

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

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

**Notice of Funding Availability (NOFA) for HUD's Fiscal Year 2010  
Section 202 Supportive Housing for the Elderly Program**

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

**ACTION:** Notice of Funding Availability for HUD's Fiscal Year (FY) 2010 Section 202 Program for Supportive Housing for the Elderly (Section 202).

**SUMMARY:** This NOFA announces the availability of funding for up to approximately \$371 million for HUD's Section 202 Program for FY2010. HUD's Section 202 Program is authorized by section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended. Applicants for Section 202 assistance must address applicable requirements established by HUD's Fiscal Year 2010 Notice of Funding Availability (NOFA) Policy Requirements and General Section to HUD's FY2010 NOFAs for Discretionary Programs posted on [www.Grants.gov](http://www.Grants.gov) on June 7, 2010. The notice providing information regarding the application process, funding criteria and eligibility requirements is available on the Grants.gov website.

**DATES:** The application deadline date is June 1, 2011. Applications must be received by [www.grants.gov](http://www.grants.gov) no later than 11:59:59 p.m. eastern time on the application deadline date. Applicants need to be aware that following receipt, applications go through a validation process in which the application may be accepted or rejected. Please allow time for this process to ensure that you meet the timely receipt requirements. Please see the 2010 General Section for instructions for timely receipt, including actions to take if the application is rejected. The General Section contains information on using Adobe Reader, HUD's timely receipt policies, and other application information.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding specific program requirements should be directed to the agency contact identified in this program NOFA. Questions regarding the FY 2010 General Section should be directed to the Office of Departmental Grants Management and Oversight at 202-708-0667 (this is not a toll-free number) or the NOFA Information Center at 1-800-HUD-8929 (toll-free). Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at 1-800-877-8339. The NOFA Information Center is open between the hours of 10:00 a.m. and 6:30 p.m. eastern standard time, Monday through Friday, except federal holidays.

## OVERVIEW INFORMATION

**A. Federal Agency Name:** Department of Housing and Urban Development, Office of Housing.

**B. Funding Opportunity Title:** Section 202 Supportive Housing for the Elderly.

**C. Announcement Type:** Initial announcement.

**D. Funding Opportunity Number:** The funding opportunity number is 5414-N-38. The OMB Approval Number is 2502-0267.

**E. Catalog of Federal Domestic Assistance (CFDA) Number:** 14.157, Section 202 Supportive Housing for the Elderly.

**F. Dates:** The application deadline date is June 1, 2011. Applications must be received by [www.grants.gov](http://www.grants.gov) no later than 11:59:59 p.m. eastern time on the application deadline date. All information required to complete the application is in the General Section and this NOFA. Applicants may download the application and instructions from the Grants.gov website at [http://www07.grants.gov/applicants/apply\\_for\\_grants.jsp](http://www07.grants.gov/applicants/apply_for_grants.jsp). Please carefully read the Notice of HUD's Fiscal Year (FY) 2010 Notice of Funding Availability (NOFA) Policy Requirements and General Section to HUD's FY 2010 NOFAs for Discretionary Programs, published on Grants.gov on June 7, 2010. Applicants need to be aware that following receipt, applications go through a validation process in which the application may be accepted or rejected. Please allow time for this process to ensure that you meet the timely receipt requirements.

### G. Additional Overview Content Information:

**1. Purpose of the Program.** This program provides funding for the development and operation of supportive housing for very low-income persons 62 years of age or older.

**2. Available Funds.** Approximately \$371 million in capital advance funds, plus associated project rental assistance contract (PRAC) funds and any carryover funds available.

**3. Types of Funds.** Capital advance funds are to assist in the cost of developing the housing. Please refer to Section IV.E.3, below for additional information on calculating the capital advance amount to be awarded. PRAC funds will cover the difference between the HUD-approved operating costs of the project and the tenants' contributions toward rent. (30 percent of their adjusted monthly income).

**4. Eligible Applicants.** Private nonprofit organizations and nonprofit consumer cooperatives. (See Section III.C.3.j, below, for further details and information regarding the formation of the Owner corporation).

**5. Eligible Activities.** New construction, rehabilitation, or acquisition (with or without rehabilitation) of housing. See Section III.C.1, below, for further information.

**6. Match Requirements.** None required.

**7. Multifamily Hub Offices.** The HUD Multifamily Hub structure consists of 18 Multifamily Hub Offices. Each Hub administers multifamily housing programs based on its geographical jurisdiction. For a listing of all Multifamily Hub Offices and their associated local Multifamily Program Center(s) (local HUD Office) please visit [http://www.hud.gov/offices/hsg/mfh/mfbroch/hubs\\_pcs.cfm](http://www.hud.gov/offices/hsg/mfh/mfbroch/hubs_pcs.cfm)

## **FULL TEXT OF ANNOUNCEMENT**

### **I. Funding Opportunity Description.**

**A. Program Description.** HUD provides capital advances and contracts for project rental assistance in accordance with 24 CFR part 891. Capital advances must be used for the construction or rehabilitation of a structure, or acquisition of a structure with or without rehabilitation. (See Section IV.E.3, below, for additional information on calculating the capital advance amount.) Capital advance funds bear no interest and are based on development cost limits in Section IV.E.3. Repayment of the capital advance is not required as long as the housing remains available for occupancy by very low-income elderly persons for at least 40 years.

PRAC funds are used to cover the difference between the tenants' contributions toward rent (30 percent of adjusted income) and the HUD-approved cost to operate the project. PRAC funds may also be used to provide supportive services and to hire a service coordinator in those projects serving frail elderly residents. The supportive services must be appropriate to the category or categories of frail elderly residents to be served.

**B. Authority.** The Section 202 Supportive Housing for the Elderly Program is authorized by section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended, and the Consolidated Appropriations Act, 2010 (Pub. L. 111-117, approved December 16, 2009).

**C. Calculation of Fund Reservation.** If selected, you will receive a fund reservation that will consist of both a reservation of capital advance funds and a reservation of three years for project rental assistance contract (PRAC) funds.

**1. Capital Advance Funds.** The reservation of capital advance funds is based on a formula which takes the development cost limit for the appropriate building type (elevator, non-elevator) and unit size(s) and multiplies it by the number of units of each size (including a unit for a resident manager, if applicable) and then multiplies the result by the high cost factor for the area. The development cost limits can be found in Section IV.E.3., below. The high cost factors are found at <http://www.hud.gov/offices/hsg/mfh/hicost/hicost.cfm>.

**2. PRAC Funds.** The initial PRAC award covers three years. The amount awarded is determined by multiplying the number of revenue units for elderly persons by the appropriate operating cost standard times 3. The operating cost standards will be published by Notice. PRAC funds are not provided for resident manager units.

## **II. Award Information**

**A. Available Funds.** For FY 2010, up to approximately \$371 million is available for capital advances for the Section 202 Supportive Housing for the Elderly Program. The Consolidated Appropriations Act, 2010 (Pub. L. 111-117, approved December 16, 2009) 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.

The announcements of the availability of the funds under the Section 202 Pre-Development, Service Coordinator, Assisted Living Conversion and the Emergency Capital Repairs Programs have been or will be addressed in separate publications.

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), 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.

The allocation formula used for Section 202 reflects the “relevant characteristics of prospective program participants,” as specified in 24 CFR 791.402(a). The FY 2010 formula consists of one data element from the 2000 Census: The number of one-person elderly renter households (householder age 62 and older) with incomes at or below the applicable Section 8 very low-income limit, and with housing conditions. Housing conditions are defined as paying more than 30 percent of income for gross rent, or occupying a unit lacking some or all kitchen or plumbing facilities, or occupying an overcrowded unit (1.01 persons per room or more). To view the exact income limits for a particular area of the country you may access the FY 2010 Income Limit Documentation System at:  
<http://www.huduser.org/portal/datasets/il/il10/index.html>.

Under Section 202, 85 percent of the total capital advance amount is allocated to metropolitan areas and 15 percent to nonmetropolitan areas.

**NOTE:** The allocations for metropolitan and nonmetropolitan portions of the Multifamily Hub’s jurisdictions reflect the definitions of metropolitan and nonmetropolitan areas as of the June 2003 definitions by the Office of Management and Budget.

A fair share factor is developed for each metropolitan and nonmetropolitan portion of each Multifamily Hub’s jurisdiction by dividing the number of elderly renter households in the respective metropolitan and nonmetropolitan portion of the jurisdiction by the total number of elderly rental households in the metropolitan and nonmetropolitan portions of the United States. The resulting percentage for each Multifamily Hub’s jurisdiction is then adjusted to reflect the relative cost of providing housing among the Multifamily Hub’s jurisdictions. The adjusted needs percentage for the applicable metropolitan or nonmetropolitan portion of each jurisdiction is then multiplied by the respective total remaining capital advance funds available nationwide. Based on the allocation formula, HUD has allocated the available capital advance funds as shown on the following chart:

**FISCAL YEAR 2010 SECTION 202 ALLOCATIONS**

| <b>HUB</b>             | <b>Metropolitan</b> |                 | <b>Non-Metropolitan</b> |                 | <b>Totals</b> |                 |
|------------------------|---------------------|-----------------|-------------------------|-----------------|---------------|-----------------|
|                        | Est. Units          | Capital Advance | Est. Units              | Capital Advance | Est. Units    | Capital Advance |
|                        |                     |                 |                         |                 |               |                 |
| BOSTON                 | 165                 | 25,851,925      | 20                      | 2,783,358       | 185           | 28,635,283      |
| NEW YORK               | 247                 | 40,399,682      | 0*                      | 0*              | 247           | 40,399,682      |
| BUFFALO                | 57                  | 7,947,099       | 19                      | 2,685,868       | 76            | 10,632,967      |
| PHILADELPHIA           | 243                 | 36,786,068      | 27                      | 3,705,682       | 270           | 40,491,750      |
| BALTIMORE              | 104                 | 12,952,856      | 12                      | 1,391,591       | 116           | 14,344,447      |
| GREENSBORO             | 56                  | 7,872,011       | 30                      | 4,348,342       | 86            | 12,220,353      |
| JACKSONVILLE           | 171                 | 18,377,694      | 29                      | 3,175,143       | 200           | 21,552,837      |
| ATLANTA                | 106                 | 11,873,465      | 43                      | 4,818,351       | 149           | 16,691,816      |
| CHICAGO                | 153                 | 22,962,115      | 29                      | 4,226,943       | 182           | 27,189,058      |
| COLUMBUS               | 96                  | 11,579,526      | 21                      | 2,500,106       | 117           | 14,079,632      |
| DETROIT                | 77                  | 9,583,082       | 14                      | 1,529,596       | 91            | 11,112,678      |
| MINNEAPOLIS            | 81                  | 11,680,662      | 35                      | 5,044,632       | 116           | 16,725,294      |
| FT WORTH               | 165                 | 16,714,631      | 48                      | 4,851,233       | 213           | 21,565,864      |
| KANSAS CITY            | 85                  | 10,238,144      | 57                      | 6,657,660       | 142           | 16,895,804      |
| DENVER                 | 48                  | 5,763,236       | 25                      | 2,601,186       | 73            | 8,364,422       |
| SAN FRANCISCO          | 171                 | 25,580,086      | 15                      | 2,258,675       | 186           | 27,838,761      |
| LOS ANGELES            | 183                 | 28,079,365      | 0*                      | 0*              | 183           | 28,079,365      |
| SEATTLE                | 79                  | 11,269,149      | 20                      | 2,900,808       | 99            | 14,169,957      |
|                        |                     |                 |                         |                 |               |                 |
| <b>National Totals</b> | 2,287               | 315,510,796     | 444                     | 55,479,174      | 2,731         | 370,989,970     |

\* As of this Fiscal Year, the minimum set aside of 5 nonmetropolitan units was removed and only those areas with a sufficient number of qualifying households received an allocation.

**B. Type of Award.** Capital Advance and Project Rental Assistance Contract Funds for new Section 202 projects.

**C. Type of Assistance Instrument.** The Agreement Letter obligates the funds and stipulates the terms and conditions for the Section 202 fund reservation award as well as the submission requirements following the fund reservation award. The duration of the fund reservation award for the capital advance is 18 months from the date of issuance of the fund reservation.

**D. Anticipated Start and Completion Date.** Immediately upon your acceptance of the Agreement Letter, you are expected to begin working towards the submission of a Firm Commitment Application, which is the next application submission stage. **NOTE:** This may include environmental submissions pursuant to the capital advance agreement letter. The Firm Commitment Application is to be submitted to the Multifamily Hub within 180 days from the date of the Agreement Letter. Initial closing of the capital advance and start of construction of the project are expected to be accomplished within 18 months of the fund reservation award. Final closing of this capital advance is expected to occur no later than six months after completion of project construction.

### III. Eligibility Information

**A. Eligible Applicants.** Private nonprofit organizations and nonprofit consumer cooperatives that meet the threshold requirements contained in the **General Section** and Section III.C. 2, below, are the only eligible applicants under this Section 202 program. Neither a public body or tribe nor an instrumentality or agency of a public body or tribe is eligible to participate in the program. Nonprofit entities associated with public bodies or tribes must establish their eligibility by providing an attorney's opinion stating that under state or tribal law the associated entity is not an instrumentality or agency of the public body or tribe and confirming that such entity:

- Meets the definition of “private nonprofit organization” under part 891;
- Has Articles of Incorporation which provide no more than minority control by the public body or tribe; and
- Is not receiving a majority of its operational funding from the public body or tribe.

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 provision under Title VIII of the American Homeownership and Economic Opportunity Act of 2000, a for-profit limited partnership with a private nonprofit organization or a corporation wholly owned and controlled by a private nonprofit organization as the sole general partner.

**B. Cost Sharing or Matching.** No cost sharing or match is required; however, you are required to make a commitment to cover the estimated start-up expenses, the minimum capital investment of one-half of one percent of the HUD-approved capital advance, not to exceed \$10,000 or for a National Sponsor not to exceed \$25,000, and any funds required in excess of the capital advance, including the estimated cost of any amenities or features (and operating costs related thereto) which are not covered by the capital advance. You make such a commitment by signing the Form HUD92042\_Sponsor's\_Resolution\_for\_Commitment\_to\_Project in Exhibit 8 of the application found in Section IV.B., below.

## **C. Other**

**1. Eligible Activities.** Section 202 capital advance funds must be used to finance the development of housing through new construction, rehabilitation, or acquisition with or without rehabilitation. In accordance with 24 CFR 891.800, capital advance funds may be used in combination with other non-Section 202 funding sources leveraged by a single purpose and single-asset for-profit limited partnership (of which a private nonprofit organization or a corporation wholly owned and controlled by a private nonprofit organization is the sole general partner) to develop a mixed-finance project, which may or may not include additional unassisted housing units for the elderly over and above the Section 202 units. In a mixed-finance transaction, only the capital advance units will receive project rental assistance. Project rental assistance funds are provided to cover the difference between the HUD-approved operating costs and the amount the residents pay (each resident pays 30 percent of adjusted income) as well as to provide supportive services to frail elderly residents.

The development of a mixed-use project in which the Section 202 units are mortgaged separately from the other uses of the structure is not considered a mixed-finance project. A mixed-use project is defined as a property in which a portion is used for commercial or retail purposes and the other portion is used for residential purposes. A property can also be considered mixed use if different combinations of uses are present such as commercial/industrial or residential/industrial. For example, a multi-unit dwelling with the front unit used as a commercial store and the back units used as residential dwellings is a mixed-use project.

The HUD-approved expenses for operating a project may include up to \$15 per unit/per month of the costs to provide services for the frail elderly and those determined to be "at risk" of being institutionalized. PRAC funds may also be used to cover the cost of employing a service coordinator if at least 25 percent of the project's residents are frail or at-risk of being institutionalized. Funding to cover the cost of services and/or the employment of a service coordinator will not be made available to a property until after the project is occupied and the Owner has identified the frailty or "at risk" nature of the residents. Section 202 projects receiving Congregate Housing Services assistance under Section 802 of the National Affordable Housing Act are not eligible to use PRAC funds for supportive services or the cost of a service coordinator.



**2. Threshold Requirements for Funding Consideration.** In addition to the threshold criteria outlined in Section III.C.2. of the General Section, including the threshold regarding the Resolution of Outstanding Civil Rights Matters, the following threshold requirements must be met:

**a. Applications Must Be Responsive.** Your application will be considered non-responsive to the NOFA and will not be accepted for processing if you:

(1) Submit paper copies of the application if you have not received approval from HUD for a waiver of the electronic submission requirements;

(2) Requested and received approval to submit a paper application, but you submit less than the required original and four (4) paper copies. Applicants receiving waiver approval to submit a paper application must follow the instructions in the approval notification regarding where to submit the application and the number of copies required. Failure to submit paper applications to the appropriate Multifamily Hub by that office's close of business on the application deadline date will deem the application late and therefore ineligible for funding consideration.

(3) Submit a substantially deficient application (i.e., a majority of the required exhibits, are not submitted with your application, particularly, but not limited to, those exhibits which are not curable). HUD reserves the right to determine whether your application is substantially deficient for purposes of determining whether the application is non-responsive to the NOFA. Refer to Section IV.B., below, Content and Form of Application Submission, for information on the required exhibits for submission with your application to ensure that your application is complete at time of submission;

(4) Request more units than were allocated in either the metropolitan or nonmetropolitan allocation category to the Multifamily Hub Office that will be reviewing your application or 125 units, whichever is less (see the allocation chart in Section II.A., above);

(5) Request less than the minimum number of 5 units per site;

(6) Request assistance for an ineligible activity as defined in Section IV.E., Funding Restrictions, below; or

(7) are an ineligible applicant (see Section III.A, Eligible Applicants, above).

**b. Application Must Meet These Additional Threshold Requirements.**

(1) Need. There must be a need and a market for the number of units proposed in the area of the project location. It is important that you determine that there is need/demand for the additional Section 202 project(s) being proposed in a particular housing market area prior to submitting your application. If HUD determines that there is not sufficient sustainable demand for additional units without longer term adverse impact on existing federally assisted housing,

the proposed project will be rejected. The rental survey that you are to submit (see Section IV.B.1.c. Part III, below) will assist you in determining whether there is a market need for the project you are proposing.

(2) You, or a co-Sponsor, must have experience in providing housing and services to elderly persons.

(3) You and any co-Sponsor must be an eligible private nonprofit organization or nonprofit consumer cooperative with tax exempt status under Internal Revenue Service code.

