent to Funding Opportunity Announcements (FOAs) used throughout the Federal government to make awards.
2. NOFOs must be made available to potential applicants through Grants.gov. In addition, Program Offices may use supplementary means of sharing NOFOs, i.e., distribution through a constituency organization, transmittal through a targeted mailing, or electronic notification directed to the known universe of eligible applicants. Any supplementary notice cannot pre-date the publication of the NOFO at Grants.gov.
3. NOFOs follow a standardized format and order of content. However, each Program NOFO will have a unique title, Funding Opportunity Number (FON), text and instructions specific to the program.
4. NOFOs must include applicable terms and conditions for awards, including any exceptions to the terms.
5. HUD's standard format for the NOFO Table of Contents is below (Appendix I to 2 CFR Part 200):

[Funding Opportunity Title]
[Funding Opportunity Number]
TABLE OF CONTENTS

Executive Summary

I. Funding Opportunity Description

- A. Program Description
- B. Authority
- C. Program Goal and Objectives
- D. Relevant Assistance Listings

II. Federal Award Information

- A. Available Funds
- B. Number of Awards
- C. Minimum/Maximum Award Information
- D. Period of Performance
- E. Type of Funding Instrument
- F. Supplementation

III. Eligibility Information

- A. Eligible Applicants
- B. Ineligible Applicants
- C. Cost Sharing or Matching
- D. Eligible Activities
- E. Threshold Eligibility Requirements
- F. Statutory and Regulatory Requirements Affecting Eligibility
- G. Program Specific Requirements Affecting Eligibility
- H. Criteria for Beneficiaries

IV. Application Preparation and Submission Information

- A. Obtaining an Application Package
- B. Content and Form of Application Submission
- C. Unique Entity Identifier and SAM Registration
- D. Application Submission Dates and Times
- E. Intergovernmental Review
- F. Funding Restrictions
- G. Other Submission Requirements

V. Application Review Information

- A. Review Criteria
- B. Reviews and Selection Process
- C. Anticipated Announcement and Award Dates

VI. Federal Award Administration Information

- A. Award Notices
- B. Administrative, National and Departmental Policy Requirements
- C. Reporting

VII. Federal Awarding Agency Contact(s)

VIII. Other Information

6. NOFOs must contain detailed instructions explaining requirements, the funding opportunity and application submission procedures. See 2 CFR 200.204 and Appendix I to 2 CFR part 200 for additional details about the contents of a NOFO.
7. The NOFO must also comply with the Plain Writing Act of 2010 (Public Law 111-274). To help Program Offices develop clearly written NOFOs, GMO has created the *Writing Effective NOFOs and Developing Sound Rating Criteria* course. It is available to all HUD staff on HUD Virtual University (HVU) via InCompass. The course includes 3 modules: *Plain Writing*, *NOFO Development* and *Rating Factors and Evaluator Instructions*. Staff completing the course will earn 2.15 hours of training credit.
8. A Program Office may not give potential applicants advance notification of planned or pending funding opportunities nor may Program Offices tailor NOFOs for selected projects informally discussed with a potential applicant in another forum. (Section 103 of the HUD Reform Act, in HUD regulations in 24 CFR part 4, subpart B.)

B. NOFO SUBMISSION REQUIREMENTS AND EXCEPTIONS (2 CFR 200.204)

1. NOFOs must include submission requirements and an application deadline. A Program Office must post all funding opportunities for at least 60 calendar days.
2. The Program Office may determine a NOFO to have a less than 60 calendar day availability period, but no NOFO should be available for less than 30 calendar days, unless exigent circumstances require as determined by the Federal awarding agency head or delegate.
3. There are three reasons for which an exception may be granted to the required 60 calendar day posting policy. They are:
 - a. Delayed appropriations beyond the first quarter of the fiscal year, where publishing for less than 60 days is necessary to avoid hardship on the applicants (such an exception request will only be approved if the Program Office was ready to publish before the Appropriations Act was passed);
 - b. The competition was published in two phases, the NOFO for first phase was published for 60 days and the applicants invited to apply in phase two are only updating or expanding upon the application information provided in phase 1; and
 - c. Programmatic delay that results in a potential negative impact on the program or its intended recipients.

Note: Requests to have NOFOs available for application less than 60 calendar days must include specific details regarding the exigent circumstances that

require a shorter availability period. The Deputy Secretary may grant exceptions for a shortened application period based on review of the timelines outlined by the Program Office submitted in its Milestone Plan.

4. HUD further requires that grant funds are awarded in a timely and consistent manner.

C. NOFO DEADLINES AND APPLICATION SUBMISSION

1. HUD may extend a published application deadline when justified by circumstances such as a Presidentially declared disaster (e.g., floods or hurricanes); widespread disruptions of mail service or other services; or technical issues at [Grants.gov](https://www.grants.gov). If circumstances affect a defined geographical area, the Program Office may extend the deadline to applicants in the affected area. Application deadline extensions must be announced on [Grants.gov](https://www.grants.gov).
2. Applications not meeting the deadline specified in a NOFO are late and shall not be accepted for competition under the NOFO. To be timely, an application must be received by [Grants.gov](https://www.grants.gov) by the deadline date and time specified in the NOFO.
3. Under [24 CFR 5.1005](https://www.ecfr.gov/current/title-24/chapter-I/subchapter-B/part-1005), applicants may request a waiver of the requirement for electronic submission and HUD will waive the electronic submission requirement on the basis of good cause. Lack of SAM registration or valid Assistance Listings number is not good cause. Applicants seeking a waiver of the electronic grant submission requirements must submit a written request, following the instructions provided in the NOFO. Waivers will not be granted if the request is not received at least 15 days before the application deadline and if the applicant does not demonstrate good cause.
4. A Program Office may not require an applicant to submit more than an original and two copies of a paper application unless OMB has approved a different number of copies as part of PRA clearance of an application form or format.
5. If a Program Office permits submission of a paper application, the applicant must send the application in enough time to be received before the deadline date (with documented proof of mailing). A Program Office may not accept hand-delivered applications.

D. CERTIFICATIONS AND ASSURANCES ([2 CFR 200.209](https://www.ecfr.gov/current/title-24/chapter-I/subchapter-B/part-200/subpart-209))

1. NOFOs must include the required certifications and assurances for the program. The certifications and assurances are material representations of the facts HUD relies upon when making an award. This includes but is not limited to the [SF-424 Family of forms](#).
2. If a later determination shows the applicant has knowingly made a false certification or assurance, or the signatory did not have the authority to make a legally binding commitment for the applicant, the applicant may be subject to the

False Claims Act. HUD may then terminate the award or pursue other available remedies.

3. Each applicant is responsible for including the correct certifications and assurances with its application submission. Applicants must submit all required forms in the SF-424 Family of forms, including SF-424B (Assurances of Non-construction Programs) or SF-424D (Assurances for Construction Programs). Applications receiving funds for both non-construction and construction programs must submit both the SF-424B and SF-424D.

