

**Subpart B—Grant Funding****§ 761.13 Amount of funding.**

(a) *PHDEP formula funding.* (1) *Funding share formula.* (i) *Per unit amount.* Subject to the availability of funding, the amount of funding made available each FFY to an applicant that qualifies for funding in accordance with § 761.15(a) is based upon the applicant's share of the total number of units of all applicants that qualify for funding, with a maximum award of \$35 million and a minimum award of \$25,000, except that qualified applicants with less than 50 units will not receive more than \$500 per unit.

(ii) *Calculation of number of units.* For purposes of determining the number of units counted for purposes of the PHDEP formula, HUD shall count as one unit each existing rental and Section 23 bond-financed unit under the ACC. Units that are added to a PHA's inventory will be added to the overall unit count so long as the units are under ACC amendment and have reached DOFA by the date HUD establishes for the Federal Fiscal Year in which the PHDEP formula is being run (hereafter called the "reporting date"). Any such increase in units shall result in an adjustment upwards in the number of units under the PHDEP formula. New units reaching DOFA after this date will be counted for PHDEP formula purposes as of the following Federal Fiscal Year. Federalized units that are eligible for operating subsidy will be counted for PHDEP formula purposes based on the unit count reflected on the PHA's most recently approved Operating Budget (Form HUD-52564) and/or subsidy calculation (Form HUD-52723), or successor form submitted for that program. Units approved for demolition/disposition continue to be counted for PHDEP formula funding purposes until actual demolition/disposition of the unit.

(2) *Consortium funding.* The amount of funding made available to a consortium will be the total of the amounts that each individual member would otherwise qualify to receive under the PHDEP funding formula in accordance with paragraph (a)(1) of this section.

(3) *Adjustments to funding.* The amount of funding made available each

FFY to an applicant in accordance with paragraphs (a)(1) and (a)(2) of this section may be adjusted as follows:

(i) An applicant must submit a PHDEP plan that meets the requirements of § 761.21, as required by § 761.15(a)(5), each FFY year to receive that FFY's funding. An applicant that does not submit a PHDEP plan for a FFY as required will not receive that FFY's funding.

(ii) Ineligible activities, described at § 761.17(b), are not eligible for funding. Activities proposed for funding in an applicant's PHDEP plan that are determined to be ineligible will not be funded, and the applicant's funding for that FFY may be reduced accordingly.

(iii) In accordance with § 761.15(a)(6), an applicant that does not meet the performance requirements of § 761.23 will be subject to the sanctions listed in § 761.30(f)(2).

(iv) Both the amount of and continuing eligibility for funding is subject to the sanctions in § 761.30(f).

(v) Any amounts that become available because of adjustments to an applicant's funding will be distributed to every other applicant that qualifies for funding in accordance with paragraphs (a)(1) and (a)(2) of this section.

(b) *AHDEP funding.* Information concerning funding made available under AHDEP for a given FFY will be contained in Notices of Funding Availability (NOFAs) published in the FEDERAL REGISTER.

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**§ 761.15 Qualifying for funding.**

(a) *Qualifications for PHDEP funding.*

(1) *Eligible applicants.* The following are eligible applicants for PHDEP funding:

- (i) A PHA;
- (ii) An RMC; and
- (iii) A consortium of PHAs.

(2) *Preference PHAs.* A PHA that successfully competed for PHDEP funding under at least one of the PHDEP NOFAs for FFY 1996, FFY 1997 or FFY 1998 qualifies to receive PHDEP funding.

(3) *Needs qualification for funding.* An eligible applicant that does not qualify to receive PHDEP funding under paragraph (a)(2) of this section must be in one of the following needs categories to qualify for funding:

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(i) The eligible applicant must be in the top 50% of the unit-weighted distribution of an index of a rolling average rate of violent crimes of the community, as computed for each Federal Fiscal Year (FFY). The crime rate used in this needs determination formula is the rate, from the most recent years feasible, of FBI violent crimes per 10,000 residents of the community (or communities). If this information is not available for a particular applicant's community, HUD will use the average of data from recipients of a comparable State and size category of PHA (less than 500 units, 500 to 1249 units, and more than 1250 units). If fewer than five PHAs have data for a given size category within a State, then the average of PHAs for a given size category within the census region will be used; or

(ii) The eligible applicant must have qualified for PHDEP funding, by receiving an application score of 70 or more points under any one of the PHDEP NOFAs for FFY 1996, FFY 1997 or FFY 1998, but not have received an award because of the unavailability of funds.

(4) *Consortium of eligible applicants.* Eligible applicants may join together and form a consortium to apply for funding, whether or not each member would individually qualify for PHDEP funding under paragraphs (a)(2) or (a)(3) of this section. The act of two or more eligible applicants joining together to form a consortium, and identifying related crime problems and eligible activities to address those problems pursuant to a consortium PHDEP plan, qualifies the consortium for PHDEP funding of an amount as determined under §761.13(a)(2).

(5) *PHDEP plan requirement.* (i) *PHAs.* Except as provided in paragraph (a)(5)(ii), below, of this section, to receive PHDEP funding, a PHA that qualifies to receive PHDEP funding for Federal Fiscal Year 2000 and beyond must include a PHDEP plan that meets the requirements of §761.21 with its PHA Plan submitted pursuant to part 903 of this title for each Federal Fiscal Year for which it qualifies for funding.

(ii) To receive PHDEP funding, a PHA that qualifies to receive PHDEP funding and is operating under an exe-

cuted Moving To Work (MTW) agreement with HUD must submit a PHDEP plan that meets the requirements of §761.21 with its required MTW plan for each Federal Fiscal Year for which it qualifies for funding.

(iii) *RMCs.* To receive PHDEP funding, an RMC operating in an PHA that qualifies to receive PHDEP funding must submit a PHDEP plan for the units managed by the RMC that meets the requirements of §761.21 to its PHA. Upon agreement between the RMC and PHA, the PHA must submit to HUD, with its PHA Plan submitted pursuant to part 903 of this title, the RMC's PHDEP plan. The RMC will implement its plan as a subrecipient of the PHA.

(iv) *Consortia.* To receive PHDEP funding, the consortium members must prepare and submit a consortium PHDEP plan that meets the requirements of §761.21, including the additional requirements that apply to consortia. Each member must submit the consortium plan with its PHA plan, submitted pursuant to part 903 of this title, or IHP, submitted pursuant to subpart C of part 1000 of this title, as appropriate.

(6) An otherwise qualified recipient PHA, RMC or consortium may not be funded if HUD determines, on a case-by-case basis, that it does not meet the performance requirements of §761.23.

(b) *Qualifications for AHDEP funding.* Under AHDEP, eligible applicants are owners of federally assisted low-income housing, as the term *Federally assisted low-income housing* is defined in §761.10. Notices of Funding Availability (NOFAs) published in the FEDERAL REGISTER will contain specific information concerning funding requirements and eligible and ineligible applicants and activities.

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### §761.17 Eligible and ineligible activities for funding.

(a) *Eligible activities.* One or more of the eligible activities described in 42 U.S.C. 11903 and in this §761.17(a) are eligible for funding under PHDEP or AHDEP, as further explained or limited in paragraph (b) of this section and, for AHDEP, in separate annual Notices of