

**DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT**

**SECTION 202 SUPPORTIVE HOUSING
FOR THE ELDERLY PROGRAM
(SECTION 202 PROGRAM)**

Billing Code 4210-32-C

Funding Availability for Section 202 Supportive Housing for the Elderly Program (Section 202 Program)

Program Overview

Purpose of the Program. This program provides supportive housing for very low-income persons 62 years of age or older.

Available Funds. Approximately \$473.8 million, plus any carryover funds available.

Eligible Applicants. Private nonprofit organizations and nonprofit consumer cooperatives (see Section III(B) of this program NOFA). (See Section VIII of this program NOFA for information regarding the formation of the Owner corporation).

Eligible Activities. New construction, rehabilitation, or acquisition of housing with or without rehabilitation (see Section III(C) of this NOFA).

Application Deadline. June 13, 2003.

Match Requirements. None.

Additional Information

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following additional information.

I. Application Due Date, Further Information, and Technical Assistance

Application Due Date. An original and four copies of your completed application must be submitted to the appropriate HUD field office no later than the application due date.

See the General Section, Mailing and Receipt Procedures and Proof of Timely Submission, of this SuperNOFA for specific procedures governing the submission of applications to HUD Field Offices.

Address for Submitting Applications. Submit an original and four copies of your completed application to the Director of the appropriate Multifamily Hub Office or Multifamily Program Center as listed in Appendix B to the Section 811 program section of this SuperNOFA with the following exceptions:

1. Applications for projects proposed to be located within the jurisdiction of the Sacramento, California Office must be submitted to the San Francisco, California Office.
2. Applications for projects proposed to be located within the jurisdiction of the Cincinnati, Ohio Office must be submitted to the Columbus, Ohio Office.
3. Applications for projects proposed to be located within the jurisdiction of the Washington, DC Office must be submitted to the Baltimore, Maryland Office.

4. Applications for projects proposed to be located within the jurisdiction of the Grand Rapids, Michigan Office must be submitted to the Detroit, Michigan Office.

The SuperNOFA also includes a listing of the Multifamily Hubs and Program Centers, their addresses and telephone numbers, including TTY (text telephone) numbers. This information is also available from HUD's SuperNOFA Information Center at 1-800-HUD-8929 and from the Internet through the HUD Web site at <http://www.hud.gov/grants>. Persons with hearing or speech impairments may call the Center's TTY number at 1-800-HUD-2209.

All information required to complete and return a valid application is included in the General Section and this Program Section of the SuperNOFA, including appendices. Copies of the General Section, this Program Section, and appendices, including the application, are available and may be downloaded from HUD's Web site at <http://www.hud.gov>.

For Further Information and Technical Assistance. You may contact the appropriate Multifamily Hub Office or Multifamily Program Center, or Evelyn Berry at HUD Headquarters at (202) 708-3000 (this is not a toll-free number), or access the Internet at <http://www.hud.gov/grants>. Persons with hearing and speech impairments may access the above number via TTY by calling the Federal Relay Service at 1-800-877-8339 (this is a toll-free number).

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 HUD Office 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, 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 HUD 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 HUD Office to ensure 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 HUD Office if you have any questions concerning the submission of applications to that particular office and to request any materials distributed at the workshop.

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. Copies of the broadcast tapes are also available from the SuperNOFA Information Center. For more information about the date and time of the broadcast, you should consult the HUD Web site at <http://www.hud.gov/grants>.

II. Amount Allocated

For FY 2003, \$473,750,170 is available for capital advances for the supportive housing for the elderly program. The Consolidated Appropriations Resolution, 2003 (Pub. L. 108-7), approved February 20, 2003, (FY 2003 Consolidated Appropriations) provides \$683,286,000 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), and for project rental assistance, and amendments to contracts for project rental assistance, and 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, the FY 2003 Consolidated Appropriations provide \$25 million for 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 these funds will be addressed in a separate NOFA to be issued in the future.

In accordance with the waiver authority provided in the FY 2003 Consolidated Appropriations, the Secretary is waiving the following statutory and regulatory provision: the term of the project rental assistance contract is reduced from 20 years to 5 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 2003 formula consists of two data elements from the 2000 Census: (1) Number of elderly renter households of all sizes (householder age 65 and older) and (2) number of elderly households (householder age 60 and older) living alone with incomes below the poverty level.