(4) Your application must contain acceptable evidence of the following:

(a) **Evidence of Site Control.** You must provide evidence of site control as described in this section and Exhibit 4(d)(i) of Section IV.B., below).

(b) **Historic Preservation.** You are required to send a letter to the State/Tribal Historic Preservation Officer (SHPO/THPO) that attempts to initiate consultation with their office and requests their review of your determinations and findings with respect to the historical significance of your proposed project. A sample letter to the SHPO/THPO that you may adapt for your use if you so choose, is available on HUD's Web site at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>. You must include a copy of your letter to the SHPO/THPO in your application and either a statement that you have not received a response letter(s) from the SHPO/THPO or a copy of the response letter(s) received from the SHPO/THPO.

(c) **Contamination.** HUD must determine if a proposed site contains contamination, such as hazardous waste or petroleum products, and, if so, HUD must be satisfied that it is eliminated or can be mitigated to the extent necessary to meet federal, state or local risk-based corrective action standards. You must assist HUD by doing the following:

(i) **Phase I Environmental Site Assessment (ESA).** You must undertake and submit a Phase I ESA. It must be prepared by an Environmental Professional (EP), in accordance with the ASTM Standard E 1527-05, using the table of contents and report format specified at Appendix X4 thereto. The Phase I ESA shall be amended by including a "Tier 1" "vapor encroachment screen" pursuant to ASTM E 2600-10. In addition, you are required to:

- Fill out the User Questionnaire as per Appendix X3 of ASTM E-1527-05 and provide it to the EP so as to be included in the Phase I ESA.
- Inform the EP as to all of the above reasons and requirements for the Phase I ESA.

The EP preparing the Phase I ESA must meet all of the qualification requirements of Appendix X2 of ASTM E 1527-05. Additionally, the EP must meet the license/certification, educational, and experiential requirements of Section X.2.1.1(2)(i), (ii), or (iii), of Appendix X2

of ASTM E 1527-05 and must provide supporting documentation to this effect in the Phase I ESA.

The Findings, Opinions, and Conclusions sections of the Phase I ESA must be based on ASTM 1527-05, Sections 12.5, 12.6, and 12.8, respectively. The Findings section shall list and discuss all recognized environmental conditions (REC), suspect RECs, historical RECs and/ or de minimis conditions (with all such terms as described in ASTM E 1527-05), as well as vapor encroachment conditions (VEC), suspected VECs, or instances where VECs cannot be ruled out (pursuant to ASTM E 2600-10). The opinions section shall discuss each of these conditions as to whether each one is deemed to be or deemed not to be a REC and/or a VEC. The Conclusions section shall list all RECs and VECs. You are cautioned that even if the EP who prepares the Phase I ESA determines that there are no RECs and no VECs and you therefore decide not to prepare a Phase II ESA (see paragraph (ii) Phase II ESA, below), HUD will review the Phase I ESA to confirm that such determinations are reasonably warranted based on the information presented. Should HUD not concur with the Phase I conclusions and neither the Phase II was conducted nor the clean-up plan (in accordance with iii(A) and (B), below) was submitted, your application will be technically rejected.

The Phase I ESA that you submit must have been prepared within one year of the application deadline date; and any Phase I ESA prepared within the one year but more than 180 days prior to the application deadline date, must be updated pursuant to Section 4.6 ASTM Standard E 1527–05. Even if updated, a Phase I prepared more than one year prior to the application deadline date is not acceptable. The preparation date is the earliest of either the date of the site visit, the records review, or the interviews.

The Phase I ESA must be submitted with the application. Therefore, it is important that you start the Phase I ESA process as soon after publication of the NOFA as possible. **NOTE:** Failure to follow any or all of the above criteria for preparation and submission of the Phase I ESA will result in a technical rejection of your application.

HUD invites you to review the documents “Choosing an Environmentally Safe Site” and “Supplemental Guidance, Environmental Information”, which are available on the HUD website at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>.

(ii) **Phase II ESA.** If the Phase I ESA concludes that there are RECs or VECs and you choose to continue with that site for the project being proposed, you must undertake a detailed Phase II ESA by an appropriate professional. The Phase II ESA must address all of the RECs and VECs identified in the Phase I ESA. The testing and sampling design shall be based on scientific methodology and shall proceed to the point that a reasonable determination can be made regarding each of the RECs and VECs.

(A) For on-site RECs and VECs the determination shall be made that either:

- hazardous waste, petroleum products, and/or VECs exist on the site or

- hazardous waste, petroleum products, and/or VECs could not be detected on the site.

(B) For off-site RECs and VECs, the determination shall be made that:

- hazardous waste, petroleum products, and/or VECs have migrated on to the site or are likely to do so in the foreseeable future; or
- hazardous waste, petroleum products, and/or VECs have not migrated on to the site and are not likely to do so in foreseeable future.

In order for your application to be considered for review under this FY 2010 funding competition, the Phase II ESA must be submitted with the application.

(iii) **Clean-up.** A clean-up plan is required if the Phase II determines that:

- hazardous waste, petroleum products, and/or VECs exist on the site **and/or**
- hazardous waste, petroleum products, and/or VECs have migrated on to the site or are likely to do so in the foreseeable future.

The clean-up plan must be prepared by an appropriate professional to either:

(A) Completely clean-up the site -- other than for contamination that would remain solely in the groundwater that is at least 25 feet below the surface -- to statewide, non site-specific federal or state standards, with no active or passive remediation still taking place after either final closing or initial occupancy, whichever comes first, no capping over of any contamination, and no monitoring wells, **OR**

(B) Clean up the site to federal or state risk-based corrective action (RBCA) levels. The RBCA must allow for no active remediation (such as flushing wells or digging up and/or hauling away of contamination) to take place after either final closing or initial occupancy, whichever comes first.

The clean-up plan must be detailed in nature and must include:

- An estimate of clean-up costs.
- Either an approval letter of the clean-up plan from the relevant federal or state authority or a discussion of the feasibility of securing necessary approvals prior to HUD issuance of a Firm Commitment.
- A discussion of the feasibility of completing necessary work prior to final closing or initial occupancy, whichever comes first.

In order for your application to be considered for review under the FY 2010 funding competition, the clean-up plan must be submitted with the application. If the above information is not submitted, the application will be rejected. **NOTES:** Before issuance of the Firm Commitment, HUD will require a final clean-up plan. The final clean-up plan must include a remediation contract that specifies all clean-up costs and timelines for clean-up to ensure that it is completed prior to final closing or initial occupancy, whichever comes first, and approval documentation from the relevant regulatory authority. Furthermore, the final clean-up plan will be required to meet specific HUD criteria that will be discussed in a separate processing notice.

Clean-up costs are an allowable expenditure out of capital advance funds; however, HUD will not cover any cost that exceeds the maximum development cost limits. To the extent that the actual cost of the proposed clean-up activities exceed the capital advance amount provided, you will have to identify funding sources other than the capital advance funds to cover any excess clean-up costs.

(d) **Asbestos.** Asbestos is a hazardous substance commonly used in building products until the late 1970s. Therefore, you must submit one of the following with your application:

(i) If there are no pre-1978 structures on the site or if there are pre-1978 structures, that most recently consisted of solely four or fewer units of single-family housing including appurtenant structures thereto, a statement to this effect, or

(ii) If there are pre-1978 structures on the site, other than for a site that most recently consisted of solely four or fewer units of single-family housing including appurtenant structures thereto, a comprehensive building asbestos survey that is based on a thorough inspection to identify the location and condition of asbestos throughout any structures and performed pursuant to the “baseline survey” requirements of ASTM E 2356-10 “Standard Practice for Comprehensive Building Asbestos Surveys”. In those cases where suspect asbestos is found, it would either be assumed to be asbestos or would require confirmatory testing. If the asbestos survey indicates the presence of asbestos or the presence of asbestos is assumed, and if the application is approved, HUD will condition the approval on an appropriate mix of asbestos abatement and an asbestos Operations and Maintenance Plan.

(5) **Supportive Services Plan.** You are required to include a Supportive Services Plan that describes the supportive services proposed to be provided to the anticipated residents, including a description of the public or private funds that are expected to fund the proposed services and the manner in which the services will be provided to the proposed residents (see Exhibit 5 in Section IV.B., below). You must not require residents to accept any supportive services as a condition of occupancy or admission.

(6) **Delinquent Federal Debt.** This policy is applicable to applicants as well as their boards and development team members. Refer to the **General Section** for further information regarding delinquent federal debt.

**(7) Previous Participation Certification.** To ensure that owners of multifamily housing are held to high standards and to avoid risk of loss to the Department, you are required to submit form HUD2530, Previous Participation Certification. If any property listed has defaulted on a mortgage loan or has less than satisfactory review ratings (physical inspections, management and financial reviews), the Principal will be required to submit additional information. Approvals of entities that have defaulted or received unsatisfactory review rating will be subjected to HUD's Previous Participation clearance review process.

**3. Program Requirements.** By signing Form HUD-92015-CA, Supportive Housing for the Elderly Section 202, Application for Capital Advance Summary Information, you are certifying that you will comply with all program requirements listed in the **General Section** as well as the following requirements:

**a. Statutory and Regulatory Requirements.** In addition to the statutory, regulatory, threshold and public policy requirements listed in the **General Section and in this NOFA**, you must comply with all statutory and regulatory requirements that govern the Section 202 program.

**NOTE:** Section 2835(b) of the Housing and Economic Recovery Act of 2008 (HERA) directs the Department to delegate review and processing of certain Section 202 Supportive Housing for the Elderly projects to selected State or local housing agencies that will serve as a Delegated Processing Agency (DPA). If a State or local housing agency has been selected as a DPA, processing *is required* where the Sponsor's application indicates that development funds for a proposed Section 202 project are coming from a combination of capital advance and other sources of funding, including low-income housing tax credits. These sponsors will be notified by the department if their applications will be processed by a Delegated Processor and the location of the Delegated Processor approximately 30 days after the announcement of the Section 202 awards. However, the Secretary shall retain authority to process capital advances in cases in which no State or local housing agency has applied to provide delegated processing or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency for the selected application.

Notice H-2009-10 defining the Department's delegated processing procedures was published on August 19, 2009.

**b. Application/Project Size Limits.**

**(1) Application Limits Applicable to Sponsors or Co-Sponsors.** A Sponsor or Co-sponsor may not apply for more than 200 units of housing for the elderly in any Multifamily Hub Office or more than 10 percent of the total units allocated to all Multifamily Hub Offices. Affiliated entities (organizations that are branches or offshoots of a parent organization) that submit separate applications are considered a single entity for the purpose of this limit.

**(2) Maximum Project Size.** No single application may propose the development of a project for more **than** the number of units allocated to a Multifamily Hub Office (in either the metropolitan or nonmetropolitan allocation category, depending on the location of your proposed

project) or 125 units, whichever is less. For example, the Multifamily Hub Office, which has jurisdiction over the area of your proposed project, was allocated 80 units (metropolitan) and 20 units (nonmetropolitan) for a total of 100 units. You cannot apply for more than 80 units if your proposed project is in a metropolitan area and no more than 20 units if the project is in a nonmetropolitan area. The maximum project size includes a resident manager's unit, if proposed.

**(3) Minimum Project Size.** The minimum number of units that can be applied for in one application is five units. If the proposed project will be a scattered-site development, the five-unit minimum requirement will apply to each site.

**c. Minimum Capital Investment.** If selected, you must provide a minimum capital investment of one-half of one percent of the HUD-approved capital advance amount, not to exceed \$10,000 in accordance with 24 CFR 891.145, with the following exception: If you, as Sponsor or Co-Sponsor, have one or more Section 202 or one or more Section 811 project(s) under reservation, construction, or management in two or more different HUD geographical regions (Hubs), the minimum capital investment shall be one half of one percent of the HUD-approved capital advance amount, not to exceed \$25,000.

**d. Accessibility.** Your project must meet accessibility requirements at 24 CFR 891.120 and 24 CFR 891.210. In particular, you must comply with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 24 CFR part 8, which include physical accessibility requirements for new construction, substantial alterations, and other alterations. Your project must also comply with the Fair Housing Act and its implementing regulations at 24 CFR part 100. New construction of covered multifamily dwellings must meet Fair Housing Act design and construction requirements at 24 CFR 100.205. Further, if rehabilitation results in a covered multifamily dwelling (*e.g.*, if the rehab includes an addition) as defined at 24 CFR 100.201, then it must also meet the Fair Housing Act design and construction requirements. In addition, when acquiring housing that was designed and constructed for first occupancy after March 13, 1991, it is wise to determine whether the building complies with the design and construction requirements of the Fair Housing Act 42 USC § 3604(f)(3)(c). You may receive helpful information with respect to the Fair Housing Act design and construction requirements on Fair Housing Accessibility FIRST's website at <http://www.fairhousingfirst.org>. Your project must also comply with the Americans with Disabilities Act and its implementing regulations, as applicable. In addition, 24 CFR 8.4(b)(5) prohibits the selection of a site or location which has the purpose or effect of excluding persons with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination under the Federally assisted program or activity. Refer to Section IV, Exhibit 4(c)(i) of this NOFA for information regarding the visitability and universal design.

**e. Conducting Business in Accordance with HUD Core Values and Ethical Standards.** You are not subject to the requirements of 24 CFR parts 84 and 85 as outlined in the **General Section**, except that the disposition of real property may be subject to 24 CFR part 84. However, you are still subject to the core values and ethical standards as they relate to the conflict of interest provisions in 24 CFR 891.130. This regulation mandates that no officer or board

members of either the sponsor or the owner shall have any financial interest in any contract with the owner or in any firm which has a contract with the owner. To ensure compliance with the program's conflict of interest provisions, you are required to sign a Sponsor's Conflict of Interest Resolution, Form HUD92041, and include it in your Section 202 application. Further, if awarded a Section 202 fund reservation, the officers, directors, board members, trustees, stockholders and authorized agents of the Section 202 Sponsor and Owner entities will be required to submit to HUD individual certifications regarding compliance with HUD's conflict of interest requirements.

**f. National Environmental Policy Act and Related Laws.**

**(1) General.** You must be in compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and applicable related environmental authorities at 24 CFR 50.3(i) and 24 CFR 50.4, HUD's programmatic implementing regulations at 24 CFR part 50 and 24 CFR 891.155(b), especially, but not limited to, the provision of information to HUD at 24 CFR 50.31(b), and you must comply with any environmental "conditions and safeguards" at 24 CFR 50.3(c).

**(2) Preliminary Environmental Review at Application Processing Stage.** Pursuant to 24 CFR part 50, HUD has the responsibility for conducting the environmental reviews. HUD will commence the environmental review of your project upon receipt of your completed application. At the application processing stage, HUD will only perform a preliminary environmental review. HUD subsequently will complete its environmental reviews at such time as HUD announces capital advance awards and only for those applicants receiving such awards. The purpose of the preliminary environmental review will be to determine if there are major adverse environmental conditions that necessitate mitigation, yet appropriate mitigation does not appear to be adequate and/or achievable taking into account any information provided in the application. Examples of such occurrences would be a project that propose a Risk Based Corrective Action Plan or Complete Clean Up Plan but lacks likely approval of such by the relevant regulatory authority, a project that would result in destruction of a valuable wetland, or a project for which a noise barrier to reduce noise to acceptable levels appears to be necessary but is not proposed in the application and/or does not appear to be achievable. Furthermore, HUD's preliminary environmental review at the application processing stage does not constitute HUD environmental approval of the project site.

For the reasons above and to enable HUD to complete its environmental review in a timely manner, all applicants are required to provide an Environmental Report. The Environmental Report may be separate from the Phase I ESA. This report should cover the relevant topics in the Sample Field Notes Checklist (SFNC) from form HUD 4128 and should focus on those environmental issues that might affect the acceptability of the project including any compliance issues with state environmental laws as well as the following:

- (a) Historic Preservation (Item 18 in the SFNC), also attempt to obtain comments from the State/Tribal Historic Preservation Officer (see Exhibits 4(d)(ix) of Section IV.B., below).



- (b) Floodplain Management (Item 17 in the SFNC)
- (c) Wetlands Protection (Item 22 in the SFNC)
- (d) Endangered Species (Item 24a in the SFNC)
- (e) Noise Analysis (Item 19 in the SFNC)
- (f) Explosive/Flammable Hazards (Item 20 in the SFNC)
- (g) Coastal Barrier Resources (Item 16, SFNC)
- (h) Coastal Zone Management (Item 10, SFNC)
- (i) Sole Source Aquifers (Item 24b of the SFNC)
- (j) Airport Clear Zones (Item 21 of the SFNC)

**NOTE:** Form HUD4128 with the SFNC can be found at the following website:

[www.hud.gov/utilities/intercept.cfm?/offices/cpd/energyenviron/environment/compliance/forms/4128.pdf](http://www.hud.gov/utilities/intercept.cfm?/offices/cpd/energyenviron/environment/compliance/forms/4128.pdf). This form provides information on the criteria HUD uses to determine the environmental acceptability of a site and to record its environmental review.

**(3) Completion of Environmental Review for Applications Selected for Funding.**

HUD will complete its environmental review prior to issuance of the Firm Commitment. When HUD continues its environmental review, it may find the site environmentally unacceptable, in which case the fund reservation may be cancelled. Therefore, it is extremely important that you evaluate the site to insure that it meets HUD's environmental requirements (see Section IIC3f(2), above and paragraph (4), below.

**(4) Compliance with Environmental Assurance.** As HUD only performs a preliminary environmental review at the application processing stage, site approval will not occur until HUD completes its environmental review and finds the site environmentally acceptable. Therefore, the applicant's signature on the application constitutes an assurance that the applicant agrees to assist HUD with HUD's compliance with environmental review regulations in 24 CFR part 50 and that the applicant will:

- (a) Supply HUD with all available and relevant information necessary for HUD to perform for each property any environmental review required by 24 CFR part 50.
- (b) Carry out mitigating measures required by HUD; and
- (c) Not acquire, rehabilitate, demolish, convert, enter into or close a leasehold agreement (you can continue to perform obligations to sustain an existing leasehold or option to lease agreement), repair or construct property, nor commit or expend HUD or local funds for

these program activities with respect to any eligible property, from the time the application is submitted until HUD approval of the site is received.

**(5) Environmentally Unacceptable Sites.** All agreement letters will incorporate the recipient's responsibilities under paragraph (4) and will stipulate that a Section 202 Fund Reservation award constitutes preliminary approval of an application; that a Section 202 Fund Reservation award does not constitute an approval of the site, which may occur only upon completion of HUD's environmental review; and that if HUD finds the site acceptable but only with mitigation and you cannot meet the mitigation requirements, or if HUD determines that even with mitigation, the site is unacceptable, the Section 202 Fund Reservation award will be terminated.

