

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**[Docket No. FR-5415-N-39A]**

**Fiscal Year (FY) 2010 Notice of Funding Availability (NOFA) for the Section 811 Supportive Housing for Persons with Disabilities Program; Amendment to Add FY2011 Funding and Technical Corrections**

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

**ACTION:** Notice of Funding Availability for HUD's FY2010 Section 811 Supportive Housing for Persons with Disabilities: Amendment to add FY2011 funding, and technical corrections.

**SUMMARY:** On April 8, 2011, HUD posted on its website the NOFA for Fiscal Year 2010 Section 811 Supportive Housing for Persons with Disabilities Program. This Notice amends the NOFA to increase the available funding to include funding authorized under the Department of Defense and Full-Year Continuing Appropriations Act, 2011. As provided by this Notice, the total combined funding available under the FY2010 Section 811 Supportive Housing for Persons with Disabilities NOFA is approximately \$141 million. This combined funding will be governed by the information and instructions found in the Notice of HUD's Fiscal Year (FY) 2010 Notice of Funding Availability (NOFA), Policy Requirements and General Section (General Section) to HUD's FY2010 NOFAs for Discretionary Programs, posted to Grants.gov on June 7, 2010. Finally, this Notice also makes several technical corrections to the Section 811 NOFA posted to Grants.gov on April 8, 2011. These amendments and corrections to the FY2010 Section 811 NOFA do not change the deadline date for applications.

**DATES:** The application deadline date is June 23, 2011.

**FOR MORE INFORMATION CONTACT:** For questions concerning these technical corrections, please contact Marvis Hayward, Project Manager, Office of Housing Assistance and Grants Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington DC, 20410; telephone 202-402-2255 (this is not a toll-free number); email [marvis.s.hayward@hud.gov](mailto:marvis.s.hayward@hud.gov) Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

On April 8, 2011, HUD posted the FY2010 Section 811 Supportive Housing for Persons with Disabilities NOFA to Grants.gov. Today's Notice amends that NOFA to add approximately \$30 million in FY2011 capital advance funds plus associated project rental assistance contract (PRAC) funds for the Section 811 Supportive Housing for Persons with Disabilities program (Section 811 program) for FY2011. These funds are made available under the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112-10, approved April 15, 2011). HUD has decided to add the FY2011 funding to the FY2010 competition because publishing a separate NOFA for the FY2011 funding would result in a nationwide competition for a modest amount of additional units. Accordingly, the April 8, 2011, Section 811 program NOFA, as amended by this notice, serves as the NOFA for HUD's FY2010 and FY2011 Section 811 program funding. The Notice of HUD's Fiscal Year (FY) 2010 Notice of Funding Availability (NOFA) Policy Requirements and General Section to HUD's FY2010 NOFAs for Discretionary Programs, published on Grants.gov on June 7, 2010, remains in effect and is applicable to this funding opportunity. A chart showing a comparison of allocations for FY2010 and FY2011 is added to the NOFA for information.

## **I. Amendments to Incorporate FY2011 Funding in HUD's FY2010 Section 811 NOFA**

### **A. Authority**

The FY2010 Section 811 NOFA references the Consolidated Appropriations Act, 2010 (Pub. L. 111-117) as authority for the NOFA. Since HUD has decided to combine the FY2011 Section 811 funding into the FY2010 Section 811 NOFA, “and the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112-10, approved April 15, 2011)” should be added to all references of authority for the NOFA.

