U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

Subject: Revised Information and Procedures for PHAs to Acquire and Rehabilitate HUD Real Estate Owned (REO) Properties

Dear Executive Director:

This letter provides your agency with the information and procedures by which you can participate in the acquisition and rehabilitation of HUD owned Real Estate Owned (REO) properties at discounted sales prices in accordance with the approved executive memorandum between HUD's Office of Public and Indian Housing (PIH), HUD's Federal Housing Administration (FHA), and the Office of Management and Budget (OMB).
This letter only applies to those PHAs located in eleven (11) states that have HUD REO properties located within their PHA jurisdictions. The 11 states are Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Oklahoma, South Carolina, Tennessee and Texas.

The current HUD list of HUD REO inventory has recently been revised and is available at www.hud.gov/offices/pih/programs/hcv/reo/index.cfm. Currently, _______ HUD REO properties are located in your jurisdiction. Please disregard prior inventory lists that may have been issued to your agency.

If you agree to participate in the program, you will enter into a transfer of title agreement in order for HUD to sell the HUD REO properties to your agency. The number of properties essentially available for sale to your agency may vary based on current inventory market conditions. The actual number of HUD REO properties secured by your agency will occur once the transfer of title agreement is fully executed between HUD and the _____________[PHA name].

Background

PIH and FHA have identified approximately 547 units of HUD owned REO properties throughout the United States that are currently occupied by families who were displaced by Hurricanes Katrina and Rita. These occupants have paid no rent to HUD and the majority of all leases between HUD and the current HUD REO occupants have expired. These families are not currently participating in the Disaster Housing Assistance Program (DHAP).

Unit Acquisition

The overall preference of this program is to enable your agency to purchase these properties from HUD at a discount in order to sell them at a cost savings to the eligible occupant families or other eligible homebuyers; in hardship cases (as defined by the PHA) a PHA may also continue to rent these properties to the eligible occupant families at the current market rate up to the HUD approved Fair Market Rent (FMR) for the area. The HUD REO properties are single-family homes and are in good condition and may be in need of repair. The discount structure is determined by the "as-is" appraised value of each property:

- For properties valued at $50,000 or more – 50 percent of the purchase price.
- For properties valued at no less than $25,000 but no more than $49,999 – A discount of $24,900.
- For properties valued at less than $25,000 – Sales price is $100.

The "as-is" appraisal is paid for and provided by HUD.

PHAs interested in purchasing properties under this initiative (or homebuyers interested in purchasing one of these properties from the PHA) may do so using private (local lender) or public funding (e.g., HUD program or grant funding, FHA insured loans, etc.).

HUD subsidized programs or FHA insured loans (as applicable) may be used by PHAs and families (as applicable) for the purchase of these properties. HUD subsidized programs would include specific programs or grant opportunities such as the:

- Neighborhood Stabilization Program (NSP1 and NSP2) and NSP program income (provides emergency assistance to state and local governments to acquire and redevelop foreclosed properties, URA, etc.) through the American Recovery and Reinvestment Act of 2009. In cases where HUD REO properties are located outside of the NSP1 target areas (NSP1 grant applications currently approved by HUD); the NSP grantee must submit a written request to HUD to include the HUD REO properties in its NSP target area. Information on NSP is available on www.hud.gov/nsp.
- Fiscal Year 2009 HUD grants (including PIH Capital Fund formula grants) being provided in accordance with the American Recovery and Reinvestment Act of 2009. The Recovery Act requires that $3 billion of Capital Funds be distributed as formula funds and the remaining $1 billion be distributed through a competitive process. HUD obligated the $3 billion in formula funds to PHAs on March 18, 2009. Information on these grants is available on:
  http://www.hud.gov/offices/pih/programs/ph/capfund/index.cfmwww.hud.gov/pih
  Other American Recovery and Reinvestment Act (Recovery Act) program information is available on www.hud.gov.
- PHA Section 8 Voucher Homeownership Program. For HUD REO properties closed under the Section 8 Homeownership Program, HUD will pay PHAs a $1,000 homeownership administrative fee per closing. Eligibility for the administrative fee set-aside for the homeownership voucher program will be automatically determined by HUD and verified using Voucher Management System (VMS) and PIC homeownership data submitted by your agency. Note that families assigned with voucher homeownership assistance must be eligible for the program and selected to participate in accordance with the program regulations at 24 CFR Part 982, Subpart M
- HUD insured/lender sponsored 203(k) Acquisition and Rehabilitation Loan Program (PHAs or individual and families). Information is available at:

http://www.hud.gov/offices/hsg/sfh/203k/faqs203k.cfm or
http://www.hud.gov/ll/code/llslcrit.cfm

