

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FR-5415-N-39
Notice of Funding Availability (NOFA) for Fiscal Year (FY) 2010
Section 811 Supportive Housing for Persons with Disabilities Program

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

ACTION: Notice of Funding Availability for HUD's Fiscal Year (FY) 2010 Section 811 Supportive Housing for Persons with Disabilities (Section 811).

SUMMARY: This NOFA announces the availability of approximately \$114 million in Section 811 Supportive Housing for Persons with Disabilities capital advance funds plus associated project rental assistance contract (PRAC) funds, any carryover funds, and possible recaptured funds available. 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. Capital advance funds cover the cost of developing the housing. PRAC funds cover the difference between the HUD-approved operating costs of the project and the tenants' contributions toward rent. 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. Applicants for Section 811 assistance must address applicable requirements established by HUD's FY 2010 Notice of Funding Availability (NOFA) Policy Requirements and General Section to HUD's FY2010 NOFAs for Discretionary Programs (**General Section**) posted on www.Grants.gov on June 7, 2010, and in this NOFA. The notice providing information regarding the application process, funding criteria and eligibility requirements is available on the [Grants.gov](http://www.Grants.gov) website.

DATES: The application deadline date is **June 23, 2011 11:59:59 p.m.** Eastern Time. Applications submitted through <http://www.grants.gov> must be received by [Grants.gov](http://www.Grants.gov) no later than 11:59:59 pm eastern standard time on the application deadline date. Applicants need to be aware that following receipt, applications go through a validation process in which the application may be accepted or rejected. Please allow time for this process to ensure that you meet the timely receipt requirements. Please see the 2010 General Section for instructions for timely receipt, including actions to take if the application is rejected. The General Section contains information on using Adobe Reader, HUD's timely receipt policies, and other application information.

FOR FURTHER INFORMATION CONTACT: Questions regarding specific program requirements should be directed to the agency contact identified in this program NOFA. Prior to the application deadline, program staff will be available to provide general guidance, but not guidance with actually preparing the application. Questions regarding the FY2010 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 standard 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 funding opportunity number is FR-5414-N-39. The OMB Approval Number is 2502-0462.

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

F. Dates: Applications must be received by www.grants.gov no later than 11:59:59 p.m. eastern time on the application deadline date. All information required to complete the application is in the General Section and this NOFA. Applicants may download the application and instructions from the Grants.gov website at http://www07.grants.gov/applicants/apply_for_grants.jsp. Please carefully read the Notice of HUD's Fiscal Year (FY) 2010 Notice of Funding Availability (NOFA) Policy Requirements and General Section to HUD's FY 2010 NOFAs for Discretionary Programs, published on Grants.gov on June 7, 2010. Applicants need to be aware that following receipt, applications go through a validation process in which the application may be accepted or rejected. Please allow time for this process to ensure that you meet the timely receipt requirements.

G. 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 \$114 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 cover the cost of developing the housing. PRAC funds cover the difference between the HUD-approved operating costs of the project and the tenants' contributions toward rent.

4. Eligible Applicants. Nonprofit organizations that have a section 501(c)(3) tax exemption from the Internal Revenue Service. (See Section III.C.3.i. below 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 for further information.)

6. Match Requirements. None required.

7. Multifamily Hub Offices. The HUD Multifamily Hub structure consists of 18 Multifamily Hub Offices. Each Hub administers multifamily housing programs based on its geographical jurisdiction. For a listing of all Multifamily Hub Offices and their associated Program Centers please visit http://www.hud.gov/offices/hsg/mfh/mfbroch/hubs_pcs.cfm.

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 below. Capital advance funds bear no interest and are based on development cost limits in Section IV.E.3 below. 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 and the HUD-approved cost to operate the project.

B. Authority. The Section 811 Supportive Housing for Persons with Disabilities 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 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); and the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106-569, approved December 27, 2000).

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. However, if restricted occupancy is approved, 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 of PRAC funds.

1. Capital Advance Funds. The reservation of capital advance funds is based on a formula which, for an independent living project (including condominiums and units integrated within a larger multifamily project), 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. below. The high cost factors are found at <http://www.hud.gov/offices/hsg/mfh/hicost/hicost.cfm>

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. PRAC funds are not provided for resident manager units.

II. Award Information

A. Available Funds. For FY2010, \$114 million is available for capital advances for the Section 811 Supportive Housing for Persons with Disabilities Program. The Consolidated Appropriations Act 2010 (Pub. L 111-117, approved December 16, 2009), provides approximately \$300 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 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), 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.

The allocation formula used for Section 811 reflects the "relevant characteristics of prospective program participants," as specified in 24 CFR 791.402(b). The FY2010 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).

The fair share factors were developed by taking the number of non-institutionalized persons aged 16-64 (which is the data group available from the census data) with a disability for each HUD office area within each Multifamily Hub jurisdiction as a percent of the total non-institutionalized persons aged 16-64 for the United States from the 2000 Census. The resulting percentage for each HUD office area is then adjusted to reflect the relative cost of providing housing in that area. The adjusted needs percentage for each HUD office area is then multiplied by the total amount of capital advance funds available nationwide. The totals for each HUD office area were then aggregated for each Multifamily Hub jurisdiction.

The Section 811 capital advance funds have been allocated based on the formula above, to 18 Multifamily Hub offices as shown on the following chart:

		CAPITAL
HUB	EST. UNITS	ADVANCE
Boston	40	\$ 6,002,710
New York	48	7,423,846
Buffalo	17	2,365,772
Philadelphia	68	9,709,201
Baltimore	38	4,551,145
Greensboro	43	5,721,728
Jacksonville	83	8,562,629
Atlanta	80	9,026,753
Chicago	52	7,407,354
Columbus	33	3,786,536
Detroit	30	3,566,050
Minneapolis	24	3,433,236
Ft. Worth	104	10,070,768
Kansas City	46	5,318,445
Denver	25	2,830,708
San Francisco	67	9,499,948
Los Angeles	69	10,240,508
Seattle	32	4,481,308
TOTAL	899	\$ 113,998,645

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

C. Type of Assistance Instrument. The Agreement Letter obligates the funds and 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. **NOTE:** This may include environmental submissions pursuant to the capital advance Agreement Letter. 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 of the fund reservation award 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** 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 and single-asset private 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 private nonprofit organization or a corporation wholly owned and controlled by a private nonprofit organization 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 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 leveraged by a single-purpose and single-asset for-profit limited partnership (of which a private nonprofit organization or a corporation wholly owned and controlled by a private nonprofit organization is the sole general partner) to develop a mixed-finance project, which may or may not include additional unassisted housing units for persons with disabilities 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. 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. 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: HUD will consider proposals involving mixed-financing that involves additional non-Section 811 units if you have legal control of an approvable site. If the additional units will also house persons with disabilities, they must not cause the project to exceed the project size limits (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) below). 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. In addition, if the units will be integrated within a larger multifamily housing development, the total number of units for persons with disabilities within the development may not comprise more than 25 percent of the total units being developed, rehabilitated or acquired.

