

NOFA for PBCAs and ACC for NOFA Q&A

(Update as of 05/25/2012)

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- **iPortal:** Top 10 requested help topics (FAQs), Searchable knowledge base, self service ticketing and ticket status, and live web chat (available 7:00 A.M. - 9:00 P.M. ET).
- ***Please have the following information available when contacting us, to help expedite your inquiry: Funding Opportunity Number (FON), Name of Agency, Specific Area of Concern.***

Questions about the General Section requirements should now be addressed to

Dacia.A.Rogers@hud.gov. Claire Brolin has been assigned to another project and is not available to respond to questions about this NOFA.

NOTICE: Protests of the PBCA NOFA have been filed with the Government Accountability Office (GAO). The protestors have requested that the Department suspend the NOFA application process pending a decision by GAO. The Department has determined that the NOFA application process will not be suspended. Applications are due not later than June 11, 2012, as specified in the first technical correction to the NOFA.

New NOFA Q & A begins at number 254. New ACC for NOFA Q & A begins at number 21. The answer has been revised for number 12 in the ACC Section.

NOFA

1. Why did HUD decide to re-compete the program?
 - A large number of protests to the Government Accountability Office (GAO) were filed by unsuccessful applicants after HUD announced the ACC awards pursuant to the February 2011 Invitation for Submission of Applications. Faced with these challenges, HUD was concerned that litigation delays would interrupt program assistance to lower income tenants and project owners. In an effort to avoid any program interruptions and to clarify any confusion caused by the February 2011 Invitation, HUD decided not to award ACCs for any jurisdictions under protest at GAO, to re-evaluate its competitive procedures, and complete the awarding of ACCs through the NOFA.
2. What will the NOFA cover?
 - Through the NOFA competition, HUD will award annual contribution contracts (ACCs) to selected qualified public housing agencies (PHAs) to implement Section 8 rental assistance in 42 states and territories.
3. Why is HUD pursuing a NOFA for the PBCA program?

- The United States Housing Act of 1937 directs HUD to enter in ACCs in order to implement Section 8 assistance, and a NOFA is the proper vehicle to award the ACCs, which are cooperative agreements. It is the Department's objective, through the PBCA NOFA, to offer a competitive process that ensures the continued delivery of high quality, cost effective, products and services to residents of project based Section 8 assisted housing and to building owners; and to ensure the continued exceptional oversight and administration of the PBCA portfolio.
4. Why is HUD pursuing a NOFA verses a Procurement process?
 - The ACCs that HUD seeks to award via this NOFA are cooperative agreements. Cooperative Agreements are awarded via NOFAs rather than through a procurement process. A principal purpose of the ACC between HUD and the PHA is to transfer funds (project-based Section 8 subsidy and performance-based contract administrator fees, as appropriated by Congress) to enable PHAs to carry out the public purposes of supporting affordable housing as authorized by sections 2(a) and 8(b)(1) of the United States Housing Act of 1937. HUD has been entering into ACCs with PHAs since the inception of the Section 8 program in 1974. In that time, HUD has never awarded an ACC through the means of a procurement contract or applied the Federal Acquisition Regulation (FAR). Instead, HUD has followed OMB requirements for assistance agreements, including OMB Circular A-133.
 5. How much time will HUD provide for application submission?
 - The NOFA was published on March 9th. Applications are due on June 11th.
 6. When will successful applicants be required to begin work?
 - It is the Department's expectation that successful applicants will begin work as described in their executed ACC's on December 1, 2012.
 7. Will HUD provide a Q&A after the NOFA is published?
 - It is the Department's expectation to provide a Q&A session after the NOFA is published to ensure potential applicants understand the NOFA.
 8. How will NOFA applications be scored?
 - Applications will be evaluated and allocated points, based on their technical capacity as well as their proposed fee. A detailed description of the criteria upon which HUD will score the applicants is set forth in the NOFA.
 9. What specific scoring methodology will the NOFA utilize?
 - The HUD Reform Act prohibits HUD from releasing any information related to the NOFA that may advantage one applicant over another applicant. Accordingly, the scoring methodology cannot be disclosed prior to publication of the NOFA, but will be detailed in the NOFA.
 10. Why has the maximum basic administrative fee percentage been reduced to 2% from 2.5%?

- The Department’s new “risk based” approach to conducting on-site management and occupancy reviews at assisted multifamily projects will significantly reduce the PBCA’s workload.

11. Under section 7, page 6, shouldn’t the number of hours for 1 FTE be 2,080 instead of 280?

- There is a typographical error in section 7. One (1) FTE is 2,080 work hours per year.

12. When completing the Grant Application Detailed Budget (form HUD-424-CB), does the dollar amount for Personnel (Direct Costs) include profit. Specifically, is the applicant required to provide the dollar amount for payroll (the amount actually paid to employees) or is the applicant permitted to provide a “fully loaded cost” for the employees (i.e., the amount actually paid to employees plus a profit which is the approach normally utilized by consultants and private contractors)?

- Profit is not to be included when entering the dollar amount for Personnel (Direct Costs) on form HUD-424-CB. To the extent contractors or consultants are utilized, the applicant shall report the amount the contractor or consultant charges the applicant; however, if an individual is employed by a contractor or consultant, such individual’s labor costs should not be shown here.

OMB Circular A-87 (now 2 CFR 225) provides at 2 CFR 225.20 that “Provision for profit or other increment above cost is outside the scope of this part.” Also, Appendix A to Part 225 – General Principles for Determining Allowable Costs, Section A. Purpose and Scope, similarly states “Provision for profit or other increment above cost is outside the scope of 2 CFR part 225.” Later in Section E of Appendix A, Direct Costs in Section E, Paragraph 2.a. provides that typical direct costs include “Compensation of employees for the time devoted and identified specifically to the performance of those awards.” Accordingly, the Instructions for Completing the Grant Application Detailed Budget Worksheet (form HUD-424-CBW-1 (1/2004) indicate the following for Personnel (Direct Labor):

“This section should show the labor costs for all individuals supporting the grant program effort (regardless of the source of their salaries). The hours and costs are for the full life of the grant. If an individual is employed by a contractor or sub grantee, their labor costs should not be shown here. Please include all labor costs that are associated with the proposed grant program, including those costs that will be paid for with in-kind or matching funds. Do not show fringe or other indirect costs in this section. Please use the hourly labor cost for salaried employees (use 2080 hours per year or the value your organization uses to perform this calculation). An employee working less than full time on the grant should show the numbers of hours they will work on the grant.”

13. If an in-applicant does not meet the 45 point threshold on the technical documents, would the award go to an out-of-state applicant?

- HUD will make an award to an out-of-state applicant if such an award is consistent with all applicable law, including the law of the state in which the award would be made.

14. Is there a page limitation for Rating Factors 3 and 4?

- There is no page limitation for Rating Factors 3 and 4:
15. Is there a file name requirement for Rating Factors 3 and 4?
- The file name for Rating Factor 3 and 4 should follow the same convention and limitations as Rating Factors 1 and 2:
 - Two Letter State Postal Code_PHA Complete Name_HOUSING
 - Two Letter State Postal Code_PHA Complete Name_JOBS
16. Are Technical Approach paragraphs b. through f. are sub-factors of paragraph a?
- Yes.
17. How many points will be assigned to a proposed Basic Administrative Fee Percentage of less than 1%?
- 30 points.
18. Will the points assigned to the proposed Basic Administrative Fee Percentage be a factor for award?
- Yes. The points assigned to the proposed Basic Administrative Fee Percentage are added to the points assigned to Rating Factors one through four to arrive at the total score assigned to the application.
19. How many Multifamily staff will serve on each Technical Evaluation Panel?
- Three.
20. Can a Technical Evaluation Panel member serve on more than one team?
- No.
21. Will applications be reviewed by multiple Technical Evaluation Panels?
- No. Members of each Technical Evaluation Panel team will evaluate the application individually and assign points. Then, the team members will compare individual evaluations and point assignments, reconcile differences, and arrive at the final evaluation and final points for the application.
22. How or who will assign the applications to the Technical Evaluation Panel teams?
- The applications are assigned by the Office of Housing Assistance Contract Administration Oversight.
23. Section III D. 1 General Threshold Requirements: Which of those requirements apply and how/we address the required threshold in the application? Do the thresholds also apply to contractors/subcontractors?

- See Section III.C.2 through Section C.5 of the General Section for threshold requirements applicable to all programs. Although these thresholds apply, applicants don't have to submit any additional certification to these things for the application. These thresholds don't apply to contractors.
24. Page 15, #5, Compliance with Fair Housing and Civil Rights Laws, requires a certification. Where should this be included in the submission?
- No certification is required in the application. When you electronically submit through grants.gov you are making this certification. Certification may be required after award if necessary.
25. Page 16, #7, discusses “improving access to services for persons with Limited English Proficiency.” What type of information is HUD looking for and where should it be included in the submission?
- None. No additional information is necessary in the application submission for LEP.
26. Page 21, Section IV.C.4.a.11 discusses Fair Housing requirements. How is this different from Rating Factor 3, Narrative on Affirmatively Furthering Fair Housing?
- The narrative submitted for Rating Factor 3 is sufficient. No additional narrative is required to address number 11.
27. On page 21, HUD 424 CB, Detailed Budget, is not listed as an optional supporting document but is listed as optional on SF424. Is the budget required?
- HUD-424-CB, Grant Application Detailed Budget, is required. The budget is not scored.
 - The Office of Grants Management informed our office that documents listed on the SF-424 under “Optional Documents” are all required except the Faith Based EEO Survey. Questions about grants.gov should be directed to the Office of Grants Management, 202-708-0667.
28. Section VA 2b and VA 2e in the NOFA contain a sentence that reads “see example of point allocation in Section V.A.2.e above.” Section VA 2b is Technical Approach—Information Systems. Where is the example of point allocation?
- These references were associated with a draft NOFA. The final NOFA does not contain an example of point allocation because the points for the application are added to arrive at the final score.
29. On page 19, Section C.4., Application Requirements, #2, Supporting Documents: Are these the same documents found in the application and instruction download?
- The application must include all of the documents listed in Section C.4. The SF 424 at www.grants.gov provides fillable forms for HUD Detailed Budget, Disclosure of Lobbying Activities, HUD Applicant-Recipient Disclosure Report, and Faith Based EEO Survey.
 - These documents must be attached to the application in www.grants.gov: Abstract, Narrative Responses to Factors for Award (also referred to as “Rating Factors in the NOFA),” Reasoned Legal Opinion, Disaster Plan and Disaster Plan Coordinator resume, Attachment B FTE Chart.

30. Does Section 872 of the Duncan Hunter National Defense Authorization Act apply to contractors or subcontractors?
- OMB is in the process of issuing regulations regarding Federal agency implementation of Section 872 requirements. A technical correction to the General Section may be required when such regulations are promulgated.
31. Can the narrative responses to the Rating Factors include charts and graphs?
- Yes.
32. Can 8 ½ X 11 pages be in both portrait and landscape formats?
- Yes.
33. Should the files for Rating Factors 3 and 4 be submitted as Word or PDF?
- All files must be in Microsoft® Word® except the FTE Chart which must be an Excel® file and the Reasoned Legal Opinion (RLO) must be a PDF file (NOFA page 9).
 - The Supplemental Letter (SL) must be a PDF file and the file name convention should be the same as the RLO except that RLO should be changed to SL.
34. Page 15 states that the applicant must certify that they will comply with Fair Housing. Are we required to submit a certification with the application?
- See the answer at number 24 above.
35. Page 8 refers to “General HUD Threshold Nondiscrimination and Other Requirements.” Do we have to discuss the thresholds listed in the General Section in our submission? If so, where in the submission should it be located?
- No.
36. Page 8 refers to “General HUD Threshold Nondiscrimination and Other Requirements.” The last sentence indicates that more detailed information is provided in Section V.B.1. Section V.B. (no number 1) is related to the certification in grants.gov. Where is more detailed information provided?
- The citation is incorrect and should be deleted. The Department is working on a correction for this citation.
37. The “Name Check” review talks about integrity check: shouldn’t this apply to all contractors and subcontractors?
- HUD only does a name review for applicant organizations.
38. Section III D.1. General Threshold Requirements say to see Section III.C.2 through C.5 of the General Section for threshold requirements. Which of those requirements apply? How and where do we address the required thresholds in the submission?
- See number 23 above.

39. Do we need to submit a signed Code of Conduct with application according to page 30 of the General Section?

- No, this code of conduct must just be current and available for HUD to post after award. No submission is required at time of application.

40. Are cover and index sheets counted in the page totals?

- No.

41. Do threshold requirements apply to contractors or subcontractors?

- No.

42. How should the applicant present the excess of Administrative Fee over costs or costs of Administrative fee in the Grant Application Detailed Budget?

- There is no provision for excess administrative fees in either the budget submitted with the application. OMB Circular A-87 (now 2 CFR 225) provides at 2 CFR 225.20 that “Provision for profit or other increment above cost is outside the scope of this part.” The Office of Management and Budget (OMB) allows HUD to design and implement a recovery process to allow a PHA to use fee-for-service in lieu of cost allocation to claim its overhead and administrative costs. This process is permitted under Section A(2)(b) of Circular A-87 as an alternative method that reduces the administrative burden regarding the establishment of overhead rates. A fee-for-service system has a number of advantages, which results in reduced administrative requirements for both PHAs and Federal oversight agencies. The fee income under the alternative method is considered non-program income. The fee-for-service amounts are considered non-program income for purposes of A-87, and are not subject to any HUD restrictions although other state and local restrictions may still apply. Consequently, any reasonable fees earned by the PHA will be treated as local revenue subject only to the controls and limitations imposed by the PHA’s management, Board or other authorized governing body

43. Section D. 4. Racial and Ethnic Data requires the collection of data for clients. Who are the clients?

- PBCAs are not required to collect racial and ethnic data from owner and management agents. Owners and management agents collect racial and ethnic data from tenants. The PBCAs verify that the data is being collected when they conduct Management and Occupancy Reviews and submit a report to the Department’s Office of Fair Housing and Equal Opportunity.