**g. Additional Nondiscrimination Requirements.** Refer to Section III.C.5. of the General Section for information regarding additional nondiscrimination requirements.

**h. Economic Opportunities for Low and Very Low-Income Persons (Section 3).**

The requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) are applicable to projects receiving an award under this NOFA that will involve housing construction; rehabilitation (including the reduction of lead-based paint hazards, but excluding routine maintenance, repair and replacement); or other public construction. See Section V. for how Section 3 requirements will be incorporated into the rating criteria. Please refer to subparts B and E of 24 CFR Part 135 and Section III.C.5.d. of the NOFA **General Section** for additional information. Successful applicants will be required to comply with Section 3. The requirements of Section 3 must be incorporated into your proposed project by ensuring new training, employment and contracting opportunities will be directed to low- and very low-income persons residing within the project area and to the business concerns that employ these persons, to the greatest extent feasible.

**i. Design and Cost Standards.** You must comply with HUD's Section 202 design and cost standards (24 CFR 891.120 and 891.210), Site and Neighborhood Standards of the regulations governing the Section 202 Supportive Housing for the Elderly program (24 CFR 891.125(b) and (c)), Section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8, the Fair Housing Act and its implementing regulations at 24 CFR part 100, and where applicable, the Americans with Disabilities Act. You may receive helpful information with respect to the Fair Housing Act design and construction requirements on Fair Housing Accessibility FIRST's website at <http://www.fairhousingfirst.org>.

**j. Formation of Owner Corporation.** You must form an Owner entity (in accordance with 24 CFR 891.205 or 891.805 for mixed-finance developments), if not already formed, after issuance of the capital advance fund reservation and must cause the Owner entity to file a request for determination of eligibility and a request for capital advance, and must provide sufficient resources to the Owner entity to ensure the development and long-term operation of the project, including capitalizing the Owner entity at firm commitment processing in an amount sufficient to meet its obligations in connection with the project over and above the capital advance amount.

**k. Davis-Bacon.** You must comply with the labor standards provisions at 24 CFR 891.155(d). These include Davis-Bacon prevailing wage and reporting requirements and the overtime provisions of the Contract Work Hours and Safety Standards Act.

**l. Energy and Water Conservation.** You are required to build to a higher standard by incorporating components of sustainable building in Section 202 developments. At a minimum, energy efficiency strategies and water conservation appliances and fixtures must be incorporated in the design, construction, and operation of all new construction and substantial (gut) rehabilitation projects.

**(1) Energy Efficiency.** Owners of new construction and substantial rehabilitation low-rise (up to 3 stories) multifamily developments must meet the requirements of EPA's ENERGY STAR Qualified Homes. Mid-Rise & High Rise developments (4 or more stories) must meet the ASHRAE 90.1 Appendix G Plus 20% standard for the Energy Efficiency. Any state energy code requirements will take precedence over ENERGY STAR or ASHRAE specifications when the state code approximates or exceeds that standard. More information concerning this requirement can be found at

[http://www.energystar.gov/index.cfm?c=bldrs\\_lenders\\_raters.nh\\_2011\\_comments#additional](http://www.energystar.gov/index.cfm?c=bldrs_lenders_raters.nh_2011_comments#additional) or specific questions can be emailed to [energystarhomes@energystar.gov](mailto:energystarhomes@energystar.gov). For information on the ENERGY STAR Multifamily High-Rise Program please contact [leopkey.ted@epa.gov](mailto:leopkey.ted@epa.gov). For information concerning ASHRAE, please visit <http://www.ashrae.org>.

All projects must purchase and install ENERGY STAR-labeled appliances. ENERGY STAR Quantity Quotes was developed by the U.S. Department of Energy (DOE) to make it easy to comparison shop for energy-efficient products. With this fast and simple tool, you can easily locate available ENERGY STAR qualified products, make contact with suppliers, and negotiate discounted prices. Please visit <http://www.quantityquotes.net/> for more information.

**(2) Water Conservation Fixtures.** Installation of water-conserving fixtures is required in all new and substantially rehabilitated developments (i.e. resource efficient plumbing and appliances such as low flow showerheads and faucet and high efficiency toilets). The materials used should be the most current WaterSense or a greater water efficiency product. More information is available at [www.epa.gov/owm/water-efficiency](http://www.epa.gov/owm/water-efficiency).

**(3). Owners of Existing Developments that do not qualify as new construction or substantial (gut) rehabilitation,** must perform pre- and post-construction energy audits and incorporate conservation techniques in their projects. Owners of existing developments must also commit to future installation of WaterSense fixtures and ENERGY STAR appliances in the project's required Operations and Maintenance plan.

**m. Dun and Bradstreet Numbering System (DUNS) Numbering Requirement.** Refer to Section III.C.2.b of the General Section for information regarding the DUNS requirement. You will need to obtain a DUNS number to apply for funding using the Grants.gov application process. HUD will not make an award to an organization that does not have a DUNS number.

The DUNS number used in the application must be for the applicant organization identified in Box 8a on the HUD-424, Application for Federal Financial Assistance.

**n. Central Contractor Registration.** Refer to Section III.C.2.c of the General Section for information regarding the Central Contractor Registration (CCR) requirement. You will need to have an active registration in CCR in order to apply for funding using the Grants.gov application process. HUD will not make an award or make payments to an organization that does not have an active registration in CCR. See HUD's Interim Rule governing CCR registration requirements published in the Federal Register on September 14, 2010 at 75FR55663 and Final Rule published in the Federal Register on December 8, 2010 at 75FR76260.

**o. Affirmatively Furthering Fair Housing.** Successful applicants must affirmatively further fair housing. See Section IV. below for the required narrative in the application submission requirements and Section III.C.5.b. of the General Section for more information.

**4. Policy Priorities.** HUD is encouraging applicants to undertake programs and projects that align with HUD's Strategic Plan and cross-cutting departmental Policy Priorities. Refer to the **General Section** for information regarding HUD's Strategic Goals and Policy Priorities. Recognizing the fundamental role that HUD's investments play in defining the physical form of communities and quality of life for residents, HUD is encouraging you to take greater strides towards a more sustainable future. Under this program NOFA, a total of five (5) Policy Priority points are available. Specifically, applicants who undertake activities beyond those required to meet HUD's Section 3 requirement that will create jobs and further local economic development, particularly for low-income populations and communities, may receive one (1) Policy Priority point and those who promote sustainability through green development and healthy design in the construction, rehabilitation, and operation of the proposed project, may receive up to four (4) additional Policy Priority points.

**a. Sustainability.** To receive 4 Policy Priority points for green development, you must certify and demonstrate that you will implement green development strategies in the design, construction, rehabilitation and operation of the proposed project. These points are available to applicants that commit to the full incorporation of a green standard and describe how they will fulfill the requirements of the recognized green rating programs. Acceptable standards include: Enterprise Green Communities Criteria; the National Association of Home Builders (NAHB) Green Building Guidelines; Leadership in Energy and Environmental Design (LEED) for Homes or LEED New Construction; EPA's Indoor airPlus; or a regionally or locally recognized green standard such as, but not limited, to EarthCraft or Build it Green: GreenPoint Rated. The choice of which certification to pursue typically depends on a range of factors. First, the approach must fit with your philosophy, be financially achievable, and be appropriate for the proposed property. In addition, you may consider benefits beyond utility savings such as improved indoor air quality, and resident comfort. Careful consideration of all of these factors will help identify the appropriate certification for an owner to pursue for a given property. For green programs that require third-party certification, the applicant, if funded, must provide evidence of such certification prior to final closing. For green programs that require self-certification, the

applicant, if funded, must undertake an on-site verification by an independent third party provider. Third party providers must have experience in the installation of green, energy efficient systems such as a licensed engineer who is a certified Home Energy Rater, BOP Inspector, or an equivalent designation as determined by a Verification Oversight Organization such as RESNET. You will receive zero points if your application does not demonstrate these criteria, or if your application does not include sufficient information to be able to evaluate this factor. The Sponsor is expected to provide HUD with the appropriate certification prior to final closing. To further support other sustainable development practices, your applications will also be rated on the proximity of the project site to transit and amenities, or the accessibility of transit and amenities that would enable residents to age in place in a sustainable manner.

In order to receive status consideration for this Policy Priority, your Logic Models must include **activity/output** of: Policy Priority- Sustainability - Design, construct, rehab, and operate based on requirements of a recognized green standard. The corresponding **outcome** will be one of the following certifications:

- Policy Priority- Sustainability - certification received prior to final closing – Enterprise Green Communities Criteria;
- Policy Priority- Sustainability - certification received prior to final closing – National Association of Home Builders (NAHB) Green Building Guidelines;
- Policy Priority- Sustainability - certification received prior to final closing – Leadership in Energy and Environmental Design (LEED) for Homes or LEED New Construction (for multifamily);
- Policy Priority- Sustainability - certification received prior to final closing – EPA’s Indoor airPlus; **or**,
- Policy Priority- Sustainability - certification received prior to final closing – a regionally or locally recognized green standard.

1. To the maximum extent possible, you should assemble a development team that has a strong understanding of sustainable design principles and green building standards. HUD strongly encourages the use of an integrated design process that ensures a commitment to continued communication throughout the development process. This interactive approach encourages all members of the development team to look at the project’s objectives, building materials, systems, and assemblies from many different specialty perspectives at the earliest stage of project planning. The Integrated Design Process insures that every aspect of the building works as a whole to produce the best possible product, with the best possible energy and cost savings. The earlier green building features are incorporated into the design process, the lower the cost. A professional that has a strong understanding of the green building design principles should be included throughout all phases of the development process.

2. To the greatest extent possible, designs should incorporate passive solar orientation principles.

**3. Operations and Maintenance (O&M).** All Owners must develop an O&M manual that will address: a routine maintenance plan; operations and maintenance guidance for all appliances, HVAC operation, lighting equipment, paving materials and landscaping, pest control, and other systems that are part of each occupancy unit; an occupancy turnover plan that describes in detail the process of educating the tenant about proper use and maintenance of all building systems; and staff training needed to maintain the energy improvements and continue green building practices for the future. All operations and maintenance plans must commit to future installation of water-conserving fixtures and ENERGY STAR appliances. Operations and Maintenance (O&M) manual templates are available for use and customization on the Enterprise Green Communities' website at <http://www.practitionerresources.org/documents.html?c=320>.

**b. Job Creation/Employment.** HUD seeks to fund applicants that undertake activities to create jobs and further local economic development, particularly for low-income populations and communities. To receive 1 Policy priority point, your activities must be more comprehensive than those required to meet HUD's Section 3 "local hire" requirements. Under this Policy Priority you are expected to undertake activities that focus on access to skills training and partnership with community-based organizations that will develop pathways to long-term career ladders for the target population. See the General Section for additional information. In order to receive status consideration for this Policy Priority, your Logic Models must include least one of the following **activity/output**:

- Policy Priority- Job Creation/Employment- Partnership with Workforce Investment Board (WIB) to establish apprenticeship programs and/or job opportunities, **and/or**,
- Policy Priority- Job Creation/Employment- Partnership with community-based organizations, federal, state and/or local entities to increase access to job training, career services, and employment.

The corresponding **outcomes** must be at least one of the following:

- Policy Priority- Job Creation/Employment-Number of job creation as a result of partnerships with community-based, federal, state, and local entities,
- Policy Priority-Job Creation/employment-Number of other activities that expand job creation and other economic opportunities, **and/or**,
- Identify the number of supportive services provided to the residents to enable them to obtain training, obtain and retain the jobs created, or employment opportunity provided through linkages created under the HUD award.

**5. Lead-Based Paint.** The Lead Safe Housing Rule (specifically 24 CFR 35, subpart B, G, H, J and R) applies to conversions, project based rental assistance, and rehabilitation of pre-1978 housing, and the Environmental Protection Agency's Renovation, Repair and Painting Rule, found within 40 CFR 745 (See <http://www.epa.gov/lead/pubs/renovation.htm>), also applies to

pre-1978 housing when renovation, repair or painting work is conducted. The Lead Disclosure Rule (24 CFR 35, subpart A) applies to the sale or lease of pre-1978 housing.

#### **IV. Application and Receipt Instructions**

**A. Address to Request Application Package.** See the **General Section** for specific procedures concerning the electronic application submission and timely receipt requirements. Copies of the published NOFAs and application forms for HUD programs announced through NOFAs may be downloaded from the grants.gov website at [http://www07.grants.gov/applicants/apply\\_for\\_grants.jsp](http://www07.grants.gov/applicants/apply_for_grants.jsp); if you have difficulty accessing the information, you may receive customer support from Grants.gov by calling its Support Desk at 800-518-GRANTS, or by sending an email to [support@grants.gov](mailto:support@grants.gov). The Grants.gov help desk is open 7 days a week, 24 hours a day, except federal holidays.

You may request general information from the NOFA Information Center at 800-HUD-8929 or 800-HUD-2209 (TTY) between the hours of 10 a.m. and 6:30 p.m. eastern time, Monday through Friday, except on federal holidays. When requesting information, please refer to the name of the program you are interested in. The NOFA Information Center opens for business simultaneously with the publication of the General Section.

**B. Content and Form of Application Submission.** The exhibits to be included in your application are contained in the body of this NOFA. A response to each exhibit is required. If the exhibit is not applicable including optional exhibits, a statement to that effect is required. Before preparing your application, you should carefully review the requirements of the regulations (24 CFR part 891) and general program instructions in Handbook 4571.3 REV-1, Section 202 Capital Advance Program for Housing the Elderly. **NOTE:** Section 1001 of Title 18 of the United States Code (Criminal Code and Criminal Procedure, 72 Stat. 967) applies to all information supplied in the application submission. (18 U.S.C. 1001, among other things, provides that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.)

The Application for a Section 202 Capital Advance consists of four parts with a total of eight Exhibits. Included with the eight Exhibits are prescribed forms, certifications and resolutions. The components of the Application are:

- Part 1 - Application Form for Section 202 Supportive Housing - Capital Advance (Exhibit 1).
- Part 2 - Your Ability to Develop and Operate the Proposed Project (Exhibits 2 and 3).
- Part 3 - The Need for Supportive Housing for the Target Population in the Area to be Served, Site Control and Suitability of Site, Adequacy of the Provision of Supportive Services and of the Proposed Project (Exhibits 4 and 5).

- Part 4 - General Application Requirements, Certifications and Resolutions (Exhibits 6 through 8).

The following additional information, which may assist you in preparing your application, is available on HUD's Web site at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>:

- Listing of Multifamily Hub Offices and their associated Multifamily Program Center Office.
- Letter Requesting SHPO/THPO Review.
- Choosing an Environmentally Safe Site.
- Supplemental to Choosing an Environmentally Safe Site.

Your application must include all of the information, materials, forms, and exhibits listed below (unless you were selected for a Section 202 fund reservation within the last three funding cycles). If you qualify for this exception, you are not required to submit the information described in Exhibits 2(a), (b), and (c), which are the articles of incorporation, (or other organizational documents), by-laws, and the IRS tax exemption, respectively. If there has been a change in any of these documents since your previous HUD approval, you must submit the updated information in your application. The local Multifamily Hub Office will verify your previous HUD approval by checking the project number and approval status with the appropriate Multifamily Hub based on the information submitted.

In addition to this relief of paperwork burden in preparing applications, you will be able to use information and exhibits previously prepared for prior applications under Section 202, Section 811, or other funding programs. Examples of exhibits that may be readily adapted or amended to decrease the burden of application preparation include, among others, those on previous participation in the Section 202 or Section 811 programs, your experience in the provision of housing and services, supportive services plans, community ties, and experience serving minorities.

For programmatic information, you **MUST** contact the appropriate Multifamily Hub Office about the submission of applications within the jurisdiction of that Hub.

Please submit your application using the following format provided in this NOFA. For applications to be submitted electronically, in which you have created files to be attached to the electronic application, you should number the pages of the attached file and include a header that identifies the exhibit that it relates to. Please be sure to follow the file labeling and file format instructions in the General Section.



For applicants that have received a waiver of the electronic application submission, you must number the pages of each file, narratives and other attached files. Include the name of the applicant organization that appears on box 8a of the SF424 and the corresponding DUNS number for that organization, and the exhibit number that you are responding to on the header of each document.

**1. Table of Contents.** (This is also to be used as a checklist to assist you in submitting a complete application.)

a. Part I – Application Form.

(1) Exhibit 1:  
Form\_HUD92015CA\_Application\_for\_Capital\_Advance\_Summary\_Information.

b. Part II – Ability to Develop/Operate Project.

(1) Exhibit 2: Legal Status.

(a) Organizational Documents.

(b) Bylaws.

(c) IRS Tax Exemption Ruling.

(2) Exhibit 3: Purpose/Community Ties/Experience.

(a) Purpose(s), current activities, etc.

(b) Community ties, description of area.

(c) Other Funding Sources.

(d) Letters of commitment.

(e) Housing/Supportive Services experience.

(f) Involvement of target population.

(g) Section 3 requirements.

(h) Job Creation/Employment.

c. Part III – Need for Housing, Site Requirements, Proposed Services.

(1) Exhibit 4: Need and Project Information.

- (a) Evidence of need for project.
- (b) Benefit to population/community.
- (c) Narrative project description:
  - (i) Building design;
  - (ii) Description of Green Development Standard being incorporated;
  - (iii) Letter acknowledging that schematic plans and outline specs have been completed;
  - (iv) Sources and Uses budget;
  - (v) Mixed-financing for additional units.
- (d) Site control and zoning:
  - (i) Site control documents;
  - (ii) Freedom of site from restrictions;
  - (iii) Zoning requirements;
  - (iv) URA site notification requirements;
  - (v) Topographical/demographical description of site/area and opportunities for minorities;
  - (vi) Affirmatively Furthering Fair Housing/Racial composition;
  - (vii) Phase I ESA;
  - (viii) Asbestos Statement/Survey;
  - (ix) SHPO/THPO requirements.

(2) Exhibit 5: Supportive Services Plan.

- (a) Description of services.
- (b) Other funding sources.

(c) How services will be provided.

(d) Practical solutions.

d. Part IV – Requirements/Certifications/Resolutions.

(1) Exhibit 6: FY10 Sections 202/811 applications to other Offices.