2. Threshold Requirements for Funding Consideration. In addition to the threshold criteria outlined in Section III.C.2. of the **General Section**, including the threshold regarding the Resolution of Outstanding Civil Rights Matters, 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 paper copies of the application if you have not received approval from HUD for a waiver of the electronic submission requirements. 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. Failure to submit paper applications to the appropriate Multifamily Hub 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 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 Submission below, for information on the required exhibits for submission with your application to ensure that your application is complete at time of submission;

(3) request more units than were allocated to the Multifamily Hub that will be reviewing your application (see the allocation chart in Section II.A. above);

(4) 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);

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

(6) request assistance for housing that you currently own or lease that has been occupied by people with disabilities for longer than one year from July 12, 2010. This requirement has been modified to accommodate Sponsors that may have secured and/or occupied properties in anticipation of an earlier release of this NOFA;

(7) request assistance for an ineligible activity as defined in Section IV.E., Funding Restrictions below;

(8) are an ineligible applicant (see Section III.A., Eligible Applicants.

b. Additional Threshold Requirements.

(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. It is important that you determine that there is need/demand for the Section 811 project being proposed in a particular housing market area prior to submitting your application. If HUD determines that there is not sufficient sustainable demand for additional units without long-term adverse impact on existing federally assisted housing, the proposed project will be rejected.

(2) You, or a Co-Sponsor, must have experience in providing housing or services to persons with disabilities, specific to the disability category/categories you intend to serve

(3) You or a Co-Sponsor must be an eligible nonprofit organization 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 and **9 digit** zip code (The 9 digit zip code (5+4 digits) will be used to determine the City and State and is required for the AFFH mapping) 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. below 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. below 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 below 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. A sample letter to the SHPO/THPO that you may adapt for your use, if you so choose, is available on HUD’s Web site at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>. You must include a copy of your letter to the SHPO/THPO in your application and either a statement that you have not received a response letter(s) from the SHPO/THPO, or a copy of the response letter(s) received from the SHPO/THPO.

(d) Contamination. HUD must determine if a proposed site contains contamination such as hazardous waste, or petroleum products, and, if so, HUD must be satisfied that it is eliminated or can be mitigated to the extent necessary to meet Federal, State or local risk-based corrective action 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. It shall be prepared by an Environmental Professional (EP) in accordance with the American Society for Testing and Materials (ASTM) Standard E 1527–05, using the table of contents and report format specified at Appendix X4 thereto. The Phase I shall be amended by including a “Tier I” vapor encroachment screen” pursuant to ASTM E 2600-10. In addition, you are required to:

- Fill out the User Questionnaire as per Appendix X3 of ASTM E-1527-05 and provide it to the EP so as to be included in the Phase I ESA.
- Inform the EP as to all of the above reasons and requirements for the Phase I ESA.

The EP preparing the Phase I ESA must meet all of the qualification requirements of Appendix X2 of ASTM E 1527-05. Additionally, the EP must meet the license/certification, educational, and experiential requirements of Section X.2.1.1(2)(i), (ii), or (iii), of Appendix X2 of ASTM E 1527-05 and must provide supporting documentation to this effect in the Phase I ESA.

The Findings, Opinions, and Conclusions sections of the Phase I ESA must be based on ASTM 1527-05, Sections 12.5, 12.6, and 12.8, respectively. The Findings section shall list and discuss all recognized environmental conditions (REC), suspect RECs, historical RECs and/ or de minimis conditions (with all such terms as described in ASTM E 1527-05), as well as vapor

encroachment conditions (VEC), suspected VECS, or instances where VECs cannot be ruled out (pursuant to ASTM E 2600-10). The Opinions section shall discuss each of these conditions as to whether each one is deemed to be or deemed not to be a REC and/or a VEC. The Conclusions section shall list all RECs and VECs. You are cautioned that even if the EP who prepares the Phase I ESA determines that there are no RECs and no VECS and you therefore decide not to prepare a Phase II ESA (see paragraph (ii) Phase II ESA below), HUD will review the Phase I ESA to confirm that such determinations are reasonably warranted based on the information presented. Should HUD not concur with the Phase I conclusions and neither the Phase II was conducted nor the clean-up plan (in accordance with iii(A) and (B) below) was submitted, your application will be technically rejected.

The Phase I ESA that you submit must have been prepared within one year of the application deadline date; and any Phase I ESA prepared within one year but more than 180 days prior to the application deadline date, must be updated pursuant to Section 4.6 ASTM Standard E 1527-05. Even if updated, a Phase I prepared more than one year prior to the application deadline date is not acceptable. The preparation date is the earliest of either the date of the site visit, the records review, or the interviews.

The Phase I ESA must be submitted with the application. Therefore, it is important that you start the Phase I ESA process as soon after publication of the NOFA as possible. **NOTE:** Failure to follow any or all of the above criteria for preparation and submission of the Phase I ESA will result in a technical rejection of your application.

HUD invites you to review the documents “Choosing an Environmentally Safe Site” and “Supplemental Guidance, Environmental Information”, which are available on the HUD website at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>.

(ii) Phase II ESA. If the Phase I ESA concludes that there are RECs or VECs and you choose to continue with that site for the project being proposed, you must undertake a detailed Phase II ESA by an appropriate professional. The Phase II ESA must address all of the RECs and VECs identified in the Phase I ESA. The testing and sampling design shall be based on scientific methodology and shall proceed to the point that a reasonable determination can be made regarding each of the RECs and VECs.

- (A)** For on-site RECs and VECs the determination shall be made that either:
- hazardous waste, petroleum products, and/or VECs exist on the site, or
 - hazardous waste, petroleum products, and/or VECs could not be detected on the site.
- (B)** For off-site RECs and VECS, the determination shall be made that:
- hazardous waste, petroleum products, and/or VECs have migrated on to the site or are likely to do so in the foreseeable future; or
 - hazardous waste, petroleum products, and/or VECs have not migrated on to the site and are not likely to do so in foreseeable future.

In order for your application to be considered for review under this FY 2010 funding competition, the Phase II ESA must be submitted with the application.

(iii) Clean-up –A clean-up plan is required if the Phase II determines that:

- hazardous waste, petroleum products, and/or VECs exist on the site **and/or**
- hazardous waste, petroleum products, and/or VECs have migrated on to the site or are likely to do so in the foreseeable future.

The clean-up plan must be prepared by an appropriate professional to either:

(A) Completely clean-up the site -- other than for contamination that would remain solely in the groundwater that is at least 25 feet below the surface -- to statewide, non site-specific federal or state standards, with no active or passive remediation still taking place after either final closing or initial occupancy, whichever comes first, no capping over of any contamination, and no monitoring wells, **OR**

(B) Clean up the site to federal or state risk-based corrective action (RBCA) levels. The RBCA must allow for no active remediation (such as flushing wells or digging up and/or hauling away of contamination) to take place after either final closing or initial occupancy, whichever comes first.

The clean-up plan must be detailed in nature and must include:

- An estimate of clean-up costs.
- Either an approval letter of the clean-up plan from the relevant federal or state authority or a discussion of the feasibility of securing necessary approvals prior to HUD issuance of a Firm Commitment.
- A discussion of the feasibility of completing necessary work prior to final closing or initial occupancy, whichever comes first.

In order for your application to be considered for review under the FY 2010 funding competition, the clean-up plan must be submitted with the application. If the above information is not submitted, the application will be rejected. **NOTES:** Before issuance of the Firm Commitment, HUD will require a final cleanup plan approved by the relevant federal, State or local authority. The final clean-up plan must include a remediation contract that specifies all clean-up costs and timelines for clean-up to ensure that it is completed prior to final closing or initial occupancy, whichever comes first, and approval documentation from the relevant regulatory authority. Furthermore, the final clean-up plan will be required to meet specific HUD criteria that will be discussed in a separate processing notice.

