

**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**TARGETED AND ASSISTED  
HOUSING**

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

Billing Code 4210-01-C

## Section 202 Supportive Housing for the Elderly Program (Section 202 Program)

### 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: FR-5100-N-07; OMB Approval Number is 2502-0267.

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

F. Dates: The application deadline date is on or before May 25, 2007. Applications must be received and validated by Grants.gov by 11:59:59 p.m. eastern time on the deadline date. Please be sure to read the General Section for electronic application submission and receipt requirements.

### G. *Optional, 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 \$431.5 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 will cover the cost of developing the housing. 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.k of this NOFA 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 of this NOFA for further information.

6. Match Requirements. None required.

7. Local HUD Offices. The local HUD office structure, for the purpose of implementing the Section 202 program, consists of 18 Multifamily Hub Offices. Within the Multifamily Hubs, there are Multifamily Program Centers with the exception of the New York Hub, the Buffalo Hub, the Denver Hub and the

Los Angeles Hub. All future references shall use the term "local HUD office" unless a more detailed description is necessary as in Limitations on Applications and Ranking and Selection Procedures, below.

### 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 may be used for the construction or rehabilitation of a structure, or acquisition of a structure with or without rehabilitation. 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 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 Revised Continuing Appropriations Resolution, 2007 (Pub. L. 110-5; approved February 15, 2007).

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.

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. of this NOFA.

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.

#### II. Award Information

A. Available Funds. For FY2007, approximately \$431.5 million is available for capital advances for the Section 202 Supportive Housing for the Elderly Program. The Revised Continuing Appropriations Resolution, 2007 (Pub. L. 110-5; approved February 15, 2007) provides approximately \$742 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 as well as the amount of \$400,000 to be transferred to the Working Capital Fund. Additionally, of the amount appropriated, approximately \$51,600,000 is provided for Service Coordinators and the continuation of Congregate Services grants, up to \$24,800,000 is provided for Assisted Living Conversion grants and Emergency Capital Repairs, and approximately \$20,000,000 is provided for a Section 202 Demonstration Pre-Development Grant Program.

The announcement of the availability of the funds for the Service Coordinators and the continuation of Congregate Services as well as the Assisted Living Conversion program is covered elsewhere in this NOFA.

The announcement of the availability of funds for Emergency Capital Repairs will be addressed in a separate **Federal Register** publication.

In accordance with the waiver authority provided in the Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109-115; approved November 30, 2005), the Secretary is waiving the following statutory and regulatory provision: The term of the project rental assistance

contract is reduced from 20 years 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 FY2007 formula consists of one data element from the 2000 Census: 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).

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 local 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 local 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 local HUD office 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 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 local 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 2007 SECTION 202 ALLOCATION BY FIELD OFFICE

Offices	Metropolitan		Non-Metropolitan		Totals	
	Units	Capital advance	Units	Capital advance	Units	Capital advance
<b>BOSTON HUB</b>						
BOSTON .....	107	\$14,777,154	5	\$688,957	112	\$15,466,111
HARTFORD .....	56	7,970,321	5	713,661	61	8,683,982
MANCHESTER .....	36	4,005,849	19	2,044,752	55	6,050,601
PROVIDENCE .....	36	4,988,499	.....	.....	36	4,988,499
TOTAL .....	235	31,741,823	29	3,447,370	264	35,189,193
<b>NEW YORK HUB</b>						
NEW YORK .....	252	35,904,226	5	713,661	257	36,617,887
<b>BUFFALO HUB</b>						
BUFFALO .....	73	8,909,520	20	2,475,872	93	11,385,392
<b>PHILADELPHIA HUB</b>						
PHILADELPHIA .....	105	14,097,914	15	1,963,717	120	16,061,630
CHARLESTON .....	20	2,130,004	10	1,024,03	30	3,154,037
NEWARK .....	120	17,044,604	.....	.....	120	17,044,604
PITTSBURGH .....	55	6,182,034	12	1,376,023	67	7,558,057
TOTAL .....	300	39,454,555	37	4,363,773	337	43,818,328
<b>BALTIMORE HUB</b>						
BALTIMORE .....	54	5,980,970	5	551,715	59	6,532,685
RICHMOND .....	50	5,132,026	12	1,260,724	62	6,392,750
WASHINGTON .....	52	6,403,632	.....	.....	52	6,403,632
TOTAL .....	156	17,516,628	17	1,812,439	173	19,329,067
<b>GREENSBORO HUB</b>						
GREENSBORO .....	55	7,164,697	24	3,081,337	79	10,246,034
COLUMBIA .....	38	4,138,685	11	1,188,664	49	5,327,349
TOTAL .....	93	11,303,382	35	4,270,001	128	15,573,383