2-5 Additional NOFO Requirements

A. OVERVIEW

1. Unless otherwise specified, the following requirements apply to recipients of HUD funding under a NOFO. HUD has implemented these requirements in 24 CFR part 5. Many of the national public policy requirements (see Section 1–7 of this Handbook) have been incorporated into the NOFO template.
2. Program NOFOs must clearly refer to these requirements and where applicable, indicate any variation or additions. There may be slight variations in requirements among HUD programs.
3. These requirements are also applicable for recipients of award renewals. Renewal notices must clearly refer to these requirements and where applicable, indicate any variation or additions. More information about renewals may be found in Section 2 – 10 of this Handbook.
4. HUD is not required to make an award to a recipient, even if it has submitted a meritorious application, as determined by the merit review. HUD reserves the right to:
 - a. Deny funding, or with a renewal or continuing award, consider suspension or termination of an award immediately for cause,
 - b. Require removal of any key individual from association with management or implementation of the award, and
 - c. Make provisions or revisions regarding method of payment or financial reporting requirements.

B. FISCAL AND ORGANIZATIONAL REQUIREMENTS

1. Uniform Administrative Requirements, Cost Principles and Audit Requirements. Unless excepted under HUD program regulations (24 CFR, Subtitle B, chapters I through IX), the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200 apply to Federal awards made by HUD. For older HUD grants and for

PHAs where the basis for an exception or waiver is 24 CFR parts 84 and 85 (2013 edition), the non-Federal entity may apply 24 CFR 84.1(b) and 85.1(b).

2. Compliance with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L.109-282), as amended. Recipients of HUD’s financial assistance must report certain sub-awards in the Federal Sub-Award Reporting System (FSRS) or its successor system for prime awards.
3. Codes of Conduct. 2 CFR 200.112 requires HUD to have a conflict-of-interest policy for Federal awards. Before executing a grant or cooperative agreement with HUD, recipients must ensure an up-to-date copy of the organization’s code of conduct, dated and signed by the Executive Director, Chair, or equivalent official, of the governing body of the organization has been submitted to HUD, or if required by program regulations, be maintained and available to HUD.
 - a. Non-Federal entities must comply with program specific conflict of interest requirements.
 - b. For procurement transactions only: Non-Federal entities subject to 2 CFR 200.318 must have documented procurement procedures that include standards of conduct consistent with 2 CFR 200.318(c) and prohibit real and apparent conflicts of interest arising among officers, employees, or agents in the selection, award, and administration of procurement contracts. The standards must prohibit the solicitation and acceptance of gifts or gratuities over minimal value by officers, employees, or agents for their personal benefit; and outline administrative and disciplinary actions available to remedy violations of such standards
 - c. In accordance with 2 CFR 200.318(c), if the recipient has a parent, affiliate, or subsidiary organization, that is not a state, local government, or Indian Tribe, the recipient must also maintain written standards of conduct covering organizational conflicts of interest in procurements. “Organizational conflicts of interest” means due to relationships with a parent, affiliate, or subsidiary organization, the recipient is unable, or appears to be unable, to be impartial in conducting a procurement action involving the related organization.
4. Participation in a HUD-Sponsored Program Evaluation. As a condition of receiving funding under a NOFO, recipients must agree to cooperate with HUD staff, contractors, or designated recipients performing research or evaluation studies.
5. Ensuring the Participation of Small and Minority Businesses, and Women-Owned Businesses, and Labor Surplus Area Firms. Under 2 CFR 200.321, recipients, their sub-recipients and contractors must take all necessary affirmative steps to assure small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

6. Prohibition Against Lobbying Activities. Applicants are subject to Section 319 of Public Law 101-121, 31 U.S.C. 1352, (the Byrd Amendment) and 24 CFR part 87, prohibiting recipients of Federal contracts, grants, cooperative agreements, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal government for a specific contract, grant, loan, or cooperative agreement.

All applicants must submit a Certification of Lobbying form signed by the authorized representative using language in Appendix A of 24 CFR Part 87.

7. Applicants must also disclose, using Standard Form LLL (SF-LLL), “Disclosure of Lobbying Activities,” any funds, other than Federally appropriated funds, used to influence Federal employees, members of Congress, or congressional staff regarding specific grants, cooperative agreements, or contracts. Federally recognized Indian tribes and tribally designated housing entities (TDHEs) established by Federally recognized Indian tribes are excluded, but State-recognized Indian tribes and TDHEs must comply.

C. REPORTING REQUIREMENTS

1. Reporting Requirements and Frequency of Reporting. The NOFO and grant or cooperative agreement must specify the reporting requirements, including content, method of data collection, and reporting frequency. If the total Federal share of a recipient’s Federal award is more than \$500,000 over the period of performance, the recipient may be subject to post-award reporting requirements reflected in Appendix XII to 2 CFR Part 200--Award Term and Condition for Recipient Integrity and Performance Matters.
2. Race, Ethnicity and Other Data Reporting. Unless there is an explicit exemption, HUD requires recipients providing HUD-funded program benefits to individuals or families to report data on the race, color, religion, sex, national origin, age, handicap (disability), and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of HUD programs in order to meet the Department’s responsibilities under the Fair Housing Act, Executive Order 11063, Title VI of the Civil Rights Act of 1964, and Section 562 of the Housing and Community Development Act of 1987. NOFOs may specify the data collection and reporting requirements. Many programs use the Race and Ethnic Data Reporting Form HUD-27061 (U.S. Department of Housing; OMB Approval No. 2535-0113).
3. Performance Reporting. HUD-funded programs require recipients to submit, not less than annually, a report on achievement of outcomes under the program in the grant or cooperative agreement.

D. OTHER REQUIREMENTS (This list is non-exhaustive)

1. Environmental Requirements. The HUD regulations governing the environmental review process can be found at 24 CFR Parts 50 and 58. This

covers both the National Environmental Policy Act (NEPA) and related laws and authorities and incorporates NEPA and Council on Environmental Quality (CEQ) regulations in 40 CFR Parts 1500 through 1508.

- a. The environmental review process must be completed prior to approval of an application or issuance of an award unless the NOFO, grant agreement, or cooperative agreement includes a special condition providing for environmental review after approval of the application or issuance of the award.
 - b. The NOFO must include applicable environmental requirements in the NOFO or state if the funded activities are excluded from environmental review. Unless a categorical exclusion applies, each NOFO must also reference a Finding of No Significant Impact (FONSI) establishing that the issuance of the NOFO itself will not have a significant environmental impact or indicate that an environmental impact statement has been prepared if the NOFO does have a significant environmental impact. FONSI documents are available for public inspection on HUD’s website for applicable NOFOs.
 - c. The Program Environmental Clearance Officer for the appropriate office should be consulted for specific information on what the applicant must address.
2. Eminent Domain. Annual HUD appropriation Acts have prohibited the use of funds to support any Federal, state, or local project seeking to use the power of eminent domain, unless eminent domain is employed only for a public use. Public use shall not be construed to include economic development that primarily benefits private entities. This requirement must be included in the NOFO if the fiscal year appropriation Act contains this provision.
3. Consistency with the Consolidated Plan. Certain competitive programs require applications to contain a certification of consistency with a HUD-approved Consolidated Plan. This certification means the jurisdiction’s consolidated plan shows need, the proposed activities are consistent with the strategic plan and the location of the proposed activities is consistent with the geographic areas in the jurisdiction’s Consolidated Plan. HUD will not select and award funding for applications which do not contain certifications of consistency with the Consolidated Plan when certification is required under the NOFO.
4. Economic Opportunities for Low- and Very Low-income Persons. Certain programs require recipients to comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3), 12 U.S.C. 1701u, and the HUD regulations at 24 CFR part 75. *For NOFOs where Section 3 and 24 CFR part 75 apply, applicants must include information regarding how Section 3 activities will be considered in rating the application, the evaluation criteria utilized, and the rating points assigned.*

