

**FY 06 SECTIONS 202 AND 811
NOFA QUESTIONS AND ANSWERS**

1. **QUESTION:** Under Rating Factor 4, Leveraging Resources, can Sponsors include the actual appraised value of a site that is being donated or conveyed for a minimal amount as part of the funding source towards the development of the proposed project?

ANSWER: Yes. Sponsors may include the actual appraised value, which must be based on the intended use of the site (if known), to earn points for Leveraging Resources because the appraised value would represent the actual savings towards project development. An appraisal is not required to earn points for this Rating Factor. Therefore, if an appraisal is not available, the Sponsor may provide an estimate of their Fair Market Value based on the proposed use of the site, along with reasonable supporting evidence that explains the basis for their conclusions (i.e., similar to the evidence that is required for compliance with the URA provisions relative to the advanced notification procedures between the land seller and Sponsor under Exhibit 4(d)(iv) of the application). Reasonable evidence may be recent land sales and sites offered for sale in the general area (but not necessarily in the immediate vicinity) in connection with the development of similar housing.

NOTE: If HUD has knowledge of the value of a site that is being donated, then HUD may rate the application under Rating Factor 4 based on HUD's knowledge and documentation related to that site. However, HUD staff must document its files to support the basis of the rating.

2. **QUESTION:** Does the value of relocation costs count towards earning points under Rating Factor 4?

ANSWER: Yes, if the cost of relocation is being provided by funding sources other than capital advance/PRAC funds and there is written evidence of a firm commitment for it.

3. **QUESTION:** Does the value of any offsite costs count towards earning points under Rating Factor 4?

ANSWER: Yes. However, the offsite costs must clearly be for project related purposes and supported by written evidence of a firm commitment covering the offsite cost.

4. **QUESTION:** For Rating Factor 1.d., which requires HUD to deduct points for Sponsors' previously funded Section 202 and/or Section 811 projects that required amendment money, is there an exception for those previously funded projects that required amendment money based on delays that were beyond the Sponsor's control?

ANSWER: No. Point deductions under Rating Factor 1.d. apply in all cases in which a Sponsor received amendment money for their Section 202 and/or Section 811 project that was funded in FY 2001 and later.

NOTE: The video slide presentation pertaining to Rating Factor 1.d., which was shown at the March 30, 2006, Section 202/811 NOFA General Broadcast, incorrectly showed that an exception beyond the Sponsor's control would apply to such previously funded projects. This video slide has been corrected and will be re-posted on HUD's Section 202 and Section 811 website at www.hud.gov/offices/adm/grants/fundsavail.cfm.

5. **QUESTION:** If the Sponsor and Co-Sponsor(s) have no previous experience in providing housing or services for the elderly (202) or persons with disabilities (811), would this be a basis to reject the application?

ANSWER: Yes. Previous experience in providing housing or services for the program's residents is a threshold criterion. However, for applications sponsored by more than one Sponsor, the application may be eligible if at least one of the Sponsors has the experience and meets all other program requirements, and the application is otherwise acceptable based on the eligible Sponsor(s). The ineligible organization(s) must be removed as a Sponsor to the application.

6. **QUESTION:** If an Exhibit that is listed as curable is missing from the application (e.g., evidence of site control for a Section 202 proposal), can the Sponsor be given additional time, beyond the NOFA deadline date, to complete and execute the Exhibit?

ANSWER: Yes, but only for those Exhibits that are identified as curable in Section V.B. of the 202 and 811 NOFAs **without** an asterisk after the Exhibit. For example, if a Section 202 application is missing Exhibit 4(d)(i), Evidence of Site Control, local HUD Offices would give the Sponsor a specific deadline (generally 14 calendar days) to submit that missing Exhibit. Since evidence of site control for Section 202 is not marked with an asterisk, if it is dated and received in the local HUD Office within the 14-day grace period to cure deficiencies, the local HUD Office could accept it. However, any curable Exhibit that is missing from the application and is marked with an asterisk, when submitted, must have been dated by the NOFA application deadline date, which is May 26, 2006 for Section 811 and June 2, 2006 for Section 202 programs.

Further, it should be noted that only those Exhibits that do not affect the rating of the application and are missing in their entirety or a portion thereof from the application are curable. If an Exhibit is listed as curable in the NOFA, but nothing is missing from the Exhibit (i.e., it is complete and clear with respect to its contents), then that Exhibit would not be treated as curable and the Sponsor would not be given additional time to correct any deficiencies that may be discovered later as a result of the local HUD Office's review of the Exhibit. The local HUD Office, however, may still ask for clarification of items, when deemed necessary.

EXAMPLE: As evidence of site control, a Section 202 application includes a legally binding option agreement showing the terms and conditions of site conveyance along with a Title policy covering other conditions and restrictions. The documents are dated and executed and otherwise complete with respect to their terms and conditions. However, a technical review of these documents reveals that the site must be used only to provide a licensed assisted living care facility for the elderly and, if not, ownership of the site would revert to the original owner. As this is an unacceptable restriction due to the requirement for a licensed assisted living facility and the reverter provision, the Section 202 application would become a technical rejection. In this case, the Sponsor is not given an opportunity to correct this deficiency.

7. **QUESTION:** The 202/811 NOFAs clarify that proposed bedroom unit sizes cannot exceed the unit size limits in the program Handbooks (4571.3REV-1/202 and 4571.2/811). Is there any leeway for unit sizes that slightly exceed the maximum limits?

ANSWER: Due to the competitive nature of the 202/811 programs, the answer is NO, unless (1) the proposal is an existing structure to be acquired or rehabilitated and the oversize units were incorporated into the exiting structure before the submission of the application, or (2) the Sponsor indicates in the application their willingness to pay the excessive cost from funds other than 202/811 funds.

8. **QUESTION:** The 202/811 NOFAs state that a Title policy (or other similar evidence) for Section 202 applications and Section 811 applications with site control must be current. How is "current" defined?

ANSWER: The provision for a current Title policy was intended to require what could reasonably be relied on as reflecting the state of the Title. A current Title policy (or other similar evidence) should be one that runs to the present owner who will provide the option agreement or contract of sale and who would presumably have obtained a Title policy when it acquired the site. The Field Counsel will determine what is a reasonable period of time based on their review of the information in the submitted Title policy. If there is a reason to question

the Title policy, Field Counsel could request that the Multifamily Housing Project Manager ask for a Title Report supplementing the policy in a deficiency letter to the Sponsor.