## FY 2007 SECTION 202 ALLOCATION BY FIELD OFFICE—Continued

Offices	Metropolitan		Non-Metropolitan		Totals	
	Units	Capital advance	Units	Capital advance	Units	Capital advance
<b>JACKSONVILLE HUB</b>						
JACKSONVILLE .....	149	14,433,608	10	983,871	159	15,417,479
BIRMINGHAM .....	42	3,924,098	14	1,321,771	56	5,245,869
JACKSON .....	20	1,833,560	15	1,354,360	35	3,187,920
TOTAL .....	211	20,191,266	39	3,660,002	250	23,851,268
<b>ATLANTA HUB</b>						
ATLANTA .....	57	5,544,601	17	1,639,350	74	7,183,951
LOUISVILLE .....	37	3,837,544	17	1,744,670	54	5,582,214
KNOXVILLE .....	20	1,943,354	8	778,828	28	2,722,182
NASHVILLE .....	38	3,765,207	12	1,201,262	50	4,966,469
SAN JUAN .....	20	2,437,427	5	609,357	25	3,046,784
TOTAL .....	172	17,528,133	59	5,973,467	231	23,501,600
<b>CHICAGO HUB</b>						
CHICAGO .....	124	16,651,845	19	2,552,786	143	19,204,631
INDIANAPOLIS .....	59	6,096,281	15	1,604,961	74	7,701,242
TOTAL .....	183	22,748,126	34	4,157,747	217	26,905,873
<b>COLUMBUS HUB</b>						
COLUMBUS .....	36	3,657,755	13	1,297,567	49	4,955,322
CINCINNATI .....	45	4,590,843	5	510,542	50	5,101,385
CLEVELAND .....	68	7,700,033	12	1,358,297	80	9,058,330
TOTAL .....	149	15,948,631	30	3,166,406	179	19,115,037
<b>DETROIT HUB</b>						
DETROIT .....	72	8,526,033	9	1,024,695	81	9,550,728
GRAND RAPIDS .....	40	3,471,521	12	1,079,547	52	4,551,068
TOTAL .....	112	11,997,554	21	2,104,242	133	14,101,796
<b>MINNEAPOLIS HUB</b>						
MINNEAPOLIS .....	54	6,634,004	19	2,308,510	73	8,942,514
MILWAUKEE .....	62	7,585,608	19	2,345,943	81	9,931,551
TOTAL .....	116	14,219,612	38	4,654,453	154	18,874,065
<b>FT WORTH HUB</b>						
FT WORTH .....	79	7,192,861	20	1,815,184	99	9,008,045
HOUSTON .....	53	4,713,363	8	753,322	61	5,466,685
LITTLE ROCK .....	20	1,767,683	14	1,230,048	34	2,997,731
NEW ORLEANS .....	44	4,111,108	12	1,114,371	56	5,225,479
SAN ANTONIO .....	45	3,981,971	9	799,046	54	4,781,017
TOTAL .....	241	21,766,986	63	5,711,971	304	27,478,957
<b>KANSAS CITY HUB</b>						
KANSAS CITY .....	47	5,035,917	17	1,802,135	64	6,838,052
OKLAHOMA CITY .....	35	3,169,210	14	1,262,681	49	4,431,891
DES MOINES .....	20	1,833,560	17	1,520,159	37	3,353,719
OMAHA .....	20	2,053,148	12	1,194,837	32	3,247,985
ST LOUIS .....	40	4,779,064	12	1,448,490	52	6,227,554
TOTAL .....	162	16,870,899	72	7,228,302	234	24,099,201
<b>DENVER HUB</b>						
DENVER .....	65	6,914,077	25	2,280,793	90	9,194,870
<b>SAN FRANCISCO HUB</b>						
SAN FRANCISCO .....	122	16,644,130	9	1,145,500	131	17,789,630
HONOLULU .....	20	3,952,584	5	988,146	25	4,940,730
PHOENIX .....	49	4,700,558	8	813,731	57	5,514,289
SACRAMENTO .....	43	5,944,251	8	1,121,909	51	7,066,160
TOTAL .....	234	31,241,523	30	4,069,286	264	35,310,809

## FY 2007 SECTION 202 ALLOCATION BY FIELD OFFICE—Continued

Offices	Metropolitan		Non-Metropolitan		Totals	
	Units	Capital advance	Units	Capital advance	Units	Capital advance
<b>LOS ANGELES HUB</b>						
LOS ANGELES .....	191	25,334,365	5	661,509	196	25,995,874
<b>SEATTLE HUB</b>						
SEATTLE .....	64	8,048,338	11	1,388,476	75	9,436,814
ANCHORAGE .....	20	3,952,584	5	988,146	25	4,940,730
PORTLAND .....	48	5,214,272	15	1,602,644	63	6,816,916
TOTAL .....	132	17,215,194	31	3,979,266	163	21,194,460
NATIONAL TOTAL .....	3,077	\$366,806,500	590	\$64,730,560	3,667	\$431,537,060

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

C. Type of Assistance Instrument. The Agreement Letter 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 work toward 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 local HUD 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 period as indicated in the above paragraph regarding the Type of Assistance Instrument. 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. of this NOFA 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.

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 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 as the sole general partner.

See Section III.C.3.b. regarding limits on the total number of units and projects for which you may apply for funding.

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 HUD-92042, Sponsor's Resolution for Commitment to Project in Exhibit 8(g) of the application found in Section IV.B.

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. Capital advance funds may also be used in combination

with other non-Section 202 funding sources leveraged by a for-profit limited partnership (of which a single-purpose private nonprofit organization is the sole general partner) to develop a mixed-finance project, including a mixed-finance project for additional units for the elderly over and above the Section 202 units. 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. 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 over and above the Section 202 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.

A portion of the PRAC funds (not to exceed \$15 per unit/per month) may be used to cover some of the cost of any supportive services for those frail elderly or those elderly determined to be at-risk of being institutionalized. The balance of the cost for services must be paid for from sources other than the capital advance or PRAC funds. Also, the cost of employing a service coordinator for those projects serving principally the frail elderly (when at least 25 percent of the residents will be frail or determined to be at-risk of being institutionalized) is an eligible use of PRAC funds. Section 202 projects receiving Congregate Housing Services assistance under Section 802 of the National Affordable Housing Act are not eligible to use capital advance or 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 the General Section, the following threshold requirements must be met:

a. Non-Responsive Application. Your application will be considered non-responsive to the NOFA and will not be accepted for processing if you:

(1) requested and received approval to submit a paper application and you submit less than the required number of 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. All paper applications granted a waiver to the electronic application submission requirement must be received by HUD at the proper location no later than the deadline date.

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

(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., Content of 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 local HUD 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, of this program NOFA; or

(7) are an ineligible applicant (see Section III.A, Eligible Applicants of this program NOFA).

b. Other Criteria

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

(2) You and any co-Sponsor must be eligible private nonprofit organizations or nonprofit consumer cooperatives

with tax exempt status under Internal Revenue Service code.

(3) 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. of this NOFA).

(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 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, petroleum, or petroleum products, and, if so, HUD must be satisfied that it is eliminated to the extent necessary to meet non site-specific federal, state or local health 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, 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, completed or updated as specified at Section 4.6 thereto no earlier than 180 days prior to the application deadline date. The Phase I ESA must be completed and submitted with the application. Therefore, it is important that you start the Phase I ESA process as soon after publication of the SuperNOFA as possible.

**Note:** A Phase I ESA that is not properly updated, does not use the report format specified at Appendix X4 of ASTM Standard E 1527-05, or that is prepared in accordance with an older version of ASTM E 1527 will result in a technical rejection of your application.