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

percent to nonmetropolitan areas. In addition, each HUD Office jurisdiction receives sufficient capital advance funds for a minimum of 20 units in metropolitan areas and 5 units in nonmetropolitan areas. The total amount of capital advance funds to support these minimum set-asides are subtracted from the respective (metropolitan or nonmetropolitan) total capital advance amounts available. The remainder is fair shared to each HUD Office jurisdiction whose fair share exceeds the minimum set-aside based on the allocation formula fair share factors described below.

Note: The allocations for metropolitan and nonmetropolitan portions of the Multifamily Hub or Program Center jurisdictions reflect the most current definitions of metropolitan and nonmetropolitan areas, as defined by the Office of Management and Budget.

A fair share factor is developed for each metropolitan and nonmetropolitan

portion of each local HUD Office 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 local HUD Office jurisdiction is then adjusted to reflect the relative cost of providing housing among the HUD Office 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:

FY 2003 SECTION 202 ALLOCATIONS BY FIELD OFFICE							
OFFICES	METROPOLITAN			NONMETRO			TOTALS
	UNITS	CAPITAL ADVANCE	UNITS	CAPITAL ADVANCE	UNITS	CAPITAL ADVANCE	
BOSTON HUB							
BOSTON	156	14,932,702	5	480,068	161	15,412,770	
HARTFORD	77	7,317,872	5	477,581	82	7,795,453	
MANCHESTER	43	3,317,869	28	2,138,386	71	5,456,255	
PROVIDENCE	47	4,580,681	5	490,018	52	5,070,699	
TOTAL	323	30,149,124	43	3,586,053	366	33,735,177	
NEW YORK HUB							
NEW YORK	338	40,351,656	5	596,976	343	40,948,632	
BUFFALO HUB							
BUFFALO	113	9,706,710	21	1,811,747	134	11,518,457	
PHILADELPHIA HUB							
CHARLESTON	20	1,482,490	18	1,323,483	38	2,805,973	
NEWARK	171	17,607,889			171	17,607,889	
PHILADELPHIA	176	16,255,887	19	1,766,807	195	18,022,694	
PITTSBURGH	90	7,065,508	16	1,274,083	106	8,339,591	
TOTAL	457	42,411,774	53	4,364,373	510	46,776,147	
BALTIMORE HUB							
BALTIMORE	74	5,925,919	10	770,979	84	6,696,898	
RICHMOND	76	5,232,195	24	1,663,196	100	6,895,391	
WASHINGTON	68	5,577,584			68	5,577,584	
TOTAL	218	16,735,698	34	2,434,175	252	19,169,873	

OFFICES	METROPOLITAN			NONMETRO			TOTALS		
	UNITS	CAPITAL ADVANCE	UNITS	CAPITAL ADVANCE	UNITS	CAPITAL ADVANCE	UNITS	CAPITAL ADVANCE	
GREENSBORO HUB									
COLUMBIA	65	4,902,565	20	1,511,717	85	6,414,282			
GREENSBORO	103	9,310,862	42	3,746,240	145	13,057,102			
TOTAL	168	14,213,427	62	5,257,957	230	19,471,384			
ATLANTA HUB									
ATLANTA	88	6,014,762	37	2,532,809	125	8,547,571			
KNOXVILLE	50	3,253,956	15	948,613	65	4,202,569			
LOUISVILLE	53	3,932,028	33	2,474,050	86	6,406,078			
NASHVILLE	58	3,966,153	20	1,381,882	78	5,348,035			
SAN JUAN	108	8,552,474	14	1,105,329	122	9,657,803			
TOTAL	357	25,719,373	119	8,442,683	476	34,162,056			
JACKSONVILLE HUB									
BIRMINGHAM	78	5,295,482	26	1,795,380	104	7,090,862			
JACKSON	36	2,348,015	31	2,002,532	67	4,350,547			
JACKSONVILLE	317	21,315,915	19	1,278,578	336	22,594,493			
TOTAL	431	28,959,412	76	5,076,490	507	34,035,902			
CHICAGO HUB									
CHICAGO	181	17,512,508	27	2,591,634	208	20,104,142			
INDIANAPOLIS	84	6,395,358	22	1,700,484	106	8,095,842			
TOTAL	265	23,907,866	49	4,292,118	314	28,199,984			
COLUMBUS HUB									
CINCINNATI	60	4,272,943	5	358,186	65	4,631,129			
CLEVELAND	109	8,761,247	13	1,037,994	122	9,799,241			
COLUMBUS	51	3,731,036	17	1,203,664	68	4,934,700			
TOTAL	220	16,765,226	35	2,599,844	255	19,365,070			