- American Dream Down Payment Initiative (ADDI), a down payment and closing cost program
- Community Development Block Grant (CDBG)
- HOME Investment Partnerships Program funding
  ADDI, CDBG and HOME funding information is available at www.hud.gov/cpd
- Other government or non-government subsidies or government sponsored enterprise (GSE) homeownership programs (e.g., lender financing, Federal Home Loan Bank (FHLB) Affordable Housing Program (AHP) loan program; or an applicable State, City or County sponsored homeownership program)

Transfer of Title from HUD

HUD and the PHA will execute a transfer of title agreement, otherwise known as the purchase agreement. Under this agreement, the PHA or individual or family will be responsible for the completion of basic REO repairs such as electrical and plumbing upgrades and other code related repairs. PHAs are responsible for defining the property standards for the properties they administer under this program, however, the PHA property standards must at minimum meet or exceed Housing Quality Standards (HQS) as defined by Title 24, Code of Federal Regulations, Section 982.401 and all other applicable local codes and ordinances.

Under the transfer of title agreement, PHAs are responsible for acquiring the property and either (1) rehabilitating each property or (2) appointing that rehabilitation responsibility to an individual or family through a discount sale of the property from the PHA. If the PHA is not responsible for rehabilitating the property, a letter must be provided by a lender whereby the lender has committed to financing the acquisition and rehabilitation transaction. If the rehabilitation responsibility is given to an individual or a family, the PHA is encouraged to monitor and control rehabilitation construction and construction financing from beginning to end along with appropriate construction inspections as required by local law and ordinance.

Participation in this program requires the PHA to acquire all or a portion of the HUD-owned REO properties located in their jurisdiction that are identified by HUD as occupied by displaced Hurricane Katrina and Rita tenants. The HUD REO properties represent the good condition of HUDs REO inventory. On average HUD invested $10,000 per property to clean, paint and provide minor repairs and appliances for its tenants. For the past three years, HUD contractors have been providing property management services and making repairs as needed to keep the properties in order. Subject property values range from less than $25,000 to $120,000 with an average value of $85,000. PHAs will be given 30 calendar days from the date of this letter in which to inspect the HUD-owned REO properties to determine if the PHA will acquire the units through this program.

If the original PHA determines it will not participate in the program, or some of the properties assigned to the PHA have not been acquired; those same properties will be offered to a neighboring PHA as long as the neighboring PHA has authority under their state law to purchase properties outside of their jurisdiction and that there is a written agreement between the original

PHA and neighboring PHA agreeing on this issue. In cases where there is not a neighboring PHA to acquire the properties, a local non-profit housing organization would be eligible to apply to HUD.

Initial inspections will be performed by the PHA, and coordinated with the existing tenants and HUD or its contractor(s). Transfer of title from HUD to the PHA will take place prior to any rehabilitation work commencing. At the transfer of title from HUD, the PHA and tenant will enter into a lease agreement at the current market rate up to the HUD approved Fair Market Rent (FMR) for the area. The lease agreement will apply to the existing occupant or a new tenant as determined by the PHA, where the property will be managed and maintained by the PHA until the property is sold.

As noted previously, acquisition and rehabilitation of each property will occur in one of two ways: (1) The PHA acquires the property and rehabilitates it prior to the discounted sale to any individual or family or (2) the PHA acquires the property and sells it "as-is" to an individual or family. In order to be eligible, the individual or family must secure both the acquisition and the necessary rehabilitation financing prior to the sale of the property by the PHA to purchaser. Under both scenarios, the PHA, family or individual, as applicable, is responsible for completing repairs on the property no later than 60 days from the sale date, whereby the PHA is responsible for inspecting those repairs through completion. If repairs on the property exceed 60 days, HUD may allow for a written extension of the 60 day deadline on a case-by-case basis.

In cases where a family or individual is determined to rehabilitate the property, the PHA may elect to use a homebuyer enforcement note and mortgage to cover situations where the homebuyer fails to perform the rehabilitation within a reasonable time, otherwise fails to comply with rehabilitation requirements or has demonstrated dereliction of ownership, as defined by the PHA.