### **B. Available Funds**

1. The FY2010 Section 811 NOFA as posted on April 8, 2011, makes available \$114 million under the Consolidated Appropriations Act, 2010. It also provides that the Secretary is waiving the statutory and regulatory provisions that the term of the project rental assistance contract is reduced to 3 years. To reflect the addition of assistance provided by the Department of Defense and Full-Year Continuing Appropriations Act, 2011, and to reflect the Secretary's waiver authority, the first and second paragraphs of Section II.A., page 4, entitled “Available Funds,” should be changed to read as follows:

**A. Available Funds.** Under this program NOFA, up to \$141 million of funds appropriated for FY2010 and FY2011 is available for capital advances under the Section 811 Supportive Housing for Persons with Disabilities Program. The Consolidated Appropriations Act 2010 (Pub. L. 111-117, approved December 16, 2009), provides \$300 million, and the Department of Defense and Full-Year Continuing Appropriations Act, 2011(Pub. L. 112-10, approved April 15, 2011) makes approximately \$150 million available 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 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 requirements specified in the Department of Housing and Urban Development Appropriations Act, 2010 (Pub. L. 111-117, approved December 16, 2009) and the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112-10), the Secretary is waiving the statutory and regulatory provision that the term of the project rental assistance contract is reduced to 3 years. HUD anticipates that at the end of the contract terms, renewals will be approved subject to 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.

2. All references in the FY2010 NOFA to the amount of assistance made available should state, “up to \$141 million of funds appropriated for FY2010 and FY2011”.

### **C. References to the FY2010 NOFA**

The FY2010 NOFA includes a number of references to “FY2010.” To reflect the addition of the FY2011 assistance to this NOFA, all of these references should be changed to reflect the addition of assistance made available for FY2011. For example, on page 5, first paragraph, second sentence, replace “The FY 2010” with “This formula.” On page 12, the first sentence in the second paragraph from the bottom, which reads, “the FY2010 funding competition” should be deleted and replaced with, “the Section 811 funding competition.” The reference to “Exhibit 6: FY2010 Section 202/811 applications to other HUD offices,” on page 26 should be changed to “Exhibit 6: FY2010 and FY2011 202/811 application to other HUD offices.”

**D. Expiration of Section 811 Funds.** To reflect the addition of FY2011 assistance and the separate availability and expenditure dates provided by the Department of Defense and Full-Year Continuing Appropriations Act, 2011, Section VI.E.5, page 46, should be amended to read:

#### **5. Expiration of Section 811 Funds.**

**a. FY2010 Funds.** The Consolidated Appropriations Act, 2010 (Pub. L.111-117) requires HUD to obligate all Section 811 funds appropriated for FY2010 by September 30, 2013. The obligation of Section 811 funds occurs for both capital advances and project rental assistance upon execution of the agreement letter by the Assistant Secretary of Housing. Under 31 U.S.C. § 1551, no capital advance funds can be disbursed from this account after September 30, 2018. The Consolidated Appropriations Act, 2010, provides that amounts for project rental assistance contracts are to be disbursed by September 30, 2023. If all funds are not disbursed by HUD and expended by the project Owner by the appropriate time (as noted above), the funds,

even though obligated, will be cancelled and no further disbursements can be made. Amounts needed to maintain PRAC payments for any remaining term on the affected contracts beyond the expiration date will have to be funded from other current appropriations, if available. Amounts needed to bring a project to completion will also be subject to the availability of funds.

**b. FY2011 Funds.** The Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L.112-10) requires HUD to obligate all Section 811 funds appropriated for FY2011 by September 30, 2014. The obligation of Section 811 funds occurs for both capital advances and project rental assistance upon execution of the agreement letter by the Assistant Secretary of Housing. Under 31 U.S.C. § 1551, no capital advance funds can be disbursed from this account after September 30, 2019. The Department of Defense and Full Year Continuing Appropriations Act, 2011, provides that amounts for project rental assistance contracts are to be disbursed by September 30, 2024. If all funds are not disbursed by HUD and expended by the project Owner by the appropriate time (as noted above), the funds, even though obligated, will be cancelled and no further disbursements can be made. Amounts needed to maintain PRAC payments for any remaining term on the affected contracts beyond the expiration date will have to be funded from other current appropriations, if available. Amounts needed to bring a project to completion will also be subject to the availability of funds.