OFFICES	METROPOLITAN			NONMETRO			TOTALS		
	UNITS	CAPITAL ADVANCE	UNITS	CAPITAL ADVANCE	UNITS	CAPITAL ADVANCE	UNITS	CAPITAL ADVANCE	UNITS
DETROIT HUB									
DETROIT	110	9,229,049	5	420,371	115	9,649,420			
GRAND RAPIDS	49	3,532,275	18	1,270,098	67	4,802,373			
TOTAL	159	12,761,324	23	1,690,469	182	14,451,793			
MINNEAPOLIS HUB									
MINNEAPOLIS	67	6,010,497	26	2,320,859	93	8,331,356			
MILWAUKEE	78	6,644,383	27	2,284,925	105	8,929,308			
TOTAL	145	12,654,880	53	4,605,784	198	17,260,664			
FT. WORTH HUB									
FT. WORTH	148	9,278,060	36	2,290,937	184	11,568,997			
HOUSTON	84	5,425,520	13	859,128	97	6,284,648			
LITTLE ROCK	45	2,678,163	27	1,599,199	72	4,277,362			
NEW ORLEANS	88	5,719,114	20	1,277,143	108	6,996,257			
SAN ANTONIO	86	5,271,379	16	964,830	102	6,236,209			
TOTAL	451	28,372,236	112	6,991,237	563	35,363,473			
KANSAS CITY HUB									
DES MOINES	37	2,639,008	24	1,714,937	61	4,353,945			
KANSAS CITY	68	4,913,251	28	2,083,994	96	6,997,245			
OKLAHOMA CITY	54	3,417,029	23	1,462,849	77	4,879,878			
OMAHA	20	1,492,440	16	1,184,354	36	2,676,794			
ST LOUIS	54	4,536,501	20	1,661,719	74	6,198,220			
TOTAL	233	16,998,229	111	8,107,853	344	25,106,082			
DENVER HUB									
DENVER	97	6,517,787	37	2,481,840	134	8,999,627			

	METROPOLITAN			NONMETRO			TOTALS		
	OFFICES	UNITS	CAPITAL ADVANCE	UNITS	CAPITAL ADVANCE	UNITS	CAPITAL ADVANCE	UNITS	CAPITAL ADVANCE
SAN FRANCISCO HUB									
SAN FRANCISCO	158		17,584,566	12	1,212,506	170	18,797,072		
HONOLULU	20		3,581,856	5	895,464	25	4,477,320		
PHOENIX	80		5,582,194	12	815,509	92	6,397,703		
SACRAMENTO	60		5,493,345	10	892,209	70	6,385,554		
TOTAL	318		32,241,961	39	3,815,688	357	36,057,649		
LOS ANGELES HUB									
LOS ANGELES	299		27,652,264	5	462,656	304	28,114,920		
SEATTLE HUB									
SEATTLE	85		7,567,048	18	1,592,537	103	9,159,585		
ANCHORAGE	20		3,581,856	5	895,464	25	4,477,320		
PORTLAND	67		5,419,794	25	1,956,581	92	7,376,375		
TOTAL	172		16,568,698	48	4,444,582	220	21,013,280		
NATIONAL TOTAL	4,764		402,687,645	925	71,062,525	5,689	473,750,170		

III. Program Description; Eligible Applicants; Eligible Activities

(A) *Program Description.* HUD provides capital advances and contracts for project rental assistance in accordance with 24 CFR part 891. Capital advances may be used for the construction or rehabilitation of a structure, or acquisition of a structure with or without rehabilitation (including structures from the Federal Deposit Insurance Corporation (FDIC)). Capital advance funds bear no interest and are based on development cost limits published in Section IV(D). 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.

Project rental assistance contract (PRAC) funds are used to cover the difference between the tenants' contributions toward rent (30 percent of adjusted income) and the HUD-approved expense 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) *Eligible Applicants.* Private nonprofit organizations and nonprofit consumer cooperatives who meet the threshold requirements contained in section V of the General Section of the SuperNOFA are the only eligible applicants under this section 202 Program. Neither a public body nor an instrumentality of a public body is eligible to participate in the program. See section IV(B) regarding limits on the total number of units and projects that an applicant may request.

(C) *Eligible Activities.* Section 202 capital advance funds must be used to finance the development of housing through new construction, rehabilitation, or acquisition of housing with or without rehabilitation. Capital advance funds may also be used in combination with other non-Section 202 funding sources to develop additional units for a mixed-finance project. 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.