Clean-up costs are an allowable use of capital advance funds. However, to the extent that the actual cost of development and the proposed clean-up activities exceed the capital advance amount provided, you will have to identify funding sources other than the capital advance funds to cover any excess clean-up costs.

(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) Supportive Services Plan. 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 submission 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 **or** 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.

(7) Previous Participation Certification. To ensure that an owner of a multifamily housing resource is held to high standards and to avoid risk of loss to the Department, you are required to submit a form HUD_2530, Previous Participation Certification. If any property listed has defaulted on a mortgage loan or has less than satisfactory review ratings (physical inspections, management and financial reviews), the Principal will be required to submit additional information. Approval of default or an unsatisfactory review rating will be subjected to HUD Previous Participation clearance.

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. Application/Project Size Limits.

(1) Application Limits Applicable to Sponsors or Co-Sponsors. A Sponsor or Co-Sponsor may not apply for more units of housing for persons with disabilities than advertised in any Multifamily Hub office or more than 20 percent of the total units allocated to all Multifamily Hub offices. Affiliated entities (organizations that are branches or offshoots of a parent organization) that submit separate applications are considered a single entity for the purpose of this limit.

(2) Independent living project. Independent living projects may be developed on individual or scattered sites, as well as integrated within a larger multifamily housing

development. 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.

(a) 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.

(b) If the units will be integrated within a larger multifamily housing development containing units other than Section 202 and Section 811 units, the total number of units for persons with disabilities within the development may not comprise more than 25 percent of the total units being developed, rehabilitated or acquired.

(3) 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.

(4) 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.

(5) 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 at 24 CFR 891.120 and 24 CFR 891.310. In particular, you must comply with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 24 CFR part 8, which include physical accessibility requirements for new construction, substantial alterations, and other alterations. Your project must also comply with the Fair Housing Act and its implementing regulations at 24 CFR part 100. New construction of covered multifamily dwellings must meet Fair Housing Act design and construction requirements at 24 CFR 100.205. Further, if rehabilitation results in a covered multifamily dwelling (*e.g.*, if the rehab includes an addition) as defined at 24 CFR 100.201, then it must also meet the Fair Housing Act design and construction requirements. In addition, when acquiring housing that was designed and constructed for first occupancy after March 13, 1991, it is wise to determine whether the building complies with the design and construction

requirements of the Fair Housing Act 42 USC § 3604(f)(3)(c). Applicants may receive helpful information with respect to the Fair Housing Act design and construction requirements on Fair Housing Accessibility FIRST's website at <http://www.fairhousingfirst.org>. Your project must also comply with the Americans with Disabilities Act and its implementing regulations, as applicable. 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, denying them the benefits of, or otherwise subjecting them to discrimination under the Federally assisted program or activity.

e. Conducting Business in Accordance With HUD Core Values and Ethical Standards. You are not subject to the requirements of 24 CFR parts 84 and 85 as outlined in the **General Section** except 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. This regulation mandates that no officer or board members of either the sponsor or the owner shall have any financial interest in any contract with the owner or any firm which has a contract with the owner. 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 and Related Laws.

(1) General. You must be in compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and applicable related environmental authorities at 24 CFR 50.3(i) and 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). Site identified applications that receive an award will be subject to an environmental review that will commence and conclude after award of the fund reservation.

(2) Preliminary Environmental Review at Application Processing Stage. Pursuant to 24 CFR part 50, HUD has the responsibility for conducting the environmental review. For Section 811 applicants with site control, HUD will conduct a preliminary environmental review of your project upon receipt of your completed application in response to this NOFA. HUD subsequently will continue with its environmental reviews at the time of the announcement of capital advance awards. The purpose of the preliminary review is to determine if there are any obvious adverse environmental conditions that necessitate mitigation yet appropriate mitigation does not appear to be adequate and/or readily achievable based on information provided in the application. Examples of such occurrences would be a project that proposes a Risk Based Corrective Action Plan or Complete Clean Up Plan but lacks approval of such by the relevant regulatory authority; a project that would result in destruction of a valuable wetland; or a project for which a noise barrier to reduce noise to acceptable levels is necessary but not proposed in the application and/or does not appear to be achievable. Furthermore, HUD's preliminary

environmental review at the application processing stage does not constitute HUD environmental approval of the project site.

For the reasons above and to enable HUD to complete its preliminary environmental review in a timely manner, all applicants with site control are required to provide an Environmental Report. The Environmental Report may be separate from the Phase I ESA. This report should cover the relevant topics in the Sample Field Notes Checklist (SFNC) from Form HUD_4128 and should focus on those environmental issues that might affect the acceptability of the project including any compliance issues with state environmental laws as well as the following:

- (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 Hazards (Item 21 of the SFNC)
- (k) flood insurance (Item 24 of the SFNC)
- (l) Water Quality (Item 24 of the SFNC)
- (m) Wild and Scenic Rivers (Item 24 of the SFNC)
- (n) Air Quality (Item 24 of the SFNC)
- (o) Farmlands Protection (Item 24 of the SFNC)
- (p) Environmental Justice (Item 24 of the SFNC)

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

<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.

(3) Completion of Environmental Review for selected Sponsors. HUD will complete its environmental review prior to issuance of the Firm Commitment. When HUD continues its environmental review, it may find the site environmentally unacceptable, in which case the fund reservation may be cancelled unless your application indicated your willingness to seek an alternate site and HUD finds the alternate site environmentally acceptable. Therefore, it is extremely important that you evaluate the site to insure that it meets HUD's environmental requirements (see Section III.C.3.f(2) above and paragraph (4) below.

(4) Compliance with Environmental Assurance. As HUD only performs a preliminary environmental review at the application processing stage, site approval will not occur until HUD completes its environmental review and finds the site environmentally acceptable. Therefore, the applicant's signature on the application constitutes an assurance that the applicant agrees to assist

HUD to comply with HUD environmental review regulations in 24 CFR part 50 and that the applicant will:

- (a) supply HUD with all available, relevant information necessary for HUD to perform for each property any environmental review required by 24 CFR part 50.
- (b) carry out mitigating measures required by HUD; or select alternate eligible property, and
- (c) not acquire, rehabilitate, demolish, convert, enter into or close a leasehold agreement (you can continue to perform obligations to sustain an existing leasehold or option to lease agreement), repair or construct property, nor commit or expend HUD or local funds for these program activities with respect to any eligible property, from the time the application is submitted until HUD approval of the property is received.

(5) Environmentally unacceptable sites. All grant agreement letters will incorporate the recipient's responsibilities under paragraph (4) and will stipulate that a Section 811 fund reservation award constitutes preliminary approval of an application; that an award does not constitute an approval of the site, which may occur only upon completion of HUD's environmental review; and that if HUD finds the site acceptable but only with mitigation and you cannot meet the mitigation requirements, or if HUD determines that even with mitigation, the site is unacceptable, the Section 811 fund reservation award will be terminated unless an alternate property is proposed and HUD finds the alternate property environmentally acceptable.