(2) Exhibit 7: Required information on:

(a) Statement indicating that no relocation will occur and why (if relocation will occur, complete items (2)(b) through (2)(g);

(b) Identify all persons occupying the property;

(c) Relocation costs and other services;

(d) Sources of funds to cover relocation costs;

(e) Staff to carry out relocation

(f) Occupant move-outs within past 12 months; and

(g) Issuance of general information notice and advisory services information.

(3) Exhibit 8: Standard Forms/Certifications/Resolutions.

(a) SF424\_Application\_for\_Federal\_Assistance;

(b) SF424 Supplement\_Survey\_on\_Ensuring\_Equal\_Opportunities\_for\_Applicants(Faith\_Based\_EEO\_Survey\_SF424SUPP;

(c) SFLLL\_Disclosure\_of\_Lobbying\_Activities;

(d) Form HUD2880\_ApplicantRecipient\_Disclosure\_Update\_Report;

(e) Form HUD2991\_Certification\_of\_Consistency\_with\_the\_Consolidated\_Plan;

(f) Form HUD92041\_Sponsor's\_Conflict\_of\_Interest\_Resolution;

(g) Form HUD92042\_Sponsor's\_Resolution\_for\_Commitment\_to\_Project;

(h) Form HUD2990\_Certification\_of\_Consistency\_with\_the\_RC/EZ/EC-II\_Strategic Plan (if applicable);

- (i) Form HUD96010\_Program\_Outcome\_Logic\_Model;
- (j) Form HUD-2530, Previous Participation Certification;
- (k) Form HUD96011\_Facsimile\_Transmittal;

## **2. Programmatic Applications Requirements**

### **a. PART I – APPLICATION FORM FOR SECTION 202 SUPPORTIVE HOUSING – CAPITAL ADVANCE**

(1) **EXHIBIT 1 - Form HUD92015CA**, Supportive Housing for the Elderly Section 202, Application for Capital Advance Summary Information. A copy of the form is available in the instructions download at <http://www.grants.gov/>

### **b. PART II - YOUR ABILITY TO DEVELOP AND OPERATE THE PROPOSED PROJECT**

(1) **EXHIBIT 2 - Evidence of your legal status.** You must provide evidence of your status as a private nonprofit organization or nonprofit consumer cooperative. If another organization(s) is co-sponsoring the application with you, they must also submit the following:

- (a) Articles of Incorporation, constitution, or other organizational documents;
- (b) By-laws;
- (c) IRS tax exemption ruling (including churches).

**NOTE:** HUD will review your articles of incorporation, constitution, by-laws, or other organizational documents to determine, among other things, that (i) you are an eligible private nonprofit entity and are not a public body or an instrumentality of a public body, (ii) your corporate purposes are sufficiently broad to provide you the legal authority to sponsor the proposed project for the elderly, to assist the Owner, and to apply for a capital advance, (iii) language is included in the documents stating that no part of the Sponsor's net earnings inures to the benefit of any private party and (iv) that you are not controlled by or under the direction of persons seeking to derive profit or gain therefrom.

Nonprofit entities associated with public bodies or tribes must establish their eligibility by providing an attorney's opinion stating that under state or tribal law the associated entity is not an instrumentality or agency of the public body or tribe and confirming that such entity:

- Meets the definition of "private nonprofit organization" under part 891;
- Has Articles of Incorporation which provide no more than minority control by the public body or tribe; and

- Is not receiving a majority of its operational funding from the public body or tribe.

[EXCEPTION: If you received a Section 202 fund reservation within the last three funding cycles, you are not required to submit the documents described in (a), (b), and (c) , above. Instead, submit the project number of the latest application and the Multifamily Hub to which it was submitted. However, if there have been any modifications or additions to the subject documents, indicate such, and submit the new material.]

**(2) EXHIBIT 3 -Your purpose, community ties and experience:**

(a) A description of your purpose(s), current activities, including your ability to raise private and local funds, and how long you have been in existence.

(b) A description of your ties, both housing and non-housing related services, to the community in which your project will be located and to the minority and elderly communities in particular, including a description of the specific geographic area(s) in which you have served; the demographics data for the surrounding neighborhood and for the larger market area. Submit letters of support from community leaders describing your close working relationship with minority and elderly communities. Provide copies of your past advertising/outreach materials. Describe how you will build on past affirmative fair housing marketing plans and describe improvements that you will make to enhance the quality of your affirmative marketing to reach those individuals least likely to apply for housing opportunities.

(c) A description of other funding sources for the project (including financial assistance, donation of land, provision of services, etc.). Written documentation must be included with this exhibit including a dollar value, specific project and location for which funding is being made available, and the signature of an authorized representative of the funding source. Funding commitments must be permanent financing with reasonable conditions for closing. A commitment must describe the allowed uses of the funds and should provide the term for which the commitment is valid, such term cannot expire earlier than 24 months from the Section 202 application deadline date. Land donations must include an appraisal or tax assessment to document value.

**NOTE:** As a reminder, pursuant to the Housing and Economic Recovery Act of 2008 (HERA) delegated processing is *required* where development funds for a proposed Section 202 project will be provided by a combination of capital advance and other sources of funding exclusive of the Sponsor's financial contribution and a State or local housing agency has been approved to serve as a delegated processing agency (DPA). However, the Secretary retains authority to process capital advances in cases in which no State or local housing agency has applied to provide delegated processing or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency. Refer to Section III.C.3.a., Statutory and Regulatory Requirements, for a complete discussion regarding the Delegated Processing requirement.

(d) Letters from organizations or agencies committing services to the proposed project. The services are to be based on the needs of the target population expected to be housed in the proposed project. To enable HUD to determine the likelihood that the service(s) will be forthcoming, describe why you believe that the organization/agency will follow through on its commitment to deliver services to the project/residents. If you have entered into a MOU with the organization/agency providing the services, it must be signed by persons with authority to commit the organization or agency. The MOU must detail the scope of services to be provided, frequency, role and responsibilities of parties involved, funding, and general terms.

(e) A description of your housing and supportive services experience that demonstrates your ability to develop, manage, and operate housing (including financial management) and your ability to provide services to the target population and/or families and minorities. In the case of a co-sponsored application, submit a description of each sponsor's experience in providing housing and supportive services. The description should include any rental housing projects and supportive services facilities that you sponsored, own and operate. The description should identify specific services provided and information and testimonials from residents or community leaders on the quality of the activities. If applicable, provide a discussion on the reasons for receiving any increases in fund reservations for developing and/or operating previously funded Section 202 or Section 811 projects.

To further demonstrate your housing experience, provide a listing of all rental housing projects that you have completed within the last five years. The following information should be included:

- (i) The address of the project,
- (ii) The number of units,
- (iii) The current occupancy rate,
- (iv) The percentage of minority occupants for each building;
- (v) Completion date (for projects other than Section 202 and Section 811 use the date of certificate of occupancy as the completion date).
- (vi) For Section 202 and Section 811 projects include the following):
  - (A) Identify each by project number and Multifamily Hub,
  - (B) Whether the project has initially closed and, if so, when,
  - (C) If the project was older than 24 months when it initially closed (specify how old),  
or

(D) If the project is older than 24 months (specify how old) and has not initially closed, provide the reasons for the delay in closing,

(E) Whether amendment money was or will be needed for any project in (i) , above, including the amount of the amendment money,

(F) Date of Permission to Occupy, and

(G) Those projects that have not been finally closed.

(f) A description of your efforts to involve members of the target population (elderly persons, including minority elderly persons) in the development of the application as well as your intent to involve the target population in the development and operation of the project.

(h) A detailed description of how you plan to incorporate the Section 3 requirements found at subparts B and E of 24 CFR Part 135 and Section III.C.5.d of the General Section, into your proposed project including specific strategies for directing training, employment and other economic opportunities to low- and very low-income persons, particularly those who are residing in the project area and to business concerns that provide economic opportunities to low – and very-low income persons in the area in which the project is based. Additional information on these requirements can be found at <http://www.hud.gov/section3>. This exhibit is optional, but to obtain up to 1 points you must submit this exhibit. (NOTE: It should be noted that all successful applicants will be required to comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u, whether they submitted this exhibit or not).

(i) To receive one (1) Policy Priority point under Job Creation/Employment, you must submit a detailed description of how you will exceed the Section 3 requirements by creating jobs and further local economic development, particularly for low-income populations and communities that are more comprehensive than those required to meet HUD’s Section 3 “local hire” requirements.

**c. PART III - THE NEED FOR SUPPORTIVE HOUSING FOR THE TARGET POPULATION, SITE CONTROL AND SUITABILITY OF SITE, ADEQUACY OF THE PROVISION OF SUPPORTIVE SERVICES AND OF THE PROPOSED PROJECT**

**(1) EXHIBIT 4 - Need and Project Information:**

(a) Evidence of need for supportive housing.

(i) Include a description of the category or categories of elderly persons the housing is intended to serve.

(ii) Submit evidence demonstrating sustained effective demand for supportive housing for the category or categories of elderly persons in the market area to be served, by conducting and providing the findings from a rental survey of the existing elderly subsidized

projects in the proposed market area. You should talk to existing providers of affordable elderly housing (Section 202, project-based Section 8, Section 515 Rural Rental Housing, Section 236, Section 221(d)(3), Public Housing as well as state and local officials who administer affordable housing programs in the market area, you are encouraged to engage a third-party professional to assist them in undertaking this survey. The survey should include the following information:

- (A) Date of Survey
- (B) Name of Project
- (C) Location
- (D) Date Open for Occupancy
- (E) Subsidy Type
- (F) Total Number of Units
- (G) Total Number of Units Occupied
- (H) Total Number on Waiting List
- (I) Contact Person Name, Title & Phone Number of project

The following resources will help you identify properties within your area:

- A listing of HUD-assisted apartments in your state can be queried at:  
<http://www.hud.gov/apps/section8/index.cfm>.
- A listing of United States Department of Agriculture (USDA) Rural Development multifamily rental properties can be queried at:  
[http://rdmfhrentals.sc.egov.usda.gov/RDMFHRentals/select\\_state.jsp](http://rdmfhrentals.sc.egov.usda.gov/RDMFHRentals/select_state.jsp)
- For public housing, applicant should visit  
<http://www.hud.gov/offices/pih/pha/contacts/index.cfm>.

(b) A description of how the proposed project will benefit the target population and the community in which it will be located.

(c) Description of the project.

(i) Narrative description of the building design including a description of the number of units with bedroom distribution, any special design features, including any features that incorporate visitability standards and universal design, amenities, and/or commercial and



community spaces, and how this design will facilitate the delivery of services in an economical fashion and accommodate the changing needs of the residents as they age-in-place over the next 10-20 years. Beyond the Uniform Federal Accessibility Standards, universal design practices increase access to housing to the elderly and individuals with disabilities. The most common barriers include narrow doorways, lack of adequate lighting, fixtures and controls placed too low or too high, lack of handrails, and steps at entrances. Universal design increases accessibility for persons with physical limitations and provides flexibility necessary to add features such as lifts, ramps, and handrails if desired at a later date. Superior applicants will incorporate the principles of universal design in their programs. For further information on universal design see the General Section and <http://www.huduser.org/portal/publications/destech/unidesig.html>.

For projects involving mixed finance transactions, there are no restrictions on the number of two-bedroom units proposed if the units are paid for by a source other than capital advance funds.

**NOTE:** If the community spaces, amenities, or features do not comply with the project design and cost standards of 24 CFR 891.120(a) and (c), the special standards of 24 CFR 891.210, and the limitation on bedroom unit sizes as required by paragraph 1-11.B.4. of HUD Handbook 4571.3 REV-1, you must demonstrate your ability and willingness to contribute both the incremental development cost and continuing operating cost associated with the community spaces, amenities, or features.

(ii) Describe how the project will incorporate green development in the design, construction, and operation of the project. If you receive points under this sustainability policy priority you are expected to design and construct or rehabilitate the proposed project according to the requirements of the selected green building rating system for which you seek certification. Refer to Section III.C.4., above and the General Section for additional guidance.

(iii) If schematic plans and outline specs have been completed, submit a letter from a professionally licensed architect stating that the schematic plans and outline specs are complete and in accordance with HUD's Minimum Property Standards, and other applicable HUD Standards, guidelines and criteria. See Section III.C.3.i, above for additional information. The plans must include dimensions, landscape and utility design, building design, unit layout and preliminary definitions of all systems serving the project such that a detailed construction cost estimate may be prepared. The architect must be licensed to render services in the design of buildings by the State in which the project is to be constructed. The design architect, the architect administering the construction contract, and all engineers and/or designers providing required design and/or construction services must each be covered by a policy of professional liability insurance for errors and omissions.

(iv) If non capital advance permanent financing has been committed to the project, submit a detailed budget identifying sources and uses which indicate that all the permanent financial sources necessary to cover the cost of the project (including any required off-site infrastructure costs and any proposed commercial space) have been committed (other than tax credit equity commitments or Federal Home Loan Bank AHP funds). The budget should be

based upon a construction cost estimate performed by a professional cost estimator with itemized sources of funds to cover costs.

(v) If you are proposing to develop a mixed-finance project submit a description of any plans and actions you have taken to create such a mixed-finance project with the use of Section 202 capital advance funds, in combination with other funding sources. If additional units will be developed, provide the number of non-Section 202 units to be included in the mixed-finance project (also provide the number of additional units in the appropriate space on Form HUD92015CA). You also must demonstrate your ability to proceed with the development of a Section 202 project, as proposed in your application, in the event you are later unable to obtain the necessary outside funding. **NOTES:** (A) If approved for a reservation of capital advance funds, you will be required to submit, with your Firm Commitment Application, the additional documents required by HUD for mixed-finance proposals. (B) A mixed-finance project does not include the development of a mixed-use project in which the Section 202 units are mortgaged separately from the other uses of the structure.

(d) Evidence of site control and permissive zoning.

(i) Acceptable evidence of site control is limited to any one of the following:

(A) Deed or long-term leasehold which evidences that you currently have title to or a leasehold interest in the site. If a leasehold, the term of the lease must be at least 50 years with renewable provisions for 25 years, except for sites on Indian trust land, in which case, the term of the lease must be at least 50 years with no requirement for extensions. Title or leasehold interest must commence prior to the application deadline date. A sublease is not considered an acceptable form of site control;

(B) Contract of sale for the site that is free of any limitations affecting the ability of the seller to deliver ownership to you after you receive and accept a notice of Section 202 capital advance. The contract of sale cannot require closing earlier than 12 months following the date of the Section 202 application deadline date unless you have non-202 committed funds which are sufficient for purposes of closing on the land. **NOTE:** HUD strongly encourages you to have contract terms with renewal provisions to allow for delays in closing the Section 202 capital advance that may be beyond your control.

(C) Option to purchase or for a long-term leasehold, which must state a firm price, remain in effect for a minimum of six months from the date on which the applications are due and must be renewable for a minimum of an additional six month term. The buyer must have sole discretion to exercise such renewal and any consideration for such Option renewal must be stated in the option agreement. HUD strongly encourages you to have Option terms with renewal provisions beyond six months to allow for delays in closing the Section 202 capital advance that may be beyond your control. During the initial six month term plus the additional six month renewal, the only condition on which the seller may terminate the Option is if you are not awarded a fund reservation or you fail to make contractually required option payments. We note that the seller is free to extend the option beyond the original term and any renewals if the sponsor is not awarded a fund reservation.

(D) Contract of sale or option agreement contains provisions that allow a Sponsor not to purchase the property because of reasons such as environmental problems, failure of the site to pass inspection, or the appraisal is less than the purchase price, then such provisions are not objectionable to HUD and a Sponsor is allowed to terminate the contract of sale or the option agreement.

(E) If the site is covered by a mortgage under a HUD program, (e.g., a previously funded Section 202 or Section 811 project or an FHA-insured mortgage) you must submit evidence of site control as described above **AND** evidence that consent to release the site from the mortgage has been obtained or has been requested from HUD (all required information in order for a decision on the request for a partial release of security must have been submitted to the Multifamily Hub Office) and/or from the mortgagee, if other than HUD. Approval to release the site from the mortgage must be done before the Multifamily Hub Office makes its selection recommendations to HUD Headquarters. Refer to Chapter 16 of HUD Handbook 4350.1 REV-1, Multifamily Asset Management and Project Servicing, for instructions on submitting requests to the Multifamily Hub Office for partial release of security from a mortgage under a HUD program; or

(F) For sites to be acquired from a public body, evidence is needed that the public body possesses clear title to the site and has entered into a legally binding agreement to lease or convey the site to you after you receive and accept a notice of Section 202 capital advance. The same requirements for site control are applicable to sites to be acquired from public bodies as are applicable to sites to be acquired from other entities. Where HUD determines that time constraints of the funding round will not permit you to obtain all of the required official actions (e.g., approval of Community Planning Boards) that are necessary to convey publicly-owned sites, you may include in your application a letter from the mayor or director of the appropriate local agency indicating that conveyance or leasing of the site is acceptable without imposition of additional covenants or restrictions, and only contingent on the necessary approval action. Such a letter of commitment will be considered sufficient evidence of site control but only if the commitment does not contain restrictions or qualifications that would be unacceptable in the case of other entities. Where a public housing site is to be acquired from a public housing agency (PHA), the PHA must have applied to HUD for permission to dispose of the site or received approval of the disposition from HUD. If the PHA has applied for HUD permission, approval must be received prior to the Multifamily Hub's recommendation of approval to Headquarters.

(ii) Whether you have title to the site, a contract of sale, an option to purchase, or are acquiring a site from a public body, you must provide a current title report or title policy from a title company, updated within 6 months of the application deadline date, that evidences that the site is free of any limitations, restrictions, or reversioners which could adversely affect the use of the site for the proposed project for the 40-year capital advance period under HUD's regulations and requirements (e.g., reversion to seller if title is transferred). A copy of the title report or title policy is mandatory. Legal opinions are acceptable but only when such opinions identify all matters of record and include copies of all of the underlying instruments. Any legal opinions not supported by documentation will be considered insufficient evidence.

If the title evidence contains restrictions or covenants, copies of the restrictions or covenants must be submitted with the application. If the site is subject to any such limitations, restrictions, or reverts which could adversely affect the use of the site for the proposed project for the 40-year period of affordability, the application will be rejected. Mortgage liens that will be satisfied by closing are not considered to be limitations or restrictions that would adversely affect the use of the site. You must provide supporting evidence that such a mortgage will be satisfied by the time of initial closing. Title policies showing an existing mortgage that cannot be satisfied by initial closing will result in an application being rejected.