5. Real Property Acquisition and Relocation. Except as otherwise provided by Federal statute, programs or projects assisted with HUD grant funds are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA)(42 U.S.C. 4601-4655), and the government-wide implementing regulations issued by the Federal Highway Administration at 49 CFR part 24.
 - a. Real property acquisition satisfying the requirements of 49 CFR 24.101(b)(1) through (5) is not subject to the requirements of 49 CFR 24, subpart B. These acquisitions, commonly referred to as “voluntary acquisitions,” include those conducted without the threat or use of eminent domain. Records demonstrating compliance with these requirements must be maintained by the recipient. The URA's assistance provisions remain applicable to any tenants that must move as a result of an acquisition described in 49 CFR 24.101(b) (1) through (5).
 - b. The relocation requirements of the URA, and its implementing regulations at 49 CFR part 24, cover any person who moves from real property or moves personal property from real property because of acquisition, rehabilitation, or demolition for a program or project receiving Federal financial assistance. While there are no URA statutory provisions for “temporary relocation,” the URA regulations recognize sometimes, a person will not be permanently displaced but may need to relocate for a short period. Under the URA regulations any tenant temporarily relocated for a period beyond one year must be contacted by the displacing agency and offered URA permanent relocation assistance (See Appendix A to 49 CFR 24.2(a)(9)(ii)(D)). The URA does not apply to displacements resulting from the demolition or disposition of public housing covered by Section 18 of the United States Housing Act of 1937.
 - c. However, if subsequent acquisition, rehabilitation, or demolition carried out with HUD funds or carried out with other HUD-funded activities causes residents to relocate, the URA may apply to those relocations. Additionally, if CDBG or HOME funds are used in the demolition or with conversion of lower-income dwelling units to a use other than lower-income dwelling units, the project may be subject to section 104(d) of the Housing and Community Development Act of 1974, including relocation assistance and one-for-one replacement provisions under 24 CFR part 42 subpart C.(PIH Notice 2021-07)
6. Accessible Electronic and Information Technology. Section 508 of the Rehabilitation Act (Section 508) requires HUD to ensure access to electronic information and data to persons with disabilities comparably to those without disabilities unless an undue burden would result to the Federal agency. HUD

encourages its recipients to adopt the goals and objectives of Section 508 by ensuring comparable access whenever electronic and information technology is used.

7. Prohibition of the purchase of certain telecommunications equipment. Under Section 889 of the National Defense Authorization Act of 2019 (Pub. L. No. 115-232) and 2 CFR 200.216, HUD loan and grant funds cannot be used to procure or obtain or extend or renew a contract to procure or obtain; or to enter a contract to procure covered telecommunications equipment as described in subsection (a) of Section 889. 2 CFR 200.216(b) also provides that heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
8. Executive Order on Ensuring the Future Is Made in All of America by All of America's Workers (E.O. 14005). In alignment with E.O. 14005, HUD should, consistent with applicable law, use terms and conditions of Federal financial assistance awards and Federal procurements to maximize the use of goods, products, and materials produced in, and services offered in, the United States. HUD should, whenever possible, procure goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive. Additionally, to promote an accountable and transparent procurement policy, HUD should vest waiver issuance authority in senior agency leadership, where appropriate and consistent with applicable law.

2-6: NOFO Clearance

A. INTERNAL CLEARANCE

1. This section outlines the specific process for NOFO clearance and procedures.
2. Originating Program Offices must prepare an original and redlined version of their prior year's NOFO to start the clearance process. Assigned counsel for each Program Office must review the proposed NOFO for legal sufficiency. **Note: All documents must be in an accessible format in accordance with Section 508 compliance requirements.**
3. Review by program counsel includes coordination with OGC's Office of Legislation and Regulations. If the program counsel was not included in the pre-clearance process and the NOFO is new or contains significant changes from the prior year's NOFO, then program counsel will have 28 days to review and comment. Once the NOFOA is approved by the Program Office, the Certifying Official can submit it into Departmental Clearance.

B. DEPARTMENTAL CLEARANCE

1. The NOFO Departmental Clearance process allows 10 Business Days for Program Offices and Support Offices (e.g., OGC, OCFO) to review and comment on a NOFO from the originating Program Office. The options for commenting on the NOFO: *No Position* (i.e., no need to review the NOFO); *Concur without Comment*; *Concur with Comment*; or *Non-Concur with Comment*. For definitions of these terms, see the HUD Directives Handbook.
2. Default Concurrence of NOFOs - Default Concurrence means concurrence is automatically assumed when Program Offices do not send their NOFO review and concurrence status by the deadline.

NOFOs will be in Departmental Clearance for 10 business days. After 10 business days, all non-respondent offices, except OGC, will be considered to have Default Concurrence.

3. To expedite OGC’s concurrence, GMO will schedule a meeting with the NOFO Drafter and OGC at the beginning of the clearance period.
4. Non-concurring comments must include proposed language clearing the non-concurrence or explain why the commenter is unable to propose language. Additionally, non-concurring comments from OGC must have a basis in statute or regulation. Comments from reviewing Program Offices must have a basis in statute, regulations, or HUD policy. Originating offices should make good faith efforts to consider and incorporate clearance comments, including concurring comments.
5. Once Departmental Clearance is complete, the following steps take place:
 - a. The NOFO is submitted to OMB. OMB has an initial 10 business days to review, approve, and return the NOFO to HUD with any comments or concerns.
 - b. The Department then works to resolve those comments or concerns and sends the NOFO back to OMB. OMB is then allowed an additional 10 business days for a final review.
 - c. Once approved by OMB and returned to HUD, OGC has 5 business days to complete a final review. When OGC concurs on the NOFO for publication and concurs with the NOFO’s FONSI, if applicable, it is sent to GMO for publishing. This task is a part of the AM workflow in the GrantSolutions system.
 - d. After final approval by OGC, GMO Portfolio Managers will submit an email notification to the Office of the Secretary (OSEC). The notification will contain a brief synopsis of the NOFO, and a .pdf version of the final approved NOFO to review.

OSEC will have 7 business days to submit their respective reviews. **After 7 business days, these offices will be considered in Default Concurrence.**

- e. Upon final approval or concurrence from OSEC, GMO will publish the NOFO within 2-3 business days unless the Program Office requests the NOFO be published on a specific date or other circumstances require a delay in publication.
6. GMO will work with Program Offices to ensure no more than four (4) NOFOs are in Departmental Clearance in any given week.

NOFO Clearance Steps	General Timeframes
NOFO Drafted	Milestone Plan Timeline
Cleared internally by originating office (including pre-review by program attorney in OGC)	5-10 business days
Departmental Review and clearance by other HUD offices	10 business days
Originating office revises NOFO based on comments and resolves non-concurrences	10 business days
OMB reviews and approves NOFO. Originating office revises NOFO based on OMB comments.	Up to 20 business days
OGC completes final review and concurrence on publication	5 business days
Publication to Grants.gov by GMO	2 - 3 business days

C. EXECUTING THE HUD-22, DEPARTMENTAL CLEARANCE APPROVAL PROCEDURES

- 1. When an electronic grants management system is used to draft, clear, and publish NOFOs, a HUD-22 from the originating Program Office is not needed to put the NOFO into Departmental Clearance. The digital signature by the Certifying Official indicates approval to put the NOFO into Departmental Clearance.