To help you choose an environmentally safe site, HUD invites you to review the documents "Choosing an Environmentally Safe Site" and "Supplemental Guidance, Environmental Information", which are available on the HUD Web site at

<http://www.hud.gov/offices/adm/grants/fundsavail.cfm>.

(ii) Phase II ESA. 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. However, 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. In order for your application to be considered for review under this FY2007 funding competition, the Phase II must be received by the local HUD office on or before June 25, 2007.

(iii) Clean-up—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 your application to be considered for review under this FY2007 funding competition, this information must be received by the local HUD office on or before June 25, 2007. If the above information is not received by the local HUD office by that date, the application will be rejected.

**Note:** Clean-up could be an expensive undertaking. You must pay for the cost of any clean-up and/or remediation with sources other than the capital advance funds. If the application is approved, clean-up must be completed prior to initial closing. Completion of clean-up means that HUD must be satisfied that the contamination has been eliminated to the extent necessary to meet non site-specific federal, state or local health standards, with no active or passive remediation still taking place, no capping over of any contamination, and no monitoring wells. However, it is acceptable if contamination remains solely in groundwater that is at least 25 feet below the surface.

(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. 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.

(4) There must be a market need for the number of units proposed in the area of the project location.

(5) You are required to include a Supportive Services Plan that describes the supportive services proposed to be provided to the anticipated occupants, 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. of this NOFA). You must not require residents to accept any supportive services as a condition of occupancy or admission.

(6) Delinquent Federal Debt. Refer to the General Section for information regarding delinquent federal debt.

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, you must comply with all statutory and regulatory requirements listed in this NOFA.

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 a single Hub or more than 10 percent of the total units allocated to all HUD 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 local HUD 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 local HUD 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 published at 24 CFR 891.120, 24 CFR 891.210, and Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 24 CFR Part 8, 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. Refer to Section V.A. below and the General Section for information regarding the policy priority of encouraging accessible 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. 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.

f. 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).

Under 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. However, HUD cannot approve any site unless it first completes the environmental review and finds that the site meets its environmental requirements. In rare cases where HUD is not able to complete the environmental review, it is due to a complex environmental issue that could not be resolved during the time period allocated for application processing. Thus, HUD requires you to attempt to obtain comments from the State/Tribal Historic Preservation Officer (see Exhibit 4(d)(ix) of Section IV.B. below) to help HUD complete the environmental review on time. It is also why HUD may contact you for additional environmental information. So that you can review the type of information that HUD needs for its preparation of the environmental review, the type of information requests that HUD may make to you, and the criteria that HUD uses to determine the environmental acceptability of a site, you are invited to go to the following Web site to view the HUD form 4128, including the Sample Field Notes Checklist, which HUD uses to record the environmental review: [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).

g. Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally

Funded Construction Projects. Refer to the General Section.

h. Fair Housing Requirements. Refer to the General Section for information regarding fair housing requirements.

i. Economic Opportunities for Low and Very Low-Income Persons (Section 3). You must comply with Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low and Very Low-Income Persons) and its implementing regulations at 24 CFR part 135. You must ensure that training, employment and other economic opportunities shall, to the greatest extent feasible, be directed toward low and very low-income persons, particularly those who are recipients of government assistance for housing and to business concerns which provide economic opportunities to low and very low-income persons in the area in which the proposed project will be located. To comply with Section 3 requirements you are hereby certifying that you will strongly encourage your general contractor and subcontractors to participate in local apprenticeship programs or training programs registered or certified by the Department of Labor's Office of Apprenticeship, Training, Employer and Labor Services or recognized State Apprenticeship Agency. Although not a NOFA requirement, you are encouraged to submit with your application a description on how you plan to incorporate the Section 3 requirements into your proposed project with goals for expanding training and employment opportunities for low and very low-income (Section 3) residents as well as business concerns. You will receive up to two (2) points if you provide a description of your plans for doing so under Exhibit 3(k) of this program NOFA.

j. 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.

k. Formation of Owner Corporation. You must form an Owner entity (in accordance with 24 CFR 891.205) 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.

l. Davis-Bacon. You must comply with the Davis-Bacon requirements (12 U.S.C. 1701q(j)(5)) and the Contract Work Hours and Safety Standards Act in accordance with 24 CFR 891.155(d).

4. Energy Efficiency. HUD has adopted a wide-ranging energy action plan for improving energy efficiency in all program areas. As a first step in implementing the energy plan, HUD, the Environmental Protection Agency (EPA) and the Department of Energy (DoE) have signed a joint partnership to promote energy efficiency in HUD's affordable housing efforts and programs. The purpose of the Energy Star partnership is not only to promote energy efficiency of the affordable housing stock, but also to help protect the environment.

Although it is not a requirement, you are encouraged to promote energy efficiency in design and operation of your proposed project and your application will receive one (1) point if you describe your plans for doing so in the proposed project. You are urged especially to purchase and use Energy Star-labeled products. For further information about Energy Star, see <http://www.energystar.gov> or call 1-888-STAR-YES (1-888-782-7937) or for the hearing-impaired, 1-888-588-9920 TTY.

#### IV. Application and Submission Information

Applicants are required to submit an electronic application unless they receive a waiver of the requirement in accordance with the procedures in Section IV.C. of this NOFA. See the General Section for information on electronic application submission and timely submission and receipt requirements.

A. Address to Request Application Package. All information required to complete and return a valid application is included in the General Section and this NOFA, including other related documents. Applicants may download the application and instructions from the Grants.gov Web site at [http://www.grants.gov/applicants/apply\\_for\\_grants.jsp](http://www.grants.gov/applicants/apply_for_grants.jsp). If you have difficulty accessing the information you may call the Grants.gov Support Desk toll free 800-518-GRANTS or e-mail

your questions to [Support@Grants.gov](mailto:Support@Grants.gov). See the General Section for information regarding the registration process or ask for registration information from the Grants.gov Support Desk.

You may request general information, copies of the General Section and NOFA (including related documents), from the NOFA Information Center (800-HUD-8929) Monday through Friday, except on federal holidays. Persons with hearing and speech impairments may access the above number via TTY by calling the toll-free Federal Relay Service at 800-877-8339. When requesting information, please refer to the name of the program in which you are interested.