**NOTE:** A proposed project site may not be acquired or optioned from a general contractor (or its affiliate) that will construct the Section 202 project or from any other development team member.

(iii) Evidence that the project's status regarding compliance with local zoning and land use regulations and its access to public utilities. If no discretionary action is required to receive a building permit, submit a letter or other evidence from the local governing body stating that rezoning, variances, special or conditional use permits, design review or any other land use and public utility approval are not required. If action(s) is required, include a statement of the proposed action required to make the proposed project permissible to receive a building permit **AND** the basis for the belief that the proposed action will be completed successfully before the submission of the firm commitment application (e.g., a summary of the results of any requests for rezoning and/or the procedures for obtaining special or conditional use permits on land in similar zoning classifications and the time required for such rezoning, or preliminary indications of acceptability from zoning bodies, etc.). Discuss utilities available to the site. If all utilities are available to the site, provide "will serve" letters from all providers for water, sewer, gas, and electricity indicating that sufficient capacity exists to serve the proposed project.

(iv) Evidence of compliance with the URA requirement that the seller has been provided, in writing, with the required information regarding a voluntary, arm's length purchase transaction (i.e., (A) applicant does not have the power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement, and (B) of the estimate of the fair market value of the property). **NOTE:** A certification for this requirement is not sufficient. Evidence must be submitted to meet this requirement. This information should have been provided before making the purchase offer. However, in those cases where there is an existing option or contract, the seller must be provided the opportunity to withdraw from the agreement or transaction, without penalty, after this information is provided.

(v) Narrative describing topographical and demographic aspects of the site, the suitability of the site and area (as well as a description of the characteristics of the neighborhood), how use of the site will promote greater housing opportunities for minority elderly and elderly persons with disabilities (if applicable), and how use of the site will affirmatively further fair housing. Include information on the available methods of transit and their proximity to the project site and a map identifying available amenities.

(e) Under this program NOFA, Affirmatively Further Fair Housing (AFFH) addresses the quality and effectiveness of your proposal to provide housing and supportive services in such a way as to remedy impediments to fair housing choice for elderly low-income residents of the community. There must be a clear relationship between your proposed activities and identified community needs. Fair Housing encompasses a variety of issues that could be addressed in this factor. You can best demonstrate your commitment to affirmatively furthering fair housing by describing how your proposed activities will assist the jurisdiction in overcoming impediments to fair housing choice identified in the applicable jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice, which is a component of the jurisdiction's Consolidated Plan or other governmental planning documents that addresses fair housing issues. The applicable Consolidated Plan and AI may be the community's, the county's/parish's, or the state's, to which input should have been provided by local community organizations, agencies in the community and residents of the community. You should show the strength of the connection between the need shown in the AI or planning document and your proposal.

Applicable impediments could include the need for improved housing quality and services for elderly minority families, lack of affirmative marketing and outreach to minority elderly persons, and the need for quality eldercare services within areas of minority concentration when compared with the type and quality of similar services and housing in nonminority areas.

Activities that are comprehensive, innovative and likely to become models for “best practices” in other contexts will be given greater weight. The following affirmatively furthering fair housing activities must be addressed:

(i) **Limited English Proficiency.** HUD recipients are required to take reasonable steps to provide meaningful access to their programs and activities by persons with limited English proficiency (LEP). As part of their duty to affirmatively further fair housing, applicants should take proactive measures to inform eligible LEP persons of their programs and activities and available language assistance. For example, applicants may use translated marketing materials and partner with community organizations to conduct outreach to LEP persons. Applicants should also analyze the language assistance needs of their current and potential beneficiaries and develop and implement a Language Assistance Plan (LAP) that provides for interpretation and translation services in accordance with HUD’s LEP Guidance. For this submission, describe your past LEP efforts. Describe further how you will build on existing LEP strategies, and how you will improve upon your past efforts to enhance your LEP activities. If you have not engaged in LEP activities before, describe your goals, planning, training, evaluation methods, and community contacts that will ensure success.

(ii) **Affirmative Fair Housing Marketing Plan (AFHMP).** If your application is successful, you must develop an AFHMP that will reach those applicants that are least likely to apply to your project to promote diversity. You should base your marketing on local demographics to achieve a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, national origin, religion, gender, disability, or familial status. Affirmative fair housing marketing helps owners/agents effectively market the availability of housing

opportunities to individuals of both minority and non-minority groups that are least likely to apply for occupancy in the housing project. Your methods may include various media outlets, informational brochures, working with community leaders, LEP services, and other new and innovative approaches. Describe any past AFHMP activities that you engage in. Specifically, describe your past affirmative marketing goals, planning, training, evaluation methods, community contacts, and how you intend to improve on your past efforts in these specific areas of your affirmative marketing concerning this application. If you have not engaged in AFFHM before, describe your proposed goals, planning, training, evaluation methods, and community contacts that will help ensure a successful AFHMP.

(iii) **Site and Neighborhood Standards.** Site and neighborhood standards direct applicants to carefully choose the location of their project in order to ensure greater accessibility, promote diversity, and provide desirable housing to residents. You should provide a narrative describing the location and demographics of the site, the suitability of the site and area (as well as a description of the characteristics of the neighborhood), and how you will comply with the requirements contained in 24CFR § 891.125.

**NOTE:** All successful applicants are required to affirmatively further fair housing. See Section III.C.5.b. of the General Section and the specific instructions provided below. In particular, the proposed activities must address at least one of the following objectives: (1) help overcome any impediments to fair housing choice related to the assisted program or activity itself; (2) promote racially, ethnically, and socioeconomically diverse communities; or (3) promote housing-related opportunities that overcome the effects of past discrimination because of race, color, national origin, religion, sex, disability, and familial status.

You can best demonstrate your commitment to affirmatively furthering fair housing by describing how your proposed activities will assist the jurisdiction in overcoming impediments to fair housing choice identified in the applicable jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice, which is a component of the jurisdiction's Consolidated Plan or any other planning document that addresses fair housing issues. The applicable Consolidated Plan and AI may be the community's, the county's/parish's, or the state's, to which input should have been provided by local community organizations, agencies in the community and residents of the community. Alternatively, a document that addresses fair housing issues and remedies to barriers to fair housing in the community that was previously prepared by a local planning, or similar organization, may be used. Applicable impediments could include the need for improved housing quality and services for elderly minority families, lack of affirmative marketing and outreach to minority elderly persons, and the need for quality eldercare services within areas of minority concentration when compared with the type and quality of similar services and housing in nonminority areas.

(iv) **Map of site:** A map showing the location of the site, the racial composition of the neighborhood, and any areas of racial concentration.

**NOTE:** For this competition, when determining the racial and ethnic composition of the neighborhood surrounding the proposed site, use data from the 2010 Census of Population. Data from the 2010 Census may be found at:

[www.factfinder.census.gov/servlet/BasicFactsServlet](http://www.factfinder.census.gov/servlet/BasicFactsServlet).

(vii) A Phase I Environmental Site Assessment (ESA), prepared in accordance with the ASTM Standard E 1527–05, as amended, using the table of contents and report format specified at Appendix X4 thereto must be completed and submitted with the application.

The Phase I ESA that you submit must have been prepared within one year of the application deadline date; and any Phase I ESA prepared within the one year but more than 180 days prior to the application deadline date, must be updated pursuant to Section 4.6 ASTM Standard E 1527–05. A Phase I prepared more than one year prior to the application deadline date is not acceptable, even if it has been updated. The preparation date is the earliest of the date of either the site visit, the records review, or the interviews. It is important that you start the Phase I ESA process as soon after publication of the NOFA as possible.

If the Phase I ESA concludes that there are RECs or VECs and you choose to continue with the original site on which the Phase I ESA indicated RECs or VECs, you must undertake a detailed Phase II ESA by an appropriate professional. The Phase II ESA must address all of the RECs and VECs identified in the Phase I ESA. If the Phase II performed determines that either complete clean-up of the site or clean up of the site to federal or state risk-based corrective action levels is applicable, a clean-up plan must be prepared and submitted with your application. In order for your application to be considered for review under this funding competition, the Phase II ESA and, if applicable, the clean-up plan must be submitted with your application. If the information is not received the application will be rejected. **NOTE: Failure to follow the above criteria for preparation and submission of the Phase I ESA and Phase II ESA (if required) as well as the requirement in Section III.C.2.b.(4)(c) , above will result in a technical rejection of your application.**

(viii) You must submit one of the following:

(A) If there are no pre-1978 structures on the site or if there are pre-1978 structures, that most recently consisted of solely four or fewer units of single-family housing including appurtenant structures thereto, a statement to this effect, or

(B) If there are pre-1978 structures on the site, other than for a site that most recently consisted of solely four or fewer units of single-family housing including appurtenant structures thereto, a comprehensive building asbestos survey that is based on a thorough inspection to identify the location and condition of asbestos throughout any structures.

**NOTE:** In those cases where suspect asbestos is found, it would either be assumed to be asbestos or would require confirmatory testing. If the asbestos survey indicates the presence of asbestos, or the presence of asbestos is assumed, and if the application is approved, HUD will condition the approval on an appropriate mix of asbestos abatement and an asbestos Operations and Maintenance Plan.

(ix) Letter to State/Tribal Historic Preservation Officer (SHPO/THPO) and a statement that SHPO/THPO failed to respond to you OR a copy of the response letter received from SHPO/THPO.

(x) An Environmental Report covering relevant topics in the Sample Field Notes Checklist (SFNC) from form HUD 4128 and focusing on environmental issues that might affect the acceptability of the project to HUD.

**(2) EXHIBIT 5 – Supportive Services Plan:**

(a) A detailed description of the supportive services proposed to be provided to the anticipated occupancy.

(b) A description of public or private sources of assistance that reasonably could be expected to fund the proposed services.

(c) The manner in which such services will be provided to such persons (i.e., on or off-site), including whether a service coordinator will facilitate the adequate provision of such services, and how the services will meet the identified needs of the residents as they age-in-place.

(d) A description of the practical solutions you will implement which will enable residents of your project to achieve independent living as they age-in-place. In addition, describe the educational opportunities you will provide for the residents and how you will provide them. This description should include any activities that will enhance the quality of life for the residents. Finally, describe how your proposed project will be an improved living environment for the residents when compared to their previous place of residence. Include evidence of any agreements made with participating service providers.

**NOTE:** You may not require residents, as a condition of admission or occupancy, to accept any supportive services.

**d. PART IV - GENERAL APPLICATION REQUIREMENTS, CERTIFICATIONS AND RESOLUTIONS**

(1) **EXHIBIT 6 - Other Applications.** You must provide a list of the applications, if any, you are submitting to any other Multifamily Hub Offices in response to the FY 2010 Section 202 or Section 811 NOFAs. Indicate by Multifamily Hub Office, the proposed location by city and state and the number of units requested in each application.

**(2) EXHIBIT 7 – Statement on Relocation:** A statement that:

(a) Indicates that no relocation will occur and why (e.g. property is vacant land or property was unoccupied and no person was made to move for the project), if applicable. If relocation will occur, complete items (2)(b) through (2)(g).



(b) Identifies all persons (families, individuals, businesses and nonprofit organizations) by race/minority group, and status as owners or tenants occupying the property on the date of submission of the application for a capital advance.

(c) Indicates the estimated cost of relocation payments and other services and the basis for estimate.

(d) Indicates the source of funds to be used to pay relocation costs. If such costs will be funded from sources other than the Section 202 Capital Advance, you must provide evidence of a commitment of these funds.

(e) Identifies the staff or organization that will carry out the relocation activities.

(f) Identifies all persons who were made to move from the site within the past 12 months and explain the reasons for such moves.

(g) Indicates that all persons occupying the site have been issued the appropriate required General Information Notice and advisory services information receipt required, either at the time the option to acquire the property is executed, or at the time the application is submitted. Attach a copy of the General Information Notice that was sent.

**NOTE:** If any of the relocation costs will be funded from sources other than the Section 202 capital advance, you must provide evidence of a firm commitment of these funds. When evaluating applications, HUD will consider the total cost of proposals (i.e., cost of site acquisition, relocation, construction and other project costs).

#### **EXHIBIT 7 IS REQUIRED FOR ALL SECTION 202 APPLICATIONS.**

**(3) EXHIBIT 8 - Standard Forms, Certifications and Resolutions.** You are required to submit completed copies of the following forms which are included either in the **General Section** or with this NOFA and are available in the instructions download at [https://apply07.grants.gov/apply/forms\\_apps\\_idx.html](https://apply07.grants.gov/apply/forms_apps_idx.html).

. (a) Standard\_Form\_424\_Application\_for\_Federal\_Assistance, including a DUNS number, an indication of whether you are delinquent on any federal debt, and compliance with Executive Order 12372 (a certification that you have submitted a copy of your application, if required, to the State agency (Single Point of Contact/(SPOC)) for state review in accordance with Executive Order 12372). If the SPOC requires a review of your application, you must include in your Section 202 application, a copy of the cover letter sent to the SPOC. Refer to Section IV.D. of this NOFA for additional information on compliance with Executive Order 12372. If you are located in a state that does not have a SPOC, please indicate such. Applicants must also include the nine digit zip code (zip code plus four digits) associated to the applicant address in box 8d of the SF424.

**NOTE:** For Section 202 program purposes, in Item 14, Areas Affected by Project, of SF424, provide the names of the City, County/Parish and State where the project will be located (not the largest political entities as indicated on the instructions page of SF424).

(b) Standard\_Form\_424\_Supplement\_Survey\_on\_Ensuring\_Equal\_Opportunity\_for\_Applicants (Faith\_Based\_EEO\_Survey\_ (SF424SUPP). Although the information on this form will not be considered in making funding decisions, it will assist the federal government in ensuring that all qualified applicants have an equal opportunity to compete for federal funding.

(c) Standard\_Form\_LLL\_Disclosure\_of\_Lobbying\_Activities (if applicable). A disclosure of activities conducted that may influence any federal transactions.

(d) Form HUD2880\_Applicant/Recipient\_Disclosure/Update\_Report, including Social Security and Employee Identification Numbers. A disclosure of assistance from other government sources received in connection with the project.

(e) Form HUD2991\_Certification\_of\_Consistency\_with\_the\_Consolidated\_Plan for the jurisdiction in which the proposed project will be located. The certification must be made by the unit of general local government if it is required to have, or has, a complete Plan. Otherwise, the certification may be made by the State or by the unit of general local government if the project will be located within the jurisdiction of the unit of general local government authorized to use an abbreviated strategy, and if it is willing to prepare such a Plan. All certifications must be made by a public official responsible for submitting the Plan to HUD. The certifications must be submitted as part of the application by the application submission deadline date set forth in the NOFA. The Plan regulations are published in 24 CFR part 91.

(f) Form HUD92041\_Sponsor's\_Conflict\_of\_Interest\_Resolution. A certified Board Resolution that no officer or director of the Sponsor or Owner has or will have any financial interest in any contract with the Owner or in any firm or corporation that has or will have a contract with the Owner, including a current listing of all duly qualified and sitting officers and directors by title and the beginning and ending dates of each person's term.

(g) Form HUD92042, \_Sponsor's\_Resolution\_for\_Commitment\_to\_Project. A certified Board Resolution acknowledging responsibilities of sponsorship, long-term support of the project(s), your willingness to assist the Owner to develop, own, manage and provide appropriate services in connection with the proposed project, and that it reflects the will of your membership. Also, it shall indicate your willingness to fund the estimated start-up expenses, the Minimum Capital Investment (one-half of one-percent of the HUD-approved capital advance, not to exceed \$10,000 or for national Sponsors, not to exceed \$25,000), and the estimated cost of any amenities or features (and operating costs related thereto) that would not be covered by the approved capital advance.

(h) Form HUD2990\_Certification\_of\_Consistency\_with\_the\_RC/EZ/EC-II Strategic\_Plan. A certification that the project is consistent with the RC/EZ/EC-II's strategic

plan, is located within the RC/EZ/EC-II, and serves RC/EZ/EC-II residents. (This certification is not required if the project site(s) will not be located in a RC/EZ/EC-II.)

(i) Form HUD96010\_Program\_Outcome\_Logic\_Model. The information provided in the Logic Model will be used in rating your application for Rating Factor 5, Achieving Results and Program Evaluation. Form HUD96010\_Program\_Outcome\_Logic\_Model must be submitted in Excel format. Logic Models converted to any other format will receive zero points.

(j) Form HUD-2530, Previous Participation Certification. This form must be submitted for the Sponsor and all of the Officers and Directors of the Board of the Sponsor, including any Co-Sponsor, if applicable. This form provides HUD with a certified report of all your previous participation in HUD multifamily housing projects. The information is used to determine if you meet the standards established to ensure that all principal participants in HUD projects will honor their legal, financial, and contractual obligations and are acceptable risks from the underwriting standpoint of an insurer, lender or governmental agency.

(k) Form HUD96011\_Facsimile\_Transmittal ("Facsimile Transmittal Form" on Grants.gov). The form HUD96011 must be used as the coversheet for any facsimile.

**If you are not faxing any documents, you must still complete the facsimile transmittal form.** In the section of the form titled "Name of Document Transmitting," enter the words "Nothing Faxed with this Application." Complete the remaining highlighted fields and enter the number "1" in the section of the form titled "How many pages (including cover) are being faxed?" You must move the form to the right side of the Grants.gov application to open and complete the form. Forms on the right side of the application get uploaded as part of your application submission with the forms getting embedded ID numbers. The embedded ID numbers allow HUD to match your faxes to your application submission. Please refer to the **General Section for a detailed discussion. NOTE:** HUD will not accept entire applications submitted by fax. If you submit the application entirely by fax, it will be disqualified.

**C. Timely Receipt Requirements.** Your completed application must be received Grants.gov no later than 11:59:59 p.m. eastern time on the application deadline date. Following receipt the application will go through a validation process. If the application fails the Grants.gov validation process, it will be rejected. Please see the 2010 **General Section** for instructions for timely receipt, including actions to take if the application is rejected. Applicants should carefully read the section titled "INSTRUCTIONS ON HOW TO DOWNLOAD AND APPLICATION PACKAGE AND APPLICATION INSTRUCTIONS" in the 2010 **General Section**. This section contains information on using Adobe Reader, HUD's timely receipt policies, and other application information.