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. Additional Nondiscrimination Requirements. Applicants and their sub recipients must comply with all applicable fair housing and civil rights requirements in 24 C.F.R. § 5.105(a), including, but not limited to, Title VI of the Civil Rights Act of 1964; Title VIII of the Fair Housing Act of 1968; Section 504 of the Rehabilitation Act of 1973; and the American Disabilities Act of 1990. Refer to Section III.C.5. a, b, c, and f of the **General Section** for information regarding fair housing requirements.

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. See Section V. for how Section 3 requirements will be incorporated in the rating criteria. Please refer to subparts B and E of 24 CFR Part 135 and Section III.C.5.d of the NOFA **General Section** for additional information. Successful applicants will be required to comply with Section 3.

The requirements of Section 3 must be incorporated into your proposed project by ensuring, to the greatest extent feasible, that training, employment and contracting and other economic

opportunities will be directed to low- and very low-income persons within the project area and to business concerns that 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), Site and Neighborhood Standards of the regulations governing the Section 811 Supportive Housing for Persons with Disabilities program (24 CFR 891.125, Section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8, the Fair Housing Act and its implementing regulations at 24 CFR part 100, and where applicable, the Americans with Disabilities Act. Applicants may receive helpful information with respect to the Fair Housing Act design and construction requirements on Fair Housing Accessibility FIRST's website at <http://www.fairhousingfirst.org>.

k. Formation of Owner Corporation. You must form an "Owner" entity (in accordance with 24 CFR 891.305 or 891.805 for mixed-finance developments), if not already formed, after issuance of the capital advance fund reservation and must cause the Owner entity to file a request for determination of eligibility and a request for capital advance, and must provide sufficient resources to the Owner entity to ensure the development and long-term operation of the project, including capitalizing the Owner entity at firm commitment processing in an amount sufficient to meet its obligations in connection with the project over and above the capital advance amount.

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

m. Energy and Water Conservation. Sponsors are encouraged to build to a higher efficiency standard by incorporating components of sustainable building in Section 811 developments. At a minimum, energy efficiency strategies and water conservation appliances and fixtures must be incorporated in the design, construction, and operation of all projects.

(1) **Energy Efficiency.** Owners of new construction and substantial rehabilitation low-rise (up to 3 stories) multifamily developments must meet the requirements of Environmental Protection Agency's (EPA) Energy Star Qualified Homes. Mid-Rise & High Rise developments (4 or more stories) must meet a performance target of 15 percent better than the American Society of Heating, Refrigerating and Air-Conditioning Engineer (ASHRAE) 90.1-2007 as defined in Appendix G. Any state energy code requirements will take precedence over Energy Star or ASHRAE specifications when the state code approximates or exceeds that standard. More information concerning this requirement can be found at http://www.energystar.gov/index.cfm?c=bldrs_lenders_raters.pt_bldr or specific questions can be emailed to energystarhomes@energystar.gov. For information concerning ASHRAE, please contact Leopkey.Ted@epa.gov.

All new construction and substantial (gut) rehabilitation projects must purchase and install Energy Star-labeled appliances. ENERGY STAR Quantity Quotes was developed by the U.S. Department of Energy (DOE) to make it easy to comparison shop for energy-efficient products. With this fast and simple tool, applicants can easily locate available ENERGY STAR qualified products, make contact with suppliers, and negotiate discounted prices. Please visit <http://www.quantityquotes.net/> for more information.

(2) Water Conservation Fixtures. Installation of water-conserving fixtures is required in all new and substantially rehabilitated developments (i.e. resource efficient plumbing and appliances such as low flow showerheads and faucet and high efficiency toilets). The materials used should be the most current WaterSense or a greater water efficiency product. More information is available at www.epa.gov/owm/water-efficiency.

(3) Owners of Existing Developments that do not qualify as a new construction or substantial (gut) rehabilitation must perform pre- and post-construction energy audits and incorporate conservation techniques in their projects. Owners of existing developments must also commit to future installation of WaterSense fixtures and ENERGY STAR appliances in the project's required Operations and Maintenance plan.

n. Dun and Bradstreet Numbering System (DUNS) Numbering Requirement. Refer to Section III.C.2.b of the General Section for information regarding the DUNS requirement. You will need to obtain a DUNS number to apply for funding using the Grants.gov application process. HUD will not make an award to an organization that does not have a DUNS number. The DUNS number used in the application must be for the applicant organization identified in Box 8a on the HUD-424, Application for Federal Financial Assistance.

o. Central Contractor Registration. Refer to Section III.C.2.c of the General Section for information regarding the Central Contractor Registration (CCR) requirement. You will need to have an active registration in CCR in order to apply for funding using the Grants.gov application process. HUD will not make an award or make payments to an organization that does not have an active registration in CCR. See HUD's Interim Rule governing CCR registration requirements published in the Federal Register on September 14, 2010 at 75FR55663 and Final Rule published in the Federal Register on December 8, 2010 at 75FR76260.

p. Affirmatively Furthering Fair Housing. Successful applicants must affirmatively further fair housing. See Section IV. below for the required narrative in the application submission requirements and Section III.C.5.b. of the General Section for more information.

4. Policy Priorities. HUD is encouraging applicants to undertake programs and projects that align with HUD's Strategic Plan and cross-cutting departmental Policy Priorities. . Refer to the **General Section** for information regarding HUD's Strategic Goals and Policy Priorities. Recognizing the fundamental role that HUD investments play in defining the physical form of communities and quality of life for residents, HUD is encouraging you to take greater strides toward a more sustainable future. Under this program NOFA, a total of five (5) Policy Priority points are available. Specifically, applicants who undertake activities beyond those required to meet HUD's Section 3 requirement that will create jobs and further local economic development, particularly for low-income populations and communities, may receive one (1) Policy Priority point and those who promote sustainability through green development and healthy design in the construction, rehabilitation, and operation of the proposed project, may receive up to four (4) additional Policy Priority points.

a. Sustainability. To receive 4 Policy Priority points for green development, you must certify and demonstrate that you will implement green development strategies in the design, construction, rehabilitation and operation of the proposed project. These points are available to applicants that commit to the full incorporation of a green standard and describe how they will fulfill the requirements of the recognized green rating programs. Acceptable standards include: Enterprise Green Communities Criteria; the National Association of Home Builders (NAHB) Green Building Guidelines; Leadership in Energy and Environmental Design (LEED) for Homes (for single family) or LEED New Construction (for multifamily); EPA's Indoor air Plus; or a regionally or locally recognized green standard such as, but not limited to, Earthcraft or Build it Green: Green Point Rated. The choice of which certification to pursue typically depends on a range of factors. First, the approach must fit with your philosophy, be financially achievable, and be appropriate for the proposed property. In addition, you may consider benefits beyond utility savings such as improved indoor air quality and resident comfort. Careful consideration of all these factors will help identify the appropriate certification for an owner to pursue for a given property. For green programs that require third-party certification, the applicant, if funded, must undertake an on-site verification by an independent third-party provider. Third party providers must have experience in the installation of green, energy efficient systems such as a licensed engineer who is a certified Home Energy Rater, Builder Option Package (BOP) Inspector, or an equivalent designation as determined by a Verification Oversight Organization such as RESNET. You will receive zero points if your application does not demonstrate these criteria, or if your application does not include sufficient information to be able to evaluate this factor. The Sponsor must provide HUD with the appropriate certification prior to final closing. To further support other sustainable development practices, your applications will also be rated on the proximity of the project site to transit and amenities, or the accessibility of transit and amenities that would enable residents to age in place in a sustainable manner.