44. Is a separate certification required for the Disaster Plan?

- No. Only the Disaster Plan and the Disaster Plan Coordinator resume or qualifications statement are included with the application.

45. On page 15, the last sentence of the first paragraph states that “A signed copy of the [Disaster] plan must be submitted to the designated HUD CAOM (Contract Administration Oversight Monitor). Is this in addition to the Disaster Plan submitted with the application?”

- The Disaster Plan does not need to be signed. The Disaster Plan is submitted only with the application in grants.gov.
46. Rating Factor 1, Capability Statement, indicates that the experience of the PHA, the PHA's Instrumentality, and contractors may be described in each of the sub-factors. Does this mean that all types of experience will be treated equally?
- The experience of the PHA, the PHA's Instrumentality, and the PHA's contractors will be evaluated without regard for which entity performed the sub-factors. Points will be assigned to the narrative equally for all three entities.
47. Is Rating Factor 2, Quality Control Plan, sub-factor 7 looking for the effectiveness of each of the elements QCP and the date(s) scheduled for each QCP element review. Are "elements" of the QCP the same as "sub-factors" 1 through 6 under g. Quality Control Plan? Instead of the date(s), can we say annually, or quarterly, or monthly?
- Yes, elements and sub-factors are the same. The word element is used in the ACC.
 - Both actual date(s) and periods (e.g. monthly) can be included in the narrative response.
48. Page 29, Internal Control Procedures Conflict of Interest say see ACC for outcomes. What does this mean?
- Section 10 of the ACC specifies the types of conflicts of interest that the applicant's internal control procedures are expected to prevent, detect, and resolve.
49. With regard to the Grant Application Detailed Budget, should an applicant complete two budget forms, one for each year, or include a two-year budget on one form?
- Three Grand Application Detailed Budget forms must be completed.
 - Year 1
 - Year 2
 - All Years (Grand Total)
50. Will HUD examine the legal sufficiency of RLOs and Supplemental Letters, or just accept them as legally sufficient?
- HUD will examine the legal sufficiency of these documents.
51. If an instrumentality entity will be grantee, may the application be filed by the parent entity on grants.gov or must it be filed by the instrumental entity?
- The application must be filed by the entity that would enter into an ACC with HUD.
 - Page 5 of the NOFA states "An instrumentality entity must be fully formed and in legal existence under applicable laws on the date on which the RLO is signed."
52. Does the Disaster Plan Certification that is in the ACC (Exhibit D) need to be submitted as a part of the NOFA application? If not, when will the certification be due?

- No, the Disaster Plan Certification is not included in the application. Only the Disaster Plan and the Disaster Plan Coordinator qualifications statement or resume are submitted as part of the application.
- The ACC PHA Disaster Plan Certification (Exhibit D) is submitted to HUD sixty (60) calendar days prior to the ACC year end (see ACC, Exhibit A, PBT #7, page 43)..

53. On page 33, the NOFA indicates that HUD reserves the right to reduce or adjust the award amounts. Is HUD intending to unilaterally not honor the fee award?

- No. HUD will not negotiate the bid fee with applicants. As stated in the NOFA, HUD reserves the right to reduce or adjust the funding amount based upon:
 - (a) The reasonableness of the overall program relative to the number of units covered ((this accounts for changes that may be necessary if there is a drastic decline in the number of units in a PBCA portfolio or the services offered by that PBCA);
 - (b) The level of funds available for award under the program; (for example, if there is a failure of sufficient appropriations); and
 - (c) Workload reduction (this deals with risk-based MORs or other similar items).

54. What is the relevancy of the Basic Administrative Fee Percentage as calculated in NOTE1 of the NOFA? Is the applicant's bid capped at the Basic Administrative Fee Percentage that is calculated by the formula in NOTE 1?

- The Basic Administrative Fee Percentage is used to calculate the actual monthly fee paid to the PBCA based on the number units and the 2-bedroom Fair Market Rents (FMRs). The number of units and the amount of the 2-bedroom FMRs change periodically. If more units are assigned to the PBCA, the actual monthly fee will increase. If the FMRs increase, the actual monthly fee will increase. Conversely, if units are withdrawn or FMRs decrease, the actual monthly fee will decrease.

55. Is the applicant's bid capped at the Basic Administrative Fee Percentage that is calculated in NOTE 1?

- The Basic Administrative Fee Percentage does not change during the ACC Term.

56. Is there a format and file name structure for the Abstract?

- The format is the same as specified for the narratives (Page 17, C. 2.).
- The file name format should be the same as the Rating Factors: The Two Letter State Postal Code_PHA Complete Name_ABSTRACT.
- File name length and name limitations (Page 17, C. 2).

57. Can the Instrumentality Entity use their Parent Entity's DUNS number or must they use a separate DUNS number.

- The DUNS number for the applicant must be used.
- Instrumentality entities must be fully formed and in legal existence under applicable laws on the date on which the RLO is signed (page 5, 3.).

58. Attempts to contact HUD's Office of Grants Management for responses have been unsuccessful. We cannot leave a message because the voice mail box is full. Can we submit questions to your office and have you obtain the answers for this Q&A report?

- The problem is being addressed. Please ~~call Claire Brolin in the meantime 202-402-6634~~ email Dacia.A.Rogers@hud.gov

59. Is a specific dollar amount to be entered into the SF424, Box 18 and form HUD-2880, line 4? Are HAP payments included in the response to Question 2, form HUD-2880, Part I Threshold Determinations?

- Yes, this is the dollar amount of funds (fee) that the applicant anticipates over the 2 year performance period. It does not include HAP payment amounts.

60. Should a statement or certification for the following items listed in the General Section of the NOFA be included as part of the PBCA NOFA (CFDA14.327) response and, if so, under which section, Rating Factor and or sub factor?

- Consolidated Plan Certification – page 23, item c.
- Delinquent Federal Debts – page 23, item g.
- Executive Order 13166 – Limited English Proficiency (LEP) – page 27, item c.
- No. The only required submissions are listed in part IV.C.4.a on page 18 of the Program NOFA.

61. Is the PBCA NOFA (CFDA 14.327) eligible to receive bonus points? If so, under which section, Rating Factor and/or sub factor should the response be documented?

- No

62. Will awards made under the PBCA NOFA (CFDA 14.327) be expected to use the HUD Logic Model to monitor and evaluate progress and effectiveness in meeting the goals of the program?

- No

63. Are applicants responding to the PBCA NOFA (CFDA 14.327) required to add any certifications, statements or documents for the following items? If so, under which section, Rating Factor and or sub factor should each be documented?

- No.

64. Is there a deadline for submitting questions that would be added to this Q & A list?

- HUD will accept Q&As until 5pm Eastern, 04/30/2012. HUD will post responses to all Q&As received no later than 05/31/2012.

65. What is the expected turn-around on responses to questions submitted to the Multifamily DAS email address?

- Please direct all NOFA-related questions to: PBCA_ACC_Revisions@hud.gov, rather than to the Multifamily DAS. We expect to turn-around answers within a week of receiving

questions, but cannot guarantee turn-around time, as different questions require different levels of review.

66. Should the proposed basic administrative fee percentage be listed in any other section other than the abstract?

- No

67. In Grants.gov, HUD Form 424 is pre-populated to provide separate budgets for year one and year two. The NOFA indicates that HUD will take the costs for the two years and divide them by two in determining the bid percentage. How will this be accomplished if each year is budgeted separately?

- See Technical Correction 2 at grants.gov:
<http://www.grants.gov/search/search.do;jsessionid=5Q71PvxCsnBv52hWbpVJGs1G37YvB-DTQ2G2LgqfyItTbvts5WTrt!9894490?oppId=150973&mode=VIEW>

68. On application form – how do we identify organizational “type” of KHRC (applicant)? Closest choice from drop-down is Public/Indian Housing Authority; or OTHER and note “independent instrumentality” as description.

- You may choose either description that best fits the applicant organization.

69. Can an out-of-state PHA form a non-profit corporation in another state and bid on that state as an in-state entity? For example, a Utah housing authority creates a corporation in Alaska. Then it bids on the Alaska contract using the new formed corporation in Alaska.

- HUD believes that the answer to this question is a matter of state rather than federal law (i.e., in the example cited, it is a matter of state law whether the Alaska nonprofit created by the Utah housing authority is an Alaska PHA).

70. What is the proper CFDA number for this NOFA?

- The CFDA number for this NOFA is 14.327.

71. When will the Mark-to-Market project report be corrected?

- It should be posted on March 26, 2012.

72. May we lock the Narrative documents prior to submission so that no edits can be made to the files?

- Yes.

73. The Grants Applications Detailed Budget form appears to reflect only program costs and has a number of columns that do not appear relevant to the PBCA initiative. Which columns does HUD want the applicant to complete?

- Only the columns that apply to the applicant organization should be filled. The total fields will automatically populate if you fill in all “subtotal” fields

74. Please clarify what HUD is looking for in the Affirmatively Furthering Fair Housing and Job Creation sections.

- All instructions are in the NOFA for policy priority points.

75. Please clarify whether the HUD PBCA NOFA requires a specific order for the attachments that require upload to the Attachment Form.

- No order of attachment is specified.

76. Is a Table of Contents required for the Capability Statement, Technical Approach, and Quality Control Plan narrative responses to sub-factors?

- No.

77. The Detailed Budget form includes costs **only** and is irrespective of any excess fee or profit that would be included in the actual fee percentage proposed in a response to the PBCA NOFA. Accordingly, Note 1 implies that the fee percentage used by a PBCA would be cap fees at an amount necessary to only cover costs. Is it HUD's intent to not allow any excess fee or profit in awards made?

- OMB Circular A-87 (now 2 CFR 225) provides at 2 CFR 225.20 that "Provision for profit or other increment above cost is outside the scope of this part." Also, Appendix A to Part 225 – General Principles for Determining Allowable Costs, Section A. Purpose and Scope, similarly states "Provision for profit or other increment above cost is outside the scope of 2 CFR part 225." However, as noted above in response to question 13, so called "excess administrative fees" are considered non-program income, and are not subject to any HUD restrictions although other state and local restrictions may still apply. Consequently, any reasonable fees earned by the PHA will be treated as local revenue subject only to the controls and limitations imposed by the PHA's management, Board or other authorized governing body

78. Why is the HUD_424_CB_Detailed_Budget an application requirement? Is this intended to be a cost plus contract? Is this a cost based program with the only provision for profit the annual incentive fees provided in the ACC?

- A cost plus contract is a term of art used generally in a procurement situation. The award of the ACC is not a procurement action. This program uses a cooperative agreement and is subject to OMB Circular A-87 and other requirements applicable to grants and cooperative agreements. The allocation system used is a fee-based allocation system pursuant to section A(2)(b) of Circular A-87.. ..

79. OMB A-87 states: "when an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan will be required." Not all governmental units or agencies have a cost allocation plan or indirect cost rate approved by the federal government. Could the applicant maintain a file documenting the cost allocation plan and/or indirect cost rate established from the applicant's most recent audited financial statements and maintain a certificate signed on behalf of the governmental unit or agency applicant submitting the proposal, by an individual at a level no lower than Chief Financial Officer? If an approved cost allocation plan or indirect rate is required, could the plan be submitted for approval prior to submission of the application? If submission of such a plan is required, to whom should the plan be submitted?

- The applicant does not need to maintain a cost allocation plan as would be traditionally maintained under a cost reimbursement recovery plan under OMB Circular A-87. Rather, the administrative fee-for-service charges to the PBCA program are used to reimburse the PHAs for its claim of the overhead costs related to its administration of the program.

80. On the budget – if you are utilizing a subcontractor for over 50% of the tasks, do you list one expense as subcontract or does the subcontractor need to break out their expenses in detail.

- To the extent contractors or consultants are utilized, the applicant shall report the amount the contractor or consultant charges the applicant.

81. Currently, there are eight State Attorney General Opinions shown on the NOFA Web page. If other State Attorney General Opinions have been written, should those be sent to HUD?

- They may be submitted to Kerry.E.Hickman@hud.gov. Once received, they will be reviewed by the Office of General Counsel and a determination will be made about posting them to the NOFA Web page.

82. The General Section of the Notice HUD's FY 2012 NOFA (Notice of 2012 NOFA) provides extensive criteria HUD may consider in evaluating past performance, including the paragraphs quoted below from page 73.e. This criteria is not contained in the PBCA NOFA. However, the PBCA NOFA does refer to all terms and conditions of Notice of HUD's FY 2012 NOFA and specifically to the General Section. Does the criteria for past performance quoted below apply to the PBCA NOFA? If not, why was this criteria removed?

e. Additional Criteria: Past Performance. In evaluating applications for funding, HUD will take into account an applicant's past performance in managing funds, including, but not limited to, the ability to account for funds appropriately; timely use of funds received either from HUD or other federal, state, or local programs; timely submission and quality of reports to HUD; meeting program requirements; meeting performance targets as established in Logic Models approved as part of the grant agreement; timelines for completion of activities and receipt of promised matching or leveraged funds; and the number of persons to be served or targeted for assistance. HUD may consider information available from HUD's records, the name check review, public sources such as newspapers, Inspector General or Government Accountability Office reports or findings, or hotline or other complaints that have been proven to have merit. In evaluating past performance, HUD may elect to deduct points from the rating score or establish threshold levels as specified under the Factors for Award in the individual program NOFAs. Each program NOFA will specify how past performance will be rated.

- The General Section carries with all NOFAs unless specifically negated in the program NOFA.

83. Under the terms of the NOFA, is subcontracting permitted?

- Yes.

84. Is there a particular layout that HUD wants for the response to the NOFA? Since applicants are required to respond in the exact order, it is not clear where applicants should begin.

- No, however it is easier to read applications that follow the order of the NOFA. Application requirements are listed starting on page 18 of the Program NOFA Section IV.C.4.

85. Where does HUD want applicants to respond to the Compliance with Fair Housing and Civil Rights and Affirmatively Furthering Fair Housing? These items are mentioned in the Program Requirements and again in Rating Factor 3.