## **D. Intergovernmental Review.**

**1. State Review.** This funding opportunity is subject to Executive Order (EO) 12372, "Intergovernmental Review of Federal Programs." You must contact your State's Single Point of Contact (SPOC) to find out about and comply with the State's process under EO 12372. The

names and addresses of the SPOCs are listed in the Office of Management and Budget's home page at <http://www.whitehouse.gov/omb/grants/spoc.html>. If required by the State, the submission to the state needs to occur before the Section 202 application deadline date, but in no event later than the application deadline date. It is recommended that you provide the State with sufficient time to review the application. Therefore, it is important that you consult with the SPOC for State review timeframes and take that into account when submitting the application. If the SPOC requires a review of your application, you must include a copy of the cover letter you sent to the SPOC in Exhibit 8(a) of your Section 202 application. If you are located in a State that does not have a SPOC, please indicate that on Exhibit 8(a) of your application.

**2. HUD/RHS Agreement.** HUD and the Rural Housing Service (RHS) have an agreement to coordinate the administration of the agencies' respective rental assistance programs. As a result, HUD is required to notify RHS of applications for housing assistance it receives. This notification gives RHS the opportunity to comment if it has concerns about the demand for additional assisted housing and possible harm to existing projects in the same housing market area. HUD will consider RHS' comments in its review and application selection process.

E. Funding Restrictions.

**1. Ineligible Activities.** Section 202 funds may not be used for:

- a. Nursing homes;
- b. Infirmarys;
- c. Medical facilities;
- d. Mobile homes;
- e. Community centers;
- f. Headquarters for organizations for the elderly;
- g. Residential units without kitchens and/or bathrooms;
- h. Refinancing of sponsor-owned facilities without rehabilitation;
- i. Housing that you currently own or lease that is occupied by elderly persons; and
- j. Projects licensed or to be licensed as assisted living facilities.

**NOTE:** You may propose to rehabilitate an existing currently-owned or leased structure that does not already serve elderly persons, except that the refinancing of any federally-funded or assisted project or project insured or guaranteed by a federal agency is not permissible under this Section 202 NOFA. HUD does not consider it appropriate to utilize scarce program resources to refinance projects that have already received some form of assistance under a federal program.

(For example, Section 202 or Section 202/8 direct loan projects cannot be refinanced with capital advances and project rental assistance.)

**2. Application Limits (Units/Projects).** Refer to Section III.C.3.b., above for information applicable to the limitations on the number of units you may apply for in a single application and the project sizes.

### **3. Development Cost Limits.**

**a.** The following development cost limits, adjusted by locality as described in Section IV.E.3.b. , below must be used to determine the capital advance amount to be reserved for projects for the elderly.

**NOTE:** The capital advance funds awarded for this project are to be considered the total amount of funds that the Department will provide for the development of this project. Amendment funds will only be provided in exceptional circumstances (e.g., but not limited to, increased cost due to litigation, new government regulations or controls, additional requirements imposed by local authorities, or a disaster, as declared by the President of the United States) that are clearly beyond your control. Otherwise, you are responsible for any costs over and above the capital advance amount provided by the Department as well as any costs associated with any excess amenities and design features.

(1) The capital advance amount for the project attributable to dwelling use (less the incremental development cost and the capitalized operating costs associated with any excess amenities and design features and other costs you must pay for) may not exceed:

#### Non-elevator structures:

\$51,739 per family unit without a bedroom;

\$59,655 per family unit with one bedroom;

\$71,944 per family unit with two bedrooms;

#### For elevator structures:

\$54,448 per family unit without a bedroom;

\$62,415 per family unit with one bedroom;

\$75,897 per family unit with two bedrooms

(2) These cost limits reflect those costs reasonable and necessary to develop a project of modest design that complies with HUD minimum property standards; the accessibility requirements of §891.120(b); and the project design and cost standards of §891.120 and §891.210.

**b. Increased development cost limits.**

(1) HUD may increase the development cost limits set forth above, by up to 140 percent in any geographic area where the cost levels require, and may increase the development cost limits by up to 160 percent on a project-by-project basis. This increase may include covering additional costs to make dwelling units accessible through rehabilitation.

**NOTE:** In applying the applicable high cost percentage, the Multifamily Hub Office may use a percentage that is higher or lower than that which is assigned to the Multifamily Hub Office if it is needed to provide a capital advance amount that is comparable to what it typically costs to develop a Section 202 project in that area.

(2) If HUD finds that high construction costs in Alaska, Guam, the Virgin Islands, or Hawaii make it infeasible to construct dwellings, without sacrificing sound standards of construction, design, and livability, within the development cost limits provided in sections IV.E.3.a.(1) and IV.E.3.b.(1), above, the amount of the capital advances may be increased to compensate for such costs. The increase may not exceed the limits established under this section (including any high cost area adjustment) by more than 50 percent.

**4. Commercial Facilities.** A commercial facility for the benefit of the residents may be located and operated in the Section 202 project. However, the commercial facility cannot be funded with the use of Section 202 capital advance or PRAC funds. Commercial facilities are considered public accommodations under Title III of the Americans with Disabilities Act of 1990 (ADA) and thus must comply with all the accessibility requirements of the ADA. See the title III ADA regulation at 28 CFR part 36 for more information on accessibility requirements.

**5. Expiration of Section 202 Funds.** The Consolidated Appropriations Act, 2010 requires HUD to obligate all Section 202 funds appropriated for FY 2010 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 USC Section 1552(a), no capital advance funds can be disbursed from the account after September 30, 2018. The Consolidated Appropriations Act, 2010, provides that amounts for Project Rental Assistance Contracts (PRACs) 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 will 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 current appropriations, if available. Amounts needed to bring a project to completion will also be subjected to the availability of funds.

**F. Other Submission Requirements:**

**1.** Applications under this NOFA must be received electronically through the Federal website Grants.gov, unless a waiver of this requirement is granted in accordance with the instructions below. You must follow the procedures for electronic submission of applications contained in

HUD's General Section unless a waiver for good cause in accordance with HUD's waiver policy of 24 CFR 5.1005 is approved by HUD in accordance with the instructions below. The procedures for electronic submission of applications are published in HUD's General Section.

**2.** Applicants that are unable to submit their application electronically must seek a waiver of the electronic grant submission requirement. Waiver requests must be on the applicant's letterhead, signed by an official with the legal authority to request a waiver from the Department and be submitted by mail, fax, or email. Waiver requests must be submitted no later than 15 days prior to the application deadline date and must be submitted in accordance with the following requirements:

- a.** Mailed Requests. A mailed request must be sent to David H. Stevens, Assistant Secretary for Housing--Federal Housing Commissioner, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9100, Washington, DC 20410-8000;
- b.** Faxed requests must be sent to (202) 708-3104. This is not a toll-free number; or
- c.** Electronic Mail Requests. An email request must be sent to the attention of Aretha.M.Williams@hud.gov.

If a waiver is granted, you must submit the original and four (4) copies of your application to the Director of the appropriate Multifamily Hub Office, and **the application must be received no later than that HUD Office's close of business on the application deadline date**. There is no grace period. The waiver approval notification will identify the appropriate HUD office where the application should be submitted and the required number of copies that must be submitted. Paper applications will not be accepted from applicants that have not been granted a waiver.

**3. Special Instructions for Section 202 Applications That Will Have More Than One Applicant, i.e., Co-Sponsors.** The applicants must designate a single individual to act as the authorized representative for all co-Sponsors of the application. The designated authorized representative of the organization submitting the application must be registered with Grants.gov, the Federal Central Contractor Registry and with the credential provider for E-Authentication. Information on the Grants.gov registration process is found in the General Section. When the application is submitted through Grants.gov, the name of the designated authorized representative will be inserted into the signature line of the application. Please note that the designated authorized representative must be able to make legally binding commitments for each co-Sponsor to the application.

Each co-Sponsor must complete the documents required of all co-sponsoring organizations to permit HUD to make a determination on the eligibility of the co-Sponsor(s) and the acceptability of the application based on the assistance and commitments the co-Sponsor(s) has pledged to the project. Each co-Sponsor must submit the following information using the scanning and/or faxing method described in the **General Section**: Standard Form424\_Application\_for\_Federal\_Assistance (Applicants must also include the nine digit zip code (zip code plus four digits) associated to the applicant address in box 8d of the SF424);

Standard Form 424\_Supplement\_Survey\_on\_Ensuring\_Equal\_Opportunity\_for\_Applicants; Standard Form LLL\_Disclosure\_of\_Lobbying\_Activities (if applicable); Form HUD92015CA\_Section\_202\_Application\_for\_Capital\_Advance\_Summary\_Information; Form HUD92041\_Sponsor's\_Conflict\_of\_Interest\_Resolution; and Form HUD92042\_Sponsor's\_Resolution\_for\_Commitment\_to\_Project. The forms identified above are discussed in the Program instructions package and can be downloaded from Grants.gov under the program application download at [www.Grants.gov](http://www.Grants.gov). The downloaded and completed forms should be saved as separate electronic files and attached to the electronic application submission following the requirements of Section IV.

As stated in the **General Section** as well as Section IV , above, scanning documents to create electronic files increases the size of the file. If your computer has the capacity to upload scanned documents, submit your documents with the application by using the Attachment Form in the Mandatory or Optional Forms section of the application. Such documents must be saved according to the instructions provided in the General Section and attached using the “Attachment” form included in the application package downloaded from Grants.gov. Electronic files must be labeled and numbered according to the appropriate Exhibit in order for HUD reviewers to identify the file and its contents. If the applicant is creating an electronic file, the file should contain a header that identifies the name of the Sponsor submitting the electronic application, that Sponsor's DUNS number, and the unique ID that is found at the top of the Facsimile Transmission form found in the electronic application package. The naming convention for each electronic file should correspond to the labeling convention used in the application Table of Contents found in Section IV.B.1., above and the General Section. For example, the organizational documents of a co-Sponsor would be included under Part II, Exhibit 2(a) of the Section 202 application. Please be sure that you eliminate any spaces or special characters such as parentheses or periods when naming the files or else they will be rejected by the Grants.gov system with a virus detect message.

Third party letters, certifications requiring signatures, and other information required to be submitted with the electronic application may be scanned or transmitted via fax using Form HUD96011\_Facsimile\_Transmittal found in the downloaded application package. Applicants should only use the fax method when documents cannot be attached to the electronic application package or when the size of the submission is too large to upload from the applicant's computer. Please note that the facsimile transmittal form, found in the downloaded application, contains an embedded ID number that is unique to your application submission. Make a copy of this facsimile transmittal cover page and provide that copy to the third party for use with the fax transmission. Co-Sponsors should use the form HUD96011 provided by the Sponsor that is submitting the electronic application. The submitting Sponsor should fill in the SF424 form prior to giving the Form HUD96011 to the co-Sponsors. By following these directions, the Form HUD96011 will be pre-populated with the submitting Sponsor's organizational information exactly as the submitting Sponsor has provided it on the electronic application. In addition, HUD will be using the unique identifier associated to the downloaded application package as a means of matching the faxes submitted with the applications received via Grants.gov. The Facsimile Transmittal form also has space to provide the number of pages being faxed and



information on the type of document. Co-Sponsors or the submitting applicant can insert the document name in the space labeled Program Component.

**NOTE:** Do not insert any additional or other cover pages as it will cause problems in electronically matching the pieces of the application. See the **General Section** for further instructions.

**If you are not faxing any documents:** Even though you are not faxing any documents, you must still complete the facsimile transmittal form. In the section of the form titled “Name of Document Transmitting,” enter the words “Nothing Faxed with this Application.” Complete the remaining highlighted fields and enter the number “1” in the section of the form titled “How many pages (including cover) are being faxed?”

## **V. Application Review Information:**

### **A. Criteria.**

Rating Factors. HUD will rate applications that successfully complete technical processing using the Rating Factors set forth below and in accordance with the application requirements in this NOFA. The maximum number of points an application may receive under this program is 102. This includes five (5) Policy Priority points and two (2) RC/EZ/EC-II bonus points, as described in the **General Section** and Section V.A.6., below.

#### **1. Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (23 Points)**

This factor addresses the extent to which you have the experience and organizational resources to successfully implement the proposed activities in a timely manner. Submit information responding to this factor in accordance with Application Requirements in Exhibits 3(a), 3(b), 3(e), 5 and 6 of Section IV.B., above. In rating this factor, HUD will consider the extent to which your application demonstrates your ability to develop and operate the proposed housing on a long-term basis, considering the following:

**a. (15 points).** The scope, extent, and quality of your experience in providing housing and related services to those proposed to be served by the project and the scope of the proposed project (i.e., number of units, services, relocation costs, development, and operation) in relationship to your demonstrated development and ownership capacity as well as your financial management capability. In the case of co-sponsored applications, the rating will be based upon the most experienced of the co-sponsors in the area under review.

**(1) (10 points)** The scope, extent, and quality of your experience in providing housing to those proposed to be served by the project and the scope of the proposed project in relationship to your demonstrated development and ownership capacity. To earn the maximum number of points you must have experience in developing and owning housing projects as complex in number of units, financial structure (e.g. mixed finance), building type, and quality of the proposed project.

(2) **(5 points).** The scope, extent and quality of your experience in providing supportive services to those proposed to be served by the project (i.e., number of units, services and operation) in relationship to your demonstrated management capacity to provide a range of services in accordance with the needs of the population served.

**b. (8 points).** The scope, extent and quality of your experience in providing housing and related services to minority persons or minority families and your ties to the community at large and to the minority and elderly communities in particular.

(1) **(2 points).** The scope, extent, and quality of your experience in providing housing to minority persons or minority families.

(2) **(1 point).** The scope, extent, and quality of your experience in providing services to minority persons or minority families.

(3) **(5 points).** The scope, extent, and quality of your ties to the community at large.

To earn the maximum number of points under sub-criteria (b)(1) and (b)(2), above, you must describe significant previous experience in providing housing and supportive services to minorities generally and to minority elderly in particular. For the purpose of this competition, ‘significant previous experience’ is defined under Exhibit 3, subsection (b) above. To earn the maximum number of points under sub-criterion (b)(3), above, you should submit materials that demonstrate your efforts to make housing available to the community at large and the minority and elderly communities in particular and your relationships over time with the minority and elderly communities. Please submit copies of your past affirmative marketing plan and the advertising/outreach materials you utilized to attract minority communities (including LEP communities), elderly communities, and the community at large, as specified under Exhibit 3, subsection (b) above.

**NOTE:** The allocation of points for affirmatively furthering fair housing in no way changes the statutory and regulatory requirement of every applicant to affirmatively further fair housing. The same holds for statutory and regulatory fair housing and accessibility requirements.

**c. (-5 to -7 points). Past Performance – Delays.** HUD will deduct (except if the delay was beyond your control) 5 points if a fund reservation you received under either the Section 202 Program of Supportive Housing for the Elderly or the Section 811 Program of Supportive Housing for Persons with Disabilities in FY 2005 or later has been extended beyond 24 months, 6 points if beyond 36 months, or 7 points if beyond 48 months. Examples of such delays beyond your control include, but are not limited to, initial closing delays that are:

(1) directly attributable to HUD,

(2) directly attributable to third party opposition, including litigation, and

(3) due to a disaster, as declared by the President of the United States.

**d. (-5 to -10 points). Past Performance – Amendments.** HUD will deduct from 5 points to 10 points if HUD amendment money was required in connection with a fund reservation you received under either the Section 202 Program of Supportive Housing for the Elderly or the Section 811 Program of Supportive Housing for Persons with Disabilities in FY 2005 or later based on the following. No points will be deducted if the need for amendment funds was due to unforeseen circumstances beyond your control.

**NOTE:** Examples of unforeseen circumstances outside of your control includes, but are not limited to, increased cost due to litigation, new government regulations or controls, additional requirements imposed by local authorities, or a disaster, as declared by the President of the United States.

(1) **(-5 points).** The amount of the amendment money required was **equal to 20 percent and less than 30 percent** of the original capital advance amount approved by HUD.

(2) **(-6 points).** The amount of the amendment money required was equal to 30 percent **and less than 35 percent** of the original capital advance amount approved by HUD.

(3) **(-7 points).** The amount of amendment money required was **equal to 35 percent and less than 40 percent** of the original capital advance amount approved by HUD.

(4) **(-8 points).** The amount of amendment money required was **equal to 40 percent and less than 45 percent** of the original capital advance amount approved by HUD.

(5) **(-9 points).** The amount of amendment money required was **equal to 45 percent and less than 50 percent** of the original capital advance amount approved by HUD.

(6) **(-10 points).** The amount of the amendment money required was **equal to or over 50 percent** of the original capital advance amount approved by HUD.

## **2. Rating Factor 2: Need/Extent of the Problem (12 Points)**

This factor addresses the extent to which there is a need for funding the proposed activities to address a documented problem in the target area. Submit information responding to this factor in accordance with Application Requirements in Exhibits 4(a) and 4(b) of Section IV.B., above. HUD will take into consideration the extent of the need for the project in the area based on a determination by the Multifamily Hub Office. In making this determination, HUD will consider your evidence of need in the area, as well as other economic, demographic, and housing market data available to the Multifamily Hub Office. The data should include but are not limited to:

- a general assessment of the current conditions in the market for the type of housing proposed,

- an estimate of the demand for additional housing of the type proposed in the applicable housing market area,
- information on the numbers and types of existing comparable Federally assisted housing units for the elderly (HUD and RHS) and current occupancy in such housing and recent market experience,
- comparable assisted housing for the elderly under construction or for which fund reservations have been issued, and
- in accordance with an agreement between HUD and RHS, comments from RHS on the demand for additional comparable subsidized housing and the possible harm to existing projects in the same housing market areas.

The Department will also review applications to ensure they establish a connection between the proposed project and the community's Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues and is prepared by a local planning or similar organization. The Department will review applications more favorably depending on how well this connection is made. You must show how your proposed project will address an impediment to fair housing choice described in the AI or meet a need identified in the other type of planning document.

For all Section 202 projects that are determined to have sufficient demand, HUD will rate your application based on the ratio of the number of units in the proposed project to the estimate of unmet need for housing assistance by the income eligible elderly households with selected housing conditions, expressed as a percent. Unmet need is defined as the Units in the proposed project divided by the number of very low-income elderly one-person renter households age 75 and older with housing conditions, as of the 2000 Census, minus the number of project-based subsidized rental housing units (HUD, RHS, LIHTC, or any state or local subsidized program) that are affordable to very low-income elderly provided in the area since 1999. **Note:** The analysis is conducted at the county level. Units to be occupied by resident managers are not counted.

