

THIS VERSION, DATED MAY 26, 2011, UPDATES THE MAY 17, 2011, PUBLICATION. THERE ARE NO SUBSTANTIVE MODIFICATIONS WHICH WOULD RESULT IN A CHANGE TO THE APPLICATION DUE DATE.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5415-N-38A]

Fiscal Year (FY) 2010 Notice of Funding Availability (NOFA) for Section 202 Supportive Housing for the Elderly Program; Amendment to Add FY2011 Funding and Technical Corrections

AGENCY: Office of the Assistant Secretary for Housing--Federal Housing Commissioner, HUD.

ACTION: Notice of Funding Availability (NOFA) for HUD's FY2010 Supportive Housing for the Elderly Program; Amendment to add FY2011 funding and technical corrections.

SUMMARY: This Notice amends the Notice of Funding Availability (NOFA) for HUD's FY2010 Section 202 Supportive Housing for the Elderly (Section 202), as posted on www.Grants.gov on March 4, 2011, to increase the available funding to funding authorized under the Department of Defense and Full-Year Continuing Appropriations Act, 2011. As provided by this Notice, the total combined funding available under the FY2010 Section 202 Supportive Housing for the Elderly Program NOFA is approximately \$449 million.

This combined funding will be governed by the information and instructions found in the Notice of HUD's Fiscal Year (FY) 2010 Notice of Funding Availability (NOFA), Policy Requirements and General Section (General Section) to HUD's FY2010 NOFAs for Discretionary Programs, posted to Grants.gov on June 7, 2010. This Notice also makes certain technical corrections to the NOFA to clarify specific meeting requirements of American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE) standards, updates

website addresses, correct exhibit numbering designations, highlights the funding of a FY2009 application, changes the data source for determining the racial and ethnic composition of the neighborhood for the proposed site, and other changes as listed below. As a result of these changes, HUD is extending the deadline for applications to **June 21, 2011**.

DATES: The application deadline date for the Section 202 Supportive Housing for the Elderly grant applications under this NOFA is extended to **June 21, 2011**.

FOR MORE INFORMATION CONTACT: For questions concerning these technical corrections, please contact Alicia Anderson, Project Manager, Office of Housing Assistance and Grants Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington DC, 20410; telephone 202-402-5787 (this is not a toll-free number); email Alicia.Anderson@Hud.gov. Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

On March 4, 2011, HUD posted FY2010 Section 202 Supportive Housing for the Elderly NOFA to Grants.gov. Today's Notice amends the NOFA to add approximately \$85 million in FY2011 capital advance plus associated project rental assistance (PRAC) funds. These funds are made available under the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112-10, approved April 15, 2011). HUD has decided to add the FY2011 funding to the FY2010 competition because publishing a separate NOFA for the FY2011 funding would result in a nationwide competition for a modest amount of additional units. Accordingly, the March 4, 2011, Section 202 program NOFA serves as the NOFA for HUD's FY2010 and FY2011 Section 202 program funding.

The combining of FY2011 and FY2010 Section 202 funds increases the total funding available under this NOFA up to approximately \$449 million for the development of 3,325 units under HUD's Section 202 Program. This combined funding will be governed by the information and instructions found in the Notice of HUD's Fiscal Year (FY) 2010 Notice of Funding Availability (NOFA), Policy Requirements and General Section (General Section) to HUD's FY2010 NOFAs for Discretionary Programs, posted to Grants.gov on June 7, 2010. As a result of this Notice, HUD is extending the deadline for applications to **June 21, 2011**.

This Notice also corrects particulars such as, but not limited to, website addresses, tables of contents exhibit numbering designations, ASHRAE energy specifications, census data information, and to highlight the funding of a FY2009 application out of funds available under this year's program NOFA. A chart showing a comparison of allocations for FY2010 and FY2011 is also added to the NOFA for information.

I. Amendments to Incorporate FY2011 Funding in HUD's FY2010 Section 202 Supportive Housing for the Elderly Program NOFA posted to Grants.gov on March 4, 2011.

A. Authority.

The FY2010 Section 202 NOFA references the Consolidated Appropriations Act, 2010 (Pub. L. 111-117) as authority for the NOFA. Since HUD has decided to combine the FY2011 Section 202 funding into the FY2010 Section 202 NOFA, all NOFA references to authority should add, "and the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112-10, approved April 15, 2011)."

