

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**[Docket No. FR-5300-N-19]**

**Notice of Funding Availability (NOFA) for Fiscal Year (FY) 2009 Section 811 Housing for Persons with Disabilities (Section 811 Program)**

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

**ACTION:** Notice.

**SUMMARY:** This NOFA announces the availability of approximately \$90.6 million in Section 811 Housing for Persons with Disabilities (Section 811 Program) capital advance funds plus associated project rental assistance contract (PRAC) funds, any carryover funds, and possible recaptures available. This program provides funding for the development and operation of supportive housing for the very low-income persons who are at least 18 years old. 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). The Section 811 Program is authorized by 42 U.S.C. 8013 (Section 811 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625, approved November 28, 1990)(NAHA), as amended. HUD's Fiscal Year 2009 Notice of Funding Availability (NOFA) Policy Requirements and General Section to HUD's FY2009 NOFAs for Discretionary Programs (**General Section**) published in the Federal Register on December 29, 2008 (73 FR 79548), as amended on April 16, 2009 (74 FR 17685), establish threshold and other critical application requirements that effect this NOFA. The notice providing information regarding the application process, funding criteria and eligibility requirements is available on the Grants.gov website.

**APPLICATION DEADLINE DATE:** The application deadline date is **November 16, 2009**.

Applications submitted through <http://www.grants.gov> must be received by Grants.gov no later than 11:59:59 pm eastern time on the application deadline date. See Section IV of the **General Section**, published on December 29, 2008, regarding application submission procedures and timely filing requirements.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding specific program requirements should be directed to the agency contact identified in this program NOFA.

Questions regarding the 2009 General Section should be directed to the Office of Departmental Grants Management and Oversight at 202-708-0667 (this is not a toll-free number) or the NOFA Information Center at 1-800-HUD-8929 (toll-free). Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at 1-800-877-8339. The NOFA Information Center is open between the hours of 10:00 a.m. and 6:30 p.m. eastern time, Monday through Friday, except federal holidays.

## **OVERVIEW INFORMATION**

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

**B. Funding Opportunity Title:** Section 811 Supportive Housing for Persons with Disabilities

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

**D. Funding Opportunity Number:** The OMB Approval Number is 2502-0462. The Federal Register number for this NOFA is FR-5300-N-19.

**E. Catalog of Federal Domestic Assistance (CFDA) Number:** 14.181, Section 811 Supportive Housing for Persons with Disabilities.

**F. Dates:** Application deadline date is November 16, 2009. Application must be received by Grants.gov by 11:59:59 p.m. eastern time on the deadline date. Refer to Section IV. below and the **General Section**, published December 29, 2008 (73 FR 79548), as amended, for information on application submission 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 with disabilities who are at least 18 years old. If you receive funding through this program, you must assure that supportive services are identified and available.

**2. Available Funds.** Approximately \$90.6 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.** Nonprofit organizations that have a section 501(c)(3) tax exemption from the Internal Revenue Service. (See Section III.C.3.m. below 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 811 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. Refer to Section IV. E .3 below for additional information on calculating the capital advance amount.

Capital advances may be used for the construction or rehabilitation of a structure or acquisition of a structure with or without rehabilitation, to be developed into a variety of housing options described in Section III.C. 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 persons with disabilities 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.

**B. Authority.** 42 U.S.C. 8013 (Section 811 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625, approved November 28, 1990)(NAHA), as amended by the Housing and Community Development Act of 1992) (Pub. L. 102-550, approved October 28, 1992)(HCD Act of 1992); the Rescissions Act (Pub. L. 104-19, approved July 27, 1995); the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106-569, approved December 27, 2000) and authorized a new supportive housing program for persons with disabilities, and replaced assistance for persons with disabilities previously covered by section

202 of the Housing Act of 1959 (section 202 continues, as amended by section 801 of the NAHA, and the HCD Act of 1992, to authorize supportive housing for the elderly).

**C. Eligible Occupancy.** You may propose a Section 811 project to serve persons with physical disabilities, developmental disabilities, chronic mental illness, or any combination of the three as defined in 24 CFR 891.305. In addition, you may request HUD approval to restrict occupancy to a subcategory of one of these three defined categories. If restricted occupancy is approved, however, you cannot deny occupancy to any otherwise qualified person that meets the definition of the overall category of disability under which the subcategory falls.

**D. 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, for an independent living project (including condominiums), 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. For a group home, the formula is based on the number of persons with disabilities in the appropriate disability category (excluding any unit for a resident manager since such a unit is already incorporated in the development cost limit) multiplied 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 units for residents with disabilities in an independent living project or the number of residents with disabilities in a group home by the appropriate

operating cost standard times three (3). The operating cost standards will be published by separate Notice.

## **II. Award Information**

**A. Available Funds.** For FY2009, \$90.6 million is available for capital advances for the Section 811 Program of Supportive Housing for Persons with Disabilities. The Omnibus Appropriations Act, 2009 (Pub. L. 111-8, approved March 11, 2009), provides approximately \$250 million for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities as authorized by section 811 of the NAHA; for project rental assistance for supportive housing for persons with disabilities under section 811 of the NAHA, including amendments to contracts for such assistance and renewal of expiring contracts for such assistance for up to a one-year term and for tenant-based rental assistance contracts and renewal of expiring contracts for such assistance entered into pursuant to section 811 of the NAHA, and \$1,600,000 to be transferred to the Working Capital Fund. Approximately \$34 million will be provided for tenant-based rental assistance for persons with disabilities administered through public housing agencies (PHAs) and nonprofit organizations under the Mainstream Housing Opportunities for Persons with Disabilities Program.

In accordance with the waiver authority provided in the Consolidated 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 to 3 years. HUD anticipates that at the end of the contract terms, renewals will be approved subject to annual appropriations. 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 811 reflects the "relevant characteristics of prospective program participants," as specified in 24 CFR 791.402(a). The FY2009 formula consists of the following data element from the 2000 Census: the number of non-institutionalized persons age 16 to 64 with a disability. The data on disability status were derived from answers to a two-part question that asked about the existence of the following long-lasting conditions: (a) blindness, deafness, or a severe vision or hearing impairment (sensory disability) and (b) a condition that substantially limits one or more basic physical activities, such as walking, climbing stairs, reaching, lifting, or carrying (physical disability); and a four-part question that asked if the individual had a physical, mental, or emotional condition lasting 6 months or more that made it difficult to perform certain activities. The four activity categories were: (a) learning, remembering, or concentrating (mental disability); (b) dressing, bathing, or getting around inside the home (self-care disability); (c) going outside the home alone to shop or visit a doctor's office (going outside the home disability); and (d) working at a job or business (employment disability).

Under the Section 811 Program, each local HUD office jurisdiction receives sufficient capital advance funds for a minimum of 10 units. The total amount of capital advance funds to support this minimum set-aside is then subtracted from the total capital advance available. The remainder is fair shared to each local HUD office jurisdiction whose fair share would exceed the set-aside based on the allocation formula fair share factors described below.

The fair share factors were developed by taking the number of persons with disabilities in the data element for each state, or state portion, of each local HUD office jurisdiction as a

percent of the data element from the 2000 Census, described above, for the total United States.

The resulting percentage for each local HUD office is then adjusted to reflect the relative cost of providing housing among the local HUD office jurisdictions. The adjusted needs percentage for each local HUD office is then multiplied by the total amount of capital advance funds available nationwide.

The Section 811 capital advance funds have been allocated based on the formula above, to 51 local HUD offices as shown on the following chart:

<b>FY 2009 SECTION 811 ALLOCATIONS SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES</b>		
		<b>CAPITAL</b>
	<b>UNITS</b>	<b>ADVANCE</b>
<b>BOSTON HUB</b>		
<b>BOSTON</b>	15	2,285,015
HARTFORD	10	1,505,842
MANCHESTER	10	1,226,812
PROVIDENCE	10	1,505,842
TOTAL	45	
<b>NEW YORK HUB</b>		
NEW YORK	23	3,484,103
TOTAL	23	
<b>BUFFALO HUB</b>		
BUFFALO	15	1,993,290
TOTAL	15	
<b>PHILADELPHIA HUB</b>		
CHARLESTON	10	1,153,707
NEWARK	17	2,490,930
PHILADELPHIA	17	2,527,965
PITTSBURGH	10	1,237,107
TOTAL	54	
<b>BALTIMORE HUB</b>		
BALTIMORE	10	1,237,107
RICHMOND	14	1,648,227
WASHINGTON	10	1,372,633
TOTAL	34	
<b>GREENSBORO HUB</b>		



COLUMBIA	14	1,710,535
GREENSBORO	17	2,596,576
TOTAL	31	
<b>ATLANTA HUB</b>		
ATLANTA	17	1,818,253
KNOXVILLE	10	1,061,039
LOUISVILLE	14	1,606,552
NASHVILLE	10	1,095,790
SAN JUAN	15	1,979,021
TOTAL	66	
<b>JACKSONVILLE HUB</b>		
BIRMINGHAM	14	1,525,144
JACKSON	10	1,012,389
JACKSONVILLE	25	2,715,514
TOTAL	49	
<b>CHICAGO HUB</b>		
CHICAGO	19	2,925,814
INDIANAPOLIS	15	1,680,975
TOTAL	34	
<b>COLUMBUS HUB</b>		
CINCINNATI	10	1,123,590
CLEVELAND	14	1,778,316
COLUMBUS	10	1,132,857
TOTAL	34	
<b>DETROIT HUB</b>		
DETROIT	15	2,023,928
GRAND RAPIDS	10	948,680
TOTAL	25	
<b>MINNEAPOLIS HUB</b>		
MILWAUKEE	14	1,884,095
MINNEAPOLIS	10	1,407,383
TOTAL	24	
<b>FT WORTH HUB</b>		
FT WORTH	20	2,016,183
HOUSTON	15	1,557,553
LITTLE ROCK	10	979,956
NEW ORLEANS	14	1,454,009
SAN ANTONIO	15	1,436,247
TOTAL	74	
<b>KANSIS CITY HUB</b>		
DES MOINES	10	1,037,873
KANSAS CITY	14	1,674,179
OKLAHOMA CITY	10	1,035,556