In order to receive status consideration for this Policy Priority, your Logic Models must include **activity/output** of: Policy Priority- Sustainability - Design, construct, rehab, and operate based on requirements of a recognized green standard. The corresponding **outcome** will be one of the following certifications:

- Policy Priority- Sustainability - certification received prior to final closing – Enterprise Green Communities Criteria.
- Policy Priority- Sustainability - certification received prior to final closing – National Association of Home Builders (NAHB) Green Building Guidelines.
- Policy Priority- Sustainability - certification received prior to final closing – Leadership in Energy and Environmental Design (LEED) for Homes or LEED New Construction (for multifamily)
- Policy Priority- Sustainability - certification received prior to final closing – EPA's Indoor airPlus, **or**.
- Policy Priority- Sustainability - certification received prior to final closing – a regionally or locally recognized green standard.

1. To the maximum extent possible, you should assemble a development team that has a strong understanding of sustainable design principles and green building standards. HUD strongly encourages the use of an integrated design process that ensures a commitment to continued communication throughout the development process. This interactive approach encourages all members of the development team to look at the project's objectives, building materials, systems, and assemblies from many different specialty perspectives at the earliest stage of project planning. The Integrated Design Process insures that every aspect of the building works as a whole to produce the best possible product, with the best possible energy and cost savings. The earlier green building features are incorporated into the design process, the lower the cost. A professional that has a strong understanding of the green building design principles should be included throughout all phases of the development process.

2. To the greatest extent possible, designs should incorporate passive solar orientation principles.

3. Operations and Maintenance (O&M). All Owners must develop an O&M manual that will address: a routine maintenance plan; operations and maintenance guidance for all appliances, Heating, Ventilating and Air Conditioning (HVAC) operation, lighting equipment, paving materials and landscaping, pest control, and other systems that are part of each occupancy unit; an occupancy turnover plan that describes in detail the process of educating the tenant about proper use and maintenance of all building systems; and staff training needed to maintain the energy improvements and continue green building practices for the future. All operations and maintenance plans must commit to future installation of water-conserving fixtures and Energy Star appliances. Operations and Maintenance (O&M) manual templates are available for use and customization on the Enterprise Green Communities' website at <http://www.practitionerresources.org/documents.html?c=320>.

b. Job Creation/Employment. HUD seeks to fund applicants that undertake activities to create jobs and further local economic development, particularly for low-income populations and communities. To receive 1 Policy Priority point, your activities must be more comprehensive than those required to meet HUD's Section 3 "local hire" requirements. Under this Policy Priority you are expected to undertake activities that focus on access to skills training and partnership with community-based organizations that will develop pathways to long-term career ladders for the target population. See the General Section for additional information. In order to receive status consideration for this Policy Priority, your Logic Models must include least one of the following **activity/output**:

- Policy Priority- Job Creation/Employment- Partnership with Workforce Investment Board (WIB) to establish apprenticeship programs and/or job opportunities **and/or**
- Policy Priority- Job Creation/Employment- Partnership with community-based organizations, federal, state and/or local entities to increase access to job training, career services, and employment.

The corresponding **outcomes** must be at least one of the following:

- Policy Priority- Job Creation/Employment-Number of jobs created as a result of partnerships with community-based, federal, state, and local entities,
- Policy Priority-Job Creation/Employment-Number of other activities that expanded the number of jobs created and other economic opportunities, **and/or**,
- Identify the number of supportive services provided to the residents to enable them to obtain training, obtain and retain the jobs created, or employment opportunities provided through linkages created under the HUD award.

IV. Application and Receipt Instructions

A. Address to Request Application Package. See the **General Section** for specific procedures concerning the electronic application submission and timely receipt requirements. Copies of the published NOFAs and application forms for HUD programs announced through NOFAs may be downloaded from the grants.gov website at http://www07.grants.gov/applicants/apply_for_grants.jsp ; if you have difficulty accessing the information, you may receive customer support from Grants.gov by calling its Support Desk at 800-518-GRANTS, or by sending an email to support@grants.gov. The Grants.gov help desk is open 7 days a week, 24 hours a day, except federal holidays. You may request general information from the NOFA Information Center at 800-HUD-8929 or 800-HUD-2209 (TTY) between the hours of 10 a.m. and 6:30 p.m. eastern time, Monday through Friday, except on federal holidays. When requesting information, please refer to the name of the program you are interested in. The NOFA Information Center opens for business simultaneously with the publication of the General Section

B. Content and Form of Application Submission. The exhibits to be included in your application are contained in the body of this NOFA. 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 Multifamily Hub Offices and their associated Multifamily Program Center Offices.
- Letter Requesting SHPO/THPO Review
- Choosing an Environmentally Safe Site
- Supplemental to Choosing An Environmentally Safe Site

Your application must include all of the information, materials, forms, and exhibits listed below unless you were selected for a Section 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 Multifamily Hub 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 Multifamily Hub office about the submission of applications within the jurisdiction of that Hub.

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 submission 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.

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a. Part I – Application Form

(1) Exhibit 1: HUD92016CA_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 Commitment
 - (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) Project viability statement

c. Part III – Need for Housing, Site Requirements, Proposed Services

(1) Exhibit 4: Need and Project Information

- (a) Evidence of need for project
- (b) Benefit to population/community
- (c) Narrative project description
 - (i) Building design
 - (ii) Description of Green Development Standard being incorporated
 - (iii) Letter acknowledging that schematic plans and outline specs have been completed
 - (iv) Sources and Uses budget
 - (v) 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) Environmental Report
- (xi) Willingness to seek alternate site; and
- (xii) 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 admission or occupancy will not be conditioned on resident's acceptance of supportive services.

d. Part IV – Requirements/Certifications/Resolutions.

- (1) Exhibit 6: FY2010 Section 202/811 applications to other HUD Offices.

- (2) Exhibit 7: Relocation Information on:
- (a) Statement indicating that no relocation will occur and why **OR** (if relocation will occur, complete items (2)(b) through (2)(g))
 - (b) Identify all persons occupying the property;
 - (c) Relocation costs and other services;
 - (d) Sources of funds to cover relocation costs;
 - (e) Staff to carry out relocation;
 - (f) Occupant move-outs within past 12 months; and
 - (g) Issuance of general information notice and advisory services information
- (3) Exhibit 8: Standard Forms/Certifications/Resolutions
- (a) SF424_Application_for_Federal_Assistance.
 - (b) SF424_Supplement_Survey-
on_Ensuring_Equal_Opportunities_for_Applicants_(Faith_Based_EEO-Survey_SF424
 - (c) SFLLL_Disclosure-of_Lobbying_Activities
 - (d) HUD2880ApplicantRecipient-DisclosureUpdate_Report
 - (e) HUD2991_Certification_of_Consistency_with_the_Consolidated_Plan
 - (f) HUD92041_Sponsor's_Conflict_of_Interest_Resolution
 - (g) HUD92042_Sponsor's_Resolution_for_Commitment_to_Project.
 - (h) HUD2990_Certification_of_Consistency_with_the RC/EZ/EC-II_ Strategic_Plan (if applicable)
 - (i) HUD92043_Certification_for_Provision_of_Supportive_Services
 - (j) HUD96010_Program_Outcome_Logic_Model
 - (k) HUD92530_Previous_Participation_Certification
 - (l) HUD96011_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.