2. Program Offices reviewing a NOFO have 10 business days from the date the NOFO entered Departmental Clearance to submit a signed HUD-22 with or without comments.
3. Except for the offices listed in #4 below, Program Offices failing to submit a signed HUD-22 within 10 business days will be deemed to have “No Position” by the originating Program Office when the clearance period has expired.
4. GMO, OGC, and OCFO must upload a concurring HUD-22 before a NOFO can go to OMB.
5. Portfolio Managers must give the GMO Director a HUD-22 to sign – either paper copy or electronic copy (via email formatted for digital signature).

D. ORIGINATING PROGRAM OFFICE RESPONSIBILITIES

1. Originating Program Offices must address all non-concurring comments and should consider concurring comments received on a NOFO during the Departmental Clearance process.
2. When necessary, the originating Program Office can extend the review period beyond the 10 business days standard when requested by a reviewing office. Extensions granted should not be so long as to significantly delay the Departmental Clearance process.
3. Originating Program Offices should complete NOFO revisions based on comments received during Departmental Clearance within 14 days.

E. NOFO PUBLICATION ON GRANTS.GOV

1. Once OGC has given final concurrence, GMO staff will publish the NOFO to Grants.gov.
2. NOFOs posted on Grants.gov are the official documents to solicit applications. If there is a discrepancy between a NOFO posted on Grants.gov and other information provided in any other copy, version, or supporting documentation, the Program NOFO published on Grants.gov will prevail.

F. NOFO AMENDMENTS AND TECHNICAL CORRECTIONS

1. If, after NOFO publication, a Program Office determines a correction or change is needed, HUD can publish a revised version to Grants.gov. The two types of corrections or changes allowed are technical corrections and amendments.
2. A technical correction is a minor change not altering the program intent, purpose, rating factors, or policy intent of the NOFO (e.g., funding amount change, deadline date, or minor typographical error).
 - a. To initiate a technical correction, a Program Office must seek approval from the Authorizing Official and work with GMO to update the NOFO publication on Grants.gov.

- b. The minor nature of technical corrections does not change the application deadline date.
3. A significant change altering the program intent, purpose, rating factors, or policy (e.g., Program Office discovers an error in a rating factor or eligibility criteria changes) is an amendment.
 - a. To initiate an amendment, a Program Office must seek approval from the Authorizing Official and consult with GMO on the correction and its implications.
 - b. Amendments require review and concurrence of the revised NOFO by OGC before GMO can publish the updated version to Grants.gov. If the need for an amendment is identified less than 30 days before the published application deadline, the application deadline must be moved to ensure potential applicants have at least 30 days to apply.

2-7: Application Receipt and Review Procedures for Competitive Awards

A. APPLICATION RECEIPT

1. After submission, applications undergo initial screening by the Program Office, often referred to as threshold or intake, to ensure they meet minimum eligibility requirements in the NOFO requirements. Applications failing to meet initial screening requirements will not be evaluated further.
2. Applications passing the initial screening process will be evaluated based on the rating criteria outlined in the NOFO.
3. Eligibility requirements must be identified in the NOFO.
4. Unless there is an exception in Appropriations language or the Program Office grants a waiver, HUD does not accept faxed or hand-delivered applications or supporting documents.

B. CORRECTIONS TO DEFICIENT APPLICATIONS

1. HUD will not consider information applicants want to provide after the application deadline. HUD will not seek or consider clarification of application items or responses improving the substantive quality of an application or correct deficiencies in whole or part of a rating factor, including items impacting preference points.
2. HUD may contact the applicant to clarify other items in its application, consistent with 24 CFR 4.26(b). To not unreasonably exclude applications from being rated and ranked where there are curable deficiencies, HUD will uniformly notify applicants of technical deficiencies.

- a. A technical deficiency is an error or oversight that, if corrected, would not alter, in a positive or negative fashion, the review and rating of the application. Examples of curable (correctable) technical deficiencies include inconsistencies in the funding request, failure to submit the proper certifications, failure to submit an otherwise sufficient application under the correct Assistance Listings number or Funding Opportunity Number in Grants.gov, and/or failure to submit an application containing a signature by an official able to make a legally binding commitment on behalf of the applicant. These examples are non-exhaustive.
 - b. When HUD identifies a curable technical deficiency, HUD will notify the applicant's authorized representative. Official email notification must be sent from HUD with confirmation of delivery receipt requested. Applicants must provide an accurate email address for receipt of the notification.
 - c. Applicants must email corrections of technical deficiencies to applicationsupport@hud.gov within the time limits specified in the notification. The time allowed to correct deficiencies will not exceed 14 calendar days or be less than 48 hours from the email notification.
 - d. The start of the cure period will be the date stamp on the email HUD sends to the applicant. If the deficiency cure deadline date falls on a Saturday, Sunday, Federal holiday, or other day when HUD's Headquarters offices in Washington, DC, are closed, then the applicant's correction must be received on the next business day HUD Headquarters offices in Washington, DC are open.
3. Corrections to a paper application should be sent to the address stated in the Notice of Deficiency. Paper applications with incorrect Assistance Listings Numbers submitted under a waiver may correct the Assistance Listings Number as a technical deficiency. Applicants failing to correct the deficiency and submit an Assistance Listings number association with an active SAM registration on the submission deadline date will be ineligible for funding.
 4. The applicant must cure technical deficiencies before HUD can announce and award funding to the applicant.

2-8: Application Merit Review

A. REVIEW DESIGN AND CRITERIA (2 CFR 200.205)

1. For discretionary Federal awards HUD Program Offices must design and execute a merit review process for applications, with the objective of selecting recipients most likely to be successful in delivering results based on the program objectives outlined in section 2 CFR 200.202. A merit review is an objective process of evaluating Federal award applications in accordance with

written standards set forth by HUD. The process and criteria must be described in the NOFO. Merit review processes typically include intake or threshold screening reviews, reviewing and rating applications using HUD's standard rating factors and program-specific rating factors, and ranking applications by final scores. Alternative methods, such as funding by lottery, may be used if approved during the NOFO clearance process. HUD must also periodically review its merit review process.

2. Under Section 103 of the HUD Reform Act, in HUD regulations in 24 CFR part 4, subpart B, HUD's employees reviewing applications and making funding decisions are prohibited from providing advance information to any person (other than an authorized HUD employee) concerning funding decisions or from otherwise giving any applicant an unfair competitive advantage. Applicants for assistance must confine their inquiries to the areas HUD's employees may answer under 24 CFR part 4. This prohibition is lifted after award announcements are made.
3. For discretionary award renewals and non-discretionary award programs, applications may be subject to a review by at least one reviewer who is professionally and technically qualified to conduct the review. This review is limited to technical and/or cost matters.
4. Scientific or technical aspects of the grant application are evaluated through the merit review process. Competing grant applications must undergo objective review. The evaluation during objective review is based on merits of the application in response to the published criteria.
5. Criteria used to evaluate applications during the merit review must be included within a NOFO.