OMAHA	10	1,175,715
ST LOUIS	10	1,349,466
TOTAL	54	
<b>DENVER HUB</b>		
DENVER	17	1,927,941
TOTAL	17	
<b>SAN FRANCISCO HUB</b>		
<b>SAN FRANCISCO</b>	18	2,782,206
NEVADA	10	1,246,374
HONOLULU	10	2,085,012
PHOENIX	14	1,523,570
SACRAMENTO	10	1,495,417
TOTAL	62	
<b>LOS ANGELES HUB</b>		
LOS ANGELES	29	4,290,175
TOTAL		
<b>SEATTLE HUB</b>		
SEATTLE	15	2,149,796
ANCHORAGE	10	2,085,012
PORTLAND	14	1,649,821
TOTAL	39	
<b>NATIONAL TOTAL</b>	<b>709</b>	<b>90,647,092</b>

**B. Type of Award.** Capital Advance and Project Rental Assistance Contract Funds for new Section 811 applications.

**C. Type of Assistance Instrument.** The Agreement Letter stipulates the terms and conditions for the Section 811 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 18 months as indicated in the Agreement Letter. 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.** Nonprofit organizations with a section 501(c)(3) tax exemption from the Internal Revenue Service and who meet the threshold requirements contained in the **General Section** NOFA and Section III.C.2 below are the only eligible applicants for this program.

Applicant eligibility for purposes of applying for a Section 811 fund reservation under this NOFA has not changed; i.e., all Section 811 Sponsors and Co-Sponsors must be nonprofit organizations. However, the Owner corporation, when later formed by the Sponsor, may be (1) a single-purpose nonprofit organization that has tax-exempt status under Section 501(c)(3) of the Internal Revenue Code (IRS) of 1986, OR (2) 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 nonprofit organization that has tax exempt status under Section 501(c)(3) of the IRS code as the sole general partner.

See Section IV.E.2 below 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, 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 must 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. below.

### **C. Other**

**1. Eligible Activities.** Section 811 capital advance funds must be used to finance the development of housing through new construction, rehabilitation, or acquisition with or without rehabilitation. In accordance with 24 CFR 891.800, capital advance funds may be used in combination with other non-Section 811 funding sources by a for-profit limited partnership (of which a single-purpose nonprofit organization is the sole general partner) to develop a mixed-finance project, which may or may not include additional unassisted housing units for the disabled over and above the Section 811 units. A proposal to develop a mixed-use project or the development of a mixed-use project in which the Section 811 units are mortgaged separately from the other uses of the structure is not considered a mixed-finance project and is not allowed. In a mixed-finance transaction, only the capital advance assisted unit will receive project rental assistance funds. 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). The types of housing that can be developed with Section 811 capital advance funds include independent living projects, dwelling units in multifamily housing developments, condominium and cooperative housing and small group homes.

**NOTE:** For purposes of approving Section 811 capital advances, HUD will consider proposals involving mixed-financing for additional units over and above the Section 811 units if you have legal control of an approvable site and the additional units do not cause the project to exceed the project size limits if the additional units will also house persons with disabilities (unless your

project will be an independent living project and you request and receive HUD approval to exceed the project size limits (See IV.B.2.c.(1)(d)(xi)). However, you must obtain funds to assist the additional units with other than PRAC funds. HUD will not provide PRAC funds for non-Section 811 units.

**2. Threshold Criteria for Funding Consideration.** In addition to the threshold criteria outlined in the **General Section**, the following threshold requirements must be met:

a. **Application Responsiveness.** As a threshold requirement, your application must be responsive. Your application will be considered non responsive to the NOFA and will not be eligible to be cured or accepted for processing if you:

(1) submit less than the required number of copies if you requested and received approval for a waiver of the electronic requirement. 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 requirement must be submitted to the appropriate local HUD office and received no later than that office's close of business on the application deadline date. Failure to submit paper applications to the appropriate local HUD office by that office's close of business on the application deadline date will deem the application late and therefore ineligible for funding consideration.

(2) submit paper copies of the application if you have not received approval from HUD for a waiver of the electronic 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 and Form of Application, for information on the required exhibits for inclusion with your application to ensure that your application is complete at time of submission;

(4) request more units than were allocated to the local HUD office that will be reviewing your application (see the allocation chart in Section II.A. above);

(5) request less than the minimum number of units for persons with disabilities in an independent living project (5 units) or a group home (2 units);

(6) request more than the maximum number of units for a group home (6 units); or

(7) request assistance for housing that you currently own or lease that has been occupied by people with disabilities for longer than one year prior to the application deadline date;

(8) request assistance for an ineligible activity as defined in Section IV.E., Funding Restrictions, of this program NOFA;

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

#### **b. Other Criteria**

(1) **Need.** There must be sufficient sustainable demand for the number and type of units being proposed, which will not have a long-term adverse impact on existing Federally-assisted housing in the area of the project location.

(2) You, or a Co-Sponsor, must have experience in providing housing or services to persons with disabilities.

(3) You and a Co-Sponsor must be eligible nonprofit organizations with tax-exempt status under Section 501(c)(3) of the Internal Revenue Service code.

(4) Your application must contain evidence of site control or the identification of a site. Section 811(d)(3) of the National Affordable Housing Act requires you to provide either evidence of site control or a reasonable assurance that you will have control of a site within six months of the date of the Agreement Letter notifying you that you have been selected to receive a Section 811 fund reservation. Accordingly, you must include in your application the required information specified below for evidence of site control, or the required information specified below under site identification as a reasonable assurance that site control will be obtained within six months of the date of the Agreement Letter. If you submit the required information for an identified site(s), you must include a specific street address for each identified site or the application will be rejected.

**(a) Evidence of Site Control** - If you have control of a site at the time you submit your application, you must provide the information in Exhibit 4(d) in Section IV.B. of this NOFA relative to site control; **OR**

**(b) Site Identification** - If you do not have site control of one or more of your sites, you must provide the information required in Exhibit 4(e) in Section IV.B. of this NOFA under "Identification of a Site" for any site not under control as a reasonable assurance that site control will be obtained within six months of fund reservation notification.

If your application contains evidence of site control where either the evidence or the site is not approvable, your application will **not** be rejected provided you indicate in your application that you are willing to seek an alternate site and provide an assurance that site control will be obtained within six months of fund reservation notification. During the selection process, all applications with acceptable evidence of site control for all proposed sites and all proposed sites that have been found approvable will be grouped in Category A. All applications that are

submitted as “site identified” as well as those that are submitted with site control but the evidence of control and/or site(s) are not approvable (if the Sponsor indicates that it is willing to seek a different site if the proposed site is not approvable) will be grouped in Category B. All applications in Category A will be selected before any applications are selected from Category B. See Section V.B.4. for further information on the selection process.

**(c) Historic Preservation.** If you submit an application with evidence of site control, 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. HUD’s website at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm> contains a sample letter to the SHPO/THPO that you may adapt for your use, if you so choose. You must include a copy of your letter to the SHPO/THPO in your application. You must then also include in your application either:

- (i) The response letter(s) from the SHPO/THPO, or
- (ii) A statement from you that you have not received a response letter(s) from the SHPO/THPO.

**(d) 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. If you submit an application with evidence of site control, 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. The Findings, Opinions,



and Conclusions sections of the Phase I ESA must be based on ASTM1527-05, Sections 12.5, 12.6, and 12.8, respectively with justifications as to why any suspect recognized environmental conditions, historical recognized condition, or de minimis are not deemed to be recognized environmental conditions (with all such terms as defined in ASTM E 1527-05). The Phase I ESA that you submit must have been completed within one year of the application due date; and any Phase I ESA completed more than 180 days but less than one-year prior to the application due date, must be updated pursuant to Section 4.6 ASTM Standard E 1527-05.

The Phase I ESA must be submitted with the application (although it is a curable deficiency). Therefore, it is important that you start the Phase I ESA process as soon after publication of the SuperNOFA as possible.

NOTE: Failure to follow any and all of the above criteria for preparation and submission of the Phase I ESA 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 concludes that recognized environmental conditions are present, 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 as an application with site control, the Phase II must be received in the local HUD office on or before December 16, 2009.

(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 as an application with site control, this information must be received by the appropriate local HUD office on or before December 16, 2009.

**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.**

(e) **Asbestos.** Asbestos is a hazardous substance commonly used in building products until the late 1970s. Therefore, if you submit an application with evidence of site control, 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 solely of 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.

(5) Your application must contain a Supportive Services Plan and a Certification from the appropriate state or local agency that the Supportive Services Plan is well designed to address the individual health, mental health and other needs of persons with disabilities who will live in your proposed project. Exhibit 5 in Section IV.B. below outlines the information that must be in the Supportive Services Plan. You must submit one copy of your Supportive Services Plan to the appropriate State or local agency well in advance of the application deadline date for the state or local agency to review your Supportive Services Plan and complete the Certification for Provision of Supportive Services, Form HUD 92043 and return it to you so that you can include it in the application you submit to HUD.

(a) HUD will reject your application if the Certification for Provision of Supportive Services:

(i) Is not submitted with your application and is not submitted to HUD within the 14-day cure period; or

(ii) Indicates that the provision of supportive services is not well designed to address the individual health, mental health and other needs of persons with disabilities who will live in your project; or

(iii) Indicates that the provision of supportive services will not enhance independent living success or promote the dignity of the persons with disabilities who will live in your proposed project.

(b) In addition, if the agency completing the certification will be a major funding or referral source for your proposed project or be responsible for licensing the project, HUD will reject your application if either the agency's Certification for Provision of Supportive Services indicates or, where the agency fails to complete item 3 or 4 of the certification, HUD determines that:

(i) You failed to demonstrate that supportive services will be available on a consistent, long-term basis; and/or

(ii) The proposed housing is not consistent with state or local agency plans/policies addressing the housing needs of people with disabilities.