- Narratives on Affirmatively Furthering Fair Housing would be in response to Rating Factor 3. The topic is described more in program requirements.

86. How should the Disaster Plan Coordinator's qualifications statement or resume be submitted—as an appendix to the Disaster Plan or as a separate file attachment?

- It should be submitted as an appendix to the Disaster Plan.

87. How will applications be assigned to the Technical Evaluation Panel teams?

- Applications will be assigned to the Technical Evaluation Panel teams based on the existing geographic location of the applicants. To the extent possible, teams on the west coast will review applications from applicants on the east coast and teams in the north will review applications from the south. A multistate applicant will have all of its applications reviewed by the same team.

88. What roles do the members of the Technical Evaluation Panel teams currently perform at HUD?

- The members of the Technical Evaluation Panel teams are all Multifamily Housing employees. They include Supervisory Project Managers, Project Managers, and Contract Administration Oversight Monitors.

89. Is there a particular layout that HUD wants for the response to the NOFA? Since applicants are required to respond in the exact order, it is not clear where applicants should begin.

- There is no prescribed order. There are the forms in grants.gov. The separate files identified for the RLO, SL, Rating Factors, Disaster Plan, FTE Chart, etc. that are consolidated in a zip file and attached to the application in grants.gov. All files have specific naming requirements.

90. What is HUD looking for as a response to the Program Requirements section of the NOFA?

- No narrative responses are required for the Program Requirements. This section provides information, which is related to the content and form of the application submission and reporting requirements if the applicant is selected to administer HAP contracts.

91. Program Requirements, item 10, Page Specifications – Is this for HUD review teams or applicants to address?

- This requirement applies to the application documents specified in the Section IV. C.3 Content and Form of Application Submissions.

92. Program Requirement, item 12, Point Threshold – Is this for HUD review teams or applicants to address?

- This requirement informs the applicant that a minimum of 45 total points must be assigned by the Technical Evaluation Panel team to its responses to Rating Factors #1, #2, #3 and #4 for the applicant to qualify for an award.
93. It appears that HUD would like the total for both years to be shown, but instructions and form in grants.gov does not allow this, even though the form provides for an All Years presentation. The input does not allow this to be changed to that presentation. Please clarify how HUD form 424CB should be completed.
- The form automatically fills the total for the first year and both years in if the subtotal lines at the bottom left of the form are completed.
94. Will HUD allow Joint Ventures or Partnerships as long as an in-state PHA is part of the Joint Venture or Partnership?
- HUD will consider joint ventures or partnerships as long as the joint venture or partnership meets all the applicant requirements in the NOFA. Any joint venture must itself constitute a PHA, as defined in section 3(b)(6)(A) of the 1937 Act, and meet all other legal requirements identified in the NOFA. For example, if the joint venture purports to be an instrumentality PHA, the Reasoned Legal Opinion submitted on its behalf must establish that the entity meets all requirements in section III. D. 2. c. of the NOFA.
95. Are there State Attorney General Opinions for all 42 states?
- No.
96. If HUD is relying on the State Attorney Generals opinions as a basis for its foreign state restriction, why does the foreign state restriction in the application extend to states where an opinion has not been issued?
- HUD is not relying solely on State Attorneys' General opinions as a basis for its decision to not permit the crossing of state lines, except in limited circumstances. However, the State Attorney General opinions that HUD has received, which are posted on the Office of Multifamily Housing's website, have been a factor in HUD's decision. HUD notes that nothing would prohibit a State Attorney General who has not yet written to HUD from submitting an opinion to HUD during the selection process or even after an award has been made, concluding that its State law does not permit the crossing of State lines. HUD has determined that such a possibility poses an unacceptable risk of interruption to its administration of the PBCA program.
97. Under Terms and Definitions, paragraph 3, Instrumentality, the last sentence states that "Submission of an RLO on behalf of an instrumentality that itself was created by one or more instrumentalities will result in disqualification of the application." What types of arrangements is HUD intending to prohibit by this language?
- An applicant that is the instrumentality of an instrumentality.
98. What is the basis for the prohibition if such an entity would otherwise be eligible to compete?

- The basis is that such an entity is not a “public housing agency” within the meaning of section 3(b)(6)(A) of the United States Housing Act of 1937. HUD interprets this provision to require that any instrumentality be created *directly* by a governmental entity that is “authorized to engage in or assist in the development or operation of public housing” within the meaning of section 3(b)(6)(A), not an entity that is created by an instrumentality or other subsidiary of such entity.

99. In paragraph D of the Funding Description, HUD states that it “believes that nothing in the 1937 Act prohibits an instrumentality PHA that is ‘authorized . . .’ from acting as a PHA in a foreign state.” In the next sentence, HUD states that it will consider applications from out-of-State applicants “only for States for which HUD does not receive an application from a legally qualified in-State applicant and that receipt by HUD of an application from a legally qualified in-State applicant will result in rejection of any application received from an out-of-state applicant for that state.” HUD’s position appears contradictory. If the 1937 Act does not prohibit PHA’s from providing services in a foreign state, what is the basis for HUD’s decision to effectively prohibit PHA’s from bidding in other States?

- The statements are not contradictory. The 1937 neither requires nor prohibits a PHA from crossing state lines. PHAs are organized pursuant to the laws of their states. Some States have made their position known to HUD that their State laws prohibit an out-of-state PHA from acting as a PHA to the extent necessary to comply with the 1937 Act and the ACC within their State. As stated in the NOFA, HUD has made the decision to consider applications from out-of-state applicants *only* for States for which HUD does not receive an application from a qualified in-state applicant.

100. Will HUD consider eliminating the restrictive language?

- No.

101. Do the responses in the Q&A amend or revise the requirements contained in the NOFA for PBCA? If there are answers in the Q&A that contradict the information included in the NOFA. Which should applicants follow?

- The answers that HUD posts on its website in response to questions supplement the NOFA. HUD does not believe that any of the answers it posts contradict the information provided in the NOFA. To the extent the applicant perceives any contradictions; they are urged to alert HUD to the potential contradiction and prepare applications based on the answers that HUD posts.

102. Item #4 of the Technical Correction states: “HUD anticipates that ACCs awarded under this NOFA will become effective on December 1, 2012.”

For the current 42 incumbents, HUD issued an ACC amendment for a 6 month base period plus three 3 month optional extensions.

- ✓ Based period: Oct 1, 2011 – March 31, 2012
- ✓ 1st 3-mo. extension: April 1, 2012 – June 30, 2012
- ✓ 2nd 3-mo. extension: July 1, 2012 – September 30, 2012
- ✓ 3rd 3-mo. extension: October 1, 2012 – December 31, 2012

Does HUD intend to change the 3rd extension to a two-month extension?

To the extent that the actual effective date for ACCs awarded under the NOFA is December 1, 2012, HUD intends to request that PHAs that are party to the ACC amendment to agree to a 3rd extension, which would run from October 1, 2012 through November 30, 2012.

103. On October 1, 2011, HUD executed PBCA contracts in the following 11 states and territories, where there was no competition under the 2011 bidding process: Iowa, Maine, Minnesota, Montana, New Hampshire, North Dakota, South Dakota, Vermont, Wyoming, Puerto Rico, and the Virgin Islands. Will these 11 PBCAs be subject to HUD's new policies related to the frequency of Management and Occupancy Reviews (MORs), as outlined in the NOFA?
- No.
104. Will these 11 PBCAs be subject to HUD's new two percent cap on administrative fees?
- No.
105. Will these 11 PBCAs have to participate in competitive bidding, utilizing a NOFA, when their current contracts expires on September 30, 2013?
- HUD has not yet made any determinations regarding future NOFAs for the PBCA program. However, none of the 11 PBCAs in question will be *required* to participate in future competitions.
106. Alternatively, will HUD extend the contracts for these 11 PBCAs with amendments?
- See response to previous question.
107. If HUD extends the contracts for these 11 PBCAs, will this contract renewal take place at renewal or sooner?
- See response to previous question.
108. Will subcontractors performing less than 50% of the work be required to be in the CCR database?
- Yes, all entities doing business with the PHA in the performance of the ACC are required to register in the CCR and obtain a DUNS number. Note that the NOFA use the term "contractor," not "subcontractor".
109. To what regard are budgeted costs subject to HUD review or audit, either pre- or post-award?
- Budgeted costs will not be reviewed or audited pre-award. PHAs that are awarded ACCs are required to submit an Annual Financial Operations Report that presents actual direct and indirect costs. HUD will compare the budgeted costs to the actual costs.
110. To what regard is the Basic Administrative Fee Percentage subject to change following award?
- The Basic Administrative Fee Percentage remains the same throughout the ACC Term. As stated in the NOFA, however, HUD reserves the right to adjust the amount of assistance a PHA receives for extraordinary circumstances; please review Question #53.
111. In order to reduce the Basic Administrative Fee Percentage, may the applicant specify certain costs to be covered by the applicant as matched funds?

- The costs entered in the Detailed Budget (form HUD-424-CB) must conform to the instructions (form HUD-424-CBW-I) and the requirements of OMB Circular A-84.
112. If applying with a partner, does the partnership have to be set up prior to application?
- The NOFA does not require that entities establish partnerships in order to submit an application. As described in the NOFA, an applicant is permitted to list and describe its contractor's experience, technical approach, and internal control procedures in addition to the applicant's own experience, technical approach, and internal control procedures. For example, instructions for Rating Factor 1 state, "The applicant may describe the experience of the PHA, the PHA's instrumentality, and contractors with which the PHA has contracted to provide services in each sub factor a. through d." The NOFA does not require that the applicant submit the executed agreements entered into with its contractors as a part of the application. Parties may choose to execute letters of intent, memoranda of understanding, or other such agreements prior to executing full service contracts, and depending on their substance, such executed contractual agreements may allow an applicant to certify in good faith as to the veracity of its application. Any applicant must meet the requirements of NOFA Section III.D.2.b or Section III.D.2.c.
113. If there is only one applicant and he does not meet the 45 point technical minimum on scoring, or there is no applicant, will HUD solicit other contract administrators?
- No, HUD will not solicit other contract administrators. If there is no qualified applicant for any jurisdiction, HUD will administer the HAP contracts for that state internally, in accordance with past practice and the United States Housing Act of 1937.
114. What legally constitutes an in-state applicant?
- An in-state applicant is an entity organized pursuant to the laws of the state in which it is proposing to act as a PBCA. An in-state applicant may be a governmental entity or the instrumentality of a governmental entity. Successful applicants must be able, under the laws of that state, to perform the functions identified in the ACC and the United States Housing Act of 1937 (specifically be "authorized to engage in or assist in the development or operation of public housing" within the meaning of section 3(b) (6) (A) of the United States Housing Act of 1937 Act). Whether or not an in-state applicant has the legal authority to operate throughout the state is determined by that state's laws.
115. SF-424 #19 Is Application Subject to review by Order 12372. From my research, we need to submit SF 424 for review to our State Clearinghouse Office of Planning and Research. Is this required?
- For the PBCA program, state coordination is not necessary. Order 12372 does not apply to the PBCA program.
116. #5 State name and location of project or activity: What do we input? Our agency information?
- State where work is proposed. Agency information should be entered in #1.
117. Which projects will require an annual MOR?

- The contracts that will require an annual MOR are the **Mark-to-Market Projects**. This report posted on the NOFA web page has been revised and is currently being review by a few states for a final update. If you have any questions regarding the accuracy of the contracts on this report. Please contact your HUD Representative with any contract corrections.
118. If a PHA does not have statewide jurisdiction in the state for which they seek to be PBCA, may they partner with, or hire as subcontractor, an entity which does not meet the definition of PHA but is authorized/licensed to do business in said state for the purpose of being considered as having an ability to operate statewide? For example, may a local housing authority in State A apply to be the PBCA for State A by partnering with a private company even though local housing authority cannot otherwise operate statewide? In the alternative, may a local housing authority in State A apply to be the PBCA for State B by partnering with a private company that is licensed to do business in State B?
- Each applicant must fully meet all the eligibility requirements set forth in the NOFA. However, HUD notes that the premise of the question is faulty: if a PHA lacks statewide jurisdiction, hiring a contractor or other entity that does not meet the definition of PHA will not give the applicant the legal power to operate throughout the state. Whether or not the entity that the PHA hires is licensed to do business in the state is irrelevant to the legal question of whether the PHA is authorized to operate throughout the entire state.
119. There is a conflict in Note 1 of the NOFA which states the budget (which does not include profit) will be used to calculate the fee amount, and then elsewhere in our submission we provide our actual proposed fee (which includes profit), which is the actual fee amount our agency would be willing to do the work for. The two fee percentages will not be the same because of the profit element. The question then becomes which is the fee percentage HUD will be using as the proposed fee and basis of compensation upon award of an ACC? The answers to date indicate HUD is mindful of and expects a margin for profit to be in the fee, but also desires a cost only budget be presented. If this is correct, then the language in Note 1 about calculating the fee percentage from the budget (which does not have profits) should be removed.
- A Technical Correction deleting Note 1 will be issued. Please note that in accordance with OMB Circular A-87, no funds are designated as “profit.” In accordance with A-87 (*see also* 2 CFR 225, Appendix A §2(a)(3)(b)), HUD finds any proposed Administrative Fee within the 2% cap set forth in the NOFA to be a reasonable fee for service, and any portion of the Administrative Fee in excess of the PBCA’s costs incurred will be considered non-program income.
120. Can you provide a completed example of how the Form HUD 424-CB budgets should be completed for situations where there is (a) costs/expenditures in excess of administrative fee revenue and (b) administrative fee revenue in excess of costs/expenditures and (c) the calculation of the Basic Administrative Fee bid based on these examples.
- A Technical Correction deleting Note 1 will be issued. The Administrative Fee need not be tied to costs/expenditures or shown on the budget. Please see Question #42.