B. Award Information.

1. The FY2010 Section 202 NOFA makes available \$371 million in capital advance funds, plus associated project rental assistance contract (PRAC) funds under the Consolidated Appropriations Act, 2010. It also provides that the Secretary is waiving the statutory and regulatory provisions

that the term of the project rental assistance contract is reduced to 3 years. To reflect the addition of assistance provided by the Department of Defense and Full-Year Continuing Appropriations Act, 2011, and to reflect the Secretary's waiver authority, the first and third paragraphs of Section II.A., page 4, entitled "Available Funds," should be changed to read as follows:

A. Available Funds. Under this program NOFA, up to \$449 million, a combined total of funds appropriated for FY2011 and FY2010, is available for capital advances under the Section 202 Supportive Housing for the Elderly Program. The Consolidated Appropriations Act, 2010 (Pub. L. 111-117, approved December 16, 2009) and Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112-10, approved April 15, 2011) provides approximately \$825 million for capital advances, including amendments to capital advance contracts, for supportive housing for the elderly as authorized by Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625, approved November 28, 1990), for project rental assistance, amendments to contracts for project rental assistance, and the renewal of expiring contracts for such assistance for up to a one-year term, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959. Additionally, of the amount appropriated, approximately \$90 million is provided for Service Coordinators and the continuation of Congregate Services grants, up to \$40 million is provided for Assisted Living Conversion grants and Emergency Capital Repairs, and approximately \$20 million is provided for the Section 202 Demonstration Pre-Development Grant Program.

In accordance with the requirements specified in the Department of Housing and Urban Development Appropriations Act, 2010 (Pub. L. 111-117, approved December 16,

2009) and the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112-110), the Secretary is waiving the statutory and regulatory provision that the term of the project rental assistance contract is reduced to 3 years. HUD anticipates that at the end of the contract terms, renewals will be approved subject to the availability of funds. In addition to this provision, HUD will reserve project rental assistance contract funds based on 75 percent rather than on 100 percent of the current operating cost standards for approved units in order to take into account the average tenant contribution toward rent.

2. All references in the FY2010 NOFA to the amount of assistance made available should provide, “up to \$449 million of funds appropriated for FY2010 and FY2011”.

C. References to the FY2010 NOFA.

The FY2010 NOFA includes a number references to “FY2010.” To reflect the addition of the FY2011 assistance to this NOFA, these references should be changed to reflect the additional assistance. For example, on page 5, the second sentence of the first full paragraph, replace “The FY2010” with “This formula”. On page 123, the first sentence in the first full paragraph, delete the reference to “the FY2010 funding competition” and replace it with “the Section 202 funding competition.” On page 27, the reference to “Exhibit 6: FY2010 Section 202/811 applications to other HUD offices,” should be changed to “Exhibit 6: FY2010 and FY2011 202/811 application to other HUD Offices”.

D. Expiration of Section 202 Funds.

To reflect the addition of FY2011 assistance and the separate availability and expenditure dates provided by the Department of Defense and Full-Year Continuing Appropriations Act, 2011, Section VI.E.5, page 46, should be amended to read:

“5. Expiration of Section 202 Funds.

a. FY2010 Funds. The Consolidated Appropriations Act, 2010 (Pub. L.111-117) requires HUD to obligate all Section 202 funds appropriated for FY2010 by September 30, 2013. The obligation of Section 202 funds occurs for both capital advances and project rental assistance upon execution of the agreement letter by the Assistant Secretary of Housing. Under 31 U.S.C. § 1552(a), no capital advance funds can be disbursed from this account after September 30, 2018. The Consolidated Appropriations Act, 2010, provides that amounts for project rental assistance contracts are to be disbursed by September 30, 2023. If all funds are not disbursed by HUD and expended by the project Owner by the appropriate time (as noted above), the funds, even though obligated, will be cancelled and no further disbursements can be made. Amounts needed to maintain PRAC payments for any remaining term on the affected contracts beyond the expiration date will have to be funded from other current appropriations, if available. Amounts needed to bring a project to completion will also be subject to the availability of funds.

b. FY2011 Funds. The Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L.112-10) requires HUD to obligate all Section 202 funds appropriated for FY2011 by September 30, 2014. The obligation of Section 202 funds occurs for both capital advances and project rental assistance upon execution of the agreement letter by the Assistant Secretary of Housing. Under 31 U.S.C. § 1552(a), no capital advance funds can be disbursed from this account after September 30, 2019. The Department of Defense and Full Year Continuing Appropriations Act, 2011, provides that amounts for project rental assistance contracts are to be disbursed by September 30, 2024. If all funds are not disbursed

by HUD and expended by the project Owner by the appropriate time (as noted above), the funds, even though obligated, will be cancelled and no further disbursements can be made. Amounts needed to maintain PRAC payments for any remaining term on the affected contracts beyond the expiration date will have to be funded from other current appropriations, if available. Amounts needed to bring a project to completion will also be subject to the availability of funds.”