Any prospective resident of a Section 811 project who believes he/she needs supportive services must be given the choice to be responsible for acquiring his/her own services or to take part in your Supportive Services Plan which must be designed to meet the individual needs of each resident.

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-92016-CA, Supportive Housing for Persons with Disabilities Section 811, Application for Capital Advance Summary Information, you are

certifying that you will comply with the program requirements listed in the **General Section** as well as the following requirements:

**a. Statutory and Regulatory Requirements.** In addition to the statutory, regulatory, threshold and public policy requirements listed in the **General Section and in this NOFA**, you must comply with all statutory, regulatory, and handbook requirements that govern the Section 811 program.

**b. Project Size Limits.**

**(1) Independent living project.** The minimum number of units for persons with disabilities that can be applied for in one application is five units. Units may be comprised of efficiency, one, two or more bedrooms with three or more bedroom units restricted to occupancy by families comprised of at least one person 18 years or older with a disability. All of the units are not required to be in one structure and they may be on scattered sites. The maximum number of persons with disabilities that can be housed on one or adjacent sites is 14 plus one additional one- or two-bedroom unit for a resident manager, if necessary. If the proposed independent living project will be located on a site already containing housing for persons with disabilities or on an adjacent site containing such housing, the total number of persons with disabilities housed in both the existing and the proposed project cannot exceed 14.

**(2) Exception to project size limit for an independent living project.** If you are submitting an application for an independent living project with site control, you may request an exception to the above project size limit by providing the information required in Exhibit 4(d)(xi) of Section IV.B. below.

**(3) Group home.** The minimum number of persons with disabilities that can reside in a group home is two, and the maximum number is six. There are no exceptions to the maximum

project size limit for a group home. An additional one-bedroom unit can be provided for a resident manager. Only one person per bedroom is allowed, unless two residents choose to share one bedroom or a resident determines he/she needs another person to share his/her bedroom. If you are applying for more than one group home, they cannot be located on the same or adjacent sites.

**(4) Condominium Units.** Condominium units are treated the same as units in an independent living project except that you cannot request an additional condominium unit for a resident manager.

**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 a maximum of \$10,000 in accordance with 24 CFR 891.145.

**d. Accessibility.** Your project must meet accessibility requirements published at 24 CFR 891.120, 24 CFR 891.310 and Section 504 of the Rehabilitation Act of 1973, and, if new construction, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100. In addition, 24 CFR 8.4(b)(5) prohibits the selection of a site or location which has the purpose or effect of excluding persons with disabilities from the Federally assisted program or activity. 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 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 for the disposition of real property, which 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 Sponsor's Conflict of Interest Resolution, Form HUD 92041 and include it in your Section 811 application. Further, if awarded a Section 811 fund reservation, the officers, directors, board members, trustees, stockholders and authorized agents of the Section 811 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 or safeguards" at 24 CFR 50.3(c). In addition pursuant to NEPA, you must not perform any rehabilitation or construction on the proposed site during the period in which HUD is reviewing your application.

Pursuant to 24 CFR Part 50, HUD has the responsibility for conducting the environmental reviews. HUD will commence the environmental review of your project upon receipt of your completed application. However, HUD cannot approve any site for which you have site control unless it first completes the environmental review and finds that the site(s) meets its environmental requirements. In rare cases, HUD is not able to complete the environmental review due to a complex environmental issue that could not be resolved during the time period allocated for application processing. Thus, if you submit an application with evidence of site control, HUD requires you provide certain information regarding site contamination and building asbestos, 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. 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 website 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. Lead-Based Paint.** You must comply with the requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) and implementing regulations at 24 CFR part 35.

**h. Fair Housing Requirements.** Refer to the **General Section**.

**i. Economic Opportunities for Low and Very Low-Income Persons (Section 3).** The requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) are applicable to projects receiving an award under this NOFA that will involve housing construction; rehabilitation (including the reduction of lead-based paint hazards, but excluding routine maintenance, repair and replacement); or other public construction. Please refer to subparts B and E of 24 CFR Part 135 and the NOFA **General Section** (See Section III.C.4.c.) for additional information. The purpose of Section 3 is to ensure that new training, employment or contracting opportunities, created during the completion of covered projects/activities, will be directed to low- and very low-income persons residing within the project area and to the business concerns that employ these persons, to the greatest extent feasible. To receive up to two (2) points you must submit under Exhibit 3(h), a detailed description of how you plan to incorporate the requirements of Section 3 into your proposed project by directing new employment and contracting opportunities to low-and very low-income persons residing within the project area and the businesses that substantially employ these persons.

**j. Design and Cost Standards.** You must comply with HUD's Section 811 project design and cost standards (24 CFR 891.120 and 891.310), 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. Promoting Energy Star and Green Development.** HUD is encouraging grantees to take specific energy-saving actions in furtherance of HUD's Energy Action Plan described in the August 2006 Report to Congress entitled: "Promoting Energy Efficiency at HUD in a Time of Change," submitted under section 154 of the Energy Policy Act of 2005 (Pub. L. 109-58). (A copy of the report can be obtained at <http://www.huduser.org/publications/destech/energyefficiency.html>.) You are encouraged to promote energy efficiency and green development in the design and operations of your project in order to receive up to two points as follows:

(1) Applicants that meet the policy priorities promoting Energy Star and Green Development, as described in the General Section., will receive up to 2 points under Rating Factor 3 in section V of this NOFA. Refer to section V, B.2 of the General Section for further information on the Energy Star and Green Development policy priorities.

**l. Formation of Owner Corporation.** You must form an "Owner" entity (in accordance with 24 CFR 891.305) 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.

**m. Davis-Bacon.** You must comply with the Davis-Bacon Requirements (42 U.S.C. 8013(j)(6)) and the Contract Work Hours and Safety Standards Act in accordance with 24 CFR 891.155(d).

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

Applications under this NOFA must be received electronically through the Federal website Grants.gov, unless a waiver of this requirement is granted in accordance with the instructions below. The procedures for electronic submission of applications published in HUD's General Section on December 29, 2008 (73 FR 79548), including the provisions at Section IV.C., entitled "Receipt Dates and Times," removed by HUD's Amendment to the General Section published on April 16, 2009 (74 FR 17685), are reinstated and apply to this NOFA. Applicants must follow the instructions on the December 29, 2008 General Section, unless a waiver for cause in accordance with HUD's waiver policy of 24 CFR 5.1005, to the electronic application requirements is approved by HUD. Applicants requesting a waiver should submit their waiver requests in writing using e-mail or fax. 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. Waiver requests submitted by email must contain a .pdf file with the waiver request on the applicant's letterhead and signed by an official with the legal authority to request a waiver from the Department. Waiver requests must be submitted no later than 15 days prior to the application deadline date and must be submitted in accordance with the following requirements:

1. Mailed Requests. A mailed request must be sent to David H. Stevens, Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9100, Washington, DC 20410-8000.
2. Faxed requests must be sent to (202) 708-3104. This is not a toll-free number.

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.** There is no grace period. The waiver approval notification will identify the appropriate HUD office where the application should be submitted and the required number of copies that must be submitted. Paper applications will not be accepted from applicants that have not been granted a waiver.

**A. Content and Form of Application.** The exhibits to be included in your application are contained in the body of this NOFA below. A response to each exhibit is required. Before preparing your application, you should carefully review the requirements of the regulations (24 CFR Part 891) and general program instructions in Handbook 4571.2, Section 811 Capital Advance Program for Housing Persons with Disabilities. 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 811 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 811 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/or Identification of Site, 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 website at

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

- Listing of Local HUD Offices
- Letter Requesting SHPO/THPO Review
- Choosing an Environmental 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 811 fund reservation within the last three funding cycles. If you qualify for this exception, you are not required to submit the information described in Exhibit 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 information submitted.

In addition to this relief of paperwork burden in preparing applications, you are able to use information and exhibits previously prepared for prior applications under Section 811, Section 202, 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 receipt of applications within the jurisdiction of that Office. A listing of the local HUD offices is available on HUD's website 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 received a waiver of the electronic application requirement, you must number the pages of each file, narratives and other attached files. Include the name of the applicant organization that appears on box 8a of the SF-424 and the corresponding DUNS

number for that organization, and the exhibit number that you are responding to on the header of each document.

## **1. TABLE OF CONTENTS**

### **a. Part I – Application Form.**

(1) Exhibit 1: Form HUD-92016-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.
  - (d) Number of board members.
- (2) Exhibit 3: Purpose/Community Ties/Experience.
  - (a) Purpose(s), current activities, etc.
  - (b) Community ties, description of area.
  - (c) Other Funding Sources.
  - (d) Letters of support.
  - (e) Housing/Services experience.
  - (f) Involvement of target population.
  - (g) Coordination with other organizations.
  - (h) Plan for completion of project
  - (i) Consultation with Continuum of Care organizations.
  - (j) Section 3 requirements.

(k) Project will remain viable

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 and Green Development;

(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;

(x) Willingness to seek alternate site; and

(xi) Exception to project size limit:

(A) Preference/acceptance of people with disabilities to live in proposed housing;

- (B) Increased number of units/people warranted by market;
  - (C) Compatibility of project;
  - (D) Increased number will not prohibit integration in community;
  - (E) Project marketability;
  - (F) Consistency of project size with State/local policies; and
  - (G) Willingness to accept project size limit.
- (e) Site identification:
    - (i) Site location;
    - (ii) Steps to identify site/activities to obtain site control;
    - (iii) Whether site is properly zoned;
    - (iv) Status of sale of site; and
    - (v) Whether site involves relocation.
- (2) Exhibit 5: Supportive Services Plan.
    - (a) Description of occupancy.
    - (b) Request to limit occupancy:
      - (i) Population to which occupancy will be limited;
      - (ii) Why necessary to limit occupancy:
        - (A) Achievement of Section 811 goals;
        - (B) Why unable to meet housing/services needs in an integrated setting;
        - (iii) Housing/Services experience;
        - (iv) Assurance of integrating occupants in neighborhood/community.
    - (c) Services needs of proposed population.
    - (d) Community services providers with letters of intent.