B. Content and Form of Application Submission. The exhibits to be included in your application are contained in the body of this NOFA. 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 Local HUD Offices.
- 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 HUD office will verify your previous HUD approval by checking the project number and approval status with the appropriate local HUD office 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 local HUD office about the submission of applications within the jurisdiction of that Office. A listing of the local HUD offices is available on HUD's Web site at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>.

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 your organization, your DUNS number, and

the exhibit number that you are responding to on the header of each document.

## 1. Table of Contents

- a. Part I—Application Form.
  - (1) Exhibit 1: Form HUD-92015-CA Application for Capital Advance Summary Information.
- b. Part II—Ability to Develop/Operate Project.
  - (1) Exhibit 2: Legal Status.
    - (a) Organizational Documents.
    - (b) By-Laws.
    - (c) IRS Tax Exemption Ruling.
  - (3) 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 support.
    - (e) Housing/Services experience.
    - (f) Involvement of target population.
    - (g) Practical solutions.
    - (h) Project Development Timeline.
      - (i) How project will remain viable:
      - (ii) If services are depleted;
      - (iii) If State-funded services changes;
      - (iii) If need for project changes.
    - (j) Form HUD-27300, America's Affordable Communities Initiative/Removal of Regulatory Barriers (HUD Communities Initiative Form on Grants.gov), with supporting documentation.
    - (k) Section 3 requirements.
  - c. Part III—Need for Housing, Site Requirements, Proposed Services.
    - (1) Exhibit 4: Project Information.
      - (a) Evidence of need for project.
      - (b) Benefit to population/community.
      - (c) Narrative project description:
        - (i) Building design;
        - (ii) Energy efficiency features;
        - (iii) 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) Racial composition/map of site;
        - (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. Part IV—Requirements/Certifications/Resolutions.
      - (1) Exhibit 6: Other Applications.
        - (a) FY07 Sections 202/811 applications to other Offices.
        - (b) Information on FY06 and prior years' Sections 202/811 applications
      - (2) Exhibit 7: Required information on:
        - (a) All property occupants;
        - (b) Relocation costs/services;
        - (c) Staff to carry out relocation;
        - (d) Occupant move-outs within past 12 months.
      - (3) Exhibit 8: Forms/Certifications/Resolutions.

- (a) SF-424 Application for Federal Assistance
- (b) SF-424 Supplement "Survey on Ensuring Equal Opportunities for Applicants" (Faith Based EEO Survey (SF-424 SUPP) on Grants.gov).
- (c) SF-LLL, Disclosure of Lobbying Activities.
- (d) HUD-2880 "Applicant/Recipient Disclosure/Update Report" (HUD Applicant Recipient Disclosure Report on Grants.gov).
- (e) HUD-2991 Certification of Consistency with the Consolidated Plan.
- (f) HUD-92041 Sponsor's Conflict of Interest Resolution.
- (g) HUD-92042 Sponsor's Resolution for Commit to Project.
- (h) HUD-2990 Certification of Consistency with the RC/EZ/EC-II Strategic Plan (if applicable).
- (i) HUD-96010 Program Outcome Logic Model.
- (j) HUD-96011 "Third Party Documentation Facsimile Transmittal" (Facsimile Transmittal Form on Grants.gov). This is to be used as the cover page for faxing third party information for electronic applications only. See the General Section.
- (k) HUD-2994-A Form HUD-2994A—You are Our Client! Grant Applicant Survey (Optional).

## 2. Programmatic Applications Requirements

### a. Part I—Application Form for Section 202 Supportive Housing—Capital Advance

(1) EXHIBIT 1—Form HUD-92015-CA, 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/applicants/apply\\_for\\_grants.jsp](http://www.grants.gov/applicants/apply_for_grants.jsp).

### b. Part II—Your Ability To Develop and Operate the Proposed Project

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

- (a) Articles of Incorporation, constitution, or other organizational documents;
- (b) By-laws;
- (c) IRS tax exemption ruling (this must be submitted by all Sponsors, including churches).

**Note:** Based on a HUD review of your articles of incorporation, constitution, or other organizational documents, HUD must determine, among other things, that (1) you are an eligible private nonprofit entity and are not a public body or an instrumentality of a public body, (2) 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, (3) no part of the Sponsor's net earnings inures to the benefit of any private party, and (4) that you are not controlled by or under the direction of persons seeking to derive profit or gain therefrom.

[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 local HUD office to which it was submitted. 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 enlist volunteers and raise private and local funds, and how long you have been in existence.

(b) A description of your ties 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.

(c) A description of other funding sources for the project (including financial assistance, donation of land, provision of services, etc.).

(d) Letters of support for your organization and for the proposed project from organizations familiar with the housing and supportive services needs of the target population that you expect to serve in the proposed project.

(e) A description of your housing and/or supportive services experience. The description should include any rental housing projects and/or supportive services facilities that you sponsored, own and/or operate, your past or current involvement in any programs other than housing that demonstrates your management capabilities (including financial management) and experience, your experience in serving the target population (the elderly and/or families and minorities); and the reasons for receiving any increases in fund reservations for developing and/or operating previously funded Section 202 or Section 811 projects. The description should include data on the facilities and services provided, the racial/ethnic composition of the populations served, if available, and information and testimonials from residents or community leaders on the quality of the activities. Examples of

activities that could be described include housing counseling, nutrition and food services, special housing referral, screening and information projects.

(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.

(g) A description of the practical solutions you will implement which will enable residents of your project to achieve independent living. 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. And, finally, describe how your proposed project will be an improved living environment for the residents when compared to their previous place of residence.

(h) Describe your plan for completing the proposed project. Include a project development timeline which lists the major development stages for the project with associated dates that must be met in order to get the project to initial closing and start of construction within the 18-month fund reservation period as well as the full completion of the project, including final closing. Completion of Exhibit 8(i), Program Outcome Logic Model, will assist you in completing your response to this Exhibit.

(i) Describe how you will ensure that your proposed project will remain viable as housing with the availability of supportive services for the target population for the 40-year capital advance period. This description should address the measures you would take should any of the following occur:

(i) funding for any of the needed supportive services becomes depleted;

(ii) if, for any state-funded services for your project, the state changes its policy regarding the provision of supportive services to projects such as the one you propose; or

(iii) if the need for housing for the population you will be serving wanes over time, causing vacancies in your project.