Note: For purposes of approving section 202 capital advances, HUD will consider proposals involving mixed-financing for additional units. However, you must obtain

funds to assist the additional units with other than PRAC funds. HUD will not provide PRAC funds for non-section 202 units.

(D) *Ineligible Activities.* Section 202 funds may not be used for nursing homes, infirmaries, medical facilities, mobile home projects, community centers, headquarters for organizations for the elderly, nonhousekeeping accommodations, or refinancing of sponsor-owned facilities without rehabilitation.

Note: You may propose to rehabilitate an existing currently owned or leased structure that may or may 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.)

IV. Program Requirements

By signing Form HUD-92015-CA, Application for section 202 Capital Advance, you are certifying that you will comply with all program requirements listed in the General Section of this SuperNOFA as well as the following requirements:

(A) *Statutory and Regulatory Requirements.* In addition to the statutory, regulatory, threshold and public policy requirements listed in section V of the General Section of this SuperNOFA, you must comply with all statutory and regulatory requirements listed in sections III, IV and IX of this program section of the SuperNOFA.

(B) *Application Unit/Project Limits.* A Sponsor or Co-sponsor may not apply for more than 200 units of housing for the elderly in a single Hub or more than 10 percent of the total units allocated to all HUD Offices. Also, no single application may propose more than the number of units allocated to a HUD Office or 125 units, whichever is less. Reservations for projects will not be approved for fewer than 5 units. If the proposed project will be a scattered-site development, the 5-unit minimum requirement will apply to each site. Affiliated entities that submit separate applications are considered to be a single entity for the purpose of these limits.

(C) *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.

(D) *Development Cost Limits.* (1) The following development cost limits, adjusted by locality as described in section IV(D)(2) of this program section of the SuperNOFA, below, will be used to determine the capital advance amount to be reserved for projects for the elderly:

(a) The total development cost of the property or project attributable to dwelling use (less the incremental development cost and the capitalized operating costs associated with any excess amenities and design features you must pay for) may not exceed:

Nonelevator Structures

\$41,238 per family unit without a bedroom;
\$47,548 per family unit with one bedroom;
\$57,344 per family unit with two bedrooms;

For Elevator Structures

\$43,398 per family unit without a bedroom;
\$49,748 per family unit with one bedroom;
\$60,493 per family unit with two bedrooms.

(b) 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.

(2) Increased development cost limits.

(a) HUD may increase the development cost limits set forth in Section IV(D)(1) of this program section of the SuperNOFA, 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.

(b) If HUD finds that high construction costs in Alaska, Guam, the Virgin Islands, or Hawaii make it infeasible to construct dwellings, without the sacrifice of sound standards of construction, design, and livability, within the development cost limits provided in Section IV(D)(1) of this

program section of the SuperNOFA, 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.

(E) *Minimum Capital Investment.* Selected nonprofit organizations 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 § 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.

(F) *Accessibility.* Your project must meet accessibility requirements published at 24 CFR 891.120, 24 CFR 891.210, and Section 504 of the Rehabilitation Act of 1973, and, if new construction, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100. 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 the Federally assisted program or activity. HUD will award higher points to applications that add accessible design features beyond those required under civil rights laws and regulations. (See section II of the General Section of this SuperNOFA.)

(G) *Conducting Business in Accordance with HUD Core Values and Ethical Standards.* Section 202 Sponsors are not subject to the requirements of 24 CFR parts 84 and 85 as outlined in the General Section of this SuperNOFA. However, Sponsors are still subject to the core values and ethical standards as they relate to the conflict of interest provisions in 24 CFR 891.130. To ensure compliance with the program's conflict of interest provisions, you are required to sign a Conflict of Interest Resolution 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.

(H) *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 of the SuperNOFA, 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.

(I) *Fair Housing Requirements.* See Section V of the General Section of this SuperNOFA.

(J) *Economic Opportunities for Low and Very Low-Income Persons (Section 3).* See section V of the General Section of this SuperNOFA.

(K) *Design and Cost Standards.* You must comply with HUD's Section 202 design and cost standards (24 CFR 891.120 and 891.210), the Uniform Federal Accessibility Standards (24 CFR 40.7), Section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8, and for covered multifamily dwellings designed and constructed for first occupancy after March 13, 1991, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100, and, where applicable, the Americans with Disabilities Act of 1990.