- (e) Service providers' capabilities/experience
- (f) State/local agency involvement in project.
- (g) Your commitment to make services available or coordinate their availability.
- (h) Employment opportunities for residents.
- (i) Whether a manager's unit will be included.
- (j) Statement that occupancy will not be conditioned on resident's acceptance of

supportive services.

d. Part IV – Requirements/Certifications/Resolutions.

(1) Exhibit 6: Other Applications

- (a) FY09 Sections 202/811 applications to other Offices.
- (b) Information on FY086 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; and
- (e) Issuance of general information notice and advisory services information,

(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 Commitment to Project.

(h) HUD-2990, Certification of Consistency with the RC/EZ/EC-II Strategic Plan (if applicable)

(i) HUD-92043, Certification for Provision of Supportive Services

(j) HUD-96010, Program Outcome Logic Model

(k) 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. Please refer to the **General Section** for a detailed discussion

(l) HUD-2994-A, You are Our Client! Grant Applicant Survey

## **2. Programmatic Applications Requirements**

### **a. PART I – Application Form for Section 811 Supportive Housing – Capital Advance**

**(1) EXHIBIT 1 - Form HUD-92016-CA, Supportive Housing for Persons with Disabilities Section 811 Application for Capital Advance Summary Information.** A copy of this form is available in the instructions download at either

[https://apply07.grants.gov/apply/forms\\_apps\\_idx.html](https://apply07.grants.gov/apply/forms_apps_idx.html) or

[http://www.hudclips.org/sub\\_nonhud/html/forms.htm](http://www.hudclips.org/sub_nonhud/html/forms.htm)

### **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 nonprofit organization with 501(c)(3) IRS tax exemption). 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) Bylaws
- (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 nonprofit entity with a 501(c)(3) IRS tax exemption status, (2) your corporate purposes are sufficiently broad to provide you the legal authority to sponsor the proposed project for the disabled, 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 there from. **EXCEPTION:** If you received a section 811 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 has been any modifications or additions to the subject documents, indicate such, and submit the new material.

(d) The number of people on your board and the number of board members who have disabilities.

**(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 disability 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 (e.g., the local center for independent living, the Statewide Independent Living Council) 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 (including any integrated housing developments) 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 (persons with disabilities 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 (persons with disabilities including minority persons with disabilities and persons with disabilities similar

to those of the prospective residents) 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 steps you took to coordinate your application with other organizations (e.g., the local center for independent living) that will not be directly involved in your project but with which you share common goals and objectives, to complement and/or support the proposed project so that the project will provide a comprehensive and holistic solution to the needs of persons with disabilities.

(h) Describe your plan for completing the proposed project. Completion of Exhibit 8(j), Program Outcome Logic Model, will respond to this exhibit. The Logic Model must list the major development stages for the project with associated measures that must be met in order to get the project to initial closing and start of construction within the 18-month fund reservation period, full completion of the project, and final closing

(i) A description of your efforts to consult with Continuum of Care organizations in the community where the project will be located about the ways you can assist persons with disabilities who are chronically homeless as defined in the **General Section**.

(j) A detailed description of how you plan to incorporate the Section 3 requirements found at 24 CFR Part 135, into your proposed project including specific strategies for directing new employment and contracting opportunities for low- and very low-income persons residing in the project area and the businesses that substantially employ these persons. This exhibit is optional, but to obtain up to 2 points, you must submit this exhibit and adequately describe how you (or your contractors/developers) plan to employ low- and very low-income residents of the project area and award covered contracts/subcontracts to eligible business concerns

(k) A description of 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.

**c. PART III - THE NEED FOR SUPPORTIVE HOUSING FOR THE TARGET POPULATION, SITE CONTROL AND/OR IDENTIFICATION OF SITE 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 proposed population and evidence demonstrating sustained effective demand for supportive housing for the proposed population in the market area to be served, taking into consideration the occupancy and vacancy conditions in existing comparable subsidized housing for persons with disabilities, state or local needs assessments of persons with disabilities in the area, 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. 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 analyzing fair housing issues that 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(s) including the number and type of structure(s), number of units with bedroom distribution if independent living units including dwelling units in multifamily housing developments, condominiums and cooperatives, number of bedrooms if group home, number of residents with disabilities, and any resident manager per structure; identification of all commercial and community spaces, amenities or features planned for the housing and a description of how the spaces, amenities, or features will be used, and the extent to which they are necessary to accommodate the needs of the proposed residents. Submit a narrative description of the building design (both interior and exterior), including any special design features, as well as any features that incorporate visitability standards and universal design. Also include a description of how the design of the proposed project will facilitate the integration of the residents into the surrounding community and promote the ability of the residents to live as independently as possible.

**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 project standards of 24 CFR 891.310 (a), and the limitations on bedroom sizes as required by paragraph 1-11.E.2.a of HUD Handbook 4571.2 REV-1, you must demonstrate your ability and willingness to contribute both the incremental development cost and continuing operating cost associated with the community spaces, amenities, or features.

(ii) Describe how the project will promote energy efficiency or green development including any plans to incorporate energy efficiency or green development measures in the design, construction, and operation of the project and the use of Energy Star labeled products and appliances. Refer to section B.f. of the General Section for additional guidance.

(iii) For site control applications, if you are proposing to develop a mixed-finance project by developing additional units (i.e., in addition to the 811 units), a description of any plans and actions you have taken to create such a mixed-finance project with the use of Section 811 capital advance funds, in combination with other funding sources. Provide the number of non-Section 811 units to be included in the mixed-finance project (also provide the number of additional units in the appropriate space on Form HUD-92016-CA). Also, provide copies of any letters you have sent seeking outside funding for the non-Section 811 units and any responses thereto. You must also demonstrate your ability to proceed with the development of a Section 811 project in the event you are later unable to obtain the necessary outside funding for the additional units.

**NOTES:** 1) 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. 2) A mixed-finance project does not include the development of a mixed-use project or the development of a mixed-use project in which the Section 811 units are mortgaged separately from the other uses of the structure. 3) For a Section 811 mixed-finance project, the additional units cannot cause the project to exceed the project size limit for the type of project proposed, unless you request and receive HUD approval to exceed the project size limit if the project will be an independent living project (see IV.B.2.c.(1)(d)(xi)) or the additional units will house people who do not have a disability.

(d) Evidence of site control and permissive zoning.



**NOTE:** If you are applying for Section 811 funding without control of any or all of your proposed sites, you must provide the information under (e), Identification of a Site, below for any site you are submitting without evidence of control of that site.

(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 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 requirements 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 811 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 811 closing;

(C) Option to purchase or for 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 811 capital advance fund reservation award. The same requirements for site control are applicable to sites to be acquired from public bodies as are applicable to sites to be acquired from other entities. Where HUD determines that time constraints of the funding round will not permit you to obtain all of the required official actions (e.g., approval of Community of 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 is sufficient evidence of site control, but only if the commitment does not contain restrictions or qualifications that would be unacceptable in the case of other entities. Where a public housing site is to be acquired from a public housing agency (PHA), the PHA must have applied to HUD for permission to dispose of the site or received approval of the disposition from HUD

(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 reverters 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 reverters, the site will be rejected and the application will be considered a “site identified” application. 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 811 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.).

**NOTE:** You should be aware that under certain circumstances the Fair Housing Act requires localities to make reasonable accommodations to their zoning ordinances or regulations to offer persons with disabilities an opportunity to live in an area of their choice. If you are relying upon

a theory of reasonable accommodation to satisfy the zoning requirement, then you must clearly articulate the basis for your reasonable accommodation theory.

(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 persons with disabilities, 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 a lack of units that are accessible to persons with disabilities, a lack of transportation services or other assistance that would serve persons with disabilities, or the need for improved quality and services for all persons with disabilities.

(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.

[http://factfinder.census.gov/home/saff/main.html?\\_lang=en](http://factfinder.census.gov/home/saff/main.html?_lang=en)

(vii) A Phase I Environmental Site Assessment (ESA), prepared in accordance with the ASTM Standard E 1527-05, as amended, using the table of contents and report format specified at Appendix X4 thereto must be completed and submitted with the application (although it is a curable deficiency). . The Findings, Opinions, and Conclusions sections of the Phase I ESA must be based on ASTM1527-05, Sections 12.5, 12.6, and 12.8, respectively with justifications as to why any suspect recognized environmental conditions, historical recognized condition, or de minimis are not deemed to be recognized environmental conditions (with all such terms as defined in ASTM E 1527-05). The Phase I ESA that you submit must have been completed within one year of the application due date; and any Phase I ESA completed more than 180 days but less than one-year prior to the application due date, must be updated pursuant to Section 4.6

ASTM Standard E 1527–05. 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 fails to follow any and all of the above criteria for preparation and submission of the Phase I ESA will result in the site being rejected and the application placed in Category B for selection purposes.**

If the Phase I ESA, concludes that recognized environmental conditions are present, 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 in the local HUD office by December 16, 2009 . If it is not received by that date, the site will be rejected and the application will be placed in Category B for selection purposes.

**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)(d)(iii)]**

(viii) If you submit an application with evidence of site control, you must submit one of the following:

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

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

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

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

(x) A statement that you are willing to seek a different site if the preferred site is not approvable and that site control will be obtained within six months of notification of fund reservation.

(xi) If an exception to the project size limits is being requested, describe why the site was selected and demonstrate the following: (Only for applications for independent living projects [not group homes] with site control).

(A) People with disabilities have indicated their acceptance or preference to live in housing with as many units/people as proposed for the project.

(B) The increased number of units/people is warranted by the market conditions in the area in which the project will be located.

(C) Your project is compatible with other residential development and the population density of the area in which the project is to be located.

(D) The increased number of people will not prohibit their successful integration into the community.

(E) The project is marketable in the community.

(F) The size of the project is consistent with state and/or local policies governing similar housing for the proposed population.