(j) A description of the successful efforts the jurisdiction in which your project will be located has taken in removing regulatory barriers to affordable housing. To obtain up to 2 points for this policy priority, you must complete the optional Form HUD-27300, "Questionnaire for HUD's Initiative on Removal of Regulatory

Barriers" AND provide the necessary URL references or submit the documentary evidence. This exhibit is optional, but to obtain up to 2 points for this policy priority, you must submit this information using Form HUD-27300 and include the necessary URL references or other documentary evidence and contact information. When providing documents in support of your responses to the questions on the form, please provide the applicant name and project name and whether you were responding under column A or B, then identify the number of the question and the URL or document name and attach using the attachment function at the end of the electronic form. This exhibit will be used to rate your application under Rating Factor 3(j).

(k) A description on how you plan to incorporate the Section 3 requirements into your proposed project with goals for expanding training and employment opportunities for low- and very low-income (Section 3) persons as well as business concerns in the area in which the proposed project will be located. This exhibit is optional, but to obtain up to 2 points for this policy priority, you must submit this exhibit and adequately address your plans to provide opportunities to train and employ low- and very low-income residents of the project area and award substantial contracts to persons residing in the project area.

**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. Include a description of the category or categories of elderly persons the housing is intended to serve and evidence demonstrating sustained effective demand for supportive housing for that population in the market area to be served, taking into consideration the occupancy and vacancy conditions in existing federally assisted housing for the elderly (HUD and the Rural Housing Service (RHS)) e.g., public housing, state or local data on the limitations in activities of daily living among the elderly in the area; aging in place in existing assisted rentals; trends in demographic changes in elderly population and households; the numbers of income eligible elderly households by size, tenure and housing condition; the types of supportive

services arrangements currently available in the area; and the use of such services as evidenced by data from local social service agencies or agencies on aging. Also, a description of how information in the community's or (where applicable) the state's Consolidated Plan, Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues was used in documenting the need for the project.

(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 over the next 10–20 years.

**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 whether and how the project will promote energy efficiency (in accordance with the requirements set forth in Section III.C.4. of this NOFA), including any plans to incorporate energy efficiency features in the operation of the project through the use of Energy Star labeled products and appliances and, if applicable, innovative construction or rehabilitation methods or technologies to be used that will promote efficient construction.

(iii) If you are proposing to develop a mixed-finance project by developing additional units for the elderly (*i.e.*, in addition to the 202 units), 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. 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 HUD–92015-CA). Also, provide copies of any letters you have sent seeking outside funding for the non-Section 202

units and any responses thereto. You also must demonstrate your ability to proceed with the development of a Section 202 project that will not involve mixed-financing, as proposed in your application, in the event you are later unable to obtain the necessary outside funding or HUD disapproves your proposal for a mixed-finance project for additional non-Section 202 units for the elderly.

**Notes:** (1) A proposal to develop a mixed-finance project for additional units must occur at the application for fund reservation stage. You cannot decide after selection that you want to do a mixed-finance project for additional units. (2) Section 202 capital advance amendment money will not be approved for projects proposing mixed-financing. (3) 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. (4) 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 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;

(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 only condition for closing on the sale can be your receipt and acceptance of the capital advance.) The contract of sale cannot require closing earlier than the Section 202 closing;

(C) Option to purchase or for a long-term leasehold, which must remain in effect for six months from the date on which the applications are due, must state a firm price binding on the seller, and be renewable at the end of the six-month period. The only condition on which the option may be terminated is if you are not awarded a fund reservation;

(D) 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 local HUD office) and from the mortgagee, if other than HUD. Approval to release the site from the mortgage must be done before the local HUD 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 local HUD office for partial release of security from a mortgage under a HUD program; or

(E) 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. 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.

(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 evidence (a current title policy or other acceptable evidence) that the site is free of any limitations, restrictions, or reverts 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). 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, the application will be rejected. Purchase money mortgages that will be satisfied from capital advance funds are not considered to be limitations or restrictions that would adversely affect the use of the site. If the contract of sale or option agreement contains provisions that allow a Sponsor not to purchase the property for 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 and a Sponsor is allowed to terminate the contract of sale or the option agreement.

**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, as proposed, is permissible under applicable zoning ordinances or regulations or a statement of the proposed action required to make the proposed project permissible 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.).

(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.*, (1) 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 (2) 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.

**Note:** 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, 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.

(vi) 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 2000 Census of Population. Data from the 2000 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), in accordance with the ASTM Standard E 1527-05, as amended, using the table of contents and report format specified at Appendix X4 thereto and completed or updated as specified at Section 4.6 thereto, must be undertaken and completed by you and submitted with the application. In order for the Phase I ESA to be acceptable, it must have been completed or updated no earlier than 180 days prior to the application deadline date. Therefore, it is important to start the site assessment process as soon after the publication of the NOFA as possible.

**Note:** A Phase I ESA that is not properly updated, does not use the report format specified at Appendix X4 of ASTM Standard E 1527-05, or that is prepared in accordance with an older version of ASTM E 1527 will result in a technical rejection of your application.

If the Phase I ESA indicates 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. 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 Assessment

reveals site contamination, you must submit the extent of the contamination and a plan for clean-up of the site including 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 to the local HUD office. The Phase II ESA and any necessary plans for clean-up do not have to be submitted with the application but must be received by the local HUD office by June 25, 2007. If it is not received by that date, the application will be rejected.

**Note:** You must pay for the cost of any clean-up or remediation which can be very expensive. See Note at Section III.C.2.b.(3)(c)(iii).

(viii) You must submit one of the following:

(A) If there is 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.

(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.

**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**

(a) A list of the applications, if any, you are submitting to any other local HUD office in response to the FY2007 Section 202 or Section 811 NOFA. Indicate by local HUD office, the proposed location by city and state and the number of units requested in each application.