B. APPLICATION EVALUATION

1. HUD has established five (5) standard award funding factors in the NOFO template Program Offices may use. HUD may modify the factors for a specific funding opportunity to reflect statutory and regulatory limitations or program needs. The factors are:
 - a. Capacity of the Applicant and Relevant Organizational Staff
 - b. Need/Extent of the Problem
 - c. Soundness of Approach
 - d. Leveraging Resources
 - e. Achieving Results and Program Evaluation
2. NOFOs may award up to 100 points for the standard rating factors. Additional preference points may be given for Secretarial initiatives such as Opportunity Zones, Promise Zones, and Historically Black Colleges and Universities (HBCUs). GMO working with other offices will provide annual guidance on NOFO preference points, including any appropriations Act

provision regarding Promise Zones. Applicants must submit HUD Form 50153, signed by the Promise Zone authorized official to receive the points.

3. In evaluating applications for funding, HUD will consider an applicant's past performance in managing previous grants under the program or from HUD. Items HUD may consider include, but are not limited to:
 - a. Accounting for funds appropriately;
 - b. Using funds received from HUD in a timely manner;
 - c. Producing timely and high-quality reports submitted to HUD;
 - d. Meeting program requirements;
 - e. The use of quantitative data to establish performance targets;
 - f. Meeting performance targets as established in the grant agreement, with a focus on outcomes rather than output measures; a timeline outlining data collection strategies and annual reporting mechanisms;
 - g. The applicant's organizational capacity, including staffing structures and capabilities;
 - h. Timelines for completion of activities and receipt of promised matching or leveraged funds; and
 - i. The number of persons to be served or targeted for assistance.

4. Outstanding civil rights matters must be resolved before the application deadline. Applicants who, after review, are confirmed to have civil rights matters unresolved at the application deadline will be deemed ineligible. Their applications will receive no further review, will not be rated and ranked, and they will not receive funding.
 - a. Applicants having any of the charges, cause determinations, lawsuits, or letters of findings referenced in subparagraphs (1) – (5) that have not been resolved to HUD's satisfaction before or on the application deadline date are ineligible for funding. Such matters include:
 - i. Charges from HUD concerning a systemic violation of the Fair Housing Act or receipt of a cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of a substantially equivalent state or local fair housing law proscribing discrimination because of race, color, religion, sex, national origin, disability or familial status;
 - ii. Status as a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging a pattern or practice of discrimination or denial of rights to a group of persons raising an issue of general public importance under 42 U.S.C. 3614(a);
 - iii. Status as a defendant in any other lawsuit filed or joined by the Department of Justice, or in which the Department of Justice has intervened, or filed an amicus brief or statement of interest,

alleging a pattern or practice or systemic violation of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Americans with Disabilities Act or a claim under the False Claims Act related to fair housing, non-discrimination, or civil rights generally including an alleged failure to affirmatively further fair housing;

- iv. Receipt of a letter of findings identifying systemic non-compliance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, or the Americans with Disabilities Act;
- v. Receipt of a cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of provisions of a state or local law prohibiting discrimination in housing based on sexual orientation, gender identity, or lawful source of income.

b. HUD will determine if actions to resolve the charge, cause determination, lawsuit, or letter of findings taken before the application deadline date will resolve the matter. Examples of actions that may be sufficient to resolve the matter include, but are not limited to:

- i. Current compliance with a voluntary compliance agreement signed by all the parties;
- ii. Current compliance with a HUD-approved conciliation agreement signed by all the parties;
- iii. Current compliance with a conciliation agreement signed by all the parties and approved by the state governmental or local administrative agency with jurisdiction over the matter;
- iv. Current compliance with a consent order or consent decree;
- v. Current compliance with a final judicial ruling or administrative ruling or decision; or
- vi. Dismissal of charges.

- 5. HUD may deduct points from the rating score or establish threshold levels as specified under the Factors for Award in the program NOFOs. Program NOFOs will specify how past performance will be rated or otherwise used in determining award amounts.
- 6. HUD may give funding priority to applicants who demonstrate effective use of evidence in identifying needs to be addressed and selecting the practices, strategies or remedies proposed in the application, where practicable.
- 7. **Environmental Justice.** HUD may consider environmental justice in evaluating applications. Under E.O. 12898, each Federal agency is directed to

identify and address disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. If your NOFO will consider environmental justice, you must specify how it will be evaluated.

8. **Intergovernmental Reviews.** Executive Order (EO) 12372, Intergovernmental Review of Federal Programs, as implemented by 24 CFR part 52, is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state, areawide, regional, and local coordination and review of proposed Federal financial assistance and direct Federal development. NOFOs must indicate if the program is subject to EO 12372. If subject to EO 12372, a Program Office must review comments received from the State Single Point of Contact (SSPOC) and make efforts to accommodate intergovernmental concerns as per the procedures outlined in 24 CFR part 52.

C. INDEPENDENCE OF APPLICATION REVIEWERS

1. The Program Office must use objective reviewers knowledgeable in the field of endeavor or subject under review, be sufficiently independent of the entity applying for assistance, and able to render an objective and unbiased evaluation. This includes Federal employees, including HUD staff. Any circumstance introducing a conflict of interest, or appearance thereof, prejudices, biases, or predispositions into the process must be avoided.
2. Federal employees, including consultants and technical experts, who assist HUD in rating and ranking applications for funding under NOFOs are subject to 18 U.S.C. 208, the Federal criminal conflict-of-interest statute, and the Standards of Ethical Conduct for Employees of the Executive Branch regulation published at 5 CFR part 2635. Consultants and technical experts who assist applicants with preparing applications for Program NOFOs may not serve on a selection panel and may not serve as a technical advisor to HUD.
3. Employment of outside experts and peer reviewers under the consultant appointment authority subjects them to the restrictions under Section 103 of the HUD Reform Act when consultants/experts review competitive applications. Program Offices must ensure inherently governmental functions, such as award selections and recommendations, are not performed by experts or consultants.
4. Anyone involved in rating and ranking Program NOFO applications, including departmental staff, experts, and consultants, must avoid conflicts of interest or the appearance of such conflicts. These individuals must also disclose to HUD's OGC Ethics Law Division the following information, if applicable:

- a. How the selection or non-selection of any applicant under a Program NOFO will affect the individual's financial interests, as provided in 18 U.S.C. 208, and;
 - b. How the application process involves a party with whom the individual has a covered relationship under 5 CFR 2635.502 (b)(1).
5. The consultant or technical expert assisting HUD must disclose the information in 4.a. or 4.b. above before participating in any matter regarding a NOFO.

D. CONDUCT OF MERIT REVIEW

1. The merit review must be performed:
 - a. After the application submission deadline; or
 - b. After the Program Office accepts an unsolicited request for funding for review.
2. Applications must be evaluated against the Eligibility, Threshold Requirements and Rating Factors in the NOFO. At a minimum, evaluations of applications from eligible applicants must include a full reading of the application, scoring of the application on the evaluation criterion, and indicate the strengths and weaknesses of the overall response.
3. If stated in the NOFO, HUD may consider geographic distribution, diverse types and sizes of applicant entities, diversity of methods or approaches or a limitation on the number of awards a single applicant may receive when selecting applicants for funding.