121. Please confirm that the NOFA represents the Agency's final determination as to the anticipated terms and conditions of the NOFA and it is not a mere draft or proposed document subject to public notice and comment.
- Correct, the NOFA is not a draft.
122. Does HUD intend to publish or announce the NOFA in the Federal Register, as required by HUD's General Policy concerning NOFAs?
- No. As a cost-saving tool in recent Appropriations Acts, Congress waived the requirement to publish NOFAs in the Federal Register for HUD. Section 228 of the FY 2012 Appropriations Act states, "Notwithstanding any other provision of law, for fiscal year 2012 and subsequent fiscal years, the Secretary may make the NOFA available only on the Internet at the appropriate Government Web site or through other electronic media, as determined by the Secretary.
123. Please explain why the NOFA was signed on Feb. 29 but not released until March 9.
- HUD has acted as expeditiously as possible to complete all proper clearance and publication procedures.
124. Please confirm that the NOFA does not place any limitation on the amount of work which may be subcontracted to another entity.
- Correct.
125. NOFA III.D.2.a requires certain information to be enumerated at the top of the first page of the RLO and certain information to be on a cover page, suggesting that the first page is not the cover page. Is that a correct reading? And if so, typically, that page would be the letterhead of the lawyer rendering the opinion, which may make placement of the required information at the top of the page difficult if not impossible. Will HUD accept reasonably prominent display of the required information not at the top of the page?
- Yes. The cover sheet of the RLO and the first page of the RLO are not the same page: the cover sheet should immediately precede the first page of the RLO. If the first page of the RLO is on the letterhead of the lawyer rendering the opinion, items (1) through (3), which are identified at the beginning of section III. D. 2. a. of the NOFA, should be placed immediately beneath the letterhead.
126. Given that HUD has supplied attorneys general letters from only six states, but the NOFA contemplates separate contracts in 42 jurisdictions, please confirm that the six attorneys general letters are of no effect for the 36 jurisdictions for which there is no attorney general letter.
- HUD believes that the State Attorney General letters posted on the Office of Multifamily Housing's website speak for themselves with respect to the jurisdictions (i.e., States) to which they pertain.
127. Does HUD believe that state attorneys general have the authority to interpret and determine requirements of federal law?

- Please see Question #99. The 1937 Act neither requires nor prohibits a PHA from crossing state lines. PHAs are organized pursuant to the laws of their states. Some States have made their position known to HUD that their State laws prohibit an out-of-state PHA from acting as a PHA to the extent necessary to comply with the 1937 Act and the ACC within their State. HUD does not believe that the attorney general opinions constitute interpretations of federal law.
128. Previously, I asked if an out-of-state PHA form a non-profit corporation in another state and bid on that state as an in-state entity? For example, a Utah housing authority creates a corporation in Alaska. Then it bids on the Alaska contract using the new formed corporation in Alaska. HUD replied: “HUD believes that the answer to this question is a matter of state rather than federal law (i.e., in the example cited, it is a matter of state law whether the Alaska nonprofit created by the Utah housing authority is an Alaska PHA).” Does this apply to an instrumentality as well as a nonprofit?
- Yes: an instrumentality is typically a nonprofit corporation created under State law.
129. When trying to complete form HUD 424-CB in the Grants.gov application only one form can be entered which states year 1, since year 2 and the grand total (all years) cannot be entered, how are the applicants to present the required data?
- See number 93.
130. Aside from grants.gov and the PBCA NOFA page on the HUD website at http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/PBCA NOFA, please identify the other means by which the NOFA or any draft of the NOFA was released outside of HUD or OMB prior to March 10, 2012.
- The NOFA is final as published on grants.gov. All technical corrections will also be published through grants.gov. To receive program updates, please signup using a current email address on grants.gov.
131. The Q&A directs applicants to address questions concerning the General Section to the Grant Management Office. Does HUD intend to publish a Q&A document for those questions addressed to the Department’s Grants Management Office so that all applicants have an equal opportunity to make any necessary revisions to their applications upon consideration of HUD’s responses?
- Yes.
132. What is the required file name format for the list of Supporting Documents, Section IV.C.4.a(2), on page 19 of the NOFA?
- The file is already named in the grants.gov. package.
133. Pages 34-35 of the PBCA NOFA, specifically item 5, Transparency Act Reporting, state that prime recipients of HUD financial assistance are required to report sub-awards made either as pass-through awards, sub-recipient awards or vendor awards in the Federal government-wide website www.fsr.gov or its successor system. Are the Housing Assistance Payments to Section 8 Owners considered pass-through awards or sub-recipient awards under this requirement?

- Yes.
134. Several forms SF-424, HUD-2880 and SF-LLL have a Signature box. In a conversation with the point of contact listed in the Q&A, Claire Brolin, she indicated that the forms have to be signed (wet signature). Is this correct because it make the “Save, Check Package for Errors and Submit” obsolete? If so, do we scan all the completed forms and it will become one of the attachments? HUD-424-CB does not allow user to Indicate/Mark Year 2 and ALL Years on the form. Year 1 is prefilled and cannot be changed.
- Signed documents may be scanned or faxed using the instructions in the General Section section IV.B.5.
135. With regard to the General Threshold Requirements referenced in III. D.1 need to be affirmatively addressed in the response to this NOFA, do we only need to respond in this application to those requirements that are specifically listed starting on Page 18 of the Program NOFA, as stated by Grants Management personnel? If we respond to other threshold requirements stated in the General Section in the Abstract, will we be penalized? Is it necessary to respond to the other threshold requirements stated in the General Section, other than those that appear starting on page 18, or will that information not be reviewed?
- All applicants must comply with threshold requirements in the Program NOFA. Submissions should only include the application requirements listed in section IV.C.4 of the NOFA starting on page 18.
136. The General Section regarding Threshold Requirements refers to a Consolidated Plan. Are applicants required to have a HUD approved Consolidated Plan? A keyword search of the full NOFA does not mention consolidated plan.
- See number 60.
137. A large number of questions have been sent to HUD regarding General Section requirements, which HUD has stated must be referred to Grants.Gov. The questions and the answers pertain directly to the NOFA for PBCAs. Will HUD collect the Q&A on these questions and make them available to all on HUD’s PBCA NOFA Q&A list?
- Yes.
138. Page 16 number 6 of the Program NOFA states that "Successful applicants must comply with certain requirements regarding affirmatively furthering fair housing, including affirmative fair housing marketing, rather than the General Section. It then goes to list three actions and/or procedures that the applicant must perform. Are applicants to only respond to these three requirements, rather than anything else in General Section pertaining to affirmatively furthering fair housing, in its Response to Rating Factor 3?
- See numbers 26 and 85.
139. Page 19 of the NOFA states the total narrative response cannot exceed 60 pages, not including attachments for each narrative. Does this mean that the Capability Section, Technical Section and

QCP Section cannot exceed 60 pages together? Is the FTE Appendix and other attachments included in this 60 page limit?

- The 60 page limit applies only to the Capability, Technical and Quality Control Plan sections of the Rating Factors. There is no page limitation on RLO, SL, Rating Factors 3 or 4 or the FTE chart.

140. Page 21, (f) requires Proposed Fee, See Rating Factor 5. This fee is included in the Abstract. Does it need to be included again, in order described in the NOFA?

- The proposed Basic Administrative Fee Percentage is stated in the Abstract. It is not included elsewhere in the application.

141. In addition to the information described on Page 18 and 19, what other type of information should be included in the Abstract. There is a four page limit, and it does not appear that the information requested will take more than 1/2 page to a page.

- No other information is required for the Abstract. One-page may be sufficient but not more than four pages are permitted.

142. On page 23, Section V.A.1.a. states applicants must be comprehensive (whether experience addresses all of required components described in each subfactor). What are the subfactors referred to in the description?

- The sub-factors are listed under each Rating Factor. There are 4 sub-factors under Rating Factor 1, Capability of Applicant and Relevant Organizational Experience. There are 5 sub-factors under Rating Factor 2a, Technical Approach. There are 7 sub-factors under Rating Factor 2g, Quality Control Plan. There are no sub-factors under Rating Factors 3, 4, or 5.

143. Page 19, 4a(8) states that the total narrative response is to be in 12 point font. HUD has also indicated that tables and figures could be included with the narrative. Can text contained in organizational charts and other figures be in a smaller size font?

- Text cannot be smaller than 12 point font in tables or figures.

144. The revised Performance-based ACC, issued 02/24/13 changed the requirements for MORs and HUD now requires PBCAs schedule and conduct a Risk-Based MOR of projects in the assigned portfolio during the term of the ACC, using Form HUD 9834, based on the following risk-based criteria for the projects: (1) Projects for which the last MOR resulted in a rating of Below Average or Unsatisfactory: One (1) MOR shall be conducted during each 12-month period during the ACC Term; (2) Projects for which the last MOR resulted in a rating of Satisfactory: One (1) MOR shall be conducted for fifty-percent (50%) of the projects during the first 12-month period of the ACC Term and one (1) MOR shall be conducted for the remaining fifty-percent (50%) of the projects during the second 12-month period of the ACC Term; and (3) Projects for which the last MOR resulted in a rating of Above Average or Superior will not be reviewed during each 12-month period during the ACC Term. This schedule will result in the PBCA conducting a large number MORs in Year Three when the Above Average and Superior rating properties will require an MOR.

- The ACC for NOFA is for a two-year period. HUD will address the issue raised in your question before awarding the next ACC.
145. We spoke with the Grants Management Office regarding the question about dollar amounts to be entered into the SF424, Box 18 and form HUD-2880 line 4. The amount is estimated base payment. HAP payments are not included because they are “pass-through” payments. Our question is do we operate in a best case scenario and include incentive payments as well?
- Only the estimated dollar amount for Basic Administrative Fees should be entered.
146. Page 21 of the NOFA states “include a fee percentage in Abstract”, how is this done if Form HUD 424-CB is utilized to calculate the fee as noted on Page 13, Note 1
- The proposed percentage is written in the Abstract. For example: “The proposed Basic Administrative Fee Percentage is one percent (1.00%).
147. Should an annual MOR be scheduled during the Short Term Renewal Phase if a Full Mark-to-Market is requested or after the Full Mark-to-Market contract has been executed?
- After the Full Mark-to-Market contract has been executed.
148. HUD’s response to Question 89 seems to indicate that all documents/attachments to the application “are to be consolidated into a single zip file and attached to the application in grants.gov.” However, the “Attachment Form” for the application seems to indicate that documents should be individually identified and each attached separately. Please clarify whether HUD is requiring: that each attachment be separately identified and zipped or that all supporting attachments be zipped into one file.
- See the General Section, section IV.B.6 and IV.B.6.(2), for information on how to complete the application package and use zip files.
149. The applicant is required to complete the Disclosure of Lobbying Activities. Are subcontractors also required to complete the form upon application?
- Only the application entity is required to complete the standard form LLL.
150. On page 14, Section E.1. Disaster Plan, the requirements states, “One copy of the Disaster Plan portion of the application shall be submitted as a PDF file...” Please clarify that the required format is PDF format and that the Disaster Plan document is an exception to the general requirements on page 17 C.2. General Section, which states, “all files must be in Microsoft Word except the FTE Statement document...”. Please clarify that HUD only requires one copy of the disaster plan.
- Only one copy is required. The Disaster Plan is submitted as a Word document.
151. On page 9, Section D.2 Reasoned Legal Opinion Requirement HUD states: “One copy of the RLO shall be submitted as a Portable Document Format (PDF) file...” Please clarify that the required format is PDF format and that the RLO document is an exception to the general requirements on page 17 C.2. General Section, which states, “all files must be in Microsoft Word except the FTE Statement document...”.

- All files must be in Microsoft® Word® except the FTE Chart which must be an Excel® file and the Reasoned Legal Opinion (RLO) must be a PDF file (NOFA page 9).
 - The Supplemental Letter (SL) must be a PDF file and the file name convention should be the same as the RLO except that RLO should be changed to SL.
152. Please clarify that HUD only requires one copy of the RLO.
- Only one copy is required.
153. Neither the NOFA nor the ACC define the threshold amount of required Fidelity Bond coverage. Please provide information that details the Fidelity Bond threshold amount.
- The amount of the Fidelity Bond should be sufficient to cover the maximum possible monthly Housing Assistance Payments (HAPs) that can be received by the PBCA once the PBCA starts making HAPs to the owners. Debt service offsets are not received by the PBCA and therefore need not be covered by the Fidelity Bond. Payments for a given month may significantly exceed the normally vouchered amounts. This can be caused by factors such as special rent adjustments and retroactive vouchers for several months resulting from the owners' failure to submit past vouchers or delayed contract increases or renewals resulting from a lack of HUD funding or other processing delays. PBCA should increase the "normal" coverage of one month's "net" payments by an amount that gives them comfort in discharging their fiduciary responsibilities. Also, as additional Housing Assistance Payments Contracts (HAPCs) are assigned, the Fidelity Bond must be increased before the PBCA begins making HAPs for the added contracts.
154. The language of the NOFA seems to allude to *“attachments for each narrative”* – but it is not clear if applicants can include attachments to each narrative section, such as resumes to the Capability Section – which do not count toward the 10 page maximum, OR if the attachments are only referring to attachments as specifically required by the NOFA, e.g. FTE Charts. Please clarify.
- Attachments are those documents specifically required by the NOFA that are attached with the application in grants.gov. With regard to the Rating Factor documents, appendices such as resumes or charts or lists will count to the specified page limitations.
155. What is the file name format for the “Abstract” required at Section IV, Paragraph 4.a.(1) on page 18 of the NOFA?
- Two Letter State Postal Code_PHA Complete Name_ABSTRACT
156. Will the selected PBCA be required to follow-up and close open MORs currently under HUD’s responsibility? If so, to help applicants better plan/staff offices, can you provide the industry with the number of open MORs that will be rolled into the PBCA portfolios?
- HUD staff will be responsible for closing MORs conducted by HUD staff.
157. We have read the Q&A responses to questions about zip files and are still unclear. Although the NOFA states how a zip file must be named, the way the NOFA is written it sounds as though

submitting the Application documents via zip files is an option, not necessarily a requirement. Please clarify whether zip files are an option or a requirement.

- Please see section IV.B.6.d of the General Section on specifications for attaching Zip files and naming of the files and see section IV.B.6.d.(2). for more information on acceptable programs to use for compressing files.