E. Selection of Applicants to Receive FY2010 Funds and Applicants to Receive FY2011 Funds.

To reflect the addition of FY2011 funding and the separate availability and expenditure dates provided by the Department of Defense and Full-Year Continuing Appropriations Act, 2011, Section V.B.4, page 62, should be amended to read as follows:

4. Ranking and Selection Procedures.

(a) **Minimum Scores/Categories of Applications.** Applications submitted in response to the advertised metropolitan allocations or nonmetropolitan allocations that have a total base score of 75 points or more (without the addition of RC/EZ/EC-II bonus points) and meet all of the applicable threshold requirements of the **FY2010 General Section** and this NOFA will be eligible for selection and will be placed in rank order based on in the metropolitan allocations or nonmetropolitan categories.

(b) **Multifamily HUB Selection Process.** After adding any bonus points for RC/EZ/EC-II, each Multifamily Hub will select applications based on a Hub-wide rank order until all approvable applications are selected using the funds for the metropolitan and nonmetropolitan allocation. HUD Multifamily Hubs will **not** skip over any applications in order to select one based on the funds remaining. Once this process has been completed, HUD Multifamily Hubs will combine their unused

metropolitan and nonmetropolitan funds in order to select the next highest ranked application in either category.

The Multifamily Hub may use any remaining funds to select the next highest rated application by reducing the number of units by no more than 10 percent rounded to the nearest whole number, provided the reduction will not render the project infeasible or result in the project having less than five units.

(c) HUD Headquarters Selection Process. Funding authority remaining after the Multifamily Hub selection process is completed will be returned to Headquarters. First, HUD Headquarters will use this authority to fund one FY2009 application that was not funded due to administrative errors: Urban League of Rochester Economic Development Corporation's (ULREDC) in Henrietta, New York, in the amount of \$2,852,600. Second, HUD Headquarters will use this authority to restore units to projects reduced by HUD Multifamily Hubs as a result of the instructions for using their remaining funds. Third, HUD Headquarters will use remaining funds to select applications based on Multifamily Hubs' rankings, beginning with the highest rated application nationwide.

Priority will be given to applications for projects in non-metropolitan areas to the extent needed to meet the statutory requirement of Section 202 of the Housing Act of 1959 pertaining to Section 202 funding in nonmetropolitan areas.

Only one application will be selected per Multifamily Hub from the national residual amount. If there are no approvable applications in other HUD Multifamily Hubs, the process will begin again with the selection of the next highest rated application nationwide. HUD Headquarters may skip over a higher-rated application in order to use as much of the available remaining funds as possible. This process will

continue until the remaining available funds are used to select approvable applications.

(d) **National Lottery.** Using FY2010 funds, HUD Headquarters will fund the one FY2009 application that was not funded due to HUD error. After the project has been funded, HUD Headquarters will conduct a national lottery to identify selected applicants that will receive FY2010 funding and those that will receive FY2011 funding. For this lottery, applicants will receive either FY2010 or FY2011 funding.

(e) Any funds remaining at the end of this process will be used by the program office for other programs purposes provided by HUD's Section 202 FY2010 and FY2011 appropriations.

II. Other Technical Corrections to FY2010 Section 202 NOFA.

A. Overview Information. On page 2, the Funding Opportunity Number is corrected to read, "5415-N-38".

B. Award Information. On page 6, the allocation chart is revised to reflect the additional available funding as follows:

	Metropolitan		Non-Metropolitan		Totals	
HUB	Est. Units	Capital Advance	Est. Units	Capital Advance	Est. Units	Capital Advance
Boston	202	31,243,956	25	3,363,894	227	34,607,850
New York	302	49,027,706	0*	0*	302	49,027,706
Buffalo	69	9,604,655	23	3,246,069	92	12,850,724
Philadelphia	295	44,458,676	33	4,478,590	328	48,937,266
Baltimore	125	15,654,482	14	1,681,840	139	17,336,322
Greensboro	69	9,513,905	37	5,255,292	106	14,769,197