E. RANKING AND SELECTION OF APPLICANTS

1. After applications are scored, the Program Office must rank the applications unless only one application is received.
2. The results of the application review process and selection recommendations are then provided to the Allotment Holder. Selections are made based on the evaluation, published factors for award and other factors as indicated under D.3. above, and comments if any, under EO 12372.
3. Approval of the ranking and selections by the Allotment Holder or his/her designee indicates all requirements in the NOFO have been met for successful applicants.
4. Applicants disapproved (including those not meeting eligibility threshold requirements), must be notified in writing after the Allotment Holder approves the selected applicants list. (See Section 2 – 5 A.4, above, for applications not accepted for review.)

F. DOCUMENTATION OF THE MERIT REVIEW PROCESS

1. Documentation of the decision to approve, disapprove, or otherwise not fund an application, as required by this Section, must be maintained by the Program Office in its files or in the official electronic award file.
2. Documentation must be handled in a manner that protects the confidentiality of the reviewers’ identities and their comments and does not reveal their assessments or scores to the public. This information must be documented for approved applications:
 - a. The numerical position of the application in the ranking list;
 - b. When applications are not approved in rank order, adequate justification and description of the items or reasons influencing the selection of applicants for funding;
 - c. The amount recommended for funding and, if different from the amount requested in the application, an explanation or rationale for the difference between the requested amount and the award amount;
 - d. Information on strengths and weaknesses of the application; and
 - e. Any conditions imposed on the approved application, whether resulting from the objective review or pre-award risk assessment.
3. HUD must ensure documentation states the rationale for approval or denial. The application, including any letters of support, may be subject to public disclosure as provided under the Freedom of Information Act (FOIA) (5 U.S.C. 552) and HUD’s implementing regulations at 24 CFR Part 15.
4. Pursuant to FOIA, HUD may proactively disclose awarded applications accessible on the Department's Web site at <http://www.hud.gov/FOIA>.
5. Applicant/Recipient Disclosure/Update Reports (currently Form HUD-2880) submitted must be available to the public for five (5) years. Updated reports must be available with the initial applicant disclosure reports for at least three (3) years.

2-9: Non-Discretionary Awards

An award made by HUD to specific recipients in accordance with statutory, eligibility and compliance requirements, such that in keeping with specific statutory authority the agency has no ability to exercise judgement (“discretion”). A non-discretionary award amount could be determined specifically or by formula.

A. OVERVIEW

1. This section describes procedures applicable to programs that provide non-discretionary awards.

2. It is HUD policy to recognize the unique statutory and regulatory requirements applicable to non-discretionary awards while maintaining a systematic approach to their award and administration.
3. Program Offices may monitor non-discretionary awards either on-site or remotely. The review must include requirements related to eligible activities, allowable costs, any limits on types of costs (such as administrative costs), beneficiary eligibility determinations, matching funds, collection and reporting of program data, and collection and use of program income.

B. SUBMISSION PROCESS FOR NON-DISCRETIONARY AWARDS

1. In most cases, HUD will notify recipients of their non-discretionary award allocation within 60 days of funding appropriation as required by many funding provisions in the annual appropriations Act.
2. Recipients must submit a plan (e.g., Consolidated Plan, Five-Year Public Housing Agency Plan or Annual [Public Housing] Plan) reviewed and approved by HUD in accordance with 24 CFR parts 91 and 903.

HUD review of plan submissions are set forth in the relevant program regulations.

2-10: Award Renewals

A. TYPES OF AWARD RENEWALS

1. Another important kind of discretionary grant-making at HUD is renewal awards. There are three types of renewal awards: continuation, competitive, and non-competitive. Whether a grant can be continued or renewed and whether they may be awarded non-competitively depends on authorizing acts, appropriations acts and program regulations.
2. A grant continuation is an extension or renewal of an existing expiring program funding for one or more additional budget period(s). Continuation grants are typically available to existing recipients of discretionary, multi-year grants.
3. A competitive award renewal is an extension of program funding for one or more additional budget period (s) based on a competition with other eligible renewal recipients. Funding is announced via a NOFO on Grants.gov and selection is based on criteria detailed in the NOFO.
4. A non-competitive award renewal is an extension of program funding for one or more additional budget period(s) based on availability of funds, project performance and/or compliance with progress and financial reporting requirements. Recipients may have originally competed for selection or were selected based on Congressional direction or an appropriations act.

B. RENEWAL APPLICATION REQUIREMENTS

1. Program Offices must provide recipients and/or applicants with specific instructions for completing and submitting applications for renewal awards.
2. At minimum, the renewal award instructions must specify:
 - a. Required means of submission;
 - b. Required forms and documentation to be submitted, including instructions;
 - c. Due date for submission and consequences of a late submission;
 - d. Approved funding level for the upcoming budget period;
 - e. Requirements to request any budget or project revisions; and
 - f. The recipient must provide its estimated unobligated balance at end of performance period and explain why an unobligated balance exists.
3. If applicable, selection and award of competitive renewals must comply with requirements for discretionary grant competitions, including NOFO development and merit review.

C. RENEWAL APPLICATION REVIEW

1. The Program Office must review the renewal application/submission and provide a recommendation for continuing or discontinuing the award. The review must be documented and included in the official grant file.
2. Subject to the requirements of the authorizing acts, appropriations acts and program regulations, grant continuations and non-competitive renewals need not undergo a merit review process. However, HUD must determine that the grant being renewed complies with program requirements.
3. As a prerequisite to continued funding, the appropriate grants official, must:
 - a. Determine whether the recipient has submitted applicable certifications and assurances (2 CFR 200.209);
 - b. Review the required OMB-designated repositories of government-wide data such as the SAM and the FAPIIS and make award decisions accordingly (Appendix I to 2 CFR part 200); and
 - c. Review the application budget and the most recent Federal Financial Report (FFR) and other available information.
4. For multi-year project periods, the Program Office may opt to provide future funding in the approved amount(s) unless:
 - a. The recipient is not making adequate progress;

- b. The recipient has not complied with the terms and conditions of previous budget; or
 - c. The amount available for funding has been reduced or eliminated.
5. The Program Office may reject an application for a renewal award if any of these situations occur, subject to any appeal rights available to the recipient in statute or regulation.

2-11: Unsolicited Proposals

A. OVERVIEW

1. Unsolicited proposals are those received without benefit of full and open competition. The determination to fund a grant or cooperative agreement without competition must be authorized by law (including the competition provision in the annual appropriations Act) and supported by a written justification approved by the responsible Authorizing Official.
2. Program Offices may only fund an unsolicited proposal where it has been determined the applicant has offered a unique idea or concept and it is not feasible to pursue the project competitively without disclosing the applicant's proprietary ideas.

B. UNSOLICITED PROPOSALS INVOLVING RESEARCH

1. If a proposed unsolicited project, not exempt under 24 CFR Part 60.101, involves research using human subjects, then a certification must be included indicating an Institutional Review Board (IRB) has approved the research design. The certification must be accompanied by a description of the procedures and membership of the IRB and shows it has been registered under the Department of Health and Human Services' (HHS) Policy for Protection of Human Research Subjects, 45 CFR Part 46, Subpart E. Unsolicited proposals involving research should be forwarded to the HUD Office of the Assistant Secretary for Policy Development and Research (PDR).
2. Unsolicited proposals sent to HUD should be treated uniformly from receipt through evaluation in accordance with 48 CFR Part 15, Subpart 15.6. Title V of the Housing and Community Development Act of 1970, as amended, authorizes the Secretary to undertake programs of research, studies, testing and demonstrations, relating to the mission and programs of the Department.
3. To assure effective results of these activities, the Secretary is also authorized to disseminate significant reports, data and information to Departments and agencies of Federal, state, and local governments, private organizations, and the public. Research conducted by HUD must undergo peer review procedures in HUD's Guidelines for Information Quality and Integrity prior to issuance to the public.