158. May the cover pages to each component of the application include photographs, graphics, and/or letters larger than 12 point font?

- Yes.

159. The instructions regarding a list of supporting documents is confusing. What do we name the list of supporting documents?

- This form is found in the application package download and it is a printed copy of the form after attachments are uploaded by the applicant into grants.gov. Name the file using naming convention guidelines in the General Section,

160. The Grants Mgmt Division contact's response regarding "wet signatures" seems to contradict the information contained on the forms themselves (See screen print below (signature line of SF424)). The text within the signature field "completed by Grants.gov upon submission" would seem to indicate that an electronic signature, similar to the NOFA Section V.B Certification requirement (see below) is sufficient. Please explain why an electronic signature on the forms is not acceptable.

•

* Title:			
* Telephone Number:		Fax Number:	
* Email:			
* Signature of Authorized Representative:	Completed by Grants.gov upon submission.	* Date Signed:	Completed by Grants.gov upon submission.

V.B. Certifications. By signing the electronic application on Grants.gov, the applicant certifies that the Disaster Plan will be complete and correct before awards are made. The applicant is also certifying that all the statements and information contained in the application is true and correct and upon which HUD can rely.

- Electronic signature is acceptable for the SF424 because that form cannot be scanned and attached to the application or faxed to HUD. All other Third-Party Letters, Certifications Requiring Signatures, and Other Documentation that needs to be signed may be scanned and attached or faxed to HUD.

161. The answer to question 134 states that the Application needs actual signatures on some of the forms. However, it has been our experience that actual signatures are not necessary, just the "electronic" signatures that occur when the application is submitted through Grants.gov. Is this a change to the previous way to submit? Do we need to have the forms signed and scanned?

- Please see above.
162. Is it correct that a PHA Instrumentality may be a profit or a non-profit entity? The definition of Instrumentality in the Invitation for Submission of Applications expressly stated that an Instrumentality may be a for-profit or a not-for-profit. (Section 2.3 at page 6).
- Yes.
163. How will HUD fairly adjudicate the relative strengths of arguments between an Attorney General (or some other state entity with parochial interests in the matter) and other Reasoned Legal Opinions that meet all of HUD's stated requirements regarding statewide jurisdiction?
- Second only to the Supreme Court of the state, the Attorney General is top legal authority on its states laws. To the extent that the Attorney General's opinion is on-point and has considered all the relevant facts about any potential in-state applicants (e.g., instrumentalities), HUD will rely on a state's Attorney General's opinions.
164. To whom does HUD want Reasoned Legal Opinion (RLO) letters addressed?
- RLOs should be addressed to:
"United States Department of Housing and Urban Development, and its Office of Housing Assistance Contract Oversight."
165. In Section III.D.2.e(3) of the NOFA, the SL is required to "contain an unequivocal statement as to whether the laws of the State *or any other applicable laws* impose any requirements or conditions that must be satisfied before the applicant may act throughout the State as a PHA. Since the signatory of the SL is only required to be admitted to practice in the state being applied for, they will only be able to speak to the laws of that state, not the laws of any other state (e.g., the state under the laws of which the applicant was formed). Accordingly, should "any other applicable laws" be interpreted to mean "any other applicable laws enacted by a municipality, county, or other locality of the State"?
- We assume that attorneys will limit their legal opinions to federal laws and the laws of the relevant states, inclusive of any municipality, county, or other local laws within such states, in which they are licensed to practice, and this is acceptable.
166. If a subcontractor that will perform PBTs 1-7 in their entirety currently has a Disaster Plan that meets HUD's requirements, will HUD accept it on behalf of the PHA?
- Yes.
167. If a subcontractor will be responsible for performance of PBTs 1-7, which entity, PHA or subcontractor, is responsible for carrying the fidelity bond?
- The PHA is required to have a fidelity bond. The PHA may require its contractor to have a fidelity bond.

168. HUD stated in response to question 96 that “HUD is not relying solely on State Attorneys’ General opinions as a basis for its decision to not permit the crossing of state lines, except in limited circumstances” and that the Attorney General opinions that HUD has received that are posted on HUD’s website “have been a factor in HUD’s decision.” What were the other factors in HUD’s decision for adding the Crossing State Lines provision to the NOFA? Has HUD received other written communications that were a factor in its decision to add the Crossing State Lines provision? If so, will HUD post those documents on its website?

- A number of policy and logistical concerns were weighed. No other documents will be posted to the HUD website.

169. HUD stated in response to question 81 that State Attorney General Opinions may be submitted to Kerry Hickman, and that, “once received, they will be reviewed by the Office of General Counsel and a determination will be made about posting them to the NOFA Web page.” What will be the basis for posting or not posting an Attorney General Opinion? Will HUD be conducting a legal analysis of the Attorney General Opinions?

- Unless presented with a reason to do so, HUD will not be questioning the legal conclusions regarding state law by a state’s Attorney General. If HUD receives a conclusive and relevant opinion by a state Attorney General relating to the eligibility of and relevant to potential applicants in its state, HUD will publish such opinion on its website.

170. The Crossing State Lines provision has resulted in the ability of state entities to obtain a sole source position. For example, the Attorney General Opinion for New Mexico concludes that the New Mexico Mortgage Finance Authority (NMMFA) has the exclusive authority to operate as a public housing authority in the state. Without regard to whether the Opinion, which notes that federal law “could confer the requisite authority” for an out-of-state housing authority to operate as a PBCA, HUD apparently will award the PBCA contract to NMMFA provided it submits an RLO that establishes it is legally qualified and an application that meets the 45 point technical minimum score. There is no competitive force to constrain the applicant in such case from bidding the highest allowed price with the lowest acceptable performance standards. Does HUD intend to make an award to an applicant in a state with an Attorney General Opinion that states the applicant has the sole authority to perform the work, regardless of the overall competitive score of other applications received from qualified in-state applicants?

- Yes, but only if the Attorney General’s opinion is on-point and has considered all the relevant facts about any other potential in-state applicants (e.g., instrumentalities),. The minimum threshold score reflects the minimum score that HUD believes is necessary to demonstrate competency in contract administration in that state. If a state’s sole in-state applicant meets all eligibility criteria and attains the minimum required threshold score, HUD will award the ACC to that applicant.

171. The Supplemental Letter that must be provided by an out-of-state applicant includes the requirement that the attorney signing the letter must certify “that nothing in the laws of such State in any manner prohibits the applicant . . . from acting as a PHA in the State for which it is applying.” It further requires that the SL must contain “an unequivocal statement that the signatory has examined all the laws of the State governing the creation and operations of PHAs, including any provision of State law that defines that term or comparable term.” The

requirements for an SL that contains a certification for the broad and indefinite phrases “nothing . . . in any manner” and that all laws have been examined including those that define a “comparable term” are unreasonable and place an even greater restriction on out-of-state applicants. What is the basis for HUD invoking a legal requirement that is so stringent as to be unobtainable?

- HUD has received many acceptable RLOs in previous competitions.

172. Can a subcontractor accept and make the initial decisions on appeals on MORs and Rent Adjustments or does the decision letter have to be signed by the PHA?

- The PHA’s contractor can accept and “recommend” decisions on appeals on MORs and Rent Adjustments. Decisions and decision letters must be executed by the PHA.

173. Can a PHA delegate signature authority to its subcontractor to sign Contract Renewals and Rent Schedules?

- Contract Renewals and Rent Schedules must be executed by an authorized employee of the PHA not a contractor.

174. Will HUD give a subcontractor access to HUD funds via eLOCCS and allow the subcontractor to make HAP payments to owners/agents?

- No, because the request for HAP funds comes thru TRACS not eLOCCS. Please refer to the Section 8 Contract Administration LOCCS Web Guide at http://portal.hud.gov/hudportal/HUD?src=/program_offices/cfo/finsys for information on how eLOCCS is utilized in the PBCA program and user access rights.

175. The NOFA information for completing the FTE Chart states: “Only include contractors that contract directly with the PHA. Do not include sub-contractors of contractors.” When completing the FTE information under each PBT, if a contractor will be using subcontractors should the subcontractors be included in the number of FTEs and corresponding position titles reported for the contractor on the FTE Chart? Or should it be limited to only FTEs employed by the contractor?

- The FTE Chart should identify the level of effort, i.e., FTEs, required to perform the PBTs. The contractor should include all FTEs required to perform its services for the PHA. If the contractor engages subcontractors to perform its services, the FTEs of the subcontractors must be included in the contractor’s FTE calculation. The position titles must be reported for the FTEs. The identity of the subcontractor(s) engaged by the contractor is not required.

176. If the contractor is using subcontractors to do 50% or more of the FTEs required to perform PBTs number 1-6 and the amount performed by the subcontractor to the contractor is 50% or more of the FTEs required to perform PBTs number 1-6, do we also need to report the states in which the subcontractor is engaged or proposes to be engaged in performing 50% or more of the FTEs required to perform PBTs number 1-6 as a separate line item for the subcontractor?

- No.

177. In the NOFA, there is a reference in the discussion of the reasoned legal opinion to the notion that multiple entities might be the "parent entity" of an instrumentality. If two entities that meet the definition of a "public housing agency" and that were established in the same state partner together to directly form an instrumentality that submits an application pursuant to the PBCA NOFA, will HUD consider that instrumentality to be an acceptable applicant for the services under the NOFA (assuming the application otherwise meets the requirements of the NOFA)?
- Provided such applicant meets all other relevant eligibility criteria set forth in the NOFA, yes, HUD will consider such an instrumentality to be an acceptable applicant.
178. Q & A number 116 asks "#5 State name and location of project or activity: What do we input? Our agency information?" The answer provided states the following: "State where work is proposed. Agency information should be entered in #1." Our state has multiple contracts/properties assigned. Which street address (REQUIRED FIELDS) is the correct one?
- Enter the state where the applicant entity is located. The applicant organization's information can be inserted again.
179. The applicant is required to complete the Disclosure of Lobbying Activities. Are subcontractors also required to complete the form upon application?
- No
180. Are you still anticipating a 90 day transition period starting September 1, 2012?
- Yes.
181. Section f. of the Technical Approach states that a timeline needs to be provided for each subfactor. Can the timeline for all subfactors be combined into one timeline, and presented at the end of Section f?
- Separate timelines are required for each of the three components.
182. Will HUD confirm the ratings of the MORS and the number of properties and their latest MOR ratings with the HUD Field Office and/or CAOMs and publish a listing for each state that reflects the number of MORs by each rating type? This would assure that all the bidders are all bidding the same portfolio based on the same number of future MOR requirements and eliminate the possibility of protest of award and/ or administrative actions or complaints that would jeopardize the award process.
- Yes, HUD staff will confirm the ratings. On or before April 30, 2012, the final lists of MORs (non-Mark-to-Market and Mark-to-Market projects) that the PHA will conduct will be posted to the NOFA Web page. Projects with no ratings will require MORs to be conducted within six (6) months of the effective date of the ACC.
183. The NOFA states in several places that an ACC will be awarded for each of the 42 States for which an ACC has not yet been awarded (as identified in Appendix A of the NOFA). The State of California is number 5 on the list. However, question number 6 on the Q&A: ACC for NOFA states that HUD

expects to execute two ACCs for California – one for Southern California with the Los Angeles HUB and one for Northern California with the San Francisco HUB with the same Contract Administrator. Doesn't this response contradict what is repeatedly stated in the NOFA?

- There is no conflict: HUD anticipates selecting 1 PBCA for California and awarding 2 ACCs.

184. Within the Application Requirements (Part IV, Application Information #4a2, NOFA p. 19), Item #2 calls for "Supporting Documents". The brief description that follows references the application and instructions, then "A list of documents for each zip file." Where, specifically, can we find clarification of this requirement? Is this a separate page listing each of the supporting documents and if so, what should it be named?

- Please see question 160 above, and call ~~Claire Brolin 202-402-6634~~ if you have further questions. Email Dacia.A.Rogers@hud.gov

185. On page 47 of the POLICY REQUIREMENTS and GENERAL SECTION (#6d) notes that "...many of the NOFAs require the submission of other documentation...". Section (1) then states "Applicants should develop files, then zip the files together, and then place them as an attachment to the application..." and be attached using the "Attachments" form included in the application package downloaded from Grants.gov." Where should the list of the documents attached within the zip file appear?

- The list of files within the zip file will be included in the zip file, so no additional list is required. The zip file itself needs to be listed on the attachments form (list of attachments).

186. Please clarify the definition of a "Mark-to-Market" project. Does this only include full Mark-to-Market, Option 3, or does it also include Options 1-3? If the definition is only Option 3 and the report is run from iREMS, this information would be inaccurate. Prior to upgrades in iREMS in 2010, PBCAs were unable to enter Option 3s, but were instructed to enter them under Option 2. According to the ACC, the "Mark to Market" properties are Section 515(a) or Section 515 (b) under section 4.b. of the renewal contract. This would indicate that the only project requiring an annual MOR would have renewed under Option 3 full Mark-to-Market.

- Correct, the only projects requiring an annual MOR would have renewed under Option 3 full Mark-to-Market.

187. Rating Factor 4: Job Creation states that "Each applicant should describe the number and type of activities that will improve access to job opportunities in the community through information sharing, coordination with Federal, state, and local entities, and other means". What is meant by information sharing and what is HUD looking for in the response?

- Please see section I.B.1. of the General Section for more information on Job Creation.

188. The NOFA indicates the following information should be in the Abstract: Consisting of up to four-pages, it is a summary of the proposed project, which will not be scored and does not count toward the narrative page limit. The abstract must contain the following:

- (a) Name of PHA Entity
- (b) Street Address

- (c) City, State, Zip Code
- (d) Contact Name and Title
- (e) Contact Telephone Number
- (f) Contact E-mail Address
- (g) Name of State of Application
- (h) Proposed Basic Administrative Fee Percentage (not to exceed 2.0%)

If you include more than that information, such as a summary of the General Threshold requirements that are listed in the General Section but not specifically in the Program NOFA starting on page 18, will you be penalized?

- The information to be provided in the Abstract is specified in the NOFA. No additional information is to be included in the Abstract.