In cases where the individual or family currently residing in the HUD REO property is not interested in purchasing the property, the PHA may continue to rent the property to the current occupant(s) or will be responsible for securing other housing for those occupants, and moving them from the HUD-owned REO property at the end of the new, existing or expired lease term. At the PHA's discretion, the displaced current occupants may be admitted into their public housing or Section 8 rental assistance programs through a local preference. However, in all cases in which the current occupants are displaced and required to move from the HUD-owned REO property, a PHA must comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and/or Section 104(d) of the Housing and Community Development Act of 1974. In some cases, HUD funding may be used to pay for URA and/or Section 104(d) expenses.

The PHA may search for another individual or family interested in purchasing the property only after alternative housing has been found for the individual or family currently residing in the property.

Priority for purchasers is as follows unless the PHA establishes its own written priority policy:

1. Existing tenant, provided the family was displaced by Hurricane Katrina or Rita and is interested and qualified;
2. Other family or individual formerly assisted under the DHAP-Katrina program, provided the family was not terminated for failing to comply with the DHAP family obligations;
3. Section 8 Homeownership Voucher families;
4. Any other HUD income eligible homebuyers at or below 125% area median income;
5. Any other qualified homebuyer.

Programmatic Issues

Lead Based Paint/Asbestos

As part of the rehabilitation process, it is anticipated that some inspections may reveal lead and/or asbestos which will require the home to be vacated for abatement according to HUD's Office of Healthy Homes and Lead Hazard Control.

The disposition of the HUD-owned property, in this case to PHAs or, if no available PHA is interested, to a non-profit housing organization, comes under the Lead Safe Housing Rule (LSHR; 24 CFR 35, subparts B-R; if the housing was built before 1978. Specifically:

- If the property requires no rehabilitation, it comes under the Rule's Subpart F, HUD-Owned Single Family Property. The Rule does not require abatement of the paint. That subpart requires a visual assessment for deteriorated paint (by a person trained to do so), stabilization of any deteriorated paint found (by people trained to do so), a clearance examination after the paint stabilization to ensure the safety of the work for subsequent occupants (again by people trained to do so), and notifying the occupants of the results of the control activities and the clearance examination. Typically, the work is completed in one or a few days.

- If the property requires rehabilitation by the PHA (or as a requirement of the sale to the owner), it comes under the Rule's Subpart J, Rehabilitation. The evaluation and control requirements depend on the cost of the rehabilitation.

Further information is available at www.hud.gov/offices/lead/enforcement/lshr.cfm.

Environmental Review

If the PHA is using HUD funds for acquisition and/or rehabilitation, then a HUD environmental review is required before undertaking any choice-limiting activity (including acquisition or rehabilitation) or committing HUD funds. A responsible entity can conduct the HUD environmental review under 24 CFR part 58. The responsible entity is the unit of general local government within which the project is located that exercises land use responsibility. Further information about the environmental review requirements can be found at http://www.hud.gov/offices/cpd/environment/index.cfm.

Questions concerning the environmental review process can be addressed to the appropriate HUD Field Environmental Officer. To find your HUD Field Environmental Officer, please see http://www.hud.gov/offices/cpd/environment/contact/localcontacts/.

Displacement/Temporary Relocation

If the PHA will not maintain the property as a rental unit, displacement may be addressed in one of two ways: 1) If the existing occupant family is unable to purchase the property, the individual or family may apply to the PHA for public housing or Section 8 assistance[1] ; or 2) if the tenant is not eligible for subsidized housing, and the individual or family moves to other non-subsidized housing of their choice.

If the existing tenant desires to, and is qualified to purchase the home, temporary relocation may be required during the rehabilitation process. In some cases families may be temporarily relocated to available vacant public housing units to keep relocation costs at a minimum. The housing rehabilitation period is not expected to exceed 30 days on any of the identified properties; however it will vary based on the condition of each property. It is estimated that each home will have a family of four, on average.

Uniform Relocation Assistance and Real Estate Acquisition Policies Act of 1970 (URA) and Section 104 (d) of the Housing and Community Development Act of 1974.

The requirements of the URA and/or Section 104d are applicable if federal financial assistance is used for acquisition and/or rehabilitation of the subject properties. PHAs and homebuyers who utilize federal financial assistance for purchase and/or rehabilitation of these properties will be required to comply with the URA and/or Section 104d.

FHA Mortgage Insurance Related to URA:

In the event a PHA or homebuyer purchases a HUD REO unit with 100% FHA insured 203(k) financing covering the acquisition and rehabilitation costs, 203(k) and other FHA mortgage insurance programs are not considered federal financial assistance and are exempt from the URA. See 49 CFR 24.2(a)(13). The 203(k) program lending criteria apply to both public entities such as PHA's and to individuals or families applying for a 203(k) mortgage application. Again, further information on HUD 203(k) program can be found at http://www.hud.gov/ll/code/llslcrit.cfm or http://www.hud.gov/offices/hsg/sfh/203k/faqs203k.cfm

Phased Acquisition and Rehabilitation Approach

Once all properties have been sold to the PHA or non-profit housing organization, it is recommended that the acquisition and rehabilitation of units be divided into phases of not more than ten homes per phase, or other appropriate phase approach, in order to keep the rehabilitation process manageable. This phased approach is at the discretion of the PHA.