(L) *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 discrimination based on disability in determining the site or location of a Federally-assisted facility. 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 (1) 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 (2) of the estimate of the fair market value of the property. An appraisal is not required to meet this requirement, however, your files must include an explanation (with reasonable evidence) of the basis for the estimate.

(M) *Formation of Owner Corporation.* You must form an Owner (in accordance with 24 CFR 891.205) after issuance of the capital advance, must cause the Owner to file a request for determination of eligibility and a request for capital advance, and must provide sufficient resources to the Owner to ensure the development and long-term operation of the project, including capitalizing the Owner at firm commitment processing in an amount sufficient to meet its obligations in connection with the project.

(N) *Supportive Services.* You must not require residents to accept any supportive services as a condition of occupancy.

(O) *Davis-Bacon.* You must comply with the Davis-Bacon requirements and the Contract Work Hours and Safety Standards Act.

(P) *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. 3601).

(Q) *National Environmental Policy Act.* You must comply with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and applicable related environmental authorities at 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).

(R) *Sites.* (1) *Site Control.* You must provide evidence of site control as described in this program section of the SuperNOFA and Exhibit 4(d) of Appendix A of the section 811 program section of this SuperNOFA.

(2) *Phase I Environmental Site Assessment (ESA).* You must submit a Phase I ESA in accordance with the American Society for Testing and Material (ASTM) Standards E 1527–97, as amended, completed or updated no earlier than six months prior to the application deadline date. Therefore, it is important that you start the Phase I ESA process as soon after publication of this SuperNOFA as possible. Documents providing guidance in choosing an environmentally safe site, entitled "Choosing an Environmentally Safe Site" and the "Supplemental Guidance, Environmental Information", are available on HUD's Web site at <http://www.HUD.gov>.

(a) For a project that involves demolition and/or rehabilitation of structures built before 1978, the Phase I

ESA must include the following: (i) An asbestos report that identifies the location and condition of any asbestos and (ii) a certification that any asbestos identified in the asbestos report that is in friable condition will be abated, that any non-friable asbestos that has been identified in the asbestos report and that will be affected by the demolition/rehabilitation will be abated, and that any asbestos to be abated have been included within the project costs.

(b) For a project that does not involve demolition and/or rehabilitation of structures built before 1978, the Phase I ESA must include a certification to the same.

If the Phase I ESA indicates the possible presence of contamination and/or hazards, you must decide whether to continue with this site or choose another site. Should you choose another site, the same Phase I ESA process identified above must be followed for the new site.

Note: If the property is to be acquired from the FDIC, include a copy of the FDIC prepared Transaction Screen Checklist or Phase I ESA, and applicable documentation, per the FDIC Environmental Guidelines.

(3) *Phase II ESA.* If you choose to continue with the original site on which the Phase I ESA indicated contamination or hazards, you must undertake a detailed Phase II ESA by an appropriate professional. If the Phase II ESA reveals site contamination, the extent of the contamination and a plan for clean-up of the site must be submitted to the local HUD Office.

The plan for clean-up must include a contract for remediation of the problem(s) and an approval letter from the applicable Federal, State, and/or local agency with jurisdiction over the site.

In order for the application to be considered for review under this FY 2003 funding competition, you must submit this information to the local HUD Office on or before July 14, 2003.

Note: This could be an expensive undertaking. You must pay for the cost of any clean-up and/or remediation.

(S) *Delinquent Federal Debt.* See Section V of the General Section of this SuperNOFA.

(T). *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. The maximum amount of space permitted for a commercial facility and other community space cannot exceed 10 percent of the total project cost. An

exception to this 10 percent limitation is if the project involves acquisition or rehabilitation and the additional space was incorporated in the existing structure at the time the proposal was submitted to HUD. 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.

(U) *False Statements.* See section V of the General Section of this SuperNOFA.

(V) *Expiration of Section 202 Funds.* The FY 2003 Consolidated Appropriations require HUD to obligate all Section 202 funds appropriated for FY 2003 by September 30, 2006. Under 31 U.S.C. Section 1551, no funds can be disbursed from the account after September 30, 2011. Under Section 202, obligation of funds occurs for both capital advances and project rental assistance upon fund reservation and acceptance. If all funds are not disbursed by HUD and expended by the project Owner by September 30, 2011, the funds, even though obligated, will expire and no further disbursements can be made from this account. In submitting an application you need to carefully consider whether your proposed project can be completed through final capital advance closing no later than September 30, 2011. Furthermore, all unexpended balances, including any remaining balance on PRAC contracts, will be cancelled as of October 1, 2011. Amounts needed to maintain PRAC payments for any remaining term on the affected contracts beyond that date will have to be funded from other current appropriations.