(G) A statement that you are willing to have your application processed at the project size limit should HUD not approve the exception.

(e) Identification of a Site. If you have identified a site, but do not have it under control, you must submit the following information:

**NOTE:** If an application is submitted without evidence of site control and does not provide a specific street address for the identified site(s) (e.g., only an indication that the project will be developed in a particular part of town but a site(s) has not been chosen) the application will be rejected.

(i) A description of the location of the site, including its street address or block and lot number(s), its unit number (if condominium), neighborhood/community characteristics (to include racial and ethnic data), amenities, adjacent housing and/or facilities, how the site will promote greater housing opportunities for minority persons with disabilities and affirmatively further fair housing. 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 community's AI or any other planning document that addresses fair housing issues. Examples of the applicable impediments include the need for improved housing quality and services for minority persons with disabilities and the need for quality services for persons with disabilities within the type and quality of similar services and housing in minority areas.

(ii) A description of the activities undertaken to identify the site, as well as what actions must be taken to obtain control of the site, if approved for funding.

(iii) An indication as to whether the site is properly zoned. If it is not, an indication of the actions necessary for proper zoning and whether these can be accomplished within six months of fund reservation award, if approved for funding.

(iv) A status of the sale or transfer of the site.

(v) An indication as to whether the site would involve relocation.

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

**NOTE:** Your supportive services plan and the Certification for Provision of Supportive Services (Exhibit 8(i)) must be sent to the appropriate state or local agency (identified by the local HUD office) far enough in advance of the application deadline date so that the agency can review the plan, complete the certification and return both to you for inclusion in your application to HUD.

The Plan and Certification should include the following:

(a) A detailed description of whether the housing is expected to serve persons with physical disabilities, developmental disabilities, or chronic mental illness or any combination of the three. Include how and from whom/where persons will be referred and admitted for occupancy in the project. You may, with the approval of the Secretary, restrict occupancy within housing developed under this NOFA to a subcategory of one of the three main categories of

disability noted above. However, the Owner must permit occupancy by any qualified person with a disability that qualifies under the applicable main category of disability.

(b) If requesting approval to restrict occupancy, also submit the following:

(i) A description of the population of persons with disabilities to which occupancy will be limited.

(ii) An explanation of why it is necessary to restrict occupancy of the proposed project(s) to the population described in (i) above, including the following:

(A) An explanation of how restricting occupancy to a subcategory of persons with disabilities promotes the goals of the Section 811 program.

(B) An explanation of why the housing and/or service needs of this population cannot be met in a more integrated setting.

(iii) A description of your experience in providing housing and/or supportive services to proposed occupants.

(iv) A description of how you will ensure that occupants of the proposed project will be integrated into the neighborhood and community.

(c) A detailed description of the supportive service needs of the persons with disabilities that the housing is expected to serve.

(d) A list of community service providers (including consumer-controlled providers), including letters of intent to provide services to proposed residents from as many potential providers as possible.

(e) The evidence of each service provider's capability and experience in providing such supportive services (even if you will be the service provider).

(f) Identification of the extent of state and/or local agency involvement in the project

(i.e., funding for the provision of supportive services, referral of residents, or licensing the project). If there will be any state or local agency involvement, a description of the state/local agency's philosophy/policy concerning housing for the population to be served and a demonstration that your application is consistent with state and/or local agency plans and policies governing the development and operation of housing for persons with disabilities.

(g) If you will be making any supportive services available to the residents or will be coordinating the availability of any supportive services, a letter providing:

(i) A description of the supportive services that you will make available to the residents or, if you will be coordinating the availability of any supportive services, a description of the supportive service(s) and how the coordination will be implemented;

(ii) An assurance that any supportive services that you will make available to the residents will be based on their individual needs; and

(iii) A commitment to make the supportive services available or coordinate their availability for the life of the project.

(h) A description of how the residents will be afforded opportunities for employment.

(i) An indication as to whether the project will include a unit for a resident manager.

(j) A statement that you will not condition admission or occupancy on the resident's acceptance of 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 FY 2009 Section 202 or Section 811 NOFA. Indicate by local HUD office, the proposed location by city and state and the number of units requested for each application.

(b) Include a list of all FY2008 and previous five years' 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 which have not been finally closed.

**(2) EXHIBIT 7: A statement that: (applicable to applications with site control only)**

**NOTE:** For site identified projects, exhibit 7 must be submitted once site control is obtained.

(a) Indicates that no relocation will occur and why (e.g., property is vacant land, or property was unoccupied and no persons were made to move for the project), if applicable. If relocation will occur, complete items (2)(b) through (2)(g) below and identify 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) Identifies all persons (families, individuals, businesses and nonprofit organizations) by race/minority group, and status as owners or tenants occupying the property on the date of submission of the application for a capital advance.

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

(d) Indicates the source of funds to be used to pay relocation costs. If such costs will be funded from sources other than the Section 811 capital advance, you must provide evidence of a firm commitment of these funds.

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

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

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

**NOTE: If any of the relocation costs will be funded from sources other than the Section 811 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).**

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

(a) Standard Form 424 – Application for Federal Assistance, including a DUNS number, an indication of whether you are delinquent on any federal debt, and compliance with Executive Order 12372 (a certification that you have submitted a copy of your application, if required, to the State agency (Single Point of Contact) for state review in accordance with Executive Order 12372). If required by the State’s Single Point of Contact (SPOC), a copy of your application needs to be submitted to the SPOC before the application deadline date, but in no event later than the application deadline date. Refer to Section IV.D. of this NOFA for additional information on compliance with Executive Order 12372. If you are located in a state that does not have a SPOC, please indicate such.

**NOTE:** For Section 811 program purposes, for item 12 of the SF-424, Areas Affected by Project, provide the name 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 to 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 deadline date set forth in this 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 reflecting 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), 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 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 an RC/EZ/EC-II.) A copy of the RC/EZ/EC-II Certification form is contained in the online application; and

(i) Form HUD-92043, Certification for Provision of Supportive Services. A certification from the appropriate state or local agency (identified in the application or obtained from the local HUD office), indicating whether the:

(i) Provision of supportive services is well designed to serve the needs of persons with disabilities the housing is expected to serve;

(ii) Provision of supportive services will enhance independent living success and promote the dignity of those who will access your proposed project;

(iii) Supportive services will be available on a consistent, long-term basis; and

(iv) Proposed housing is consistent with state or local plans and policies addressing the housing needs of people with disabilities. If the state or local agency will provide funding for the provision of supportive services, refer residents to the project (The name, address, and telephone number of the appropriate agency can also be obtained from the appropriate local HUD Office.)

(j) 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. . Form HUD-96010, Program Outcome Logic Model must be submitted in Excel format. Logic Models converted to any other format will receive zero points.



(k) Form HUD-96011, Facsimile Transmittal ("Facsimile Transmittal Form" on Grants.gov). The form HUD 96011 must be used as the coversheet for any facsimile.

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

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

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

#### **B. Receipt Date and Time.**

1. The application deadline for receipt of HUD applications via Grants.gov is 11:59:59 p.m. on November 16, 2009. Applications must be received by Grants.gov by the deadline in order to meet the program deadline. Received means that the application has been successfully uploaded to the Grants.gov server and the applicant has received confirmation of successful submission to Grants.gov. Applicants should be aware that hitting the "sign and submit" button to transmit the application does not mean the application has been successfully uploaded to Grants.gov. Only

when the upload is complete is the application date and time stamped by the Grants.gov system. An application that has been rejected by Grants.gov is not deemed to have been received by Grants.gov. (Please see Section D.1. of the General Section for a detailed explanation of Timely Receipt Requirements and Proof of Timely Receipt.) As in the past, HUD encourages applicants to submit their applications early and with sufficient time to address any issues that might affect the applicant's ability to have an application successfully uploaded and received by Grants.gov.

In FY 2009, HUD is establishing a one-day grace period from the date of notification of a rejection from Grants.gov, to allow applicants that successfully upload an application to Grants.gov prior to the deadline date and time, but receive a rejection notice after the deadline date and time, to cure the reason for rejection and re-upload the application to Grants.gov. The paragraphs below describe HUD's Grace Period Policy for FY2009.

a. Applicants that have successfully uploaded their application to Grants.gov prior to the deadline, and subsequently receive a rejection notice from Grants.gov after the deadline date and time, will have a one-day grace period from the date stamp on the first Grants.gov rejection notice after the deadline, to cure the basis for the rejection and upload an application that corrects the problems cited in the rejection notice. Applicants can upload the application as many times as needed to cure noted deficiencies within the one-day grace period. The Grants.gov rejection notice identifies the reasons why the application was rejected. Applicants that do not understand the error messages received in the rejection notice should immediately contact the Grants.gov Help Desk so they can get assistance in clearing the problem. Generally, Grants.gov will reject an application because it contains an incorrect DUNS number or a DUNS number that does not match the AOR's registration, the application was submitted by an individual without proper authorization as the AOR, and/or the application contains file names that trigger a "VirusDetect"

message. The grace period ends one day after the date stamp on the first rejection notice received after the deadline date.

**WARNING:** Applications that contain file names which are longer than 50 characters (HUD recommends using file names with 32 characters or less), or contain spaces or special characters, will result in the file being detected as a virus by the Grants.gov system and the application will be rejected with a “VirusDetect” message. In FY2008, the use of spaces and special characters in file names, and the use of file names which were longer than fifty characters, resulted in the most instances of an applicant receiving a “VirusDetect” rejection. Applicants should also scan files for viruses because the Grants.gov system will also reject files with viruses.

Applications received by Grants.gov, including those received during the grace period, must be validated by Grants.gov to be rated or ranked or receive funding consideration by HUD. HUD will use the date and time stamp on the Grants.gov system to determine dates when the grace period begins and ends.

b. Applications uploaded to Grants.gov after the deadline date under the following circumstances do not qualify for the grace period and will not be considered for funding:

(1) Applications uploaded and received by Grants.gov after the deadline date and time for which there is no prior rejection notice in the Grants.gov system logs will be considered late and will not be rated and ranked or receive funding consideration. Failure to successfully upload the application to Grants.gov by the deadline date and time does not qualify for the grace period as described above.