189. There is conflicting information with the published NOFA and Q&A #33 regarding how the Disaster Plan must be submitted (Word vs. PDF). The NOFA page 14 requires the Disaster Plan be submitted in PDF format. However, Q&A #33 states all files must be submitted in Word except the FTE Chart (Excel), RLO (PDF), and SL (PDF); the Disaster Plan was not mentioned in HUD's answer with regards to its required file format. Please clarify how the Disaster Plan must be submitted (Word or PDF).

- Please see the answer to question number 150.

190. The Docket Number printed on the NOFA states: FR-5600-N-33. However, the Grants.gov system references Docket Number: FR-5600-NJ-33 and auto-fills this number on the application forms. Please clarify.

- The docket number is FR-5600-NJ-33 but there was a typo at posting. The typo will not have an impact on your application.

191. How will HUD evaluate in-state applications in states where an AG opinion reasons that the state HFA is the only entity qualified to operate a state-wide program? If an in-state applicant's RLO disagrees with the conclusion reached by the AG and refutes this within the RLO, how will HUD review this information?

- Please see the answer to question number 163: Second only to the supreme court of the state, the Attorney General is top legal authority on its states laws. To the extent that the Attorney General's opinion is on-point and has considered all the relevant facts about any potential in-state applicants (e.g., instrumentalities), HUD will rely on a state's Attorney General's opinions.

192. Please clarify there is a discrepancy between page 5 of "Highlights of PBCA NOFA & ACC for NOFA" and the Grants Application Package as downloaded from grants.gov. Which document is correct? The Grants Application Package indicates that the Application for Federal Assistance (SF-424) and HUD Facsimile Transmittal forms are mandatory, while the HUD Detailed Budget Form, Disclosure of Lobbying Activities (SF-LLL), HUD Applicant-Recipient Disclosure Report, and Faith Based EEO Survey are optional. HUD's Highlights of PBCA NOFA & ACC for NOFA (updated 4/6/2012) indicates that all documents are required, with the exception of the Faith Based EEO Survey (SF424SUPP) as an optional submission.

- Please see the answer to number 27.
193. In the PBCA NOFA Q&A, the answers to questions 27 and 29 are contradictory regarding the requirement of the Faith Based EEO Survey. Answer 27 states that “documents listed on the SF-424 under ‘Optional Documents’ are all required except the Faith Based EEO Survey.” Answer 29 states that “application must include all of the documents listed in Section C.4.....and Faith Based EEO Survey.” Please clarify, is the Faith Based EEO Survey is required or not?
- Please see the answer to number 27.
194. If you are a contractor who is performing 100% of the work for PBT’s 1 through 6, Is a disaster recovery plan required to be submitted for both the contractor and the PHA or just the contractor actually performing the tasks?
- Please see the answer to number 166.
195. Can HUD please clarify the work that MUST be performed by the PHA and what is allowed to be contracted out? For instance, can the contractor hold the bank accounts and distribute the HAP funds or must this function be performed by the actual PHA?
- The PHA is required to enter into a Depository Agreement with HUD. Therefore, the bank account must be in the name of the PHA. The contractor can process payments on behalf of the PHA.
196. As for the A-133 audit requirement, if there is a contractor performing more than 50% of the work would this audit be required for the PHA and the contractor?
- The A-133 audit applies only to the PHA.
197. Does each applicant entity need to disclose ANY lobbying activity connected to a federal department/agency/program or only lobbying activity relation to the PBCA program in the state(s) for which they are applying? If there are no lobbying activities to report, then the omission of this form will not be considered missing, correct?
- The applicant entity must disclose any registered lobbyists. If there is not a registered lobbyist but the organization does lobbying, then put NA in the boxes for lobbyist information. If the organization is not required to report lobbying based on form instructions and pursuant to 31 U.S.C. 1352, the organization may send a certification stating that the organization is not required to report but a certification is not required.
198. Could you please check the accuracy of your response to question #134? Your answer indicates that you are acknowledging that “wet” signatures are required to the SF-424 and accompanying forms, however, the signature boxes on the forms are all pre-filled with “Completed by Grants.gov upon submission” which would seem contradictory.
- The 424 has an electronic signature. Other forms and certifications must be signed.
199. On the SF0424, #9 – if the applicant is a State Government who is also a Public Housing Authority, should both types of applicants be entered at #9, even if the applicant is only one entity that meets both definitions?

- Only the eligible applicant for the PBCA Program (that matches IRS records) should be entered.
200. Regarding the Disclosure of Lobbying Activities – if we have nothing to report, do we leave items 5-10 blank? Also, should #2, the Status of Federal Action be identified as a. bid/offer/application or b. initial award on this form?
- Use N/A for nothing to report. The status of federal action would be b.
201. Where in the Disaster Plan submission is the Disaster Plan Coordinator’s qualification statement or resume supposed to be included? In the same pdf file as the rest of the disaster plan or in a separate document? If in a separate document, how should it be titled?
- Please see the answers to numbers 86 and 150.
202. Question 144 addresses the issue that the change in handling of Management and Occupancy Reviews pursuant to the new risk rating will result in a significant number of properties not having an MOR for two years and will increase the likelihood that the number of MORs required after the two year contract period will increase in Year 3, the 12 month period following the current ACC to be executed for this NOFA. The answer specifically states that “HUD will address the issue before awarding the next ACC”. Does this response mean that HUD will no longer extend ACC contracts beyond the original contract period of two years as indicated in the NOFA and that all ACC contracts for periods after the two year contract period contemplated by this NOFA will again be subject to a NOFA bid process for award?
- HUD expects to solicit applications for contract administrators and award a new ACC in 2014 for all 53 States. Applicants will be provided with MOR ratings for the projects in each State that require MORs. The ACC has a provision for HUD to unilaterally extend ACCs beyond the two-year ACC term.
203. Section III.E.4 of the NOFA states "In addition, applicants must disclose, using Standard Form SFLLL "Disclosure of Lobbying Activities," any funds, other than federally appropriated funds, that will be or have been used to influence Federal employees, members of Congress, or congressional staff regarding specific grants or contracts." The source of this requirement is 24 CFR 87.100(c) and Standard Form LLL is incorporated into Part 87 as Appendix B. If no disclosure is required to be made, then 24 CFR 87.100(b) requires that "Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, set forth in appendix A, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section." Shouldn't each application include either the required certification on Appendix A OR the required disclosure on Appendix B (SF-LLL)?
- Yes.
204. SF-424 Section 4: What is the applicant identifier number?
- This field may be left blank- HUD did not provide a number for PBCA applicants.

205. SF-424 Section 8f. What should be put in box that states organizational affiliation? Does it relate to the contact person or the applicant? The Instructions refers to 7a but no 7a on Form 424.
- This refers to the affiliation of the Point of Contact for the application. It can in some cases be different than the applicant entity/organization.
206. SF-424 Section 9: Type of Applicant: Would an instrumentality of a public housing authority be considered a public/Indian housing authority?
- You may provide the answer that best suits your organization. You can use “other” as well and specify in the box.
207. SF-424 Section 11- confirm that the correct response is 14.327
- Yes.
208. SF-424 Section 11-What is the correct title to be used?
- Performance-Based Contract Administration (PBCA) Program for the Administration of Project Based Section 8 Housing Assistance Payments Contracts.
209. SF-424 Section 12 What is the correct funding opportunity number? The number, when prepopulated differs from docket number. Which number should be used (FR-5600-NJ-33 when prepopulated; docket says FR-5600-N-33.
- It is FR-5600-N-33. The other on grants.gov is a typo. The federal register number is correct and was published under that number.
210. SF-424 Section 12- What is competition identification number. Is it PBCA-33? Is it prepopulated? If prepopulated and incorrect, do we leave it or change it.
- PBCA-33 is the competition identification number.
211. SF-424 Section 13: What is competition identifier number and what title should be used?
- **Competition ID:** PBCA-33, **Opportunity Title:** Performance Based Contract Administration
212. SF-424 Section 14 Areas affected by Project Do we leave this blank, or what Form Project/Performance Site location. . Do we need to complete this Form? Where can we find this form?
- Section 14 should be filled with the state for which you are applying if not already on the form. You can add information from your computer (a list of areas) using the attachment button.
213. SF-424 Section 15: What should we include as descriptive title of applicants project?

- Whatever the applicant organization decides best describes the application is acceptable.
214. SF424 Section 16: please confirm that for 16b that should be two letter code for state-all.
- Yes for the whole state it is e.g., MD-all for all congressional districts in Maryland.
215. SF-424 Section 17b; What should end date be?
- Estimate the date using this: 4. Section II.D on page 7 of the PBCA NOFA changes the Period of Performance and is modified to read as follows: “D. Period of Performance. The PBCA will administer the HAP Contracts that HUD assigns during the ACC term. The ACC shall have a term of twenty-four (24) months unless extended at the sole election of HUD. HUD anticipates that ACCs awarded under this NOFA will become effective on December 1, 2012. The full text of the ACC may be found at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/rfp/sec8rfp or in Appendix C of this NOFA.”
216. In section 18 is the funding amount the bid and should the amount be inserted under a. Federal?
- The estimated dollar amount of fee should be entered here.
217. On forms requiring signatures-sf-III , sf-424 application, should we print form, sign it and send as attachment?
- The LLL needs to be signed, the 424 is signed electronically. Some of the forms state in the signature line that they are signed when submitted electronically using grants. Gov.
218. HUD 2080-Should we put bid amount in #4?
- On the 2880 put the estimated dollar amount of the fee in 4.
219. Section 5: what is the project name?
- Use a name is the applicant organization considers appropriate to identify the application.
220. Part 2: Is Part II applicable for PBCA application? What should we put in box for type of assistance and amount requested or provided and what are expected use of funds?
- Do the thresholds in Part I to determine if your organization needs to do Part II. Usually the answer is yes.
221. Is Part III applicable for PBCA application? If so, who should be included? Should all subcontractors be included?
- Complete the thresholds in Part I to determine if your organization needs to do Part III. You need to list: (1) All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and (2) Any other person who has a financial interest in the project or activity for which the

assistance is sought that exceeds \$50,000 or 10 percent of the assistance (whichever is lower). So subcontractors may be included if doing 10% or more of the work

222. Regarding completion of form HUD 424-CB, please confirm that the bidders costs are entered in column 1 of this form because the instructions to the form state for “Column 1- Identify the amount of funds that you will need from the HUD grant program for which you are seeking funding”.
- See question 224
223. Regarding completion of form HUD 424-CB, please confirm that the bidder’s costs that exceed the amount of funds the bidder is seeking from HUD as the “Basic Administrative Fee” be entered in Column 5 because the instructions to the form state “ Column 5-Identify any State funds that you will be adding to this program” and that Column 1 will only reflect the bidder’s costs up to the amount requested form the “Basic Administrative Fee”.
- See question 224
224. Regarding completion of form HUD 424-CB, please confirm that since the “Grand Total“ on form HUD 424-CB will not be used to calculate the bid percentage then the “Non Program Income” which is caused by excess “Basic Administrative Fee” over applicant’s costs should be excluded from the form.
- Confirmed. The estimated cost information provided in form HUD 424-CB is for the applicable cost categories specified in the form. The form does not include a cost category for estimated excess administrative fee.
225. Regarding completion of form HUD 424-CB, please confirm that a percentage is not required to be reflected in item J Indirect Costs if an amount is entered in Column 9 and the bidder does not have an “% Approved Indirect Cost Rate”.
- If you are not using an indirect cost rate percentage, no indirect cost rate is needed. If you do not have one and wish to use one, you may submit a cost proposal to HUD.
226. Question #12 under ACC for NOFA states that the requirement under PBT #3 Error Tracking Log is for MOR error reporting. In the Technical Approach, under which PBT do we discuss our approach to the MOR Error Tracking Log?
- Both
227. Rating Factor 3 and 4 indicate that the applicant should identify specific output or outcomes in furthering the policy priorities of Job Creation and Affirmatively Furthering Fair Housing. During the course of the contract, or at its conclusion, will the applicant be penalized if they have not achieved these goals?
- The applicant’s accomplishments will be evaluated during the Annual Compliance Review conducted by Multifamily Housing staff from the Hub or Program Center serving the State. The applicant’s performance may be considered as a qualifying factor in future requests for applications to serve as Performance Based Contract Administrators.