V. Application Selection Process

(A) *Review for Curable Deficiencies.* You should ensure that your application is complete and that you have an original and four copies before submitting it to the appropriate HUD Office. HUD will screen all applications received by the deadline for curable deficiencies. A curable deficiency is a missing Exhibit or portion of an Exhibit that will not affect the rating of the application. The following is a list of the deficiencies that will be considered curable in a Section 202 application:

Exhibits (See Appendix A of the Section 811 Program Section of the SuperNOFA)

- (1) Form 92015-CA (Application Form)*
- (2) (a) Articles of Incorporation*
 - (b) By-laws*
 - (c) IRS tax exemption ruling*
- (4) (c)(ii) Energy efficiency
 - (d)(i) Evidence of site control
 - (d)(ii) Evidence site is free of

- limitations, restrictions or reverters
- (d)(vi) Phase I Environmental Site Assessment
- (d)(vii) Letter from State Historic Preservation Officer (SHPO)
- (7) Relocation
- (8) (a) Form HUD 424, Application for Federal Assistance
 - (b) Standard Form LLL, Disclosure of Lobbying Activities, if applicable
 - (c) Form HUD-424B, Applicant Assurances and Certifications
 - (d) Form HUD 2880, Applicant/Recipient Disclosure/Update Report
 - (e) Form HUD-2991, Certification of Consistency with Consolidated Plan
 - (f) Form-HUD-92041, Sponsor's Conflict of Interest Resolution
 - (g) Form HUD-92042, Sponsor's Resolution for Commitment to Project*
 - (i) Form HUD-2530, Previous Participation Certification.

The HUD Office will notify you in writing if your application is missing any of the above exhibits or portions of exhibits and you will be given 14 days from the date of the HUD notification to submit the information required to cure the noted deficiencies. The items identified by an asterisk (*) must be dated on or before the application deadline date.

(B) *Rating.* HUD will review and rate your application in accordance with the Application Selection Process in the General Section of this SuperNOFA with the following exception. HUD will not reject your application based on technical review without notifying you of that 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 HUD Office.

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 the applicant's previous participation activities as reported on Form HUD-2530, Previous Participation Certification, it will be rated according to the rating factors in Section V(D) below. The HUD Office will make a determination on any appeals before making its selection recommendations.

If an Exhibit or portion of an Exhibit listed above as curable is not discovered as a missing item until technical processing, HUD will provide you with 14 calendar days in which to cure the deficiency.

(C) *Ranking and Selection Procedures.* Applications submitted in response to the advertised metropolitan allocations or nonmetropolitan allocations that have a total base score (without the addition of RC/EC/EZ bonus points) of 75 points or more and meet all of the applicable threshold requirements of section V(B) of the General Section of the SuperNOFA will be eligible for selection, and HUD will place them in rank order per metropolitan or nonmetropolitan allocation. These applications, after adding any bonus points for RC/EC/EZ, will be selected based on rank order, up to and including the last application that can be funded out of each HUD Program Center Office's metropolitan or nonmetropolitan allocation. HUD Program Center Offices will *not* skip over any applications in order to select one based on the funds remaining. After making the initial selections in each allocation area, however, HUD Program Center Offices may use any residual funds to select the next rank-ordered 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. For this purpose, however, HUD will not reduce the number of units in projects of five units or less.

Once this process has been completed, HUD Program Center Offices may combine their unused metropolitan and nonmetropolitan funds in order to select the next ranked application in either category, using the unit reduction policy described above, if necessary.

After the HUD Program Center Offices have funded all possible projects based on the process above, combined metropolitan and nonmetropolitan residual funds from all HUD Program Center Offices within each Multifamily Hub will be combined. First, these funds will be used to restore units to projects reduced by HUD Program Center Offices based on the above instructions. Second, additional applications within each Multifamily Hub will be selected in rank order with only one application selected per HUD Program Center Office. More than one application may be selected per HUD Program Center Office if there are no approvable applications in other HUD Program Center Offices within the Multifamily Hub. This process will continue until there are no more approvable applications within the Multifamily Hub that can be selected with the remaining funds. Applications may *not* be skipped over to select one based on funds remaining. However, the HUD Multifamily Hub may use any

remaining residual funds to select the next rank-ordered 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 being 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 Program Center or Multifamily Hub Offices as a result of the instructions for using their residual funds. Second, HUD Headquarters will use these funds for selecting applications based on HUD Program Center Offices' 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 pertaining to section 202 funding in nonmetropolitan areas. Only one application will be selected per HUD Program Center Office from the national residual amount. If there are no approvable applications in other HUD Program Center Offices, 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. In order to use as much of the available remaining funds as possible, HUD Headquarters may skip over a higher-rated application.