2-12: Research Involving Human Subjects

A. OVERSIGHT AND APPLICABILITY

1. The Office of Policy Development and Research (PDR) is the HUD office with Department-wide responsibility for research involving human subjects.
2. The regulations for protecting human subjects in 45 CFR part 46, Federal Policy for the Protection of Human Subjects, apply to HUD grants for research involving human subjects. Subpart A of Part 46 was adopted by HUD in 24 CFR 60.101 and by other Federal agencies, as a uniform “Common Rule.”
3. HUD amended its human subject protection regulations on January 19, 2017 (82 Federal Register 7149 – 7274). The effective date for the amended regulations is January 19, 2018, except the effective date is January 20, 2020 for research conducted at more than one institution, called “cooperative research.”

B. NOFO REQUIREMENTS

1. Program Offices must ensure NOFOs for research clearly state the requirements associated with protection of human subjects and specify the information and assurances required from the applicant prior to the issuance of award.
2. Recipients and sub-recipients must safeguard the rights and welfare of human subjects in HUD-supported research activities in compliance with the Common Rule (45 CFR part 46, subpart A). This includes obtaining IRB approval and obtaining informed consent. As a matter of grants policy, recipients must ensure sub-recipients comply with these requirements.

2-13: Pre-Award Risk Assessment (2 CFR 200.206)

A. ENTERPRISE RISK MANAGEMENT RELATIONSHIP

1. Prior to making a Federal award, HUD is required by the Payment Integrity Information Act of 2019, 31 U.S.C. § 3354, and 41 U.S.C. 2313 to review information available through any OMB-designated repositories of governmentwide eligibility qualification or financial integrity information as appropriate. See also suspension and debarment requirements at 2 CFR part 180 as well as individual Federal agency suspension and debarment regulations in title 2 of the Code of Federal Regulations.

2. An objective of HUD’s Risk Management Program is to facilitate the completion of risk assessments at the program level which inform, and are informed by, the enterprise risks. These pre-award risk assessments of recipients provide input into the development of the Department’s view of risk. They also promote an understanding of HUD’s enterprise risks. HUD must have a framework in place for evaluating the risks posed by applicants before they receive Federal awards.
3. The Risk Management Program’s standard set of methodologies, tools, templates and processes for managing risk activities can be used by the Program Offices to develop or enhance pre-award risk assessment procedures. As enterprise-level risk management processes over grants are reviewed and matured by the Department, GMO will work with the Risk Management Program to provide updated information and tools to Program Offices.

B. PROGRAM OFFICE RISK FRAMEWORK

1. Program Offices must establish a process to identify and mitigate potential risks posed by potential recipients before selection. (2 CFR 200.206) Before selecting applicants for award, Program Offices must conduct a pre-award evaluation of each applicant; determine if the applicant poses risk; and decide whether to impose award conditions and additional performance requirements to mitigate and monitor risk or not select the applicant for funding based on the risk evaluation.
2. Regulations on reviewing and evaluating risk are in 2 CFR 200.206. Prior to making a Federal award, HUD must consider all of the information available through FAPIIS with regard to the applicant and any immediate highest level owner, predecessor (i.e.; a non-Federal entity that is replaced by a successor), or subsidiary, identified for that applicant in FAPIIS, if applicable.

At a minimum, the information in the system for a prior Federal award recipient must demonstrate a satisfactory record of executing programs or activities under Federal grants, cooperative agreements, or procurement awards; and integrity and business ethics.

3. Each Program Office’s financial management staff is charged with helping the Program Office determine whether an applicant is sufficiently responsible to receive Federal financial assistance under requirements established in 2 CFR part 200. If the review of the application shows risk using the indicators in sub-section C below, the Program Office must determine whether the risks can be handled with special terms and conditions (2 CFR 200.208).

C. RISK INDICATORS (2 CFR 200.206) – In evaluating risks posed by applicants, HUD may use a risk-based approach and may consider items such as the following:

1. Financial Instability. Indicators of financial instability include lack of timely payment to sub-recipients, contractors, and staff; tax liens/failure to pay Federal taxes; or a filing of bankruptcy or insolvency. Please note a decision not to make an award based on bankruptcy or insolvency alone may violate 11

USC 525(a) prohibiting discrimination against organizations filing such actions.

2. Quality of Management Systems and Ability to Meet Management Standards. HUD will not award or disburse funds to applicants not having a financial management system meeting Federal standards as described at 2 CFR 200.302. HUD may arrange for a financial capability system review for recipients who have not previously received Federal financial assistance. This may occur when HUD has reason to question whether a financial management system meets Federal standards, or for applicants considered high-risk based on past performance or financial management findings.
3. History of Performance. Unsatisfactory performance on another Federal award, may include, but is not limited to, material violations of award terms and conditions, present debarment, suspension or voluntary exclusion from Federal programs on the Limited Denials of Participation list, termination of a previous award for cause or unsatisfactory or incomplete reporting or performance under a prior or current award.
4. Debarments and/or Suspensions. Under 2 CFR part 180, no award of Federal funds may be made to debarred or suspended applicants, or those proposed to be debarred or suspended from doing business with the Federal government.
5. Reports and Findings from Audits performed under Subpart F.
6. The Applicant's Ability to Effectively Implement Statutory, Regulatory, or Other Requirements Imposed on Non-Federal Entities.
7. Exceptions. Federal awarding agencies may request exceptions in support of innovative program designs that apply a risk-based, data-driven framework to alleviate select compliance requirements and hold recipients accountable for good performance. 2 CFR Part 200.102(d)

D. RISK EVALUATION (2 CFR 200.206)

1. Pre-award risk evaluation must include a review of the applicant's history in available systems, including OMB-designated repositories of government-wide eligibility and financial integrity and other sources of historical information. These systems include, but are not limited to:
 - a. FAPIIS (www.fapiis.gov), including past performance on Federal contracts as per Duncan Hunter National Defense Authorization Act of 2009. HUD must consider all of the information available through FAPIIS;
 - b. Dun and Bradstreet;
 - c. Do Not Pay list; and
 - d. System for Award Management (SAM).

3. Before making an award expected to exceed the simplified acquisition threshold (\$250,000), HUD must determine whether a non-Federal entity is qualified to receive an award by considering any information about the entity in FAPIIS.
4. HUD is not required to make an award to a recipient, even if it has submitted a meritorious application, as determined by the merit review. HUD reserves the right to:
 - a. Deny funding, or with a renewal or continuing award, consider suspension or termination of an award immediately for cause,
 - b. Require removal of any key individual from association with management or implementation of the award, and
 - c. Make provisions or revisions regarding method of payment or financial reporting requirements.
5. A financial capability review may be required for newly established organizations, organizations not receiving an award from a Federal agency within the preceding 36 months, and organizations experiencing financial difficulty as evidenced by financial reports. In these instances, the Program Office shall evaluate the organization's financial statements and verify that the organization's financial stability can support its operations without using Federal funds for non-authorized purposes.
6. The Program Office makes the final decision to fund an application based on the reviews. This could include special restrictive conditions as provided in 2 CFR 200.208 upon written notification of the conditions; the reason(s) for imposing them; and the corrective action necessary to remove them.

