

CHAPTER 3. NOTICE OF FUND AVAILABILITY

Section 1. Requirements

3-1. GENERAL. The Notice of Fund Availability (NOFA) announces HUD's funding for the Flexible Subsidy and Section 8 LMSA programs. The NOFA cites application and eligibility requirements, available amounts, and selection criteria. The owner must indicate in the application, the type of loan or assistance being requested. The owner must submit the application to the Loan Management Branch in the HUD Field Office that has jurisdiction over the project for which assistance is requested. Applications for flexible subsidy for State Agency financed projects must be submitted to the State Agency, who, after review, will submit the application to the Field Office Loan Management Branch.

NOTE: FUNDING FOR SECTION 8 PROPERTY DISPOSITION PROJECTS IS NOT ANNOUNCED THROUGH THE NOFA PROCESS, BUT IS ADVERTISED THROUGH NATIONAL AND LOCAL NEWSPAPERS.

3-2. REVIEW OF APPLICATION. The contract administrator must review owner applications and make a recommendation for funding the project. The HUD Field Office will review all project applications, including State Agency projects, and submit the applications along with a recommendation for project funding to HUD Headquarters.

Section 2. Section 8 Loan Management Set-Aside

3-3. GENERAL. Only HUD-insured, formerly coinsured, Section 202, and HUD-Held projects are eligible for LMSA. HUD is the contract administrator for LMSA projects. Processing instructions and contract administrator monitoring responsibilities for the Section 8 Loan Management Set-Aside (LMSA) program are contained in HUD Handbook 4350.2. In addition to the instructions in the Section 8 LMSA Handbook, the contract administrator must follow the instructions in this Handbook. The LMSA program is designed to provide aid to HUD-insured, formerly coinsured projects, HUD-Held projects, and Section 202 projects with immediate or potentially serious financial difficulties. Project owners requesting Section 8 LMSA in conjunction with a Plan of Action must submit the application subject to Title VI of the National Affordable Housing Act of 1990.

3-4. APPLICATION REVIEW. The contract administrator must perform an initial review of each owner application to determine if the application contains the required documents and instructions as prescribed in LMSA regulations at 24 CFR

Section 886.105, in accordance with instructions in HUD Handbook 4350.2, and as prescribed in the Notice of Fund Availability (NOFA). The owner's application must also include:

- A. The owner's plan for remedying the physical, financial, and other problems at the project. The owner's plan must thoroughly address findings cited on recent Physical Inspection Reports, Unit Inspection Reports, Management Review Reports, and any significant tenant complaints on record. If the project is troubled and there has not been a comprehensive management review in the past year, every effort should be made to schedule a comprehensive review before the end of the fiscal year, or prior to execution of a contract for new LMSA units. Acceptance of a LMSA application does not in any way constitute a commitment by the Department to make additional resources available to a project. If the project is not funded, the owner should be notified in writing with a general statement of the reason the project was not funded, or that the project was funded at a unit level less than requested.
- B. Annual audited financial statements for the most recent period required must have been properly filed by the mortgagor. Monthly accounting, where applicable, must also have been filed in a manner acceptable to the Field Office. Prior to approval of an owner's application for LMSA, financial statements must have been reviewed for appropriate use of project funds.

3-5. FUNDING SELECTIONS. General funding allocations will be made in accordance with instructions prescribed in the NOFA and from among recommended projects submitted by the Field Office to Headquarters. Headquarter's processing will consist of establishing four broad, prioritized categories of projects; ranking projects in priority order within each category using a funding score; and allocating funds according to the results for as many projects as possible given available LMSA program funds.

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3-6. EMERGENCY LMSA FUNDING. Up to five percent of LMSA funds may be made available for funding projects recommended for emergency LMSA assistance. Emergency funding requests may be submitted at any time, as long as the emergency requests are clearly designated as such, and emergency submission requirements are met. An emergency request must have concurrence from the Regional Director of Housing and must be characterized by one of the following:

- A. The project was submitted to Headquarters separately from the Annual Needs Survey.

- B. The project was recommended on the general funding needs survey, but was not selected.
 - C. The project is encumbered by an unsubsidized HUD mortgage and the property either was developed as a retirement service center, or the project requires more additional units than permitted under general guidelines to alleviate emergency conditions which will likely result in a mortgage assignment in the near future, or which involve matters affecting the health and safety of tenants.
- 3-7. EMERGENCY APPROVAL REQUIREMENTS. All application and review procedures pertaining to general LMSA requests must also be carried out for emergency LMSA recommendations. In addition, the Field Office must demonstrate that placement of the additional LMSA units is likely to avert a mortgage default or assignment in the near future. The Regional Director of Housing must concur in writing with the Field Office's recommendation and the request to Headquarters must briefly explain why funds are needed on an emergency basis. If recommended units exceed the sum of vacancies plus tenants paying more than 40 percent of income, an explanation from the Regional Office must accompany the recommendation.
- 3-8. EMERGENCY FUNDING SELECTIONS. Emergency funding requests submitted by the contract administrator are reviewed and recommended for Headquarter's approval by the Operations Division, Office of Multifamily Housing Management. Each emergency proposal must be approved by the Office of Multifamily Housing Management, the Deputy Assistant Secretary for Multifamily Housing Programs, and the Assistant Secretary for Housing before a Form HUD-185 fund assignment will be issued.

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Section 3. Flexible Subsidy and Capital Improvement Loans

- 3-9. GENERAL. Instructions for processing applications and monitoring the flexible and capital improvement loan program are contained in HUD Handbook 4355.1. In addition to the instructions contained in HUD Handbook 4355.1, where a capital improvement loan is requested as an incentive in conjunction with a Plan of Action, the owner must submit the application subject to Title VI of the National Affordable Housing Act of 1990.
- 3-10. COMPLIANCE WITH SECTION 504. 24 CFR Part 8 lists the obligations placed on a recipient of Federal assistance who renovates the facility. These obligations fall in two

categories:

- A. If the project has 15 or more units, and the cost of the alterations is 75 percent or more of the replacement cost of the entire facility, the provisions at 24 CFR Section 8.22 for new construction of a housing facility must be followed.

- B. In all other cases, alterations to a multifamily housing project shall, to the maximum extent feasible, be readily accessible to and usable by a handicapped person. If alterations to individual aspects of a unit, considered as a whole, would amount to the alteration of the entire dwelling unit, the whole unit shall be made accessible. Once five percent of the units in a project are readily accessible to and usable by persons with mobility impairments, no further dwelling units or elements thereof must be made accessible. Nevertheless, alterations to common areas and those other areas affecting accessibility to the dwelling units themselves must still be made accessible, to the maximum extent possible. HUD has reserved the right to increase the number of units which must be made accessible under this section.