(2) Applications receiving a rejection notice due to the funding opportunity being closed will not be provided the one day grace period to correct the “opportunity closed” deficiency or

any other basis for rejection because the applicant missed the deadline date and time and therefore does not qualify for the grace period as described above.

(3) If an application is uploaded during the grace period and is subsequently rejected after the grace period ends, the applicant will not be afforded additional time to correct the deficiency(ies) noted in the rejection notice.

c. The grace period ends at 11:59:59 p.m. one day from the date stamp on the first rejection notice issued by the Grants.gov system to the email address provided in the Grants.gov registration. Applicants must ensure that their email notification address contained in the Grants.gov registration is up-to-date. Neither HUD nor Grants.gov will be responsible if email messages are not received at the address listed in the registration process. Applicants must also ensure that their email systems will accept messages from Grants.gov. Applicants are responsible for monitoring their email messages. Messages from Grants.gov come from [Support@grants.gov](mailto:Support@grants.gov).

d. The only exceptions to HUD's grace period policy are:

(1) The Grants.gov system is down and not available to applicants for at least 24 hours prior to the deadline date, or the system is down for 24 hours or longer, impacting the ability of applicants to cure a submission deficiency within the grace period; and/or

(2) There is a presidentially declared disaster in the applicant's area. In the event of either or both of these events, HUD will publish a notice extending the deadline or cure period, for applicants affected, as appropriate.

e. Busy servers or slow processing are not the basis for HUD to extend the deadline dates or the grace period.

Applicants are advised to monitor the Grants.gov system using the Grants.gov blog at <http://grants-gov.blogspot.com/>. The Grants.gov blog provides information on server capacity, traffic on the Grants.gov site, and other federal grant closings each day. Applicants should monitor the site and take into account the amount of traffic on the site when applying.

2. An applicant will not be provided additional opportunities to correct rejection errors if an application is rejected after the one-day grace period has expired.

As with any electronic system, applicants may experience issues when attempting to submit their application which does not permit the uploading of the application to Grants.gov. Such issues can be due to firewall and virus protection software that the applicant has placed on their system or network; proxy and cache settings; Internet traffic; limitation on the size of the files attempting to be transmitted established at the applicant's site or by the applicant's Internet provider; Grants.gov servers experiencing busy traffic; or any number of issues. Therefore, HUD strongly advises applicants to submit their applications at least 48 hours prior to the deadline and when the Grants.gov Help Desk is open so that assistance can be provided.

Assistance may require diagnosing an applicant's particular issues. An applicant that does not follow HUD's advice increases the applicant's risk of not being able to meet the timely receipt requirements. A submission attempt less than the recommended 48 hours before the deadline does not allow the time needed to research the reason for the problem or to work with the applicant in overcoming the uploading difficulty. Similarly, attempting to submit within 24 hours of the deadline or when the Grants.gov Help Desk is closed does not allow the time needed for Grants.gov or HUD to provide the needed assistance. In addition, HUD staff cannot provide assistance or contact Grants.gov on your behalf after the Help Desk is closed. HUD strongly encourages applicants to carefully read the December 29, 2008 General Section for additional

information regarding the Grants.gov registration process, submitting an application through Grants.gov, and timely receipt instructions.. Applicants need to be aware that following submission applications go through a validation process in which the application may be accepted or rejected. The process may take 24 to 48 hours to complete. Your completed application must be received by Grants.gov no later than 11:59:59 p.m. eastern time on November 16, 2009, the application deadline date. HUD advises applicants to submit their applications early with sufficient time to address issues that might prevent their applications from being received by Grants.gov to meet the timely receipt requirements contained in this NOFA. HUD also encourages applicants to submit their applications early with sufficient time to address issues that might prevent their applications from being received by Grants.gov.

Applicants should also note that Adobe has put out a new version of Adobe Reader compatible with Grants.gov. These versions are 8.1.6 and 9.1.2. Applicants must use the latest versions of the Adobe Reader compatible with Grants.gov, which are Adobe Reader 8.1.6 or 9.1.2 or the most recent versions posted to the Grants.gov website.

### **C. 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 website 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 811 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 time frames 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 811 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.

**D. Funding Restrictions:**

**1. Ineligible Activities.** Section 811 funds may not be used for any of the following:

- a. Supportive Services only;
- b. Housing that you currently own or lease that has been occupied by people with disabilities for longer than one year prior to the application deadline date;
- c. Nursing homes, infirmaries and medical facilities;
- d. Transitional housing only;
- e. Mobile homes;
- f. Intermediate care facilities only;
- g. Assisted living facilities;
- h. Community centers, with or without special components for use by persons with disabilities;
- i. Sheltered workshops and centers for persons with disabilities only;
- j. Headquarters for organizations for persons with disabilities; and
- k. Refinancing of Sponsor-owned facilities without rehabilitation.

**NOTE:** You may propose to rehabilitate an existing currently-owned or leased structure (if the structure already serves persons with disabilities, it cannot have operated as housing for persons with disabilities for longer than one year prior to the application deadline date); however, the refinancing of any federally funded or assisted project or project insured or guaranteed by a federal agency is not permissible under this Section 811 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 or that have been operating as housing for persons with disabilities for longer than one year prior to the application deadline date. (For example, Section 202, Section 202/8 or Section 202/PAC direct loan projects cannot be refinanced with capital advances and project rental assistance.)

**2. Application Limits (Units/Projects).** A Sponsor or Co-Sponsor may not apply for more than 70 units of housing or 4 projects (whichever is less) for persons with disabilities in a single Hub or more than 10 percent of the total units allocated to all local 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 these limits. In addition, no single application may propose more units in a given local HUD office than allocated for the Section 811 program in that local HUD office. If the proposed project will be an independent living project, your application must request at least five units for persons with disabilities, not necessarily in one structure. If your proposed project will be a group home, you must request at least two units for persons with disabilities per group home. If your proposed project will be a combination of an independent living project and a group home, your application must request at least the minimum number of units for each project type (i.e., 5 units for an independent living project and 2 units for a group home).



### 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 reserved for projects for persons with disabilities.

**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. If amendment funds are not approved, 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) For independent living projects and dwelling units in multifamily housing developments, condominium and cooperative housing: 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:

\$50,232 per family unit without a bedroom

\$57,917 per family unit with one bedroom

\$69,849 per family unit with two bedrooms

\$89,409 per family unit with three bedrooms

\$99,605 per family unit with four bedrooms

For elevator structures:

\$52,862 per family unit without a bedroom

\$60,597 per family unit with one bedroom

\$73,686 per family unit with two bedrooms

\$95,325 per family unit with three bedrooms

\$104,638 per family unit with four bedrooms

(2) For group homes only (the development cost limits are capped by type of occupancy and number of person with disabilities):

#### Type of Disability

Residents	Physical/Developmental	Chronic Mental Illness
2.....	\$200,348	\$193,397
3.....	\$215,445	\$207,972
4.....	\$230,545	\$220,920
5.....	\$245,642	\$233,867
6.....	\$260,725	\$246,814

(3) These cost limits reflect those costs reasonable and necessary to develop a project of modest design that complies with HUD minimum property standards; the minimum group home requirements of 24 CFR 891.310(a) (if applicable); the accessibility requirements of 24 CFR 891.120(b) and 891.310(b); and the project design and cost standards of 24 CFR 891.120.

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 811 project in that area.

(2) If HUD finds that high construction costs in Alaska, Guam, the Virgin Islands or Hawaii make it unfeasible to construct dwellings, without sacrificing sound standards of construction, design, and livability, within the development cost limits provided in Section IV.E.3.a.(1) and IV.E.3.b.(1) above, the amount of capital advances may be increased to compensate for such costs. The increase may not exceed the limits established under this section by more than 360 percent.

(3) For group homes only, local HUD offices may approve increases in the development cost limits in Section IV.E.3.a.(2), above, in areas where you can provide sufficient documentation that high land costs limit or prohibit project feasibility. An example of acceptable documentation is evidence of at least three land sales that have actually taken place (listed prices for land are not acceptable) within the last two years in the area where your project is to be built. The average cost of the documented sales must exceed ten percent of the development cost limit for your project in order for an increase to be considered.

**4. Commercial Facilities.** A commercial facility for the benefit of the residents may be located and operated in the Section 811 project. However, the commercial facility cannot be funded with the use of Section 811 capital advance or PRAC funds. The maximum amount of space permitted for a commercial facility cannot exceed 10 percent of the total project cost. An exception to this 10 percent limitation is if the project involves acquisition or rehabilitation and the additional space was incorporated in the existing structure at the time the proposal was submitted to HUD. Commercial facilities are considered public accommodations under Title III

of the Americans with Disabilities Act of 1990 (ADA), and thus must comply with all the accessibility requirements of the ADA.

**5. Expiration of Section 811 Funds.** The Consolidated Appropriations Act, 2009 (Pub. L. 110-161), requires HUD to obligate all Section 811 funds appropriated for FY2009 by September 30, 2012. Under 31 U.S.C. § 1551, no funds can be disbursed from this account after September 30, 2017. Under Section 811, obligation of funds occurs for both capital advances and project rental assistance upon execution of the Agreement Letter by the Assistant Secretary of Housing. If all funds are not disbursed by HUD and expended by the project Owner by September 30, 2017, 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 and expenditure of PRAC funds no later than September 30, 2017. Furthermore, all unexpended balances, including any remaining balance on PRAC funds, will be cancelled as of October 1, 2017. 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, if available

**E. Other Application Receipt Requirements:**

**1. Address for Submitting Applications.** Applications must be received electronically through the [http://www07.grants.gov/applicants/apply\\_for\\_grants.jsp](http://www07.grants.gov/applicants/apply_for_grants.jsp) website, unless the applicant receives a waiver from the electronic application requirement. See the **General Section, Application Submission and Receipt Procedures and Section IV.C. of this NOFA for additional information.** Refer to HUD's website at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm> for a listing of local HUD offices. All applications submitted electronically via

[http://www07.grants.gov/applicants/apply\\_for\\_grants.jsp](http://www07.grants.gov/applicants/apply_for_grants.jsp) will be downloaded and forwarded to the appropriate local HUD office.