In evaluating this factor HUD will consider the following:

**a. (10 points). Ratio of Units to Unmet needs (expressed as a percent).**

**NOTE:** Percentage calculations will round the decimal number to the nearest tenth (e.g. 5.56 percent will be rounded to 5.6 percent and 5.44 percent will be rounded to 5.4 percent).

- (1) **(10 points)** The project has an unmet needs ratio of greater than or equal to 0.0 percent and less than or equal to 0.25 percent;
- (2) **(9 points)** The project has an unmet needs ratio of greater than 0.25 percent and less than or equal to 0.5 percent;

- (3) **(8 points)** The project has an unmet needs ratio of greater than 0.5 percent and less than or equal to 1.0 percent;
- (4) **(7 points)** The project has an unmet needs ratio of greater than 1.0 percent and less than or equal to 1.5 percent;
- (5) **(6 points)** The project has an unmet needs ratio of greater than 1.5 percent and less than or equal to 2.5 percent;
- (6) **(5 points)** The project has an unmet needs ratio of greater than 2.5 percent and less than or equal to 5.0 percent;
- (7) **(4 points)** The project has an unmet needs ratio of greater than 5.0 percent and less than or equal to 7.5 percent;
- (8) **(3 points)** The project has an unmet needs ratio of greater than 7.5 and less than or equal to 10.0 percent;
- (9) **(2 points)** The project has an unmet needs ratio of greater than 10.0 and less than or equal to 12.5 percent;
- (10) **(1 point)** The project has an unmet needs ratio of greater than 12.5 and less than or equal to 15.0 percent; or
- (11) **(0 points)** The project has an unmet needs ratio of greater than 15.0 percent **OR** less than 0.0 percent.

**b. (2 points).** The extent that a connection has been established between the project and the community's Consolidated Plan, Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues and is prepared by a local planning or similar organization.

### **3. Rating Factor 3: Soundness of Approach (49 Points)**

This factor addresses the quality and effectiveness of your proposal, including access to transit and amenities, provision of supportive services, the extent to which you involved elderly persons including elderly minority persons, in the development of the application and will involve them in the development and operation of the project, and whether you will undertake green development in the design, construction, rehabilitation, and operation of the proposed housing. There must be a clear relationship between your proposed design, proposed activities, the community's needs and purposes of the program funding for your application to receive points for this factor. Submit information responding to this factor in accordance with Application Requirements in Exhibits 3(b), 3(d), 3(e), 3(f), 3(g), 3(j), 4(c)(i), 4(c)(ii), 4(d)(iii), 4(d)(v), 4(d)(vi), and 5 of Section IV.B., above. In evaluating this factor, HUD will consider the following:

**a. (15 points).** The proximity or accessibility of the site to services and amenities.

**(1) (7 points). Transit-Served Location.** Reliable and accessible public transportation is available by private door-to-door shuttle/van service and/or a conveniently located transit stop(s). Up to 7 points will be awarded according to the following criteria:

(a) Distance: a project site located within a ¼ mile walking distance of a transit stop will receive 2 points; or a project site located within a ½ mile walking distance of a transit stop will receive 1 point.

(b) Availability: Sites with more than 1 public transit line with a transit stop located within ¼ mile will receive 2 points.

(c) Frequency: Evidence that the available transit lines provides a minimum of 40 daily trips will receive 3 points; or transit lines providing a minimum of 20 daily trips will receive 2 points. Trips may be counted in both directions.

OR;

(d) Evidence of a private door-to-door shuttle/van service available on a daily basis to the project site will receive 7 points.

**(2) (8 points). Amenity-Served Locations.** To earn points, the site must be within one-half mile walking distance of amenities that are appropriate to the elderly. Applicants must provide a map and photograph identifying each amenity. Points will be awarded to project sites in proximity to the following categories of amenities:

**(NOTE:** Under sub-criteria (b) and (c) a particular type of an identified amenity may not received more than 1 point under the applicable category.)

(a) Grocery Store such as a supermarket or other store that sells produce and meat products will receive 3 points.

(b) Social Services Facilities such as a licensed adult or senior care, hospital, medical clinic or social service organization that offers services relevant to the elderly will receive 2 point.

(c) Up to 3 points may be awarded for (1) Neighborhood-serving amenities such as an apparel store, convenience store, pharmacy, bank, hair care, dry cleaners, and restaurant; (2) Recreational Facilities such as a community or senior center, gym, health club, or family entertainment venue; and/or (3) Civic Facilities such as a government office that serves the public on-site, an educational facility providing adult education classes, place of worship, police or fire station, post office, public library, or public park.

**b. (5 points). Affirmatively Furthering Fair Housing.** This sub-rating factor addresses the quality and effectiveness of your proposal to provide housing and supportive services in such a way as to remedy barriers to fair housing for elderly low-income residents of the community. The application should demonstrate how the proposed project will address one or more impediments identified in the applicable local community's Analysis of Impediments to Fair Housing Choice (AI), increasing fair housing choice regardless of race, color, national origin, religion, sex, familial status, and disability and what activities applicant will take to AFFH. Fair Housing encompasses a variety of issues that should be addressed in this factor. In evaluating all aspects of this factor, actions that are comprehensive, innovative, and likely to become models for "best practices" will be awarded the most points. The following affirmative fair housing activities must be addressed:

(1) **(1 point). Limited English Proficiency (LEP).** You will receive one point for LEP if you demonstrate that you have conducted a four factor analysis of language needs for the jurisdiction(s) you serve, have implemented a language implementation plan for written and oral language interpretation, have trained your staff members on LEP, and translated vital documents in target language(s).

(2) **(2 points). Affirmative Fair Housing Marketing.** You must describe past strategies to reach persons that are least likely to apply for the housing, and address planned improvements in the manner specified in Exhibit 4(e).

(3) **(2 points). Site and Neighborhood Standards.** You must choose a site location that provides desirable housing to residents in the manner specified in Exhibit 4(e) and below. The suitability of the site from the standpoint of promoting a greater choice of housing opportunities for minority elderly persons/families and affirmatively furthering fair housing. In reviewing this criterion, HUD will assess whether the site meets the site and neighborhood standards at 24 CFR 891.125(b) and (c) by examining relevant data in your application or in the Multifamily Hub Office. Where appropriate, HUD may visit the site.

(1) The site will be deemed acceptable if it increases housing choice and opportunity by expanding housing opportunities in non-minority neighborhoods (if located in such a neighborhood). The term "non-minority area" is defined as one in which the minority population is lower than 10 percent. If the site will be in a minority neighborhood, the site will be deemed acceptable if it contributes to the revitalization of and reinvestment in the minority neighborhood, including improvement of the level, quality and affordability of services furnished to minority elderly. You should refer to the Site and Neighborhood Standards provisions of the regulations governing the Section 202 Supportive Housing for the Elderly program (24 CFR 891.125(b) and (c)) when considering sites for your project.

(2) For the purpose of this competition, the term "minority neighborhood (area of minority concentration)" is defined as one where any one of the following statistical conditions exists:

(a) The neighborhood's percentage of persons of a particular racial or ethnic minority is at least 20 percentage points higher than the percentage of that particular racial or ethnic minority in the housing market area.

(b) The neighborhood's total percentage of minority persons is at least 20 percentage points higher than the total percentage of minorities in the housing market area; or

(c) In the case of a metropolitan area, the neighborhood's total percentage of minority persons exceeds 50 percent of its population.

**c. (2 points).** The extent to which your proposed design will meet the special physical needs of elderly persons.

**d. (2 points).** The extent to which the proposed size and unit mix of the housing will enable you to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion.

**e. (1 point).** The extent to which the proposed design of the housing will accommodate the provision of supportive services including for those aging-in-place that are expected to be needed, initially and over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve.

**f. (4 points).** The extent to which the proposed supportive services meet the identified needs of the anticipated residents, and the extent to which the identified supportive services will be provided on a consistent, long-term basis to support residents as they age in place. To receive the maximum 4 points, you must submit [an](#) MOU between you and the service provider(s) that demonstrates that the organization(s)/agency(s) will follow through with their commitment.

**g. (1 point).** The extent to which your project will implement practical solutions that will assist residents in achieving independent living, educational opportunities, and improved living environments. Practical solutions may include, but are not limited to, activities that will improve access to educational, employment, and health resources and that will support residents as they age in place.

**h. (1 point).** The extent to which the proposed design incorporates visitability standards and/or universal design in the construction or rehabilitation of the project. Refer to the Exhibit 4(c)(i) of this program NOFA for further information.

**i. (1 point).** Your involvement of elderly persons in the area of the project, particularly minority elderly persons, in the development of the application and your intent to involve elderly persons, particularly minority elderly persons, in the development and operation of the project.

**j. (4 Policy Priority points). Green Development.** The extent to which you describe and firmly commit to a comprehensive plan to undertake green development in the design, construction, rehabilitation, and operation of the proposed housing. **NOTE:** As detailed in the General Section, HUD is encouraging applicants to undertake programs and projects that align



with HUD's Strategic Plan and its cross-cutting departmental Policy Priorities. Although this is not a requirement, to receive up to 4 point, under HUD's Policy Priority Number 2, "Sustainability", you must commit to fully utilizing one of the recognized green building standards. Please refer to the [General Section](#) for a listing of the recognized green rating programs. If successful, you are required to be certified under the standard that you have selected. You will receive zero points if you do not commit to an identified standard and if your plan does not evidence your efforts and understanding of the process necessary to build to the identified standard (see Section III.C.4.a. of this NOFA on Logic Model requirements associated with this Policy Priority).

**k. (11 points). Readiness.** To receive the maximum points available, the project must have received all discretionary approvals (building permits are not considered discretionary approvals), have completed initial architectural design work, have a budget showing that necessary sources of funds have been identified to cover all costs, a site in which either a plan to clean-up contamination is not necessary or a clean-up plan of contamination that has been submitted by the applicant has included federal or State approvals, and a site in which there are no major environmental impacts or environmental impacts that require regulatory compliance.

(1) **(6 points).** Evidence that the project, as proposed, is permissible under applicable zoning ordinances or regulations and does not require discretionary action from a governing body such as rezoning, variances, special or conditional use permits, design review, or any other land use approval, OR

**(4 points).** Evidence that the project, as proposed, is permissible under applicable zoning ordinances or regulations and does not require discretionary action from a governing body such as rezoning, variances, special or conditional use permits, or any other land use approval, OR

**(2 points).** Evidence that the project as proposed, is permissible under applicable zoning ordinances or regulations but requires other discretionary approvals.

(2) **(2 points).** A letter from a licensed architect that a set of schematic plans and outline specs acceptable to HUD's standard (see Section IV.D.3.a.(2) of this NOFA) have been completed. Plans must include landscape and utility design, building design, unit layout, materials and colors for all elevations and preliminary definitions of all systems serving the project.

(3) **(2 points).** A detailed budget identifying sources and uses which indicates that all resources necessary to cover the cost of the project (including any required off-site infrastructure costs, environmental clean-up costs, and any commercial space proposed) have been committed (other than tax credit equity commitments or Federal Home Loan Bank AHP funds). The budget should be based upon a construction cost estimate performed by a professional cost estimator with itemized sources of funds to cover costs.

(4) **(1 point).** Provide “will serve” letters from all utility providers for water, sewer, gas, and electric) indicating that sufficient capacity exists to serve the proposed project.

(5) **(-2 points).** HUD will deduct 2 points if HUD’s preliminary environmental review determines that there are obvious adverse environmental conditions and appropriate mitigation of such does not appear to be achievable within 6 months of the fund reservation date.

**l. (1 point). Section 3.** As noted in Section III.C.3.h., you must comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and its implementing regulations at 24 C.F.R. part 135. Specifically, you are required to ensure, to the greatest extent feasible, that training, employment and other economic opportunities will be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing, and to business concerns that provide economic opportunities to low- and very-low income persons in the area in which the project is based. The extent to which you describe: the number of new employment opportunities you anticipate will be created during the proposed project/activities; the type and amount of contracting opportunities that will be generated during the proposed project/activities; how Section 3 residents and business concerns will be targeted for these opportunities; efforts you intend to take to facilitate the employment and/or awarding of contracts to these individuals; processes that will be used to ensure contractor compliance; and staff persons responsible for ensuring compliance with this requirement. To receive this point, you must address this requirement in your application submission.

**m. (1 Policy Priority point). Job Creation/Employment.** As explained in the General Section and in Section III.C.4 of this NOFA, under the Job Creation/Employment policy priority, HUD seeks to fund sponsors that undertake activities that sustain economic development in low-income communities and create jobs for low-income populations and communities. The activities must be more comprehensive and exceed those required under HUD’s Section 3 requirements. To receive one policy priority point you must describe the number and type of activities that will expand job creation and other economic opportunities and how those activities will increase economic security and self-sufficiency for low- and very-low income persons in the area in which the project is based. The description must address the extent to which the activities that you undertake are focused on improved access to skills training, building and strengthening of partnerships with community-based organizations, and increased collaborating with federal, state, and local entities. The description should specifically address how the activities you intend to undertake will lead to sustainable economic opportunities for low-income populations and communities on a long term basis and how those activities will be supported (see Section III.C.4.b. of this NOFA on Logic Model requirements associated with this Policy Priority).

#### **4. Rating Factor 4: Leveraging Resources (6 Points)**

This factor addresses your ability to secure other funding sources and community resources that can be combined with HUD's program resources to achieve program purposes. Submit information responding to this factor in accordance with Application Requirements in Exhibits 3(a), 3(c), 4(c)iii and 5(b) of Section IV.B., above. For each commitment document, HUD will evaluate the commitment for completeness and add the amounts that are acceptably

documented. **NOTE:** Percentage calculations will be rounded to the nearest whole number (e.g. 5.5 percent will be rounded to 6 percent and 5.4 percent will be rounded to 5 percent).

**a. (1 point).** The application contains written evidence of firm commitments towards the development of the proposed project (including financial assistance, donation of land, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals between **3 percent and 5 percent** of the capital advance amount as determined by HUD.

**b. (2 points).** The application contains written evidence of firm commitments toward the development of the proposed project (including financial assistance, donation of land, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals between **6 percent and 10 percent** of the capital advance amount as determined by HUD.

**c. (3 points).** The application contains written evidence of firm commitments toward the development of the proposed project (including financial assistance, donation of land, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals between **11 percent and 15 percent** of the capital advance amount as determined by HUD.

**d. (4 points).** The application contains written evidence of firm commitments toward the development of the proposed project (including financial assistance, donation of land, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals between **16 percent and 25 percent** of the capital advance amount as determined by HUD.

**e. (5 points).** The application contains written evidence of firm commitments toward the development of the proposed project (including financial assistance, donation of land, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals between **26 percent and 30 percent** of the capital advance amount as determined by HUD.

**f. (6 points).** The application contains written evidence of firm commitments toward the development of the proposed project (including financial assistance, donation of land, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals **over 30 percent** of the capital advance amount as determined by HUD.

## **5. Rating Factor 5: Achieving Results and Program Evaluation (10 Points)**

This factor reflects HUD's goal to embrace high standards of ethics, management and accountability and, as such, evaluates whether you have an effective, quantifiable, outcome-oriented evaluation plan for measuring your performance. This factor requires that you develop clear outputs and outcomes that measure your performance during the development of your project. Information provided in Exhibit 8(i), Form\_HUD96010\_Program\_Outcome\_Logic\_Model, as

well as the Assessment Matrix will be used when reviewing and scoring this factor.

Form\_HUD96010\_Program\_Outcome\_Logic\_Model must be submitted in Excel format. Logic Models converted to any other format will receive zero points. Submit information responding to this factor in accordance with Application Requirements in Exhibits 3(a), 3(b), 3(e), 3(f), 3(g), 3(h), 4(c), 4(d)(iii) and 8(i) of Section IV.B., above.

**a. (10 points).** The extent to which your Logic Model demonstrates your full understanding of the development process and will, therefore, result in the timely development of your project. The following sub-rating factors reflect the criteria for review as identified in the logic model matrix found in the General Section:

(1) **(3 points).** The extent to which the services/activities identified in your Logic Model are consistent with the information provided in your application as well as the extent to which you demonstrate your full understanding of the activities that must be accomplished in order to develop your project within the required timeframe.

(2) **(3 points).** The extent to which the outcomes identified in your Logic Model are consistent with the services/activities that must be accomplished in order to get the project to initial closing within the 18-month fund reservation period, completion of the project, and to final closing.

(3) **(3 points).** The extent to which your projected measures show a realistic understanding of the development process resulting in a timely initial closing, start of construction, and final closing.

(4) **(1 point).** The extent to which the evaluation tools selected in your Logic Model are consistent with the project described.

**6. Bonus Points (2 bonus points).** Location of proposed site in an RC/EZ/EC-II area, as described in the **General Section**. Submit the information responding to the bonus points in accordance with the Application Requirements in Exhibit 8(h) of Section IV.B., above.

## **B. Reviews and Selection Process**

**1. Review for Curable Deficiencies.** Upon receipt of the application by HUD staff, HUD will screen all applications to determine if there are any curable deficiencies. For applicants receiving a waiver to submit a paper application, submitting fewer than the required **original and four copies** of the application is not a curable deficiency and will cause your application to be considered non-responsive to the NOFA and returned to you. A curable deficiency is a missing Exhibit or portion of an Exhibit that will not affect the rating of the application. Refer to the **General Section** for additional information regarding procedures for corrections to deficient applications. In addition to the examples provided in the General Section, a curable deficiency for those items that do not affect score (as noted above) will exist when: (1) there are no documents associated with a particular exhibit; (2) the exhibit contains missing pages; or (3)

documents submitted are wholly unrelated to what the exhibit requires. The following is a list of the only deficiencies that will be considered curable in a Section 202 application:

| <u><b>CURABLE EXHIBIT</b></u>                                                                                   | <u><b>DESCRIPTION</b></u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1                                                                                                               | Form 92015CA (Application Form)*                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 2(a)<br>(b)<br>(c)                                                                                              | Articles of Incorporation*<br>By-laws*<br>IRS tax exemption ruling*                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 4(c)(v)<br>4(d)(i)(A)<br>4(d)(i)(B)<br>4d(i)(C)<br>4(d)(i)(F)<br>4(d)(ii)<br>4(d)(iv)<br>4(d)(viii)<br>4(d)(ix) | Description of mixed-financing plans for additional units, if applicable<br>Deed or long-term leasehold;<br>Contract of sale;<br>Option to purchase or for a long-term leasehold;<br>Evidence that the public body possesses clear title & binding agreement<br>Evidence site is free of limitations, restrictions or reverters<br>Evidence of compliance with URA site notification requirement<br>Asbestos Statement or Survey<br>Letter to the State/Tribal Historic Preservation Officer<br>(SHPO/THPO) and a statement that the SHPO/THPO failed to respond<br>OR the Letter from the SHPO/THPO |
| 7                                                                                                               | Relocation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 8(a)<br>(b)<br>(c)<br>(d)<br>(e)<br>(f)                                                                         | Letter sent to the State Point of Contact (SPOC)*<br>Standard Form 424 Supplement_Survey on Ensuring Equal Opportunity for Applicants<br>Standard Form LLL_Disclosure_of_Lobbying_Activities, if applicable<br>Form HUD2880_Applicant_Recipient Disclosure_Update_Report<br>Form HUD2991_Certification_of_Consistency_with_Consolidated_Plan<br>Form-HUD92041_Sponsor's_Conflict_of_Interest_Resolution<br>Form HUD92042_Sponsor's_Resolution_for_Commitment_to_Project*<br>Form HUD-2530, Previous Participation Certification                                                                      |

The items identified by an asterisk (\*) must be dated on or before the application deadline date.