228. Number 6 on Page 16 references an Affirmative Fair Housing Marketing Plan. Do applicants need to provide a copy of a plan with their application?
- No. The Plan will be reviewed during the Annual Compliance Review conducted by Multifamily Housing staff from the Hub or Program Center serving the State. The applicant's plan and performance may be considered as a qualifying factor in future requests for applications to serve as Performance Based Contract Administrators.
229. Page 16 number 6 of the Program NOFA states that "Successful applicants must comply with certain requirements regarding affirmatively furthering fair housing, including affirmative fair housing marketing, rather than the General Section. It then goes to list three actions and/or procedures that the applicant must perform. Are applicants to only respond to these three requirements, rather than anything else in General Section pertaining to affirmatively furthering fair housing, in its Response to Rating Factor 3?
- Page 16 number 6 of the NOFA refers the applicant to Rating Factor 3. Together, these two sections are clear about what the applicant should describe in its response to Rating Factor 3 to achieve the stated outcome: "Address impediment to fair housing and promote fair housing rights and choice."
230. Regarding Item 6 Fidelity Bond Coverage, which requires the PHA to carry adequate fidelity bond coverage, as required by HUD to compensate the PHA and HUD for any theft, fraud or other loss program property resulting from action or non-action by PHA officers or employees or other individuals with administrative functions or responsibilities for contract administration under the ACC, if the PHA bidder is required by its state regulations to participate or maintain a self insurance program, will this comply with this requirement?
- While the PHA's contractual obligation to provide adequate fidelity bond coverage, at the PHA's expense, is an explicit obligation of the PHA under the ACC, self-insurance is not a substitute for a fidelity bond. The PHA must obtain the coverage from a third party carrier, so that the PHA and HUD if necessary, has a legal contractual right to claim reimbursement from the insurer without the problematic necessity of seeking restoration of funds from the PHA itself which may be difficult or impractical.
231. Regarding Item 6 Fidelity Bond Coverage, which requires the PHA to carry adequate fidelity bond coverage, as required by HUD to compensate the PHA and HUD for any theft, fraud or other loss program property resulting from action or non-action by PHA officers or employees or other individuals with administrative functions or responsibilities for contract administration under the ACC, if the PHA bidder is self insured by state regulation, what date will the PHA have to provide to HUD satisfy this requirement?
- See answer to number 230.
232. After reviewing Q/A # 134,160 and 161, I still need clarification. Is electronic signature acceptable for HUD-2880 and SF-LLL?
- See answer to number 134.
233. While we understood that the contract for this work would be of limited duration, the proposed form of Performance-Based Annual Contributions Contract (ACC) issued by HUD with the

Notice of Funding Availability (NOFA) for the Performance Based Contract Administrator (PBCA) Program has an initial term of 24 months, which appears to be subject to unilateral extensions by HUD for an indefinite period of time with no allowance or accommodation for a fee change or adjustment. It appears that, pursuant to this provision, if the costs of providing these services increase above costs which were the basis for the initial fee, HUD may require a PHA to continue providing services beyond the expected two year term under the ACC at a fixed rate that provides insufficient revenue to cover costs. By contrast, Section 4(d)(4) of the PBCA ACC executed in Summer 2000, and extended to date in many jurisdictions, allowed the PHA to unilaterally terminate the ACC at the end of the initial term, or any subsequent renewal term, provided that the PHA gave HUD twelve months' notice prior to termination. Since this NOFA is intended to cover services to be performed over a two year period, would HUD either (i) consider adding a similar termination provision to the proposed form of ACC, or (ii) explain why the language found in the proposed ACC would not create the problem described above?

- No change to Section 2c, ACC Term, will be made. The Department expects to award a new and execute a new ACC prior to the end of the two-year term of this ACC for NOFA.

234. We understand the narratives for Rating Factors #3 and #4 have no page limitation. Further, we understand Rating Factors #1 and #2 are limited to 60 pages (collectively). Can HUD confirm if the narratives for Rating Factors #3 and #4 need to be w/in the same 60 pages? HUD's response to question 139 (of the Q&A document) appears to confirm RFs #3 and #4 are outside of the 60-page count.

- There is no page limitation for RLO, SL, Rating Factors 3 or 4 or the FTE chart. The 60 page limit applies only to Rating Factor 1, Capability and Rating Factor 2, the Technical and Quality Control Plan.

235. HUD's question 139 (of the Q&A document) re-states the following NOFA language, "total narrative response cannot exceed 60 pages, not including attachments for each narrative." Is this to say if the narrative for the Capability Statement filled the max number of pages for this document (which is 10 pages) that an additional two pages if included as an exhibit or attachment would be acceptable to HUD?

- Section IV.C.2 of the NOFA states that "Narrative statements cannot exceed the number of single-sided standard 8.5" by 11" pages specified in the application document descriptions." The application document description for the Abstract specifies a limitation of four (4) pages. The application document description for the Capability Statement specifies a limitation of ten (10) pages. Neither the application document description nor the Rating Criteria for the Capability Statement requests or requires the submission of any attachments. The application document description for the Technical Approach specifies a page limitation of thirty (30) pages. Neither the application document description nor the Rating Criteria for the Technical Approach requests or requires the submission of any attachments. The application document description for the Quality Control Plan specifies a page limitation of twenty (20) pages. Neither the application document description nor the Rating Criteria for the Quality Control Plan requests or requires the submission of any attachments. Only information submitted for a specific subfactor will be considered for the corresponding subfactor for which it was written. The Technical Evaluation Panel team members will not refer to information that is not included within the narrative for each subfactor that may be provided in an attachment. Attachments to these documents will not be reviewed or considered in the evaluation of the applicants narrative responses to the subfactors.

236. Rating Factors #1 and #2 have file naming conventions and the NOFA does not describe any naming conventions for Rating Factors #3 and #4. Does HUD want these included as two separate MS Word documents and if so, how should the files be named for the purpose of submission?
- See the answer to number 15.
237. In response to question 169, HUD states that it will not be questioning the conclusions regarding state law by a state's Attorney General, "unless presented with a reason to do so."
- a. What "reason(s)" would be sufficient to cause HUD to question an Attorney General?
 - b. How should such reasons or potential reasons be presented to HUD?
 - c. What will HUD do if presented with such potential reasons?
 - d. As HUD noted in response to question 171, HUD has "received many acceptable RLO's in previous competitions" for out-of-state PHAs. These RLOs specifically cover the ability of those out-of-state PHA's ability to perform the PBCA services in the state in question. Why aren't these RLO+s alone sufficient reason to question the Attorney General letters?
 - e. In addition to the RLOs, HUD has received numerous written submissions from interested parties specifically challenging the Crossing State Lines provision and the validity and effect of the Attorney General letters.
 - i. When will HUD respond to these letters?
 - ii. Do they provide a sufficient reason for HUD to question the Attorney General letters? If not, why not?
- HUD is unable to speculate as to reasons why an opinion of a state Attorney General may not be considered dispositive. Notwithstanding, HUD may not consider the opinion of a state Attorney General to be dispositive if the opinion fails to address the relevant legal questions or if the opinion does not address all the relevant facts.
238. Page 27 of the NOFA in the Technical Approach, Subfactor d, General ACC Requirements, the third and seventh bullets refer to, "Applicants." Please clarify what type of "Applicants" we are required to speak to in this section. Do you mean applicants for PBCA employment? Project Based Section 8 applicants? Other?
- Applicant refers to the entity submitting an application under the NOFA.
239. On Page 25 of the NOFA, Section 2(a), Technical Approach, the NOFA requires that, "Each applicant should submit a description of its technical approach, including relevant organizational staff, to performing each of the following subfactors as they relate to the ACC..." Please clarify what HUD's intent is in asking that respondents include "relevant organizational staff" in the Technical Approach section of the proposal. Does this mean that respondents should speak to relevant organizational staff in every subsection of the Technical Approach, b-f? If so, would an organization chart placed before all sections b-f suffice for this requirement? Or, are respondents not required to speak to relevant organizational staff in any particular section of Technical Approach.
- Applicants should identify the relevant organizational staff in the narrative for each subfactor. An organizational chart may be included but is not required. If included, the organizational chart will be included in the page count for the Technical Approach.

240. It appears paragraph "a." of the Technical Approach (page 25 of the invitation for bid) appears to be the introductory paragraph for the Technical Approach sub-factors (paragraphs b – f on pages 25 – 27 of the invitation for bid). Does HUD expect a written response to the Technical Approach paragraph "a." and paragraphs b - f? Or does HUD expect a written narrative only for paragraphs b – f of the technical approach?
- Paragraph "a." is an introduction. No narrative is required for paragraph "a." Narrative responses are required for paragraphs "b." through "f."
241. HUD indicated in the Q&As that "name check" will only apply to the applicant organization and not any contractors or subcontractors. However, given that throughout the Q&A, HUD appears to be accepting of the fact that the PHA is a conduit in performing and executing the ACC, by allowing a subcontractor to be performing up to 100% of the tasks, including the payment of vouchers, wouldn't it be prudent for HUD to perform a name check on all contractors and subcontractors performing at least 50% of the tasks?
- The name check will apply only to the applicant organization. The ACC is a contract between HUD and the PHA. The PHA is responsible for performing the requirements of the ACC.
242. HUD indicated in #53 of the Q&A published on 4/27/12 that HUD reserves the right to adjust the award amounts if there is a workload reduction (such as risk based MORs). Would HUD adjust the award amounts upwards if there is an increase in services required? Example of this would be an increase in the number of MORs created by using the mandated risk based approach for conducting MORs in contract year two, whereby the current rating is satisfactory but in performing the MOR in year one the score becomes below average or unsatisfactory and requires an MOR conducted again in contract year 2.
- HUD does not expect to adjust the service requirements of the ACC during its two-year term. No adjustment of the basic administrative fee percentage will be made based on the number of MORs that are required to be conducted in year two.
243. In answer to question #82 of the Q&A published on 4/27/12, HUD indicated that FY 2012 NOFA, "in evaluating applications of funding, HUD will take into account applicants past performance in managing funds...", "HUD may consider information available from HUD's records, the name check review, public sources such as newspapers, Inspector General or GAO reports or findings, or hotline or other complaints that have been proven to have merit. In evaluating past performance, HUD may elect to deduct points from the rating score..." How will HUD implement this requirement? Will HUD make inquiry using the HUD intranet, the Internet, direct inquiry of the IG, GAO, etc? How will they determine complaints have merit? How will HUD make the TEP team members aware of this information? If the TEP team members are not made aware of facts, how will HUD implement this requirement?
- To determine past performance, information in the application and in HUD records or systems may be used. Name Check Reviews through DUNS are completed before selection announcements are made.
244. What happens if HUD finds out that facts impacting an applicant or its contractors past performance? Will HUD reduce points awarded by the TEP team? If the point reduction is up to the TEP team who will determine the point reduction so all applicants and their contractors will

be handled appropriately and consistently since they maybe be submitting more than one application? Will the overall quality control process HUD indicated it is implementing take these facts into consideration?

- HUD will notify the applicant if there are unresolved past performance issues. There are no points for past performance in the PBCA NOFA. The process is overseen by the Office of Grants Management and Oversight.

245. In one of the conference calls, HUD indicated that as part of the quality control review process, HUD headquarters will review the findings and recommendations of the TEP panels to ensure consistency of evaluations. How is HUD planning to implement this process?

- Headquarters staff will not review the evaluations and points assigned by TEP Teams. The TEP Team members will individually evaluate and assign points to assigned applications. Then, the TEP Team members will compare their evaluations and points and arrive at a final determination of points for the application. If less than the maximum number of points are assigned to a subfactor, the TEP Team will provide a decision statement specifying why less than the maximum number of points were assigned. Headquarters staff will review the decision statement to ensure that it is clearly written and provides sufficient detail. If it is not clearly written, Headquarters staff will ask the TEP Team leader to be more specific, provide more detail, or clarify exactly what the team found deficient.

246. HUD indicated in the Q&A that the same TEP will review proposals of applicants with multiple state submissions? What about consistency in reviewing subcontractors with multiple state submissions? It is conceivable that one subcontractor will apply to perform over 50% of PBTs and provide more than 50% of the FTEs in performing the work in all 42 states.

- The same TEP Team will review proposals from PHAs with the same multi-state contractor.

247. In number 105 of the Q&A dated 4/27/12, HUD indicated that that "none of the 11 PBCAs in question will be required to participate in future competitions. What if there is an in-state applicant who will be interested in applying to be the PBCA?

- HUD expects to receive applications for the fifty (50) United States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands when applications to service as a PBCA are submitted under a new ACC in 2014.

248. In number 109 of the Q&A dated 4/27/12, HUD indicated that it will compare the budgeted costs to the actual costs. If this NOFA is for fee for services, why will HUD do that? If the actual is higher or lower than budgeted, is HUD planning to make adjustments to the fee?

- HUD will use the information provided in form HUD-424-CB required by the NOFA and in the Annual Financial Operations Report required by the ACC to evaluate program costs. The information will not be used to adjust the Basic Administrative Fee Percentage during the ACC Term.

249. In number 117 of the Q&A dated 4/27/12, HUD indicated that only Mark to Market projects will required annual MORs. Please confirm that all properties with an MOR rating of below average and unsatisfactory will also require annual MORs.

- Refer to the ACC, Exhibit A, PBT #1.
250. In number 202 of the Q&A dated 4/27/12, HUD indicated that "The ACC has a provision to unilaterally extend the ACCs beyond the two year term. If HUD chooses to exercise this option at the end of the two year term, will HUD require the PBCA to perform MORs on the properties that have not had an MOR in two years because they had above average or superior ratings? In most states, this would be an undue increase in cost, would HUD negotiate an increase in fee to compensate for this increase in workload or would HUD simply postpone these MORs till a new ACC is executed?"
- The Department expects to award a new and execute a new ACC prior to the end of the two-year term of this ACC for NOFA.
251. If HUD is requiring the PBCA applicant to be a PHA and allowing its subcontractor to perform principally all the PBTs including the payment of the vouchers, what functions and oversight are the minimum required by the PHA to satisfy HUD's requirements and assure compliance with the ACC and NOFA requirements.
- HUD requires the PHA to fully perform all of the requirements of the ACC. The oversight of contractors is the PHA's responsibility. HUD monitors the PHA's performance on a monthly, quarterly, and annual basis as specified in the ACC.
252. Regarding Item 6 Fidelity Bond Coverage, which requires the PHA to carry adequate fidelity bond coverage, as required by HUD to compensate the PHA and HUD for any theft, fraud or other loss program property resulting from action or non-action by PHA officers or employees or other individuals with administrative functions or responsibilities for contract administration under the ACC, if the PHA bidder is required by its state regulations to participate or maintain a self insurance program, will this comply with this requirement?
- No. See the answer to number 230.
253. Regarding Item 6 Fidelity Bond Coverage, which requires the PHA to carry adequate fidelity bond coverage, as required by HUD to compensate the PHA and HUD for any theft, fraud or other loss program property resulting from action or non-action by PHA officers or employees or other individuals with administrative functions or responsibilities for contract administration under the ACC, if the PHA bidder is self insured by state regulation, what data will the PHA have to provide to HUD satisfy this requirement?
- See the answer to number 230.
254. Q&A #174 asked: Will HUD give a contractor access to HUD funds via eLOCCS and allow the contractor to make HAP payments to owners/agents? HUD's answer was no. We request clarification to this Q&A in light of the HUD Lanier Hylton Memo Guidance, issued May 11, 2007, "Housing Assistance Payment Under/Overpayment Close Out Procedures and Guidance for Annual Interest Earned Certification," which makes several references to contractor accounts acting as "HAP Payment intermediaries." This reference would seem to indicate contractors are authorized to disburse HAP payments "as intermediaries." Please clarify the answer in light of the Lanier Hylton Memo: Can a contractor receive and disburse HAP payments.