**E. Selection of Applicants to Receive FY2010 Funds and Applicants to Receive FY2011 Funds.** To reflect the addition of FY2011 assistance and the separate availability and expenditure dates provided by the Department of Defense and Full-Year Continuing Appropriations Act, 2011, section V.B.4, page 63, should be amended to read as follows:

#### **4. Ranking and Selection Procedures.**

**(a) Minimum Scores/Categories of Applications.** 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 **FY2010 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:

- (i) Those that were submitted with identified sites;
- (ii) Those that were submitted with evidence of site control where the evidence and/or any of the proposed sites were found not approvable but, in accordance with the NOFA, you indicated in your application your willingness to locate another site(s) should HUD determine that the proposed site(s) is not approvable; and
- (iii) Those that were submitted with a combination of sites under control and identified sites.

**(b) Multifamily HUB Selection Process.** Each Multifamily Hub will first select applications that have a total base score of 75 points or more (without the addition of RC/EZ/EC-II bonus points), based on rank order, from Category A. If capital advance authority remains after selecting all approvable applications from Category A, the Multifamily Hub shall then select applications, in rank order, from Category B that most closely approximates the capital advance authority remaining in its allocation. HUD Multifamily Hubs will **not** skip over any applications in order to select one based

on the funds remaining. After making initial selections, Multifamily HUBs may select the next highest rank-ordered Category A or Category B application by reducing the number of units by no more than 10 percent, rounded to the nearest whole number, provided that 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.

**(c) HUD Headquarters Selection Process.** Funding authority remaining after the Multifamily Hub selection process is completed will be returned to Headquarters. First, HUD Headquarters will use these funds to fund any applications that were not funded due to administrative errors. Second, HUD Headquarters will use this authority to restore units to projects selected by Multifamily Hubs as a result of their selection of applications by reduction of units. Next, HUD Headquarters will use funds for selecting applications based on Multifamily Hubs' rankings, beginning with the highest rated application nationwide in Category A. Only one application will be selected per Multifamily Hub 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 Hub. 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 Hub 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 Hub. This process will continue until the remaining available funds are used to select approvable applications.

**(d) National Lottery.** A lottery will be conducted by Headquarters to identify applicants that will receive FY2010 funding and those that will receive FY2011 funding. Once the Multifamily Hubs and Headquarters selections have been made, Category A applications shall be placed in a national lottery where FY2010 funding will be awarded first and then FY2011 funding.

If FY2010 funds remain after funding all Category A applicants, HUD will then conduct a second national lottery for fundable Category B applications. As with the Category A lottery, HUD will award FY2010 funds first and then FY2011 funds.

**(e)** Any funds remaining at the end of this process will be used by the program office for other program purposes provided by HUD's Section 811 FY2010 and FY2011 appropriations.

## **II. Other Technical Corrections to FY2010 Section 811 NOFA**

### **A. Award Information/Available Funds**

On page 6, Section II.A., the allocation chart is revised to reflect the additional available funding as follows:

<b>HUB</b>	<b>UNITS</b>	<b>CAPITAL ADVANCE</b>
Boston	51	7,439,483
New York	59	9,200,774
Buffalo	22	2,932,029
Philadelphia	84	12,033,139
Baltimore	46	5,640,480
Greensboro	53	7,091,248
Jacksonville	103	10,612,129

Atlanta	100	11,187,342
Chicago	66	9,180,334
Columbus	41	4,692,858
Detroit	38	4,419,599
Minneapolis	30	4,254,994
Ft. Worth	129	12,481,247
Kansas City	58	6,591,436
Denver	31	3,508,249
San Francisco	84	11,773,801
Los Angeles	86	12,691,615
Seattle	40	5,553,926
<b>Total</b>	<b>1,121</b>	<b>141,284,683</b>

## B. Eligibility Information

On page 7, Section III.A., the second paragraph has been modified to clarify the definition of an Owner corporation for mixed financing transactions. The paragraph now reads as follows:

However, the Owner corporation, when later formed by the Sponsor, must be (1) a single-purpose and single-asset private nonprofit organization that has tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986, or (2) for purposes of developing a mixed-finance project pursuant to the statutory provisions under Title VIII of the American Homeownership and Economic Opportunity Act of 2000 and Public Law 111-372, a for-profit limited partnership the sole general partner of which is: (i) a private nonprofit organization; or (ii) a for-profit corporation controlled by a private nonprofit organization.