(D) *Factors for Award Used To Evaluate and Rate Applications.* HUD will rate applications that successfully complete technical processing using the Rating Factors set forth below and in accordance with the application submission requirements identified in Appendix A of the section 811 program section of the SuperNOFA. The maximum number of points an application may receive under this program is 102. This includes two RC/EC/EZ bonus points, as described in the General Section of the SuperNOFA.

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (25 Points)

This factor addresses the extent to which you have the organizational resources to successfully implement the proposed activities in a timely manner. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 2, 3(a), 3(b), 3(e) and 6 of Appendix A of

the Section 811 program section of the SuperNOFA.

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 or 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 management capacity as well as your financial management capability;

(b)(i) (5 points). The scope, extent, and quality of your experience in providing housing or related services to minority persons or families.

(b)(ii) (5 points). The scope, extent, and quality of your ties to the community at large and to the minority and elderly communities in particular.

For the purpose of this program section of the SuperNOFA, the term "minority" encompasses the basic racial and ethnic categories for Federal statistics and administrative reporting, as defined in the General Section of the SuperNOFA in the section entitled "Race and Ethnicity."

To earn the maximum number of points under this subcriteria, you must describe both your relationships over time with the minority community and significant previous experience in providing housing and/or supportive services to minorities generally and to minority elderly in particular. For the purpose of this competition, "significant previous experience" means that the previous housing assistance or related services to minorities, *i.e.*, the percentage of minorities being provided housing or related services in your current developments, was equal to or greater than the percentage of minorities in the jurisdiction where the previous housing or services occurred.

(c) (-2 to -4 points). HUD will deduct (except if the delay was beyond your control) 2 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 has been extended beyond 24 months, 3 points if beyond 36 months, and 4 points if beyond 48 months. Examples of such delays 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) (- 1 point). HUD will deduct 1 point if amendment money was required as a result of the delay (except if the delay was beyond your control).

Rating Factor 2: Need/Extent of the Problem (15 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 Submission Requirements in Exhibits 4(a) and 4(b) of Appendix A of the section 811 program section of the SuperNOFA. HUD will take into consideration the following in evaluating this factor:

The extent of the need for the project in the area based on a determination by the HUD 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 HUD Office. The data should include 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; as well as, information on the numbers and types of existing comparable Federally assisted housing units for the elderly (HUD and RHS), 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 more favorably those applications which 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. 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.

In evaluating this Factor, HUD will rate your application as follows:

(a) (12 points). The extent of the need for the project in the area based on a determination by the HUD Office, taking into consideration the Sponsor's

evidence of need in the area, as well as other economic, demographic and housing market data available to HUD.

(b) (3 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.

Rating Factor 3: Soundness of Approach (45 Points)

This factor addresses the quality and effectiveness of your proposal and the extent to which you involve elderly persons, including elderly minority persons, in the development and operation of the project. 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 Submission Requirements in Exhibits 3(f), 4(c), 4(d) and 5 of Appendix A of the section 811 program section of the SuperNOFA. In evaluating this factor, HUD will consider the following:

(a)(i) (15 points). The proximity or accessibility of the site to shopping, medical facilities, transportation, places of worship, recreational facilities, places of employment, and other necessary services to the intended occupants; adequacy of utilities and streets; freedom of the site from adverse environmental conditions; compliance with site and neighborhood standards (24 CFR 891.125(a), (d) and (e));

(a)(ii) (- 1 point). The site(s) is not already permissively zoned for the intended use.

(b) (10 points). The suitability of the site from the standpoints 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 HUD Office. Where appropriate, HUD may visit the site.

(i) 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 "nonminority area" is defined as one in which the minority population is lower than 10 percent; or

—Contributing to the revitalization of and reinvestment in minority neighborhoods, 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.