**2. For Section 811 applications that 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) 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 SF-424; Standard Form 424 Supplement, Survey for Ensuring Equal Opportunity for Applicants; Standard Form LLL, Disclosure of Lobbying Activities (if applicable); Form HUD-92016-CA, Section 811 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 [https://apply07.grants.gov/apply/forms\\_apps\\_idx.html](https://apply07.grants.gov/apply/forms_apps_idx.html). The downloaded and completed forms

should be saved as separate electronic files and attached to the electronic application following the requirements of Section IV.

As stated in the **General Section** as well as Section IV of this NOFA, scanning documents to create electronic files increases the size of the file. If your computer has the capacity to upload scanned documents, submit your documents with the application by using the Attachment Form in the Mandatory or Optional Forms section of the downloaded application package from Grants.gov. Such documents must be saved according to the instructions provided in the General Section and attached using the "Attachment" form included in the application package downloaded from Grants.gov. Electronic files must be labeled and numbered according to the appropriate application Exhibit in order for HUD reviewers to identify the file and its contents. If you are 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 instructions and exhibit 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 811 application. Please be sure that you eliminate any spaces or special characters such as parentheses or periods when naming the files or else they will be rejected by the grants.gov system with a virus detect message.

Third party letters, certifications requiring signatures, and other information required to be submitted with the electronic application may be scanned or transmitted via fax using Form HUD-96011, Facsimile Transmittal found in the downloaded application package. You should

only use the fax method when documents cannot be attached to the electronic application package or when the size of the submission is too large to upload from the applicant's computer. Please note that the facsimile transmittal form, found in the downloaded application, contains an embedded ID number that is unique to your application submission. Make a copy of this facsimile transmittal cover page and provide that copy to the third party for use with the fax transmission. Co-Sponsors should use the form HUD-96011 provided by the Sponsor that is submitting the electronic application. Each time the application package is downloaded, the forms in the package are given a unique ID number. 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 Section IV.B.3. of the **General Section** for further instructions. **If you are not faxing any documents**, you must still complete the facsimile transmittal form. In the section of the form titled "Name of Document Transmitting," enter the words "Nothing Faxed with this Application." Complete the remaining highlighted fields and enter the number "1" in the section of the form titled "How many pages (including cover) are being faxed?" You must move the form to the right side of the Grants.gov

application. Forms on the right side of the application get uploaded as part of your application submission with the forms getting embedded ID numbers. The embedded ID numbers allows HUD to match your faxes to your application submission.

## **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 FY 2009. Refer to the **General Section** for information regarding HUD's Strategic Goals and Policy Priorities. For the Section 811 program, applicants who include work activities that specifically address the policy priorities of encouraging accessible design features by incorporating visitability standards and universal design, ending chronic homelessness, promoting energy efficiency and green development in design and operations.

**Rating Factors.** HUD will rate applications that successfully complete technical processing using the Rating Factors set forth below and in accordance with the application requirements in this NOFA. The maximum number of points an application may receive under this program is 100 plus 2 bonus points. This includes two (2) RC/EZ/EC-II bonus points, as described in the **General Section** of the NOFA and Section V.A.6 below.

#### **1. Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (30 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 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. **(15 points)** The scope, extent, and quality of your experience in providing housing or related services to those proposed to be served by the project and the scope of the proposed project (i.e., number of units, services, relocation costs, development, and operation) in relationship to your demonstrated development and management capacity as well as your financial management capability.

b. **(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 disability communities in particular, divided as follows:

(1) **(5 points)** The scope, extent, and quality of your experience in providing housing or related services to minority persons or families.

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

To earn the maximum number of points under sub criterion (b)(1) above, you must describe significant previous experience in providing housing and/or supportive services to minorities generally and to minority persons with disabilities, 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 criterion (b)(2) above, you should submit materials that demonstrate your efforts to make housing available to the community at large and the minority

and disability communities in particular and your relationships over time with the community, including the minority and disability communities. Examples of documents that may be submitted to earn the maximum number of points under sub criterion (b)(2), include letters of support from community leaders (including minority and disability community leaders) that give information about applicant's relationship over time with the community (including the minority and disability 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), disabled community and the community at large. Regarding your advertising/outreach materials, you should identify when advertising/outreach materials are circulated, whom they are circulated to, where they are circulated, and how they are circulated. Also, descriptions of other advertising/outreach efforts to the minority (including limited English proficient communities) and disabled communities, and the dates and places of such advertising/outreach efforts should 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 811 program of Supportive Housing for Persons with Disabilities or the Section 202 program of Supportive Housing for the Elderly in FY 2004 or later has been extended beyond 24 months, 4 points if beyond 36 months, and 5 points if beyond 48 months. Examples of 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. NOTE: Percentage calculations will be rounded to the nearest whole number (e.g. 5.5 percent will be rounded to 6 percent and 5.4 percent will be rounded to 5 percent).

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 FY 2004 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.

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

e. **(5 points)** You have experience in developing integrated housing and/or the proposed project will be an integrated housing model (applies to condominium units scattered within one or more buildings or non-contiguous independent living units on scattered sites only).

## **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 Requirements in Exhibits 4(a) and 4(b) of Section IV.B. of this NOFA. HUD will consider the extent of 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 are not limited to:

- a general assessment of the current conditions in the market for the type of housing proposed,
- an estimate of the demand for additional housing of the type proposed in the applicable housing market area,
- information on the numbers and types of existing comparable Federally assisted housing units for persons with disabilities (HUD and RHS) and current occupancy in such housing and recent market experience,
- comparable assisted housing for persons with disabilities 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 also will review more favorably those applications which establish a connection between the proposed project and the community's Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues and is prepared by a local planning or similar organization. You must show how the proposed project will address an impediment to fair housing choice described in the AI or meet a need identified in the other type of planning document.

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

- a. (10 points) If a determination has been made that there is sufficient sustainable long-term demand for additional supportive housing for persons with disabilities in the area to be served, the project is to be awarded 10 points. If not, the project is to be awarded 0 points. No other point values are allowed under this subsection V.A.2.a.

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 (40 Points)**

This factor addresses the quality and effectiveness of your proposal, the extent to which you involved persons with disabilities, including minority persons with disabilities, in the development of the application and will involve them in the development and operation of the project, the extent to which you coordinated your application with other organizations, including local independent living centers, with which you share common goals and objectives and are working toward meeting these objectives in a holistic and comprehensive manner, whether you consulted with Continuum of Care organizations to address efforts to assist persons with disabilities who are chronically homeless as defined in the **General Section**, whether you will promote energy efficiency and green development in the design, construction, rehabilitation and operation of the proposed housing, and your plans to expand economic opportunities for low and very low-income persons and eligible business concerns (Section 3). There must be a clear relationship between the proposed design, the proposed activities, the community's needs and purposes of the program funding for your application to receive points for this factor. Submit information responding to this factor in accordance with Application Requirements in Exhibits 2(d), 3(f), 3(i), 3(j), 3(k), 4(c)(i), 4(c)(ii), 4(d)(iii), 4(d)(v), 4(d)(vi), 4(e)(i), and 5 of Section IV.B. of this NOFA. In evaluating this factor, HUD will consider the following:

a. **(14 points)** Site approvability -- 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, and freedom of the site from adverse environmental conditions (based on site visit for site control projects only); and compliance with site and neighborhood standards in 24 CFR 891.125(a), (d), and (e) and 24 CFR 891.320. Sites where amenities are accessible other than by project residence or private vehicle will be rated more favorably;

b. **(-1 point)** One or more of your proposed sites is not permissively zoned for the intended use.

c. **(8 points)** The suitability of the site from the standpoint of promoting a greater choice of housing opportunities for minorities and persons with disabilities 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. If appropriate, HUD may visit the site.

(1) The site will be deemed acceptable if it increases housing choice and opportunity by expanding housing opportunities in non-minority neighborhoods (if located in such a neighborhood). The term "non-minority area" is defined as one in which the minority population is lower than 10 percent. If the site will be in a minority neighborhood, the site will be deemed acceptable if it contributes to the revitalization of and reinvestment in the minority neighborhood, including improvement of the level, quality and affordability of services furnished to minority persons with disabilities. You should refer to the Site and Neighborhood Standards provisions of the regulations governing the Section 811 Supportive Housing Program (24 CFR 891.125(b) and (c)) when considering sites for your projects.

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

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

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

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

d. **(2 points)** Site and Neighborhood Standards and Persons with Disabilities: The extent to which the proposed design of the project (exterior and interior) and its placement in the neighborhood will meet the individual needs of the residents and will facilitate their integration into the surrounding community and promote their ability to live as independently as possible.

e. **(1 point)** The extent to which the proposed design incorporates visitability standards and universal design in the construction or rehabilitation of the project. Refer to the **General Section** for further information.

f. **(4 points)** Your board is comprised of persons with disabilities.

g. **(3 points)** You involved persons with disabilities (including minority persons with disabilities) in the development of the application, and will involve persons with disabilities (including minority persons with disabilities) in the development and operation of the project.

h. **(2 points)** The extent to which you coordinated your application with other organizations (including local independent living centers; a list of such can be obtained from the local HUD office) that will not be directly participating in your project, but with which you share common goals and objectives and are working toward meeting these goals and objectives in a holistic and comprehensive manner.

i. **(1 point)** You consulted with the Continuum of Care organizations in the community in which your proposed project will be located and have developed ways in which the proposed project will assist persons with disabilities who have been experiencing chronic homelessness become more productive members of society. Refer to the **General Section** for further information.

j. **(1 point)** The extent to which 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.