PHA Responsibilities

The PHA will work with HUD to complete the transfer of title from HUD to the PHA. All costs associated with acquisition and/or rehabilitation, title/escrow/trustee fees and other fees associated with transfer of title shall be borne by the PHA. The PHA may later roll those costs into the sales price of the property to recoup all expenses it has incurred (see the transfer of title

[1] The PHA may have to establish a local preference for families displaced by Hurricanes Katrina or Rita in order for the family to be admitted to the public housing or voucher program from the waiting list in a timely manner. Establishing a local preference is at the PHA's discretion and is not mandated by HUD.

agreement for limitations on those expenses). The PHA will coordinate with HUD and its contractor(s), and the PHA will be responsible for all costs associated with:

- transfer of title from HUD to the PHA including all title/escrow/trustee fees and all other fees associated with transfer of title;

- complying with the relocation requirements for current occupants if required;

- moving and storage of the residents' personal belongings during rehabilitation (on-site container or off-site facility, etc.);

- establishing program guidelines and defining rehabilitation standards through a model set of sustainable specifications indicating fixture types and materials, paints, including environmental requirements;

- construction work write ups and cost estimates using housing rehabilitation work write up/cost estimating software that includes:

    A. Lead/asbestos remediation; termite work, demo and any retrofitting;
    B. Carpentry; rough plumbing; electrical; mechanical;
    C. Drywall patch/replace; interior/exterior paint; finish carpentry; and
    D. Carpet; touch up; cleaning; move in;

- Securing of a one-year home warranty on the property and on any repairs made to the property by the PHA (if applicable); and

- The cost of rehabilitation of the properties by the PHA (unless the acquisition and rehabilitation cost is borne by the individual or family).

PHAs will be allowed to recoup the above costs by including them as part of the sales price of the property. No restrictions are imposed upon the PHA with regards to sales price profit margin, or use of proceeds from the sale of assigned properties, as long as the PHA is in accordance with standard real estate practices for the area, and that the resale price must be the lesser of market value or 125% of net development costs incurred.

Since the HUD REO units in question are inventoried as properties in good condition with continuing maintenance performed on each property over the last three years, total construction cost is estimated to be less than $10,000 per unit. If the property is rehabilitated by the PHA after acquisition, those costs will be borne by the PHA.

<u>Pre-Purchase Homeownership Counseling/Transfer of Title Fees</u>

Prior to transfer of title of rehabilitated properties from PHA to individual or families, all homebuyers are required to attend and complete HUD approved pre-purchase homeownership counseling required by the PHA. All fees associated with pre-purchase homeownership counseling, the transfer of title and the acquisition and rehabilitation of the property must be absorbed by the PHA or the individual or family acquiring and rehabilitating the property. PHAs are also strongly encouraged to provide post-purchase counseling to the individual or family to avoid any real estate complications related to a future mortgage default or foreclosure of the property.

Terms and Conditions:

The following terms and conditions apply to each property sale from HUD to all PHAs under this initiative. Approximately 547 HUD REO properties are located in 11 states, of which, all properties are currently occupied:

1. Available Properties – Properties to be transferred under this proposal are limited to those properties that are currently occupied as of the date of offering and final execution of the transfer of title agreement between HUD and the PHA.

2. PHA Participation – HUD will offer the opportunity for a PHA to participate in this offering. In order to participate, PHAs will be required to submit a business plan to HUD as defined in criteria mentioned in Section 6 below. Again, those that elect to participate may only acquire properties located within their geographic jurisdiction and may agree to acquire all offered inventory or a portion thereof, within their boundaries regardless of price or condition. If the original PHA determines it will not participate in the program, or some of the properties assigned to the PHA have not been acquired; those same properties will be offered to a neighboring PHA as long as the neighboring PHA has authority under their state law to purchase properties outside of their jurisdiction and that there is a written agreement between the original PHA and neighboring PHA agreeing on this issue. In cases where there is not a neighboring PHA to acquire the properties, a local non-profit housing organization would be eligible to apply to HUD.