2-14: Funds Commitment and Obligation Prior to Award

1. Program Offices must have an OCFO-approved Funds Control Matrix for their programs. The Matrix covers key information with respect to the assignment, commitment, obligation, and disbursement of funds for each program activity, including the verification of the availability of funds. OCFO's Funds Control Handbook has chapters on each of these areas. This process significantly reduces HUD's risk of an Anti-Deficiency Act violation. For additional information, see Chapter 3 -1 of this handbook.
2. Allotment Holders are the HUD primary organization heads, such as Assistant Secretaries or equivalent positions. No official or employee of HUD shall be designated as an Allotment Holder unless OCFO has determined he/she has implemented an adequate funds control system and has received training in funds control procedures. For additional information, see Chapter 1 – 5 A.2. of this handbook.
3. Before Congressional notification and public announcement, Program Offices prepare funding commitments for selected recipients and submit to the

Allotment Holder for approval. Once approved, the Congressional Notification can be generated for Congressional and Intergovernmental Relations (CIR) and the OCFO. Whenever possible, an electronic file is prepared for upload into HUD's accounting system to record the commitment by the Program Office or OCFO systems staff. CIR provides the date awards can be announced only when the notification has been submitted to Congress and the required embargo period has been satisfied.

4. After selection, some Program Offices may negotiate specific terms of the funding agreement and budget with selected applicants, if permitted by the NOFO. If HUD and a selected applicant do not successfully conclude negotiations in a timely manner, or a selected applicant fails to provide requested information, the applicant will not be awarded. HUD may select another eligible applicant in accord with the NOFO selection requirements.
5. To ensure the fair distribution of funds and enable the purposes or requirements of a specific program to be met in the NOFO, HUD reserves the right to fund less than the amount requested in an application. Program Offices that choose to award more than amount requested must use their respective statutory or regulatory authority to justify an increased award.
6. If an applicant turns down an award offer, or if HUD and an applicant do not successfully complete grant negotiations, HUD may fund another eligible application in accordance with the NOFO.
7. If, after announcing awards, additional funds become available either through the fiscal year appropriations bill, a supplemental appropriation, other appropriations or recapture of funds, HUD may use the additional funds to provide additional funding to an applicant awarded less than the requested funds to make the full award, and/or to fund additional applicants (in accord with the NOFO selection requirements) eligible to receive an award where no funds were available.

2-15: Award Notification

A. PREPARE AWARD ANNOUNCEMENT AND POST IN THE FEDERAL REGISTER

1. HUD publishes a quarterly Federal Register Notice listing awards including (1) assistance subject to Section 102(a) of the HUD Reform Act and (2) assistance provided through grants or cooperative agreements on a discretionary, non-competitive basis (see 24 CFR part 4).
2. To implement this requirement, Program Offices must prepare and submit the Award Federal Register Notice Information Sheet to GMO within 30 days of awards being publicly announced. GMO will prepare the Award Federal Register Notice for HUD and facilitate its posting. OGC reviews the Federal Register Notice before it is published.

B. CONGRESSIONAL NOTIFICATION REQUIREMENT

1. To ensure members of Congress receive prompt advance notification of grant awards not less than three (3) full business days before any award is announced, Program Offices must notify CIR of:
 - a. New or renewal awards for discretionary funds, whether awarded on a competitive or non-competitive basis;
 - b. Supplemental awards under discretionary grant programs, based on dollar amount or a change in scope, that have undergone objective review; and,
 - c. Allocations under non-discretionary award programs.
2. The CIR notification requirement does not apply to the de-obligation of HUD funds.

C. NOTIFICATION PROCESS

1. The notification must be provided by the responsible Program Office to CIR in an Excel file five business days before the Office would like to announce awards. The notification format may be subject to change. If changed, Program Offices will be provided with an update from GMO and CIR.
2. The current notification format must include:
 - a. Name of the recipient;
 - b. Congressional district(s) of the recipient and place of performance (if different);
 - c. Award type (e.g., new, renewal, supplemental);
 - d. Award amount; and
 - e. Contact Name and phone number.
3. CIR must provide the notice to OCFO for review.
4. After review, CIR provides the notice to Congressional members. OCFO provides the notice to House and Senate Appropriations Committees.
5. Program Offices must email the Congressional Notification report to AskGMO@hud.gov after it is submitted to CIR. They should also email the URL link to the press release issued by the Office of Public Affairs, if applicable, to AskGMO@hud.gov as soon as possible after publication.
6. GMO will update HUD's Funds Available web page to reflect awards made during a fiscal year.

2-16: Program Office Responsibilities After Award Notification

A. PREPARE AWARD ANNOUNCEMENT AND POST IN THE FEDERAL REGISTER

1. On a regular basis, HUD publishes a Federal Register Notice listing awards including
 - i. Assistance subject to Section 102(a) of the HUD Reform Act and;
 - ii. Assistance provided through grants or cooperative agreements on a discretionary, non-competitive basis (see 24 CFR part 4).
2. To implement this requirement, Program Offices must prepare and submit the draft Federal Register Notice to the OGC Regulations Division. OGC reviews the Federal Register Notice before it is published.
3. GMO will periodically check to ensure award lists are published in the Federal Register.

B. CODES OF CONDUCT (2 CFR 200.318)

1. To ensure compliance with 2 CFR 200.318(c)'s conflict of interest requirements for procurements, Program Offices must ensure proposed award recipients have a Code of Conduct in the HUD Code of Conduct e-library. The Code of Conduct must include compliant conflict of interest language that is consistent with the prohibited conflicts listed in 2 CFR 200.318(c). Please note no funds can be awarded to an applicant without a Code of Conduct statement, including compliant conflict of interest language, on file. The Program Office must review the language to determine it meets requirements.
2. If the Code of Conduct is on file, including compliant conflict of interest language, no further action is required.
3. If **not** on file, but the Program Office has a copy of the Code of Conduct, it shall use the Code of Conduct Checklist to review each Code of Conduct for compliance with 2 CFR 200.318(c). Items on the checklist must be answered in the affirmative for compliance.
4. The Program Office should email the Code of Conduct and the signed, completed checklist and the following information to AskGMO@hud.gov.
 - a. Assistance Listings Number
 - b. Organization name
 - c. Mailing address
 - d. Name, title, phone number and email address of Authorized Representative or person with executive authority
5. If **not** on file, and the applicant does not submit a Code of Conduct statement with the application, the Program Office shall request a copy as a curable

deficiency. The applicant must meet threshold requirements and be selected for an award. As stated above, the selection of the application cannot be announced and funded if deficiencies have not been cured.

C. DEBRIEFING

1. Most of HUD's discretionary funding competitions do not have appeal processes. However, application debriefing is available. For a period of at least 90 days, following the public announcement of awards under a NOFO, HUD will provide an application debriefing to requesting applicants.
2. A debriefing request must be made in writing or by email by the applicant's authorized official whose signature appears on the SF-424 or by his or her successor in office and be submitted to the Agency Contact(s) in the NOFO.
3. Information provided during a debriefing may include the final score the applicant received for rating factors, final evaluator comments for rating factors, and the final assessment indicating the basis assistance was provided or denied.