## C. Threshold Requirements for Funding Consideration

On page 13, Section III.B.2.b.(4)(e)(ii), the first sentence has been revised to, add language that was previously omitted. The paragraph now reads as follows:

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

#### **D. National Environmental Policy Act and Related Laws**

Section III.B.3.f.(2) on page 17, the list of topics in the Sample Field Notes Checklist (SFNC) and the website address contained in the NOTE are corrected to read as follows:

- (a) Historic Preservation (Item 18 in the SFNC), also attempt to obtain comments from the State/Tribal Historic Preservation Officer (see Exhibits 4(d)(ix) of Section IV.B., below).
- (b) Floodplain Management (Item 17 in the SFNC)
- (c) Wetlands Protection (Item 22 in the SFNC)
- (d) Endangered Species (Item 24a in the SFNC)
- (e) Noise Analysis (Item 19 in the SFNC)
- (f) Explosive/Flammable Hazards (Item 20 in the SFNC)
- (g) Coastal Barrier Resources (Item 16, SFNC)

(h) Coastal Zone Management (Item 10, SFNC)

(i) Sole Source Aquifers (Item 24b of the SFNC)

(j) Airport Clear Zones (Item 21 of the SFNC)

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

[www.hud.gov/offices/adm/hudclips/forms/files/4128.pdf](http://www.hud.gov/offices/adm/hudclips/forms/files/4128.pdf) . This form provides

information on the criteria HUD uses to determine the environmental acceptability of a site and to record its environmental review.

**E. Application and Receipt Instructions.**

1. On page 25, Table of Contents, Part II, Exhibit 2, item (d), relates to the members on the Sponsor's Board of Directors who have a disability or are affiliated with the disability community. It is revised to read:

(d) Board members- representation of persons with disabilities

2. The list is also expanded to include the following two exhibits which were inadvertently omitted from the original publication:

(k) Section 3 requirements

(l) Job Creation/Employment

3. On page 28, Exhibit 3, paragraph (b) is corrected to include language which was omitted from the original publication. The paragraph now reads as follows:

“(b) A description of your ties, both housing and non-housing related services, to the community in which your project will be located and to the minority and disabled communities in particular, including a description of the specific geographic area(s) in which you have served; the demographics data for the surrounding neighborhood and for the larger market area. Submit letters of support from community leaders

describing your close working relationship with minority and disabled communities. Provide copies of your past advertising/outreach materials. Describe how you will build on past affirmative fair housing marketing plans and describe improvements that you will make to enhance the quality of your affirmative marketing to reach those individuals least likely to apply for housing opportunities.”

3. On page 28, Exhibit 3 paragraph (c), delete the language “expire earlier than the Section 811 closing” and replace with “be earlier than 24 months from the Section 811 closing.” The sentence now reads “A commitment must describe the allowed uses of the funds and should provide the term for which the commitment is valid, which term cannot be earlier than 24 months from the Section 811 closing.”

4. On page 30, paragraph (k) was previously omitted and should be added to Exhibit 3 as follows:

(k) A detailed description of how you plan to incorporate the Section 3 requirements found at subparts B and E of 24 CFR Part 135 and Section III.C.5.d of the General Section, into your proposed project including specific strategies for directing training, employment and other economic opportunities to low- and very low-income persons, particularly those who are residing in the project area and to business concerns that provide economic opportunities to low – and very-low income persons in the area in which the project is based. Additional information on these requirements can be found at <http://www.hud.gov/section3>. This description is optional, but to be eligible for up to 1 point for meeting the Section 3 requirements, you must submit this exhibit. (NOTE: It should be noted that all successful applicants will be required to comply with Section 3 of the Housing and Urban

Development Act of 1968 (12 U.S.C. 1701u, whether they submitted this exhibit or not). To receive one Policy Priority point under Job Creation/Employment, you must submit a detailed description of how you will exceed the Section 3 requirements by creating jobs and further local economic development, particularly for low-income populations and communities that are more comprehensive than those required to meet HUD’s Section 3 “local hire” requirements.