3. Appraisals – HUDs Office of Asset Management and Disposition will have all properties appraised using appraisers selected from the roster of active FHA appraisers. A copy of each appraisal will be provided to the appropriate PHA by HUD's Office of Public Housing and Voucher Programs (OPHVP) at no cost to the PHA. The as-is appraisal will form the basis for the purchase price as adjusted by the discount noted in page 2 and 9. Though the appraisal will identify property condition, any repair reports will not be used to establish any additional discount.

4. Appraisal Disputes – If a participating PHA disputes the appraised value of any property, HUD's Office of Asset Management and Disposition will obtain a second appraisal from an FHA roster appraiser. The PHA will be required to pay the cost of the second appraisal if the deviation between the first and second appraisal is less than or equal to twenty percent (20%). No additional appraisals will be paid for by HUD once the transfer of title agreement has been fully executed between HUD and the PHA.

5. Discount Structure – As noted earlier, the actual purchase price will be determined by applying a three tiered discount structure that is based on the as-is appraised value of a property:
   * 50% of purchase price for properties valued at $50,000 or more
   * A discount of $24,900 for properties valued between $25,000 and $49,999

* $100 sale price for properties valued at less than $25,000.

6. Business Plan – All participating PHAs must submit a business plan that at a minimum describes the PHA specifications and construction requirements, relocation, moving and storage, acquisition and rehabilitation or direct sale to the tenant or family, the proposed use(s) of the properties to be acquired, sources of funding/uses, subcontractors or business partners and the applicant's expertise and capacity to maintain, rehabilitate, sell or lease real property. HUD's OPHVP will review and approve the sources and uses business plan prior to execution of the transfer of title agreement (purchase agreement). PHAs will be given 30 calendar days from the date of this letter in which to submit their business plan. The plan will become part of the contract. Business plans shall be submitted to:

   Mr. David Fleischman
   U.S. Department of Housing and Urban Development
   Office of Public Housing and Voucher Programs
   451 7th Street SW, Room 4214
   Washington, D.C. 20410
   David.Fleischman@HUD.GOV
   (202) 402 2727

7. Repair Standards – If the proposed use includes repairs or rehabilitation, the PHA must adhere to Housing Quality Standards (HQS) and required local standards.

8. Contract – Upon notification by HUD's OPHVP that a PHA has elected to participate and its business plan has been approved, the PHA and OPHVP will also negotiate a transfer of title agreement including this proposal and a use addendum and compliance note. The compliance note will represent the difference (the discount) between the appraised value and the actual sales price. The note will be deemed satisfied if and when the PHA timely completes the disposition described in its business plan. HUD or its contractor will coordinate execution of the transfer of title agreement (purchase agreement) between HUD and PHA.

9. Closing Deadline – All closings between the PHA and HUD must occur within forty-five (45) days of contract execution unless otherwise approved by HUD.

10. Sale or Lease to Eligible Buyers – All sales to third parties must be income eligible buyers as determined in advance by local lender underwriting criteria. If included in an approved business plan submitted by the PHA, PHA participants may use a rental or lease purchase program as a disposition option.

11. Resale Price – The resale price of the property by the PHA to the family must be the lesser of market value or 125% of net development costs as defined in the transfer of title agreement.

12. Resale Timeline – PHA program participants must provide resale, rental or lease option timelines in their approved business plan.

13. Inspections –HUD or the PHA may perform random inspections to ensure that repairs are completed.

14. Remedies – If a participating PHA fails to fulfill the requirements of its business plan or contract terms, HUD's OPHVP will notify HUD's Office of Asset Management and Disposition Office of the violation. The FHA Commissioner may take remedial action, which may include terminating a contract, initiating foreclosure, seeking debarment, and/or suspending sales.

15. Repair Disclosure – Upon resale of the property, the participating PHA must provide a list of completed repairs to the eligible third party buyer via an addendum to the sales contract.

16. Warranty – Upon resale of the property, the PHA program participant must provide a one-year warranty on its repairs and a one-year Homeowner's warranty.

17. Compliance Audits – Participating PHAs are required to fully cooperate with HUD and/or its designated contractor at such time that an annual compliance review/audit is conducted.

18. Reporting – Participating PHAs must provide monthly status reports in a format acceptable to HUD's OPHVP.

Thank you for your continued interest in the Department's programs. Should you have any questions or require further assistance, please contact David Fleischman, HUD's Office of Public Housing and Voucher Programs at David.Fleischman@HUD.gov.

Sincerely,

David A. Vargas

David A. Vargas
Associate Deputy Assistant Secretary
Office of Public Housing and Voucher Programs