

(5) Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in Sections (1) through (5) above.

(E) HOPE VI grantees must comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects) and its implementing regulations at 24 CFR part 135. Information about section 3 can be found at HUD's section 3 Web site at www.hud.gov/fhe/sec3over.html.

VI. Grant Implementation Requirements

(A) Conflict of Interest

(1) *Prohibition.* In addition to the conflict of interest requirements in 24 CFR part 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of a Grantee and who exercises or has exercised any functions or responsibilities with respect to activities assisted under a HOPE VI Grant, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

(2) HUD-Approved Exception.

(a) *Standard.* HUD may grant an exception to the prohibition in Section (1) above on a case-by-case basis when it determines that such an exception will serve to further the purposes of HOPE VI and its effective and efficient administration.

(b) *Procedure.* HUD will consider granting an exception only after the Grantee has provided a disclosure of the nature of the conflict, accompanied by:

- (i) An assurance that there has been public disclosure of the conflict;
- (ii) A description of how the public disclosure was made; and
- (iii) An opinion of the Grantee's attorney that the interest for which the exception is sought does not violate state or local laws.

(c) *Consideration of Relevant Factors.* In determining whether to grant a requested exception under Section (b) above, HUD will consider the cumulative effect of the following factors, where applicable:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the Revitalization Plan and/or Demolition Activities that would otherwise not be available;

(ii) Whether an opportunity was provided for open competitive bidding or negotiation;

(iii) Whether the person affected is a member of a group or class intended to be the beneficiaries of the Revitalization Plan and/or Demolition Plan and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process, with respect to the specific activity in question;

(v) Whether the interest or benefit was present before the affected person was in a position as described in Section (iii) above;

(vi) Whether undue hardship will result either to the Grantee or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vii) Any other relevant considerations.

(B) *Written Code of Conduct.* Entities subject to 24 CFR parts 84 and 85 are required to develop and maintain a written code of conduct (see sections 84.42 and 85.36(b)(3)). Your Code of Conduct must: prohibit real and apparent conflicts of interest that may arise among officers, employees, or agents; prohibit the solicitation and acceptance of gifts or gratuities by your officers, employees, and agents for their personal benefit in excess of minimal value; and outline administrative and disciplinary actions available to remedy violations of such standards. If awarded assistance under this NOFA, you will be required, prior to entering into an agreement with HUD, to submit a copy of your Code of Conduct and describe the methods you will use to ensure that all officers, employees, and agents of your organization are aware of your Code of Conduct. Failure to meet the requirement for a Code of Conduct will prohibit you from receiving an award of funds from HUD.

(C) *OMB Circulars and Administrative Requirements.* You must comply with the following administrative requirements related to the expenditure of Federal funds. OMB Circulars can be found at www.whitehouse.gov/omb/circulars/index.html. Copies of the OMB Circulars may be obtained from EOP Publications, Room 2200, New Executive Office Building, Washington,

DC 20503, telephone (202) 395-7332 (this is not a toll free number). The Code of Federal Regulations can be found at www.access.gpo.gov/nara/cfr/index.html.

(1) Administrative requirements applicable to PHAs are:

(a) 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments), as modified by 24 CFR 941 or successor part, subpart F, relating to the procurement of partners in mixed finance developments.

(b) OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments);

(c) 24 CFR 85.26 (audit requirements).

(2) Administrative requirements applicable to non-profit organizations are:

(a) 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations);

(b) OMB Circular A-122 (Cost Principles for Non-Profit Organizations);

(c) 24 CFR 84.26 (audit requirements).

(3) Administrative requirements applicable to for profit organizations are:

(a) 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations);

(b) 48 CFR part 31 (contract cost principles and procedures);

(c) 24 CFR 84.26 (audit requirements).

(D) *Labor Standards.* The following standards must be implemented as appropriate in regards to HOPE VI grants.

(1) Labor Standards.

(a) Davis-Bacon wage rates apply to development of any public housing rental units or homeownership units developed with HOPE VI grant funds and to demolition followed by construction on the site. Davis-Bacon rates are "prevailing" minimum wage rates set by the Secretary of Labor that all laborers and mechanics employed in the development, including rehabilitation other than nonroutine maintenance of a public housing project must be paid, as set forth in a wage determination that must be obtained by the PHA prior to bidding on each construction contract. The wage determination and provisions requiring payment of these wage rates must be included in the construction contract.

(b) HUD-determined wage rates apply to:

(i) Operation (including nonroutine maintenance) of revitalized housing, and