2. PROGRAMMATIC APPLICATION REQUIREMENTS

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

(1) EXHIBIT 1 - Form HUD92016CA, 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 from either https://apply07.grants.gov/apply/forms_apps_idx.html or 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 You and the co-sponsor (if applicable) must provide, evidence of your status as a nonprofit organization with a 501(c)(3) IRS tax exemption in addition to. the following:

- (a) Articles of Incorporation, constitution, or other organizational documents
- (b) Bylaws

(c) IRS tax exemption ruling (including churches)

NOTE: HUD will review your articles of incorporation, constitution, by-laws, or other organizational documents, to determine, among other things, that (i) you are an eligible nonprofit entity with a 501(c)(3) IRS tax exemption status; (ii) your corporate purposes are sufficiently broad to provide you the legal authority to sponsor the proposed project for persons with disabilities, to assist the Owner, and to apply for a capital advance; (iii) language is included in the documents stating that no part of the Sponsor's net earnings inures to the benefit of any private party; and (iv) 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. However, if there have 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 raise private and local funds and how long you have been in existence.

(b) A description of your ties to the community in both housing and non-housing related services 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.). Written documentation must be included with this exhibit including a dollar value, project address, and the signature of an authorized representative of the funding source. Funding commitments must be permanent and binding (with reasonable conditions for closing) and written within 12 months of the date this NOFA is posted to Grants.gov. A commitment must describe the allowed uses of the funds and should provide the term for which the commitment is valid, which term cannot expire earlier than the Section 811 closing. Land donations must include an appraisal or tax assessment to document value.

(d) Letters from organizations or agencies committing services to the proposed project. The services are to be based on the needs of the target population expected to be housed in the proposed project. If you have entered into a Memorandum of Understanding (MOU) with the organization/agency providing the services, it must be signed by persons with authority to commit the organization or agency. The MOU must detail the scope of services to be provided, frequency, role and responsibilities of parties involved, funding, and general terms.

(e) A description of your housing and/or supportive services experience that demonstrates your ability to develop, manage, and operate housing (including financial management) and your ability to provide services to the target population and/or families and minorities. In the case of a

co-sponsored application, submit a description of each sponsor's experience in providing housing and supportive services. The description should include any rental housing projects and supportive services facilities that you sponsored, own and operate. The description should identify specific 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. If applicable, provide a discussion on the reasons for receiving any increases in fund reservations for developing and/or operating previously funded Section 202 or Section 811 projects.

To further demonstrate your housing experience, provide a listing of all rental housing projects that you have been a party to within the last five years. The following information should be included for each project:

- (i) The address of the project,
- (ii) The number of units,
- (iii) The current occupancy rate,
- (iv) Completion date (for projects other than Section 202 and Section 811 use the date of certificate of occupancy as the completion date).
- (v) For Section 202 and Section 811 projects that received a fund reservation award in 2005 or later include the following):
 - (A) Identify each by project number and local HUD office,
 - (B) Whether the project has initially closed and, if so, when,
 - (C) If the project was older than 24 months when it initially closed (specify how old), or
 - (D) If the project is older than 24 months (specify how old) and has not initially closed, provide the reasons for the delay in closing
 - (E) Whether amendment money was or will be needed for any project in (i) above, including the amount of the amendment money,
 - (F) Date of Permission to Occupy, and
 - (G) Those projects that have not been finally closed.

(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 and families with disabilities who are chronically homeless.

(j) 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 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. Refer to section I.B.2 of the General Section for more information on visitability and universal design.

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 incorporate green development measures in the design, construction, and operation of the project. Refer to section III.C.6. above and the General Section for additional guidance.

(iii) If schematic plans and outline specifications have been completed, submit a letter from a professionally licensed architect stating that schematic plans and outline specs are complete and in accordance with HUD's Minimum Property Standards, and other applicable HUD Standards, guidelines, and criteria. See Section III.C.3.j above for additional information. The plans must include dimensions, landscape and utility design, building design, unit layout, and preliminary definitions of all systems serving the project such that a detailed construction cost estimate may be prepared. The architect must be licensed to render services in the design of buildings by the State in which the project is to be constructed. The design architect, the architect administering the construction contract, and all engineers and/or designers providing required design and/or construction services must each be covered by a policy of professional liability insurance for errors and omissions.

(iv) A detailed budget identifying sources and uses which indicates that all the permanent period sources necessary to cover the cost of the project (including any required off-site infrastructure costs) have been committed (other than tax credit equity commitments or Federal Home Loan Bank Affordable Housing Program (AHP) funds). The budget should be based upon a construction cost estimate performed by a professional cost estimator with itemized sources of funds to cover costs.

(v) 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), submit 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). The capital advance funding may be lost if you are unable to obtain the necessary outside funding for the additional units. **NOTES:** (A) 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. (B) 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. (C) 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)(xii)) 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 currently have title to or a leasehold interest in the site. If 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. Title or leasehold interest must commence prior to the application deadline date. A sublease is not considered an acceptable form of site control;

(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 fund reservation. The contract of sale cannot require closing earlier than 12 months following the date of the FY 2010 Section 811 application deadline date unless you have non-811 committed funds which are sufficient for purposes of closing on the land. **NOTE:** HUD strongly encourages you to have contract terms with renewal provisions to allow for delays in closing the Section 811 capital advance that may be beyond your control.

(C) Option to purchase or for long-term leasehold, which must state a firm price, remain in effect for a minimum of six months from the date on which the applications are due, and must be renewable for a minimum of an additional six-month term. The buyer must have sole discretion to exercise such renewal and any consideration for such Option renewal must be stated in the option agreement. HUD strongly encourages you to have Option terms with renewal provisions beyond six months to allow for

delays in closing the Section 811 capital advance that may be beyond your control. During the initial six month term plus the additional six month renewal, the only condition on which the seller may terminate the Option is if you are not awarded a fund reservation or you fail to make contractually required option payments. We note that the seller is free to extend the option beyond the original term and any renewals if the sponsor is not awarded a fund reservation.

(D) 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, such provisions are not objectionable to HUD and a Sponsor is allowed to terminate the contract of sale or the option agreement.

(E) 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

(F) 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. If the PHA has applied for HUD permission, approval must be received prior to the Multifamily Hub's recommendation of approval to Headquarters.

(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 a current title report or title policy from a title company, updated within 6 months of the application deadline date, that evidences 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). A copy of the title report or title policy is mandatory. Legal opinions are acceptable but only when such opinions identify all matters of record and include copies of all of the underlying instruments. Any legal opinions not supported by documentation will be considered insufficient evidence.

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, which could adversely affect the use of the site for the proposed project for the 40-year capital advance period, the site will be rejected and the application will be considered a "site identified" application. Mortgage liens that will be satisfied by closing are not considered to be limitations or restrictions that would adversely affect the use of the site. You must provide supporting evidence that such a mortgage will be satisfied by the time of initial closing. Title policies showing an existing mortgage that cannot be satisfied by initial closing will result in the rejection of the site. **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's status regarding compliance with local, zoning and land use regulations and its access to public utilities. If no discretionary action is required to receive a building permit, submit a letter or other evidence from the local governing body stating that rezoning variances, special or conditional use permits, design review, or any other land use and public utility approval are not required. If action(s) is required, include a statement of the proposed action required to make the proposed project permissible to receive a building permit **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.). Discuss utilities available to the site. If all utilities are available to the site, provide "will serve" letters from all providers for water, sewer, gas, and electricity indicating that sufficient capacity exists to serve the proposed project.