(b) Include a list of all FY2006 and prior years approved Section 202 and Section 811 capital advance projects to which you are a party. Identify each by project number and local HUD office and include the following information:

- (i) Whether the project has initially closed and, if so, when;
- (ii) If the project was older than 24 months when it initially closed (specify how old) or if older than 24 months now (specify how old) and has not initially closed, provide the reasons for the delay in closing;
- (iii) Whether amendment money was or will be needed for any project in (ii) above, including the amount of the amendment money; and,
- (iv) Those projects that have not been finally closed.

##### **(2) EXHIBIT 7: A Statement That**

(a) 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.

(b) Indicates the estimated cost of relocation payments and other services.

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

(d) Identifies all persons that have moved from the site within the past 12 months and the reason for such a move.

(e) 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.

**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 available in the instructions download at [http://www.grants.gov/applicants/apply\\_for\\_grants.jsp](http://www.grants.gov/applicants/apply_for_grants.jsp).

(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.

**Note:** For Section 202 program purposes, in Item 12, Areas Affected by Project, of SF-424, provide the names of the City, County and State where the project will be located (not the largest political entities as indicated on the instructions page of SF-424).

(b) Standard Form 424 Supplement, Survey on Ensuring Equal Opportunity for Applicants ("Faith Based EEO Survey (SF-424 SUPP)" on Grants.gov). 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 HUD-2880, Applicant/Recipient Disclosure/Update Report ("HUD Applicant Recipient Disclosure Report" on Grants.gov), including Social Security and Employee Identification Numbers. A disclosure of assistance from other government sources received in connection with the project.

(e) Form HUD-2991, Certification of Consistency with the Consolidated Plan (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 HUD-92041, 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 HUD-92042, 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 HUD-2990, 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 HUD-96010, Program Outcome Logic Model. In addition to the Project Development Timeline to be submitted in Exhibit 3(h) above, the information provided in the Logic Model will be used in rating your application for Rating Factor 5, Achieving Results and Program Evaluation.

(j) Form HUD-96011, Facsimile Transmittal ("Facsimile Transmittal Form" on Grants.gov), is only required if you are using the facsimile method to

fax third party letters and other documents for your electronic application in accordance with the instructions in the General Section.

**Note:** HUD will not accept entire applications by fax. If you submit the application entirely by fax, it will be disqualified.

(k) Form HUD-2994-A, You Are Our Client Grant Applicant Survey. This is an optional form, which may be used to provide suggestions and comments to the Department regarding your application submission experience.

C. Submission Dates and Time. Your application must be received and validated electronically by Grants.gov no later than 11:59:59 p.m. eastern time on the application deadline date, unless a waiver of the electronic delivery process has been approved by HUD in accordance with the following procedures. Applicants that are unable to submit their application electronically must seek a waiver of the electronic grant submission requirement. Waiver requests must be submitted no later than 15 days before the application deadline date. Waiver requests must be submitted by mail or by fax. For this program NOFA, e-mail requests will not be considered. Waiver requests submitted by mail or fax should be submitted on the applicant's letterhead and signed by an official with the legal authority to request a waiver from the Department. The request must be addressed to the Assistant Secretary for Housing at the following address: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9100, Washington, DC 20410-8000. Waiver requests submitted by fax must be sent to (202) 708-3104.

If a waiver is granted, you must submit the required number of copies of your application to the Director of the appropriate local HUD office, and the application must be received no later than that HUD office's close of business on the application deadline date. 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.

#### 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.

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. Infirmaries;
- c. Medical facilities;
- d. Mobile homes;
- e. Community centers;
- f. Headquarters for organizations for the elderly;
- g. Nonhousekeeping accommodations (e.g., central dining, but without private kitchens and/or bathrooms in the residential units);
- 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. of this NOFA 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., to cover increased costs for construction delays due to litigation or unforeseen environmental issues resulting in a change of sites) 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:

\$45,507 per family unit without a bedroom;  
\$52,470 per family unit with one bedroom;  
\$63,279 per family unit with two bedrooms.

#### For elevator structures:

\$47,890 per family unit without a bedroom;  
\$54,897 per family unit with one bedroom;  
\$66,755 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 local HUD Office may use a percentage that is higher or lower than that which is assigned to the local HUD 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 the sacrifice of 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. The maximum amount of space permitted for a commercial facility cannot exceed 10 percent of the total project floor space. 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.

5. Expiration of Section 202 Funds. The Revised Continuing Appropriations Resolution, 2007 (Pub. L. 110-5; approved February 15, 2007), requires HUD to obligate all Section 202 funds appropriated for FY 2007 by September 30, 2010. Under 31 U.S.C. Section 1551, no funds can be disbursed from this account after September 30, 2015. 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, 2015, 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, 2015. Furthermore, all unexpended balances,

including any remaining balance on PRAC contracts, will be cancelled as of October 1, 2015. 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.

#### *F. Other Submission Requirements:*

1. Address for Submitting Applications. Applications must be submitted electronically through the [http://www.grants.gov/applicants/apply\\_for\\_grants.jsp](http://www.grants.gov/applicants/apply_for_grants.jsp) Web site, unless the applicant receives a waiver from the electronic application submission requirement. See the General Section, Application Submission and Receipt Procedures and Section IV.C. of this NOFA for additional information. Refer to HUD's Web site at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm> for a listing of local HUD offices. All applications submitted electronically via [http://www.grants.gov/applicants/apply\\_for\\_grants.jsp](http://www.grants.gov/applicants/apply_for_grants.jsp) will be downloaded and forwarded to the appropriate local HUD office.

2. 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 Section IV.B. of 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. Therefore, each co-Sponsor must submit the following information using the scanning and/or faxing method described in Section IV. of the General Section: Standard Form-424, Application for Federal Assistance; Standard Form-424 Supplement, Survey on Ensuring Equal Opportunity for Applicants; Standard Form LLL,

Disclosure of Lobbying Activities (if applicable); Form HUD-92015-CA, Section 202 Application for Capital Advance, Summary Information; Form HUD-92041, Sponsor's Conflict of Interest Resolution; and Form HUD-92042, 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 [http://www.grants.gov/applicants/apply\\_for\\_grants.jsp](http://www.grants.gov/applicants/apply_for_grants.jsp). 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, Section IV, scanning documents to create electronic files increases the size of the file. Therefore, applicants may not submit scanned files unless using the facsimile method as stated in the General Section will not work due to the nature of the document. If the facsimile method does not work, forms and other documents from co-Sponsors may be scanned to create an electronic file and submitted as an attachment to the application. These documents should be labeled and numbered so the HUD reviewer can 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. of this program NOFA 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.