5. On page 37, Exhibit 4(d)(xii) is expanded to include the following item (G) which was previously omitted:

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

#### **F. Funding Restrictions**

1. On page 44, item E.3, the Development Cost Limits for elevator structures of family units with no bedroom, one bedroom, two bedrooms, and three bedrooms are corrected as follows:

For elevator structures:

\$54,448 per family unit without a bedroom

\$62,415 per family unit with one bedroom

\$75,897 per family unit with two bedrooms

\$98,185 per family unit with three bedrooms

#### **G. Review and Selection Process**

1. On page 62, the list of curable deficiencies is corrected to read as follows:

- Remove the asterisk (\*) from exhibit 4(d)(i)(B) Contract of sale.
- Exhibit 4(d)(x) Willingness to seek an alternate site should be numbered 4(d)(xi)
- Exhibit 4(d)(xi) Exception to project size limit should be numbered 4(d)(xii)

2. On page 67, item 3. Racial and Ethnic Data, the web address is corrected to read

<http://www.hud.gov/offices/adm/hudclips/>

#### H. Chart comparing FY2010 and FY2011 allocations

To provide applicants additional information, HUD is attaching a chart comparing the FY2010 and FY2011 allocations.

#### III. Additional instruction for attaching files to your application

Section IV.D. page 23, add the following additional information to the NOFA:

When attaching files to your application, **only use the attachments form. If you have more than 15 attachments, and need additional space to attach files, use the “Supporting Documents” field in Box 15 on the SF-424.** provided with the application to attach your files. If you use the paperclip function of Adobe forms, your application will be incomplete and HUD will not be able to receive files that were attached using the paperclip function.

Dated: 5/13/14

  
Robert C. Ryan  
Acting Assistant Secretary for Housing-Federal  
Housing Commissioner

[FR-5415-N-39A]

**Attachment**

**Section 811 Supportive Housing for Persons with Disabilities;  
FY2010 allocations as compared to those for FY2011.**

<b>HUB</b>	<b>Number of Units Allocated from FY 2010 Funds</b>		<b>Number of Units Allocated from FY 2011 Funds</b>	<b>Total</b>
<b>Boston</b>	<b>40</b>		<b>11</b>	<b>51</b>
<b>New York</b>	<b>48</b>		<b>11</b>	<b>59</b>
<b>Buffalo</b>	<b>17</b>		<b>5</b>	<b>22</b>
<b>Philadelphia</b>	<b>68</b>		<b>16</b>	<b>84</b>
<b>Baltimore</b>	<b>38</b>		<b>8</b>	<b>46</b>
<b>Greensboro</b>	<b>43</b>		<b>10</b>	<b>53</b>
<b>Jacksonville</b>	<b>83</b>		<b>20</b>	<b>103</b>
<b>Atlanta</b>	<b>80</b>		<b>20</b>	<b>100</b>
<b>Chicago</b>	<b>52</b>		<b>14</b>	<b>66</b>
<b>Columbus</b>	<b>33</b>		<b>8</b>	<b>41</b>
<b>Detroit</b>	<b>30</b>		<b>8</b>	<b>38</b>
<b>Minneapolis</b>	<b>24</b>		<b>6</b>	<b>30</b>
<b>Ft. Worth</b>	<b>104</b>		<b>25</b>	<b>129</b>
<b>Kansas City</b>	<b>46</b>		<b>12</b>	<b>58</b>
<b>Denver</b>	<b>25</b>		<b>6</b>	<b>31</b>
<b>San Francisco</b>	<b>67</b>		<b>17</b>	<b>84</b>
<b>Los Angeles</b>	<b>69</b>		<b>17</b>	<b>86</b>
<b>Seattle</b>	<b>32</b>		<b>8</b>	<b>40</b>
<b>TOTAL</b>	<b>899</b>		<b>222</b>	<b>1,121</b>