(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., (A) 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 (B) 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. You should submit with exhibit 4(d)(iv) either a copy of the voluntary arm's length notification letter that was issued, or evidence that the required information is contained in the option to purchase or the contract of sale. 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. Include information on the available methods of transit and their proximity to the project site and a map identifying available amenities. **NOTE:** All successful applicants are required to affirmatively further fair housing. See Section III.C.5.b. of the General Section and the specific instructions provided below. In particular, the proposed activities must address at least one of the following objectives: (1) help overcome any impediments to fair housing choice related to the assisted program or activity itself; (2) promote racially, ethnically, and socioeconomically diverse communities; or (3) promote housing-related opportunities that overcome the effects of past discrimination because of race, color, national origin, religion, sex, disability, and familial status. 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 required for each jurisdiction that has a 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/parish'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 5-year 2005-2009 American Community Survey (ACS) data. This information can be found at <http://www.census.gov/acs/www/>.

(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. The Phase I ESA that you submit must have been completed within one year of the application deadline date; and

any Phase I ESA prepared within the one year but more than 180 days prior to the application deadline, must be updated pursuant to Section 4.6 ASTM Standard E 1527-05. . A Phase I prepared more than one year prior to the application deadline date is not acceptable, even if it has been updated. The preparation date is the earliest of the date of either the site visit, the records review, or the interviews. It is important to start the site assessment process as soon after the publication of the NOFA as possible.

If the Phase I ESA concludes that there are RECs or VECs and you choose to continue with the original site on which the Phase I ESA indicated RECs or VECs, you must undertake a detailed Phase II ESA by an appropriate professional. The Phase II ESA must address all of the RECs and VECs identified in the Phase I ESA. If the Phase II performed determines that either complete clean-up of the site or clean up of the site to federal or state risk-based corrective action levels is applicable, a clean-up plan must be prepared and submitted with your application. In order for your application to be considered for review under this FY 2010 funding competition, the Phase II ESA and, if applicable, the clean-up plan must be submitted with your application. If the information is not received the site will be rejected.

NOTE: Failure to follow the above criteria for preparation and submission of the Phase I ESA and Phase II ESA (if required) stated above and in Section _III.C.2.b.(4)(d) above will result in rejection of the site and the application will be placed in Category B for selection purposes.

(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) An Environmental Report covering relevant topics in the Sample Field Notes Checklist (SFNC) from Form HUD_4128 and focusing on environmental issues that might affect the acceptability of the project to HUD.

(xi) 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.

(xii) 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.

(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 with a 9 digit zip code 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 Multifamily Hub 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. The description should also outline the activities taken to ensure effective communication with persons with disabilities and to ensure meaningful program access to persons with limited English Proficiency. 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 connected to 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

You must provide a list of the applications, if any, you are submitting to any other Multifamily Hub offices in response to the FY 2010 Section 202 or Section 811 NOFAs. Indicate by Multifamily Hub office, the proposed location by city, state, 9 digit zip code, the proposed project name, and the number of units requested for each project you have requested funding.

(2) EXHIBIT 7: Relocation Information

A statement on relocation is required for all Section 811 Applications. For site identified projects, submit a statement with the words ‘SITE IDENTIFIED’ and submit information required for Exhibit 7 once site control is obtained

For site control applications, submit a statement that:

(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 or 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: Standard Forms, 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

(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.C. 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. Applicants must also include the 9 digit zip code (zip code plus four digits) associated to the applicant address in box 8d of the SF424, **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_424SUPP)" 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 HUD2880_ Applicant/Recipient_Disclosure/Update_Report ("HUD Applicant Recipient Disclosure Report" on Grants.gov), including Social Security and Employee Identification Numbers. A disclosure of assistance from other government sources received in connection with the project.

(e) Form HUD_2991_ Certification_of_Consistency_with_the_Consolidated_Plan (Plan), for the jurisdiction in which the proposed project will be located. The certification must be made by the unit of general local government if it is required to have or, has, a complete Plan. Otherwise, the certification may be made by the state or by the unit of general local government if the project will be located within the jurisdiction of the unit of general local government authorized to use an abbreviated strategy, and if it is willing to prepare such a Plan. All certifications must be made by a public official responsible for submitting the Plan to HUD. The certifications must be submitted as part of the application by the application submission deadline date set forth in this NOFA. The Plan regulations are published in 24 CFR part 91.

(f) Form HUD92041_ 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 HUD92042_ 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 HUD2990_ 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 HUD92043_ 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, or license the project (the name, address, and telephone number of the appropriate agency can also be obtained from the appropriate Multifamily Hub Office).

(j) Form HUD96010, Program Outcome Logic Model. The information provided in the Logic Model will be used in rating your application for Rating Factor 5, Achieving Results and Program Evaluation. Form HUD96010, Program Outcome Logic Model must be submitted in Excel format. Logic Models converted to any other format will receive zero points.

(k) Form HUD92530. Previous Participation Certification. This form must be submitted for the Sponsor and all of the Officers and Directors of the Board of the Sponsor, including any Co-Sponsor, if applicable. This form provides HUD with a certified report of all your previous participation in HUD multifamily housing projects. The information is used to determine if you meet the standards established to ensure that all principal participants in HUD projects will honor

their legal, financial, and contractual obligations and are acceptable risks from the underwriting standpoint of an insurer, lender or governmental agency.

(l) Form HUD96011, Facsimile Transmittal ("Facsimile Transmittal Form" on Grants.gov). The form HUD96011 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 "0" 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 allow 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 submitted by fax. If you submit the application entirely by fax, it will be disqualified.

C. Timely Receipt Requirements. Your completed application must be received by Grants.gov no later than 11:59:59 p.m. eastern time on the application deadline date. Following receipt the application will go through a validation process. If the application fails the Grants.gov validation process, it will be rejected. Please see the 2010 **General Section** for instructions for timely receipt, including actions to take if the application is rejected. Applicants should carefully read the section titled "INSTRUCTIONS ON HOW TO DOWNLOAD AND APPLICATION PACKAGE AND APPLICATION INSTRUCTIONS" in the 2010 **General Section**. This section contains information on using Adobe Reader, HUD's timely receipt policies, and other application information

D. Intergovernmental Review.

1. State Review. This funding opportunity is subject to Executive Order (EO) 12372, "Intergovernmental Review of Federal Programs." You must contact your State's Single Point of Contact (SPOC) to find out about and comply with the state's process under EO 12372. The names and addresses of the SPOCs are listed on the Office of Management and Budget's website at: http://www.whitehouse.gov/omb/grants_spoc 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.

E. Funding Restrictions:

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

- a. Supportive Services;
- 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;
- e. Mobile homes;
- f. Intermediate care facilities;
- 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;
- 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.