Jacksonville	208	22,210,799	37	3,837,394	245	26,048,193
Atlanta	128	14,349,961	53	5,823,332	181	20,173,293
Chicago	186	27,751,410	36	5,108,572	222	32,859,982
Columbus	116	13,994,710	25	3,021,562	141	17,016,272
Detroit	93	11,581,862	16	1,848,630	109	13,430,492
Minneapolis	99	14,116,942	43	6,096,810	142	20,213,752
Ft. Worth	201	20,200,865	59	5,863,075	260	26,063,940
Kansas City	104	12,373,553	70	8,046,274	174	20,419,827
Denver	58	6,965,295	30	3,143,726	88	10,109,021
San Francisco	208	30,915,421	18	2,729,773	226	33,645,194
Los Angeles	223	33,975,025	0*	0*	223	33,975,025
Seattle	95	13,619,596	25	3,505,840	120	17,125,436
National Totals	2,781	\$381,558,819	544	\$67,050,673	3,325	\$448,609,492

* For this NOFA, the minimum set aside of 5 metropolitan units was removed and only those areas with a sufficient number of qualifying households received an allocation.

C. Eligible Applicants.

Section III.A., page 7, last paragraph, has been modified to clarify the definition of an Owner corporation for mixed financing transactions. The paragraph now reads as follows:

Applicant eligibility for purposes of applying for a Section 202 fund reservation under this NOFA has not changed; i.e., all Section 202 Sponsors and Co-Sponsors must be private nonprofit organizations and nonprofit consumer cooperatives. However, the Owner corporation, when later formed by the Sponsor, must be (1) a single-purpose and single-asset private nonprofit organization that has tax-exempt status under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code of 1986, (2) nonprofit consumer cooperative, or (3) for purposes of developing a mixed-finance project pursuant to the statutory provisions

under Title VIII of the American Homeownership and Economic Opportunity Act of 2000 and Public Law 111-372, a for-profit limited partnership the sole general partner of which is: (i) a private nonprofit organization; or (ii) a for-profit corporation wholly owned and controlled by one or more private nonprofit organizations; or (iii) a limited liability company wholly owned and controlled by one or more private nonprofit organizations.

D. Threshold Requirements for Funding Consideration.

Section III.C.2.b.(32), page 10, HUD is correcting this sentence to correct the threshold requirement by deleting the word “and” after housing and replacing it with the word “or”. The corrected sentence now reads as follows: “You, or a co-Sponsor, must have experience in providing housing or services to the elderly persons.”

E. Program Requirement.

1. Section III.C.3.f.(2)(a), NOTE, page 17, the website address for form HUD4128 with the SFNC is corrected to read as follows:

<http://www.hud.gov/offices/adm/hudclips/forms/files/4128.pdf> .

2. Section III.C.3.l., page 19, entitled Energy and Water Conservation, insert the following at the end of the paragraph: “To further assist you, access the report, “Enhancing Energy Efficiency and Green Building Design in Section 202 and Section 811 Programs”, at

http://www.huduser.org/portal/publications/affhsg/enh_eng_eff_gbd.html . The report was developed to assist you in responding to the new requirements.” Since publication of the report occurred after the NOFA was posted, this amendment provides updated information to applicants.

3. Section III.C.3.l.(1), page 19, entitled Energy Efficiency,.

- the second sentence is revised to be better aligned with industry practice and should read as follows: “Mid-Rise & High Rise developments (4 or more stories) must meet a performance target of 15% better than ASHRAE 90.1-2007 as defined by Appendix G.”
- the website address for information concerning ENERGY STAR requirement is correct to read as follows:

http://www.energystar.gov/index.cfm?c=bldrs_lenders_raters.pt_bldr

F. Application and Receipt Instructions.

Section IV.B.1.c.(1)(d), page 26, Table of Contents, the changes are as follows:

- The requirement listing for Exhibit 4(d) is revised to remove the designation of (vi), Affirmatively Furthering Fair Housing/Racial composition; and re-designating paragraphs (vii), (viii) and (ix) as paragraphs (vi), (vii) and (viii), respectively.
- The requirement listing for Exhibit 4(d) is revised to add “(ix) An Environmental Report”. This revision highlights the requirement as currently detailed in the discussion of the exhibit.
- The requirement listing for Exhibit 4, Section IV.B.1.c.(1), is corrected by adding Exhibit (e) as: “(e) Affirmatively Furthering Fair Housing/Racial composition”.

G. Programmatic Application Requirements.

1. Section IV.B.2.ab.(2)(e), page 30, second paragraph, first sentence, delete the phrase “that you have completed” and replace with the phrase “to which you are a party”. And for exhibit 3e(vi), the sentence is revised to state: “For Section 202 and Section 811 projects that received a fund reservation award in FY 2005 or later, include the following.” This change creates greater consistency with the requirements of the applicable rating factor.