**k. (2 points)** The extent to which you will promote energy efficiency and green development in the design, construction, rehabilitation, and operation of the proposed housing. **NOTE:**

Although this is not a requirement, you will receive: one (1) point, if your application demonstrates that you intend to incorporate energy efficiency measures in the design, construction, rehabilitation, and operation of your project and use Energy Star-labeled products;. and .one (1 ) point if your application demonstrates the extent to which you will promote green development in the design, construction, rehabilitation and operation of the proposed housing. .

**(NOTE:** Although this is not a requirement, to receive the second point, your application must demonstrate that you intend to incorporate green development measures in the design, construction, rehabilitation, and operation of your project and use Energy Star-labeled products.)



**I. (2 points).** The extent to which you describe the following (at a minimum): the number of new employment opportunities you anticipate creating during the proposed project/activities; the type and amount of contracting opportunities that will be generated during the proposed project/activities; how Section 3 residents and business concerns will be targeted for these opportunities; efforts you intend to take to facilitate the employment and/or awarding of contracts to these individuals; processes that will be used to ensure contractor compliance; and staff persons responsible for ensuring compliance with subparts B and E of 24 CFR Part 135.

**NOTE: This is an optional requirement, but to receive up to 2 points, the applicant must have adequately described in Exhibit 3(j) how he/she (or your contractors/developers) plans to employ low- and very low-income residents of the project area and award covered contracts/subcontracts to eligible business concerns. Refer to the General Section (Section III.C.4.c.).**

(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 Requirements in Exhibits 3(a), 3(b), 3(c), 3(d), 3(e), and 5(f) of Section IV.B. of this NOFA. NOTE: Percentage calculations will be rounded to the nearest whole number (e.g. 5.5 percent will be rounded to 6 percent and 5.4 percent will be rounded to 5 percent).

- a. **(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% 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% and 10% 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% and 15% 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% and 20% 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% and 25% 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% 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 develop clear outputs and outcomes that measure your performance during the development of your project. Information provided in Exhibit 8(i), Project Outcome Logic Model (HUD-96010), as well as the Assessment Matrix will be used when reviewing and scoring this factor. Form HUD-96010, Program Outcome Logic Model must be submitted in Excel format. Logic Models converted to any other format will receive zero points. This rating factor also addresses the extent to which your past performance demonstrates your ability to develop the project within a timely manner. Submit information responding to this factor in accordance with Application Requirements in Exhibits 3(e), 3(g), 3(h), 3(i), 6(b), and 8(j) of Section IV.B. of this NOFA.

a. **(10 points)** The extent to which your Logic Model demonstrates your full understanding of the development process and will, therefore, result in the timely development of your project.

The following sub factors reflect the criteria for review as identified in the logic model matrix found in the General Section:

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

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

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

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

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 performances could include the development of previous construction projects, including but not limited to Section 202 or Section 811 projects.

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

#### **B. Review 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 811 application:

<b>EXHIBIT</b>	<b><u>DESCRIPTION</u></b>
1	Form 92016-CA Application Form*
2	a Articles of Incorporation*
2	b Bylaws*
2	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:
4	A Deed or long-term leasehold;
4	B Contract of sale;
4	C Option to purchase or for long-term lease; or
4	E Evidence that the public body possesses clear title & binding agreement
4	d ii Evidence site is free of limitations, restrictions or reverters
4	d iv Evidence of compliance with URA site notification requirement
4	d vii Phase I ESA
4	d viii Asbestos Statement or Survey

4	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
4	d x	Willingness to seek an alternate site
4	d xi	Exception to project size limit
4	e ii	Steps undertaken to identify site
4	e iv	Status of the sale of the site
4	e v	Whether the site would involve relocation
5		Supportive Services Plan
7		Relocation
8	a	Letter sent to the State Point of Contact (SPOC).*
8	b	Standard Form 424 Supplement, Survey on Ensuring Equal Opportunity for Applicants.
8	c	Standard Form LLL, Disclosure of Lobbying Activities (if applicable).
8	d	Form HUD-2880, Applicant/Recipient Disclosure/Update Report.
8	e	Form HUD-2991, Certification of Consistency with Consolidated Plan.
8	f	Form HUD-92041, Sponsor's Conflict of Interest Resolution.
8	g	Form HUD-92042, Sponsor's Resolution for Commitment to Project.*
8	i	Form HUD-92043, Supportive Services Certification.
8	l	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 deadline 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.** If applicant meets all the threshold requirements as outlined in the General Section, 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 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 threshold requirements in the **General Section** and this NOFA will be eligible for selection and will be placed in rank order in two categories; Category A and Category B. Category A will consist of approvable applications that contain acceptable evidence of control of all proposed sites and all proposed sites have been found approvable. Category B will consist of the following approvable applications:

- (a) those that were submitted with identified sites;

(b) those that were submitted with evidence of site control where the evidence and/or any of the proposed sites were found not approvable provided you indicate your willingness to locate another site(s) should the proposed site(s) be found not approvable; and

(c) those that were submitted with a combination of sites under control and identified sites. Each HUD Multifamily Program Center will select applications, after adding any bonus points for RC/EZ/EC-II, based on rank order, from Category A first that most closely approximates the capital advance authority available in its allocation. If capital advance authority remains after selecting all approvable applications from Category A, each HUD Multifamily Program Center shall then select applications, in rank order, from Category B that most closely approximates the capital advance authority remaining in its 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 from the applicable category, however, HUD Multifamily Program Centers may use remaining available funds to select the next highest rank-ordered application in that category 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 unfeasible. For this purpose, however, HUD will not reduce the number of units in projects of five units or less.

After the HUD Multifamily Program Centers have funded all possible projects based on the process above, 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 approvable applications within each Multifamily Hub will be selected in Hub-wide rank order, first from Category A, and if sufficient funds remain, from Category B, 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 rank-ordered application in the applicable category 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 5 units.

Funds remaining after the Multifamily HUB selection process is completed will be returned to Headquarters. HUD Headquarters will use the residual funds first to restore units to projects reduced by HUD Multifamily Program Center or Multifamily Hub as a result of the instructions for using their residual funds. Second, HUD Headquarters will use these funds for selecting additional applications based on HUD Program Centers' rankings, beginning with the highest rated application nationwide in Category A. Only one application will be selected per HUD Multifamily Program Center in Category A from the national residual amount.

Headquarters may skip over a higher rated Category A application to ensure that only one application is selected from each HUD Multifamily Program Center. This process will continue until the remaining available funds are used to select Category A applications, to the maximum extent possible. If all Category A applications are selected, Category B applications will then become eligible for selection in rank order, beginning with the highest rated application. Only one Category B application per HUD Multifamily Program Center will be selected from the remaining national residual amount. Headquarters may skip over a higher rated Category B

application in order to ensure that only one application is selected from each HUD Multifamily Program Center. This process will continue until the remaining available funds are used to select approvable applications. If there are no approvable applications in Category A in other HUD Multifamily Program Centers, then the next highest rated application in Category B in another HUD Multifamily Program Center will be selected.

**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 811 fund reservation, you will receive an Agreement Letter that stipulates the terms and conditions for the Section 811 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 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 811 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 part 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.

If you had site control as an applicant, you must be able to identify all persons who were required to move from the site within the past 12 months and the reason for such a move. You will also have to be able to demonstrate 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 of the execution of the option to acquire the property or at the time of application submission.

**3. Flood Disaster Protection Act of 1973 and Coastal Barriers 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 proposed measures against the proposed activities/output and proposed outcome(s) for the appropriate year. The proposed measures should be entered in the “Pre” column of the form. The Logic Model has been designed to clearly identify the stages of the development process and it must present a realistic annual projection of outputs and outcomes that demonstrates your full understanding of the development process. Using the “Year One” through “Year Three” tabs on the logic model, you must demonstrate your ability to ensure that the proposed measures will result in the timely development of your project. To provide for greater consistency in reporting,

you must include all activities and outcomes excepted per year of the period of performance.

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

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

The second stage will require the Owner to submit a completed form HUD-96010, Logic Model on an annual basis, beginning one year after the date of the final logic model submission that was required in stage one and concluding at the conclusion of the mortgage. Stage two will require the Owner to document the services/activities that are made available to tenants and the expected outcomes and measures of such services.

2. The Regulatory Agreement (Form HUD-92466-CA) requires the Owner of the Section 811 project to submit an annual financial statement for the project. This financial statement must be audited by an Independent Public Accountant who is a Certified Public Accountant or other

person accepted by HUD and filed electronically with HUD's Real Estate Assessment Center (REAC) through the Financial Assessment Subsystem for Multifamily Housing (MF-FASS). The submission of annual financial statements is required throughout the 40-year term of the mortgage.

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

**4. Section 3 Reporting:** Recipients are required to submit an annual form HUD-60002-Section 3 Summary Report to the Assistant Secretary for Fair Housing and Equal Opportunity in Washington, DC, for the purpose of determining the recipient's compliance with the requirements of Section 3. Form HUD-60002 shall be submitted to the Department annually, no later than January 10<sup>th</sup> or the 10<sup>th</sup> day after project completion, whichever is earlier.

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

**Technical Assistance.** For technical assistance in downloading an application package from [www.grants.gov/Apply](http://www.grants.gov/Apply), contact the Grants.gov help desk at 800-518-Grants or send an email to [support@grants.gov](mailto:support@grants.gov).

**Programmatic Information.** For programmatic information, you may contact the appropriate local HUD office or Marvis Hayward at HUD Headquarters at (202) 402-2255 (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 toll-free Federal Relay Service at 800-877-8339.

### **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 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 regarding the receipt 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 811 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 website at:

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

**C. Related Programs.** Section 811 funding for tenant-based assistance is administered by public housing agencies and nonprofit organizations through the Mainstream Housing Opportunities for Persons with Disabilities Program.

**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 2502-0462. 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 number. Public reporting burden for the collection of information is estimated to average 35.92 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application. The information will be used for grantee selection and monitoring the administration of funds. Response to this request for information is required in order to receive the benefits derived.



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

Dated:     AUG 20 2009    



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

[FR-5300-N-19]