(ii) 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:

—The percentage of persons of a particular racial or ethnic minority is at least 20 points higher than the minority's or combination of minorities' percentage in the housing market as a whole; or,

—The neighborhood's total percentage of minority persons is at least 20 points higher than the total percentage of minorities for the housing market as a whole; or,

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

(c) (4 points). The extent to which your proposed design will meet the special physical needs of elderly persons;

(d) (3 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) (3 points). The extent to which the proposed design of the housing will accommodate the provision of supportive services 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) (3 points). The extent to which the proposed supportive services meet the identified needs of the anticipated residents; and

(g) (3 points). The extent to which you demonstrate that the identified supportive services will be provided on a consistent, long-term basis.

(h) (1 point). The proposed design incorporates visitability standards and universal design in the construction or rehabilitation of the project.

(i) (3 points) Your involvement of elderly persons, 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.

Rating Factor 4: Leveraging Resources (5 Points)

This factor addresses your ability to secure other community resources which can be combined with HUD's program resources to achieve program purposes. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 3(c) and 3(d) of Appendix A of the section 811 program section of the SuperNOFA.

(a) (2 points). The extent of local government support (including financial assistance, donation of land, provision of services, etc.) for the project; and

(b) (3 points). The extent of your activities in the community, including previous experience in serving the area where the project is to be located, and your demonstrated ability to enlist volunteers and raise local funds.

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, emphasizes HUD's commitment to ensuring that you keep the promises made in your application. This factor requires that you clearly identify the benefits or outcomes of your project and develop an evaluation plan to measure performance, which includes what you are going to measure, how you are going to measure it, and the steps you will have in place to make adjustments to your project development timeline should you not be able to achieve any of the major milestones. This Factor addresses the extent to which your project will implement practical solutions that result in residents achieving independent living, educational opportunities, and improved living environments. Finally, this factor addresses the extent to which the long-term viability of your project will be sustained for the duration of the 40-year capital advance period. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 3(g), 3(h), and 3(i) of Appendix A of the section 811 program section of the SuperNOFA.

(a) (5 points). The extent to which your project development timeline is indicative of your full understanding of the development process and will, therefore, result in the timely development of your project.

(b) (2 points). The extent to which your project will implement practical

solutions that will result in assisting residents in achieving independent living, educational opportunities, and improved living environments; and (c) (3 points). The extent to which you demonstrated that your project will remain viable as housing with the availability of supportive services for very low-income elderly persons for the 40-year capital advance period.

Bonus Points

(2 bonus points) Location of proposed site in an RC/EZ/EC area, as described in the General Section of this SuperNOFA. Submit the information responding to the bonus points in accordance with the Application Submission Requirements in Exhibit 8(h) of Appendix A of the section 811 program section of the SuperNOFA.

(E) *Applicant Debriefing*. You may request a debriefing on your application in accordance with the General Section of this SuperNOFA, with the exception that the request must be made to the Director of Multifamily Housing in the HUD Field Office to which you sent your application.

VI. Application Submission Requirements

The application submission requirements are contained in Appendix A of the section 811 program section of this SuperNOFA. Your application must include all of the information, materials, forms, and exhibits listed in Appendix A of the section 811 program section of the SuperNOFA (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) of Appendix A of the section 811 program section of the SuperNOFA, 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 HUD Office will verify your indication of previous HUD approval by checking the project number and approval status with the appropriate HUD Office based on the information submitted.

In addition to this relief of paperwork burden in preparing applications, you will be able to submit information and exhibits you have 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.

VII. Corrections to Deficient Applications

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

VIII. Formation of Owner Corporation for Development of Section 202 Projects and for Section 202 Projects Involving Mixed-Financing

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, may be (1) a single-purpose 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 for developing additional units over and above the section 202 units, a for-profit limited partnership with a nonprofit entity as the sole general partner.

IX. 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 by section 801 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625; approved November 28, 1990); the Housing and Community Development Act of 1992 (Pub. L. 102-550; approved October 28, 1992), the Rescissions Act (Pub. L. 104-19; enacted on July 27, 1995); the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106-569; approved December 27, 2000); and the Consolidated Appropriations Resolution, 2003 (Pub. L. 108-7, approved February 20, 2003).

Appendix A

Addresses for Submitting Applications

Please see Appendix B of the section 811 program section of this SuperNOFA. Submit your completed application (an original and four copies) to the Director of the appropriate Multifamily Hub Office or Multifamily Program Center as listed in Appendix B of the section 811 program section of this SuperNOFA. See section I., Address for Submitting Applications, of this program

NOFA, for the exceptions regarding where to file your application.

Appendix B

The forms, which are required for your section 202 program application

are in Appendix A of the section 811 program section of this SuperNOFA.

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