2. Section IV.B.2.ab.(2)(f), page 31, the exhibit designation for the Section 3 requirements is changed to (g).
3. Section IV.B.2.ba.(2)(i), page 31 the exhibit designation for the Job Creation/Employment is changed to (h).
4. Section IV.B.2.ac.(12)(e)(iv), page 38, the note under Exhibit 4(e)(iv) “Map of Site” is revised to direct applicants to use the 5-year 2005-2009 American Community Survey (ACS) data. This information can be found at <http://www.census.gov/acs/www/>. Since 2010 data is not currently available at the tract level for all 50 states, the Department has determined that the 2005-2009 ACS data, which is available nationwide, is a better resource at the present time.
5. On page 39 thru 40, the exhibit designation for the Phase I ESA is revised to “vi”, the “Asbestos Statement/Survey” to “vii”; the Letter to SHPO/THPO to “viii”; and the Environmental Report to “ix”. This revision highlights the submission requirement for Exhibits 4(d) and corrects the exhibit designation error.

H. Intergovernmental Review.

Section IV.D.1., page 44, the website address for the Office of Management and Budget’s listing of the SPOCs is corrected to read as follows:

http://www.whitehouse.gov/omb/grants_spoc

I. Application Review Information.

Section IV.A.2.(a), page 52, the NOTE is revised to state that the “percentage calculations will round the decimal number to the nearest hundredth”. The percentage calculations for each rating are changed accordingly. This highlights a change from the requirements that the number is to be rounded to the nearest tenth decimal.

J. Review and Selection Process.

1. **Section IV.B.1**, page 61, the curable exhibit listing is revised to correct two exhibit designations. Specifically, the designation for the Asbestos Statement or Survey is changed to “4(d)(vii)” and the Letter to the State/Tribal Historic Preservation Officers is changed to “4(d)(viii)”.
2. **Section IV.B.1**, page 61, the curable deficiency designations for Exhibit 8 are not properly aligned. The designations are as follows:

- (a) Letter sent to the State Point of Contact (SPOC)*
- (b) Standard Form 424 Supplement Survey on Ensuring Equal Opportunity for Applicants
- (c) Standard Form LLL Disclosure of Lobbying Activities, if applicable
- (d) Form HUD2880 Applicant Recipient Disclosure Update Report
- (e) Form HUD2991 Certification of Consistency with Consolidated Plan
- (f) Form HUD92041 Sponsor’s Conflict of Interest Resolution
- (g) Form HUD92042 Sponsor’s Resolution for Commitment to Project*
- (j) Form HUD-2530, Previous Participation Certification

K. Reporting.

Section VI.C.3, page 65, the paragraph label “Racial Ethnic Data” correct, the web address to HUDCLIPS to read as follows: <http://www.hud.gov/offices/adm/hudclips/>.

L. Chart comparing FY2010 and FY2011 allocations

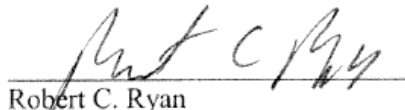
To provide applicants additional information, HUD is attaching a chart comparing the FY2010 and FY2011 allocations.

III. Additional instruction for attaching files to your application

Section IV.DB, page 23, add the following additional information to the NOFA:

When attaching files to your application, **only use the attachments form. If you have more than 15 attachments, and need additional space to attach files, use the “Supporting Documents” field in Box 15 on the SF-424.** provided with the application to attach your files. If you use the paperclip function of Adobe forms, your application will be incomplete and HUD will not be able to receive files that were attached using the paperclip function.

Dated: 5/13/11


Robert C. Ryan
Acting Assistant Secretary for Housing-Federal
Housing Commissioner

[FR-5415-N-38A]

Attachment

Section 202 Supportive Housing for the Elderly; FY2010 allocations as compared to those for FY2011

HUB	2011 Est. Units	2010 Est. Units	Change in Units (-/+)
Boston	227	185	42
New York	302	247	55
Buffalo	92	76	16
Philadelphia	328	270	58
Baltimore	139	116	23
Greensboro	106	86	20
Jacksonville	245	200	45
Atlanta	181	149	32
Chicago	222	182	40
Columbus	141	117	24
Detroit	109	91	18
Minneapolis	142	116	26
Ft. Worth	260	213	47
Kansas City	174	142	32
Denver	88	73	15
San Francisco	226	186	40
Los Angeles	223	183	40
Seattle	120	99	21
Total	3,325	2,731	594