The signed documents and other information required to be submitted with the electronic application should be transmitted via fax using Form HUD-96011, Facsimile Transmittal found in the electronic application package. Co-Sponsors should use the form HUD-96011 provided by the Sponsor that is submitting the electronic application. The submitting Sponsor should fill in the SF-424 form prior to giving the Form HUD-96011 to the co-Sponsors. By following these directions, the Form HUD-96011 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.

## V. Application Review Information

### A. Criteria

**Policy Priorities.** HUD encourages applicants to undertake specific activities that will assist the Department in implementing its policy priorities and which help the Department achieve its strategic goals for FY2007. Refer to the General Section for information regarding HUD's Strategic Goals and Policy Priorities. For the Section 202 program, applicants who include work activities that specifically address the policy priorities of encouraging accessible design features by incorporating visitability standards and universal design, removing barriers to affordable housing, promoting energy efficiency in design and operations, and expanding training and employment opportunities for low- and very low-income persons and business concerns (Section 3 requirements), will receive additional points. A Notice pertaining to the removal of barriers to affordable housing was published in the **Federal Register** and may be downloaded from the HUD web site at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>.

**Rating Factors.** HUD will rate applications that successfully complete technical processing using the Rating Factors set forth below and in accordance with the application submission requirements in this NOFA. The maximum number of points an application may receive under this program is 102. This includes 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 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 3(a), 3(b), 3(e), 5 and 6 of Section IV.B. of this NOFA. 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. (13 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. (10 points) The scope, extent and quality of your experience in providing housing or 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) (5 points). The scope, extent, and quality of your experience in providing housing or related services to minority persons or minority families.

(2) (5 points). The scope, extent, and quality of your ties to the community at large and to the minority and elderly communities in particular.

To earn the maximum number of points under sub-criteria (b)(1) above, you must describe 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 housing market area where the previous housing or services occurred. To earn the maximum number of points under sub-criteria (b)(2) 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. Examples of documents that may be submitted to earn the maximum number of points under sub-criteria (b)(2) include letters of support from community leaders (including minority community leaders) that give information about the applicant's

relationship over time with the community (including the minority community). You may also submit copies of your affirmative marketing plan and the advertising/outreach materials you utilize to attract minority communities (including limited English proficient communities), elderly communities, and the community at large. Regarding your advertising/outreach materials, you should identify when advertising/outreach materials are circulated, to whom they are circulated, where they are circulated and how they are circulated. Descriptions of other advertising/outreach efforts to the minority (including limited English proficient communities) and elderly communities and the dates and places of such advertising/outreach efforts should also be included.

c. (-3 to -5 points). HUD will deduct (except if the delay was beyond your control) 3 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 FY2002 or later has been extended beyond 24 months, 4 points if beyond 36 months, or 5 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. (-3 to -5 points). HUD will deduct from 3 points to 5 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 FY2002 or later based on the following.

(1) (-3 points). The amount of the amendment money required was 25 percent or less of the original capital advance amount approved by HUD.

(2) (-4 points). The amount of the amendment money required was between 26 percent and 50 percent of the original capital advance amount approved by HUD.

(3) (-5 points). The amount of the amendment money required was over 50 percent of the original capital advance amount approved by HUD.

#### 2. Rating Factor 2: Need/Extent of the Problem (13 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 Section IV.B. of this NOFA. 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 local 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 local HUD office. The data should include but is 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 more favorably those applications that 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.

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. Unmet need is defined as the number of very low-income elderly one-person renter households age 75 and older with housing conditions problems, as of the 2000 Census, minus the number of project-based subsidized rental housing units (HUD, RHS, or LIHTC) that are affordable to very low-income elderly provided in the area since 1999. Units to be occupied by resident managers are

not counted. After HUD determines the estimate of unmet need and whether a connection has been made between the project and community's Consolidated Plan, Analysis of Impediments to Fair Housing Choice, or other planning document, HUD will rate your application as follows:

a. (10 points). The area of the project has an unmet needs ratio of 15 percent or less; OR (5 points). The area of the project has an unmet needs ratio of greater than 15 percent; OR (0 points). The area of the proposed project has no unmet needs for housing assistance.

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.

### *3. Rating Factor 3: Soundness of Approach (47 Points)*

This factor addresses the quality and effectiveness of your proposal and 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, whether the jurisdiction in which your project will be located has undertaken successful efforts to remove regulatory barriers to affordable housing, whether you will promote energy efficiency in the design and operation of the proposed housing, and your plans to expand economic opportunities for low- and very low-income persons as well as certain business concerns (Section 3 requirements). 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), 3(j), 3(k), 4(c)(i), 4(c)(ii), 4(d)(iii), 4(d)(v), 4(d)(vi), and 5 of Section IV.B. of this NOFA. In evaluating this factor, HUD will consider the following:

a. (20 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)).

b. (– 1 point). The site(s) is not permissively zoned for the intended use.

c. (10 points). 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 local HUD 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 "nonminority 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 percentage of persons of a particular racial or ethnic minority is at least 20 points higher than the percentage of that minority's or a combination of minorities' in the housing market area as a whole;

(b) 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,

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

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

e. (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.

f. (2 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.

g. (3 points). The extent to which the proposed supportive services meet the identified needs of the anticipated residents and that the identified supportive services will be provided on a consistent, long-term basis.

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 General Section for further information.

i. (2 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.

j. (2 points). The extent to which the jurisdiction in which your project will be located has undertaken successful efforts to remove regulatory barriers to affordable housing. (Note: This is an optional requirement, but to receive *up to 2 points*, the applicant must have submitted the Form HUD-27300, Questionnaire for HUD's Initiative on Removal of Regulatory Barriers, AND provided some form of documentation where requested, including point of contact and URL references or submitted the required documentary evidence.) Refer to the General Section for further information.

k. (1 point) The extent to which you will promote energy efficiency in the design and operation of the proposed housing. Refer to Section III.C.4. of this NOFA.

l. (2 points). The extent to which you have described your plans for expanding economic opportunities for low- and very-low income persons (provisions of Section 3). (Note: This is an optional requirement, but to receive *up to 2 points*, the applicant must have adequately addressed the following in Exhibit 3(k) of the application.) Refer to the General Section for further information.