HUD will notify you in writing if your application is missing any of the above exhibits or portions of exhibits and will provide you with a specified deadline to submit the information required to cure the noted deficiencies. Your response to a curable deficiency notification may only be submitted directly to HUD via facsimile using the form HUD96011 from your electronically submitted application or by email for those applicants that received a waiver of the electronic application submission requirement, no later than 14 calendar days from the date of HUD's written notice. If an Exhibit or portion of an Exhibit listed above as curable is not discovered as missing until technical processing, HUD will provide you with a deadline to cure the deficiency.

**2. Rating.** HUD Multifamily Hubs will review and rate your application in accordance with the Reviews and Selection Process in the **General Section** except as described in “3. Appeal Process” found below. Your application will be either rated or technically rejected at the end of technical review. If your application meets all program eligibility requirements after completion of technical review, including HUD approval of you, the Section 202 applicant, based on HUD’s evaluation of your previous participation activities as reported on Form HUD-2530, Previous Participation Certification, it will be rated according to the rating factors in Section V.A., above.

**3. Appeal Process.** HUD will not reject your application based on technical review without notifying you of the rejection with all the reasons for rejection and providing you an opportunity to appeal. You will have 14 calendar days from the date of HUD's written notice to appeal a technical rejection to the local Multifamily Hub Office. In HUD’s review of any appeal, it should be noted that in conformance with its regulations at 24 CFR part 4, subpart B, HUD will not consider any unsolicited information that you, the applicant, may want to provide. The local Multifamily Hub Office will make a determination on any appeals before making its selection recommendations.

**4. Ranking and Selection Procedures.** 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 **General Section** and this NOFA will be eligible for selection. The local Multifamily Hub Office will place applications in rank order per metropolitan or nonmetropolitan allocations. These applications, after adding any bonus points for RC/EZ/EC-II, will be selected 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 application 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.

Funds remaining after the Multifamily Hub selection process is completed will be returned to Headquarters. HUD Headquarters will use these residual funds first to restore units to projects reduced by HUD Multifamily Hubs as a result of the instructions for using their remaining funds. Second, HUD Headquarters will use these funds for selecting applications based on Multifamily Hubs’ rankings, beginning with the highest rated application nationwide. However, after restoring units to projects where necessary, priority will be given to those applications for projects in non-metropolitan areas, if necessary 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. This process

will continue until all approvable applications are selected using the available remaining funds. HUD Headquarters may skip over a higher-rated application in order to use as much of the available remaining funds as possible.

**5. Funding Error.** In the event HUD commits an error that, when corrected, would have resulted in the selection of an otherwise eligible applicant during the funding round of this NOFA, HUD may select that applicant, subject to the availability of funds.

## **VI. Award Administration Information**

### **A. Award Notices.**

**1. Agreement Letter.** If you are selected to receive a Section 202 fund reservation, you will receive an Agreement Letter that stipulates the terms and conditions for the Section 202 fund reservation award as well as the submission requirements following the fund reservation award. The duration of the fund reservation award for the capital advance is 18 months from the date of issuance of the fund reservation. Please note the environmental stipulations that will be included in all Section 202 agreement letters pursuant to Sections III.C.3.f.4 and III.C.3.f.5, above, as well as any conditions specifying actions to be undertaken for environmental approval of the site.

All Owners are required to register in the Central Contractor Registry (CCR) and obtain a Data Universal Numbering System (DUNS) number before funds can be disbursed to that entity. The DUNS number must be provided on all financial/banking documents sent to HUD. If the DUNS number is not included on such documents, HUD will not process the action(s) and the document(s) will be returned.

Immediately upon your acceptance of the Agreement Letter, you are expected to begin work towards the submission of a Firm Commitment Application, which is the next application submission stage. You are required to submit a Firm Commitment Application to the Multifamily Hub Office within 180 days from the date of the Agreement Letter. Initial closing of the capital advance and start of construction of the project are expected to be accomplished within the duration of the fund reservation award. Final closing of the capital advance is expected to occur no later than six months after completion of project construction.

**2. Non-Selection Letter.** If your application is approvable but unfunded due to insufficient funds or receives a rating that is below the minimum threshold score established for funding eligibility, you will receive a letter to this effect.

**3. Debriefing.** Refer to the **General Section** for further information regarding debriefings, except that the request for a debriefing must be made to the Director of Multifamily Hub Office in the appropriate local office.

**4. Code of Conduct.** After selection, but prior to award, applicants selected for funding will be required to provide HUD with their written Code of Conduct if they have not previously done so

and it is not recorded on the HUD website at [www.hud.gov/offices/adm/grants/codeofconduct/cconduct.cfm](http://www.hud.gov/offices/adm/grants/codeofconduct/cconduct.cfm)

## **B. Administrative and National Policy Requirements:**

**1. Ensuring the Participation of Small Businesses, Small Disadvantaged Businesses, and Women-Owned Businesses.** Although the Section 202 program is not subject to the provisions of 24 CFR 85.36(e) as described in the corresponding paragraph in the **General Section**, you are required to comply with Executive Order 12432, Minority Business Enterprise Development and Executive Order 11625, Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise as they relate to the encouragement of HUD grantees to utilize minority business enterprises.

**2. Acquisition and Relocation.** You must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (49 CFR part 24, and 24 CFR 891.155(e)) (URA), which covers the acquisition of sites, with or without existing structures, and with 24 CFR 8.4(b)(5) of the Section 504 regulations which prohibits the selection of a site or location of a federally assisted facility which has the purpose or effect of excluding persons with disabilities from denying them the benefits of, or otherwise subjecting them to discrimination under the Federally assisted program activity. However, you are exempt from complying with the site acquisition requirements of the URA if you do not have the power of eminent domain and prior to entering into a contract of sale, option to purchase or any other method of obtaining site control, you inform the seller of the land in writing (a) that you do not have the power of eminent domain and, therefore, you will not acquire the property if negotiations fail to result in an amicable agreement, and (b) of the estimate of the fair market value of the property. An appraisal is not needed to meet this requirement; however, your files must include an explanation (with reasonable evidence) of the basis for the estimate. Evidence of compliance with this advance notice requirement must be included in Exhibit 4(d)(iv) of your application.

**3. Flood Disaster Protection Act of 1973 and Coastal Barrier Resources Act.** You must comply with the requirements under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128) and the Coastal Barrier Resources Act (16 U.S.C. 3501).

## **C. Reporting.**

**1.** The Program Outcome Logic Model (Form HUD-96010) must be completed indicating the proposed measures against the proposed activities/output and proposed outcome(s) for the appropriate year. The proposed measures should be entered in the “Pre” column of the form. The Logic Model has been designed to clearly identify the stages of the development process and it must present a realistic annual projection of outputs and outcomes that demonstrates your full understanding of the development process. Using the “Year One” through “Year Three” tabs on the Logic Model, you must demonstrate your ability to ensure that the proposed measures will result in the timely development of your project. To provide for greater consistency in reporting, you must include all activities and outcomes expected per year of the period of performance.



**NOTE:** The reported outcome of an identified activity/output may be realized in a different year.

The Logic Model will capture information in two stages. Stage one will demonstrate your ability to develop the project within the required timeframe. This stage will capture data that relates to initial closing, construction, and final closing. Stage one will require the submission of a completed form HUD-96010, Logic Model, on an annual basis, beginning with the date of the Agreement Letter and concluding with the date of Final Closing. At the time of the Project Planning Conference, HUD and the applicant will finalize the Logic Model. The finalized electronic copy of the Program Logic Model (form HUD-96010) must be sent to HUD after the Planning Conference. Do not convert the file to a PDF format, only the Microsoft Excel workbook format will be accepted. On an annual basis, applicants will report against the finalized Logic Model by documenting the achieved measures in the “Post” column. (**NOTE:** Applicants are not required to complete the YTD (year-to-date) column.) The final reporting requirement for the Logic Model will require that the applicant use the “Total” worksheet to fully document the activities and outcomes as well as the associated measures that have occurred during the period of performance. In addition, a response to each of the program management evaluation questions is required at time of final report.

The second stage will require the Owner to submit a completed form HUD-96010, Logic Model, on an annual basis, beginning one year after the date of the final Logic Model submission that was required in stage one and concluding at the conclusion of the mortgage. Stage two will require the Owner to document the services/activities that are made available to tenants and the expected outcomes and measures of such services. The Owner will be required to use the HUD-PIH Benchmarking Tool at <http://www.hud.gov/offices/pih/programs/ph/phecc/econserve.cfm> to enter utility data for the first year after building occupancy and report the results to HUD. The building would be expected to achieve a score of at least 65 (15 percent over average). For more information on ENERGY STAR Qualified Homes and ENERGY STAR qualified products, see [www.energy.gov](http://www.energy.gov).

2. The Regulatory Agreement (Form HUD-92466-CA) requires the Owner of the Section 202 project to submit an annual financial statement for the project. This financial statement must be audited by an Independent Public Accountant who is a Certified Public Accountant or other person accepted by HUD and filed electronically with HUD’s Real Estate Assessment Center (REAC) through the Financial Assessment Subsystem for Multifamily Housing (MF-FASS). The submission of annual financial statements is required throughout the 40-year term of the mortgage.

3. Racial and Ethnic Data: HUD requires that funded recipients collect racial and ethnic beneficiary data. It has adopted the Office of Management and Budget’s Standards for the Collection of Racial and Ethnic Data. In view of these requirements, you should use form HUD-27061-H, Race and Ethnic Data Reporting Form (instructions for its use) found on [www.HUDclips.org](http://www.HUDclips.org).

4. Section 3 Reporting: Recipients are required to submit an annual form HUD-60002-Section 3 Summary Report to the Assistant Secretary for Fair Housing and Equal Opportunity in

Washington, DC, for the purpose of determining the recipient's compliance with the requirements of Section 3. Form HUD-60002 shall be submitted to the Department annually, no later than January 10<sup>th</sup> or the 10<sup>th</sup> day after project completion, whichever is earlier.

**5. Recipient Reporting to Meet the Requirements the Federal Financial Assistance Accountability and Transparency Act of 2006 as amended.**

(1) Prime Awardee Reporting. Prime recipients of HUD financial assistance are required to report subawards made either as pass-through awards, subrecipient awards, or vendor awards in the federal governmentwide website [www.fsrs.gov](http://www.fsrs.gov) or its successor system.

Starting with awards made October 1, 2010 and after, prime financial assistance awardees receiving funds directly from HUD are required to report subawards and executive compensation information both for the prime award and subawards, including awards made as pass-through awards or awards to vendors, where both the initial award is \$25,000 or greater or the cumulative award will be \$25,000 or greater if funding incrementally as directed by HUD in accordance with OMB guidance. The reporting of award and subaward information is in accordance with the requirements of Federal Financial Assistance Accountability and Transparency Act of 2006, as amended by section 6202 of Public Law 110-252, hereafter referred to as the "Transparency Act" and OMB Guidance issued to the Federal agencies on September 14, 2010 (75 FR 55669) and in OMB Policy guidance. The prime awardee will have until the end of the month plus one additional month after a subaward or pass-through award is obligated to fulfill the reporting requirement. The Transparency Act requires the creation of a public governmentwide website in which the following subaward data will be displayed:

- (a) Name of entity receiving award;
- (b) Amount of award
- (c) Funding agency;
- (d) North American Industry Classification System (NAICS) code for contracts/CFDA program for financial assistance awards;
- (e) Program source;
- (f) Award title descriptive of the purpose of the funding action;
- (g) Location of the entity (including Congressional district);
- (h) Place of Performance (including Congressional district);
- (i) Unique identifier of the entity and its parent; and
- (j) Total compensation and names of top five executives.

For the purposes of reporting into the FSRS reporting site, the unique identifier is the DUN and Bradstreet Universal Numbering System (DUNS) number the entity has obtained from Dun and Bradstreet, and for Prime awardees the DUNS number registered in the Central Contractor Registration as required by HUD regulation 24 CFR 5.1004.

(2) Prime Awardee Executive Compensation Reporting. Prime awardees must also report in the governmentwide website the total compensation and names of the top five executives in the prime awardee organization if:

- (a) More than 80% of the annual gross revenues are from the Federal government, and those revenues are greater than \$25 million annually; and
- (b) Compensation information is not readily available through reporting to the Securities Exchange Commission (SEC.)

(3) Subaward Executive Compensation Reporting. Prime awardees must also report in the governmentwide website the total compensation and names of the top five executives in the subawardees, pass-through or vendor organization if:

(a) More than 80% of the annual gross revenues are from the Federal government, and those revenues are greater than \$25 million annually; and

(b) Compensation information is not readily available through reporting to the Securities Exchange Commission (SEC.)

(4) Transparency Act Reporting Exemptions. The Transparency Act exempts any sub-awards less than \$25,000 made to individuals or to an entity whose annual expenditures are less than \$300,000. Subawards with a cumulative total of \$25,000 or greater are subject to subaward reporting beginning the date the subaward total award amount reaches \$25,000.

Any other exemptions to the requirements must be approved by the Office of Management and Budget.

2. Compliance with Section 872 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417), hereafter referred to as “Section 872.” Section 872 requires the establishment of a governmentwide data system to contain information related to the integrity and performance of entities awarded federal financial assistance and making use of the information by federal officials in making awards. It is anticipated that the federal data system will be known as the Federal Awardee Performance and Integrity Information System (FAPIIS). Only federal officials and the entity will be able to view the information in the FAPIIS system. Further, each recipient of federal funds with a cumulative value greater than \$10 million and their direct (i.e., first-tier) subrecipients would be required to report to the FAPIIS system. The data collection requirements include information about certain civil judgments, criminal convictions, and outcomes of administrative proceedings that reached final disposition within the most recent 5-year period and were connected with the award or performance of a federal or state award. Recipients and first-tier subrecipients must report information at least semi annually to maintain the currency of the information. Section 872 also requires that an entity be allowed to submit comments to the data system about any information that system contains about the entity. Use of the FAPIIS system requires a DUNS number and current valid registration in the CCR for HUD awardees and first-tier subrecipients.

Prior to making a funding decision, the federal official authorized to make the award is required to determine whether the entity is qualified to receive an award, taking into consideration any information about the entity that is in the data system. OMB is in the process of issuing regulations regarding federal agency implementation of Section 872 requirements. A proposed rule was published in the Federal Register on February 18, 2010, by OMB seeking public comments no later than April 19, 2010.

HUD’s terms and conditions to its FY2010 awards will contain requirements related to meeting Section FFATA and Section 872 requirements.

## **VII. Agency Contact(s)**

**For Technical Assistance.** For technical assistance in downloading an application package from [www.Grants.gov](http://www.Grants.gov), contact the Grants.gov help desk at 1-800-518-Grants or send an email to [support@grants.gov](mailto:support@grants.gov). For programmatic information, you may contact the appropriate Multifamily Hub Office, or Alicia Anderson at HUD Headquarters at 202-708-3000 (this is not a toll-free number), or access the Internet at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>. Persons with hearing and speech impairments may access the above number via TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

## **VIII. Other Information**

**A. Local Workshops.** HUD encourages minority organizations and grassroots organizations (e.g. civic organizations, faith-communities and grassroots faith-based and other community-based organizations) to participate in this program and strongly recommends that prospective applicants attend the local workshop. At the workshops, HUD will explain application procedures and requirements, as well as address concerns such as local market conditions, building codes and accessibility requirements, contamination identification and remediation, historic preservation, floodplain management, other environmental requirements, displacement and relocation, zoning, and housing costs. If you are interested in attending the workshop, make sure that your name, address and telephone number are on the appropriate local Multifamily Hub Office's mailing list so that you will be informed of the date, time and place of the workshop. Persons with disabilities should call the appropriate local Multifamily Hub Office to assure that any necessary arrangements can be made to enable their attendance and participation in the workshop.

If you cannot attend the workshop, call the appropriate local Multifamily Hub Office if you have any questions concerning the submission of applications to that particular office and to request any materials distributed at the workshop.

**B. Satellite Broadcast.** HUD will hold an information broadcast via satellite for potential applicants to learn more about the program and preparation of the application. It is strongly recommended that potential applicants, especially those who may be applying for Section 202 funding for the first time, tune in to this broadcast, if at all possible. For more information about the date and time of the broadcast, you should consult the HUD website at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>.

**C. Related Programs.** Funding for a related program, Section 202 Demonstration Pre-Development Grant Program, is available to provide predevelopment grants to private nonprofit organizations and consumer cooperatives in connection with the development of housing under the Section 202 program. The announcement of the availability of funding under this program will be addressed in a separate NOFA.

**D. Paperwork Reduction Act.** The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number

2502-0267. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. Public reporting burden for the collection of information is estimated to average 37.42 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application. The information will be used for grantee selection and monitoring the administration of funds. Response to this request for information is required in order to receive the benefits derived.

**E. Environmental.** This NOFA provides funding under, and does not alter the environmental requirements of 24 CFR part 891. Accordingly, under 24 CFR 50.19(c)(5), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321). Activities under this NOFA are subject to environmental review provisions set out at 24 CFR 891.155. See also Section III.C.3.f., above.

Dated: MAR 04 2011

A handwritten signature in black ink, appearing to read "D. Stevens", is written over a horizontal line.

David H. Stevens  
Assistant Secretary for Housing—  
Federal Housing Commissioner

**[FR-5300-N-21]**