- No. A contractor cannot receive HAP payments. A contractor can submit the electronic requests through TRACS for the payment of subsidy to owners. HUD will pay subsidy only to the PHA controlled account for which a Depository Agreement has been executed with HUD.
255. Currently our agency is not subject to a separate A-133 audit, rather our federal funds are included as a part of our state's single audit. As I understand it from reviewing the information about CFDA #14.327, these funds are not subject to an A-133 audit. Therefore, if we were awarded the contract, we would not expect our agency would be required to submit to a separate A-133 audit. Is this accurate? If so, with what specific federal audit requirements would we be expected to comply? For what audits would we be expected (required) to engage an independent auditor to complete (per section 8, g of the ACC)?
- The ACC requires the PHA to submit an audit under OMB Circular A-133.
256. As I understand it, we would be subject to a potential program audit. If so, what compliance supplement would be used during the audit? Other than circular A-87 (as codified at 2 CFR part 225), what OMB Circulars would apply?
- HUD staffs conduct an Annual Compliance Review of the PBCAs to verify compliance with the ACC and performance of the Performance Based Tasks. Currently, only OMB Circular A-87 is specified in the NOFA and ACC.
257. It appears that, if we were awarded this contract the Owner's/Operators to whom we would distribute Housing Assistance Payments, would NOT be subject to any subrecipient monitoring by our agency other than the monitoring specifically required under the ACC. Is that accurate? Rather, the Owners/Operators would be considered direct recipients of federal funds with reporting responsibility, in compliance with A-133, directly to HUD. Is that accurate?
- The ACC specifies the PHA's monitoring requirements.
258. We anticipate subcontracting with a qualified provider, might you have examples of the agreements other agencies have used with the contractor and an outline of monitoring responsibilities?
- No examples are available from HUD.
259. Follow-up to HUD response to Question 195: Currently, PHAs enter into Depository agreements with HUD. HAP money flows from HUD to the PHA held bank account. Many PHAs, however, have partners or contractors who process owner vouchers on behalf of the PHA and, historically, the PHA has transferred electronic funds to the contractor's HAP account for HAP payment dispersal. This is particularly true in states where the PBCA is a part of the state government and the state rules hinder HAP dispersal in a timely fashion from the state treasury. The accounts are fully secure and the contractor is bonded under HUD PBCA requirements. Can you confirm this remains an acceptable way to disperse HAP funds?
- See answer to number 254.

260. Follow-up to HUD response to questions 172 & 173: PHAs with partners or contractors have contractually delegated many responsibilities to their partners or contractors such as the signing of HAP Contract renewals and Rent schedules and the issuance of the initial appeal decision in an MOR or rent adjustment. These PBCAs have gone through 12 years of HUD Annual Compliance Reviews with no findings or concerns expressed regarding these procedures. In some cases the HUD IG has audited the program and found no issues or concerns with this business practice. Specifically restricting to an authorized PHA employee the approval of contract renewals and rent schedules, and the issuance of the initial appeal decision in an MOR or rent adjustment represents a significant change in existing HUD policies and procedures. Is it still acceptable for PHAs to contractually delegate to partners or contractors responsibilities such as: (1) the signing of HAP Contract renewals and Rent schedules, and (2) the issuance of the initial appeal decision in an MOR or rent adjustment?
- PHA staff must execute contractual documents and program related documents that may potentially require a HUD decision or action such as an appeal decision or enforcement action.

ACC for NOFA

1. Exactly what is different about the ACC (for the 11 states) and the ACC for NOFA?
 - The limitation on the number of covered units that a multi-state PBCA may be assigned or a contractor may service has been removed.
 - PBT #1 Management and Occupancy Reviews has changed from conducting MORs annually for 100% of assigned projects to a Risk-Based and a Mark-to-Market projects requirements.
 - The Basic Administrative Fee Percentage has been changed to “not to exceed 2%” from “not to exceed 2.5%.” This change is based on the reduced MOR workload.
 - OMB circulars or requirements (including 2 CFR Part 225) have been added.
2. If a project is listed on the MOR report as unsatisfactory or below average at the time of assignment and in FY1 the project receives a satisfactory or better, is an MOR required in FY2?
 - No.
3. If a project is listed on the MOR report as satisfactory at the time of assignment and in FY1 the project receives a unsatisfactory or below average, is a MOR required in FY2?
 - Yes.
4. What if a project assigned to the PBCA from a Traditional Contract Administrator does not have a MOR rating?
 - This issue will be addressed in the new Contract Administration Guidebook.
5. Is there an expectation that MORs will be conducted on watch list properties?
 - No.
6. Does HUD expect to execute one or two ACC with the awardee for California?

- Two. One for Southern California, Los Angeles Hub, and one for Northern California, San Francisco Hub.
7. Can you provide guidance on what the PBCA role will be for inquiries that do not fall under the “health, safety and maintenance” categories (regardless if received directly from a Resident, or if forwarded to the PBCA from HUD staff)?
- The ACC does not require the PBCA to maintain records of or perform tasks related to tenant inquiries, issues, or concern related to other categories. As appropriate, the PBCA may direct tenants to the owner/management agent or HUD for assistance with other matters.
8. The new ACC states that Above Average and Outstanding, non M2M MORs will not be reviewed during the term of the contract. The provision for extensions does not discuss how these might be added on. For example, if there were multiple two year extensions given on this ACC, when would Above Average or Outstanding MORs be reviewed again? Also, what happens if a project with an Outstanding or Above Average MOR changes owner or agents? The 4350.1 requires a new MOR be done within six months. However, this is not addressed. The project, for example, may be well managed under a third party agent, switch to self-managed, and do a poor job. How will this be addressed in the contract?
- The ACC will not be extended. The Department plans to request applications for contract administration prior to the expiration of the ACC and award contracts at the end of the two-year ACC term. The issues presented in the question will be addressed.
9. The ACC requires the PBCA to follow-up with residents in three days on health and safety and maintenance complaints, with the owner’s response. As the prior contract allowed two weeks for response, it is not clear how responsive the owners will be under the new time-frames. How is the PBCA to address situations where the owner’s response is not timely or forthcoming?
- The ACC requires the PBCA to “Monitor owner’s corrective action completion performance and keep tenant informed of changes in corrective actions and/or scheduled completion dates until corrective actions are completed and verified by the tenant.”
 - The PBCA should notify HUD if corrective actions are complete within a reasonable time given the gravity of the issue or concern. HUD will take action to enforce the HAP Contract.
10. The PBTs for rent adjustments and renewals reference the timeliness of the PBCA processing “upon owner request.” As AAF renewals are automatic, and the Auto-OCAF is likewise automatic, shouldn’t this language be revised?
- No changes will be made to the PBTs in the ACC. ACC clarifications will be provided in the revised contract administration guidebook.
11. The ACC notes that HUD will be providing reports of REAC inspections and scores. Will this be handled out of HQ?

- REAC inspection data can be accessed in iREMS. HQ is providing REAC data from iREMS to the PBCAs as part of the Quarterly Risk Assessment Report process (see PBT#6).
12. Please provide clarification regarding the Error Tracking Log now in the ACC as part of PBT #3 – Review and Pay Monthly Vouchers. Will we be tracking voucher adjustments or continue to track errors discovered as part of the MOR? It’s difficult to describe a Technical Approach and QCP without more specifics.
- The PBT # 3 ACC requirement to “submit error tracking log to HUD Headquarters semi-annually ...” is for the MOR error reporting. For guidance, submission instructions and data collection tools for the MOR error reporting requirements, please refer to the memorandum, “Interim Management and Occupancy Review (MOR) Error Reporting” dated August 12, 2008. This information is posted on the following website: http://www.hud.gov/offices/hsg/mfh/rfp/ca_docs.cfm.
13. To help applicants plan and have adequate staff in place please provide clarity to ACC requirement regarding REAC follow up. Currently REAC follow up is listed in the ACC under PBT 1 and states that the PBCA (1) will obtain a copy of the owner certification that all EHS deficiencies have been corrected and (2) determine whether EHS and other deficiencies have been corrected. Some of the 11 territories that currently work under this ACC are obtaining the REAC certification after EHS items post to iREMS (same duties as listed under IBPS 16 in the old ACC). Is HUD going to revise this ACC to reflect the true practice or policy of HUD offices? If so will a new PBT be added to cover the additional work? If no revision to the ACC and REAC follow up (obtaining owner certification) occurs during the MOR please provide clarity regarding timing (how far back) based on the new Risk Based MOR schedule.
- The policies and procedures for conducting MORs and following up on REAC inspections have not changed. For details, see HUD Handbook 4350.3, Chapter 6 and Appendix 1, form HUD-9834. The ACC requires the PHA to obtain a copy of the owner’s certification that all EH&S deficiencies have been corrected but does not specify when to obtain it. The PHA must have the certification prior to conducting an MOR in order to complete its “Desk Review.” The PHA will verify EH&S compliance when it conducts an MOR.
14. Please clarify AQL timeframes for rent adjustments and contract renewals. When calculating PBCA processing times for PBT #2 & #4 AQL requirements (30 or 45 days respectively), will the PBCA be responsible for processing activities outside of their control (i.e.: waiting for funding from HUD or waiting to receive documents from the owner)?
- PBCAs are not subject to disincentive deductions for events or activities outside their control. The timeframes for rent adjustments and contract renewals are specified in the ACC.
15. Please provide clarification on the REAC follow-up in the new ACC. Since it is now embedded in PBT #1, will follow-up only be conducted at the time of the MOR, thus replacing the EH&S “real time” follow-up that is currently required following the release of all REAC inspection results?
- See the answer to number 13.

16. The ACC currently posted on the NOFA Web page refers to Housing Notice H 2010-10, EIV System on Page 26. Will this reference be replaced with Housing Notice H 2011-21 which superseded Housing Notice H 2010-10 on August 17, 2011?
 - PBT references in the ACC are not updated. Section 2 of the ACC requires the PHA to comply with all new and amended regulations or requirements related to the performance of the ACC.
17. Please provide clarification on the REAC follow-up in the new ACC. Since it is now embedded in PBT #1, will follow-up only be conducted at the time of the MOR, thus replacing the EH&S “real time” follow-up that is currently required following the release of all REAC inspection results?
 - See the requirements of HUD Handbook 4350.1 and form HUD-9834.
18. The proposed time frame for CA and Owners to address tenant’s complaints is too tight for all parties to investigate thoroughly and take appropriate actions. Owners need time to investigate the cause of the complaint, talk or meet with all parties involved and in some cases to contact contractors for repair. The proposed 3 day turn-around is not feasible. The owner needs at least 10 days to do the initial investigation and respond with their proposed actions.
 - No changes will be made to the requirements of PBT #5.
19. The requirements to obtain consensus that the complaint(s) have been “fully resolved” prior to closing of the finding could potentially leave the case open for years and affect owners HAP contacts. As long as the owners have done their due diligence, and have taken the necessary actions to correct the item(s) the case should be closed. The monitoring agent should have the authority to close a complaint without the consensus of a tenant.
 - No changes will be made to the requirements of PBT #5.
20. The time frames set forth for the owners to resolve resident complaints and work through Contract Administrators is extremely narrow. 1-3 days is just not enough time. More thought needs to be placed on this issue. To have a consensus that complaints have been fully resolved prior to the closing of a finding is unrealistic. If we have findings open, unresolved for whatever reason, HAP contracts would be affected. Please review these outlines.
 - Unresolved health, safety, and maintenance issues are a violation of the HAP contract. The PHA should refer the owner to HUD if tenant health, safety, and maintenance issues that are unresolved within agreed upon completion schedules because the owner is unable or unwilling to correct the issue. HUD will determine if enforcement actions are required.
21. Monitor owner compliance with obtaining access to and using EVI system is part of PBT #3 Vouchers (p.31, Sect. A.). Will we continue to verify owner/agent access and use of EIV as part of the MOR? Even though we won’t be performing a MOR for quite a few properties?
 - a. The requirement for PBCAs to monitor owner compliance with obtaining access to and using EIV system in its entirety is shown under two PBTs in the ACC, PBT 1, Management and Occupancy Reviews, and PBT 3, Review and Pay Monthly Vouchers.

The PHA will be required to perform EIV owner compliance under PBT 1 as a part of the MOR and the PBCA will also monitor EIV compliance under PBT #3 to ensure adjustments are completed correctly on the voucher and that owners/agents are regularly reviewing and clearing discrepant items on the EIV Verification Reports.

22. The most current ACC (Dated 2.24.2012) – PBT # 3 – Review and Pay Monthly Vouchers – includes the following requirement: “The PHA disburses housing assistance payments to the owner in response to the owner’s payment request as verified by the PHA.” Does this task have to be directly completed by the applicant PHA or can the PHA use a contractor to process HAP voucher requests and distribute the HAP voucher funds when that contractor is an out of state PHA related entity?
- b. The PHA may hire a contractor to complete all the requirements under PBT #3 except for the actual distribution of HAP voucher funds to the owner. Please refer to Q&A #174. Only the PHA, not the contractor, is authorized to make HAP voucher payments to owners/agents. Vouchers are submitted electronically through TRACS and payment is made directly to the owner through HUD financial systems.
23. Can a PHA setup a recipient’s email address for a contractor to receive email notifications from eLOCCS of estimated deposit of HAP funds into the PHA’s depository account?
- Yes.
24. Can the PHA give a contractor viewing rights in eLOCCS to be used in the reconciliation with TRACS, ensuring all amounts and property names are accounted for prior to the contractor setting up the EFT to the owner?
- Yes.
25. Can a contractor enter cutover dates for the award or any additional properties added by HUD after the contract has been awarded?
- The PBCA may assign access rights to a contractor to eLOCCS for the purpose of: [1] reviewing financial data for Project-based Section 8 HAP contracts assigned to the PBCA and [2] entering the cut over dates for HAP contract award.
 - The Contract Oversight Administrator Monitor (COAM) with jurisdiction over the specific PBCA is required to approve the cut over dates entered in eLOCCS by the PBCA or its contractor.