(1) (1 point) Provide opportunities to train and employ low- and very low-income residents of the project area.

(2) (1 point). Award substantial contracts to persons residing in the project area.

#### 4. Rating Factor 4: Leveraging Resources (5 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 Submission Requirements in Exhibits 3(a), 3(b), 3(c), 3(d), 3(e), and 5(b) of Section IV.B. of this NOFA.

a. (0 point). The application contains general support and/or written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals *5 percent or less* of the capital advance amount as determined by HUD.

b. (1 point). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, 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. (2 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, 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. (3 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals between *16 percent and 20 percent* of the capital advance amount as determined by HUD.

e. (4 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals between *21 percent and 25 percent* of the capital advance amount as determined by HUD.

f. (5 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals *over 25 percent* of the capital advance amount as determined by HUD.

#### 5. Rating Factor 5: Achieving Results and Program Evaluation (12 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. Completion of Exhibit 8(i), Project Outcome Logic Model (HUD-96010), will assist you in completing your response to this rating factor. This rating factor also 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(e), 3(g), 3(h), 3(i), 6(b) and 8(i) of Section IV.B.

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 past performance evidences that the proposed project will result in the timely development of the project. Evidence of your past performance could include the development of previous construction projects, including but not limited to Section 202 and Section 811 projects.

c. (2 points). The extent to which your project will implement practical solutions that will result in assisting residents in achieving independent living, educational opportunities,

outreach regarding telemarketing fraud, and improved living environments.

d. (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.

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 Submission Requirements in Exhibit 8(h) of Section IV.B. of this NOFA.

#### 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. The following is a list of the only deficiencies that will be considered curable in a Section 202 application:

Curable exhibit	Description
1 .....	Form 92015-CA (Application Form)*
2(a) .....	Articles of Incorporation*
(b) .....	By-laws*
(c) .....	IRS tax exemption ruling*
4(c)(iii) ..	Description of mixed-financing plans for additional units, if applicable
4(d)(i) ...	Evidence of site control
(d)(ii) ....	Evidence site is free of limitations, restrictions or reverts
(d)(iv) ....	Evidence of compliance with URA site notification requirement
(d)(vii) ...	Phase I ESA
(d)(viii) ..	Asbestos Statement or Survey
(d)(ix) ....	Letter to the State/Tribal Historic Preservation Officer (SHPO/THPO) and a statement that the SHPO/THPO failed to respond OR the Letter from the SHPO/THPO
7 .....	Relocation
8(a) .....	Letter sent to the State Point of Contact (SPOC)*
(b) .....	Standard Form 424 Supplement, Survey on Ensuring Equal Opportunity for Applicants
(c) .....	Standard Form LLL, Disclosure of Lobbying Activities, if applicable

Curable exhibit	Description
(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*
(j) .....	Form HUD-96011 Facsimile Transmittal (Required Only for Transmittal of Faxes)*
(k) .....	Form HUD-2994-A, You are Our Client! Grant Applicant Survey (optional)

The local HUD office 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. The items identified by an asterisk (\*) must be dated on or before the application submission date. 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 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, 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 HUD 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 HUD 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, and HUD will place them in rank order per metropolitan or nonmetropolitan allocation. These applications, after adding any bonus points for RC/EZ/EC-II, will be selected based on rank order, up to and including the last application that can be funded out of each HUD Multifamily Program Center's metropolitan or nonmetropolitan allocation. HUD Multifamily Program Centers 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 Multifamily Program Centers may use remaining available funds to select the next highest 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 Multifamily Program Centers may combine their unused metropolitan and nonmetropolitan funds in order to select the next highest ranked application in either category, using the unit reduction policy described above, if necessary.

After the HUD Multifamily Program Centers have funded all possible projects based on the process above, combined metropolitan and nonmetropolitan residual funds from all HUD Multifamily Program Centers within each Multifamily Hub will be combined. First, these funds will be used to restore units to projects reduced by HUD Multifamily Program Centers based on the above instructions. Second, additional applications within each Multifamily Hub will be selected in Hub-wide rank order with only one application selected per HUD Multifamily Program Center. More than one application may be selected per HUD Multifamily Program Center if there are no approvable applications in other HUD Multifamily Program Centers 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 Multifamily Hub may use any remaining residual 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 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 Multifamily Program Centers or Multifamily Hubs as a result of the instructions for using their residual funds. Second, HUD Headquarters will use these funds for selecting applications based on HUD Multifamily Program Centers' 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 HUD Multifamily Program Center from the national residual amount. If there are no approvable applications in other HUD Multifamily Program Centers, 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. HUD 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 when sufficient funds become available.

## 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.

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 local HUD 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 Housing in the appropriate local HUD office.

### 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 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 *in writing* (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. *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. 3601).

### C. Reporting

1. The Program Outcome Logic Model (Form HUD–96010) must be completed indicating the results achieved against the proposed output goal(s) and proposed outcome(s) which you stated in your approved application and agreed upon by HUD. Based on the information you provided in the Program Outcome Logic Model, you also are required to submit to HUD a statement reporting the Return on Investment as a result of HUD's Section 202 funding award to you to develop and operate a Section 202 housing project with supportive services for the very low-income elderly. HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment (ROI) statement. HUD will be publishing a separate notice on the ROI concept.

These reporting requirements are to be submitted to HUD as follows:

Program Outcome Logic Model. You, as the Sponsor, and the Owner, when formed, are required to report annually, beginning from the date of the Agreement Letter, on the results achieved against the output goal(s) and outcome(s), which you proposed in the Program Outcome Logic Model that was submitted in your application.

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.

## 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 800-518-Grants or by sending an e-mail to [support@grants.gov](mailto:support@grants.gov). For programmatic information, you may contact the appropriate local HUD 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. Field Office Workshop. 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, 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 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 local HUD 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 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.

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. Copies of the broadcast tapes are also available from the NOFA 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/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.