2. Application Limits (Units/Projects). A Sponsor or Co-Sponsor may not apply for more than 20 percent of the total units allocated to all Multifamily Hub offices (or 179 units for this NOFA). 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 Multifamily Hub office than allocated for the Section 811 program in that Hub 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 plus 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., but not limited to, increased costs due to litigation, new government regulations or controls, additional requirements imposed by local authorities, or a disaster as declared by the President of the United States) 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:

\$51,739 per family unit without a bedroom;
 \$59,655 per family unit with one bedroom;
 \$71,944 per family unit with two bedrooms;
 \$92,091 per family unit with three bedrooms
 \$102,593 per family unit with four bedrooms

For elevator structures:

\$54,447 per family unit without a bedroom
 \$62,414 per family unit with one bedroom
 \$75,896 per family unit with two bedrooms
 \$98,184 per family unit with three bedrooms
 \$107,777 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.....	\$206,358	\$199,198
3.....	\$221,908	\$214,211
4.....	\$237,461	\$227,547
5.....	\$253,011	\$240,883
6.....	\$268,546	\$254,218

(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, Multifamily Hub 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. 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. See the title III ADA regulation at 28 CFR part 36 for more information on accessibility requirements.

5. Expiration of Section 811 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.

F. Other Submission Requirements:

1. 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. You must follow the procedures for electronic submission of applications contained in HUD's General Section unless a waiver for good cause in accordance with HUD's waiver policy of 24 CFR 5.1005 is approved by HUD in accordance with the instructions below. The procedures for electronic submission of applications are published in HUD's General Section.

2. Applicants that are unable to submit their application electronically must seek a waiver of the electronic grant submission requirement. Waiver requests must be on the applicant's letterhead, signed by an official with the legal authority to request a waiver from the Department and be submitted by mail, fax, or email. 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:

- a. 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. Applicants are advised that mailed requests go through an irradiation process. The Irradiation process can cause delays in HUD receiving the waiver request.
- b. Faxed requests must be sent to (202) 708-3104. This is not a toll-free number; or
- c. Electronic Mail Requests. An email request must be sent to the attention of Aretha.M.Williams@hud.gov.

If a waiver is granted, you must submit the original and four (4) copies of your application to the Director of the appropriate local HUD Multifamily Hub 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.

3. **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 the **General Section**: Standard Form 424, Application for Federal Assistance SF424 (Applicants must also include the nine digit zip code associated to the applicant address in box 8d of the SF424); SF424 Supplement, Survey for Ensuring Equal Opportunity for Applicants; Standard Form LLL, Disclosure of Lobbying Activities (if applicable); Form HUD92016-CA, Section 811 Application for Capital Advance, Summary Information; Form HUD92041, Sponsor's Conflict of Interest Resolution; and Form HUD92042, Sponsor's Resolution for Commitment to Project. The forms identified above are discussed in the Program instructions package and can be downloaded from Grants.gov. The downloaded and completed forms should be saved as separate electronic files and attached to the electronic application submission following the requirements of Section IV above.

As stated in the **General Section** as well as Section IV above 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. above 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 HUD96011, 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 your 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 HUD96011 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 SF424 form prior to giving the Form HUD96011 to the co-Sponsors. By following these directions, the Form HUD96011 will be pre-populated with the submitting Sponsor's organizational information exactly as the submitting Sponsor has provided it on the electronic application. In addition, HUD will be using the unique identifier associated to the downloaded application package as a means of matching the faxes submitted with the applications received via Grants.gov. The Facsimile Transmittal form also has space to provide the number of pages being faxed and information on the type of document. Co-Sponsors or the submitting applicant can insert the document name in the space labeled Program Component.

NOTE: Do not insert any additional or other cover pages as it will cause problems in electronically matching the pieces of the application. See the **General Section** for further instructions. **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 allow HUD to match your faxes to your application submission. Every time you fax a document you must use the form HUD96011 as the cover page. If you resubmit an application, you must resubmit the faxes, as faxes are matched to applications as they are received, so if you resubmit an application and have already faxed the documents, you will have to refax the documents after the resubmitted application has been accepted and validated by the Grants.gov system so that HUD can match the faxes to the last application received.. Please read the detailed instructions in the General Section.

V. Application Review Information

A. Criteria.

Rating Factors. HUD will rate applications that successfully complete technical processing using the Rating Factors set forth below and in accordance with the application submission requirements in this NOFA. The maximum number of points an application may receive under this program is 102. This includes five (5) Policy Priority points and 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 (28 Points)

This factor addresses the extent to which you have the experience and organizational resources to successfully implement the proposed activities in a timely manner. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 3(a), 3(b), 3(e), 5, 6, and 7 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 and 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 ownership capacity as well as your financial management capability. In the case of co-sponsored applications, the rating will be based upon the most experienced of the co-sponsors in the area under review.

(1) (10 points) The scope, extent, and quality of your experience in providing housing to those proposed to be served by the project and the scope of the proposed project in relationship to your demonstrated development and ownership capacity. To earn the maximum number of points you must have experience in developing and owning housing projects as complex in number of units, financial structure (e.g. mixed finance), building type, and quality of the proposed project.

(2) (5 points). The scope, extent and quality of your experience in providing supportive services to those proposed to be served by the project (i.e., number of units, services and operation) in relationship to your demonstrated management capacity to provide a range of services in accordance with the needs of the population served.

b. (8 points) The scope, extent, and quality of your experience in providing housing and 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.

(1) (2 points) The scope, extent, and quality of your experience in providing housing to minority persons or minority families.

(2) (1 point) The scope, extent, and quality of your experience in providing services to minority persons or minority families.

(3) (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 criteria (b)(1) and (b)(2) above, you must describe significant previous experience in providing housing and 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 and services occurred. To earn the maximum number of points under sub criterion (b)(3) 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 minority and disability communities. Examples of documents that may be submitted to earn the maximum number of points under sub criterion (b)(3), include letters of support from community leaders (including minority and disability community leaders) that give information about the 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), the disability 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 disability communities, and the dates and places of such advertising/outreach efforts should be included. While broad media advertising to an entire region is helpful, HUD is also looking for additional specific methods of outreaching to these populations.

NOTE: The allocation of points for affirmatively furthering fair housing in no way changes the statutory and regulatory requirement of every successful applicant to affirmatively further fair housing.

c. **(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 or within a multifamily housing development).

d. **(-5 to -7 points) Past Performance – Delays.** HUD will deduct (except if the delay was beyond your control) 5 points to 7 points if a fund reservation you received under either the Section 811 Supportive Housing for Persons with Disabilities Program or the Section 202 Supportive Housing for the Elderly Program in FY 2005 or later has been extended as follows:

- (1) **(-5 points)** The fund reservation was extended beyond 24 months;
- (2) **(-6 points)** The fund reservation was extended beyond 36 months; and
- (3) **(-7 points)** The fund reservation was extended beyond 48 months.

No points will be deducted if the delay was beyond your control.

Examples of delays beyond your control include, but are not limited to, initial closing delays that are directly attributable to HUD; directly attributable to third party opposition, including litigation; and due to a disaster, as declared by the President of the United States.

e. **(-5 to -10 points). Past Performance – Amendments.** HUD will deduct from 5 points to 10 points if HUD amendment money was required in connection with a fund reservation you received under either the Section 202 Supportive Housing for the Elderly Program or the Section 811 Supportive Housing for Persons with Disabilities Program in FY 2005 or later as follows:

(1) **(-5 points).** The amount of the amendment money required was equal to **20 percent and less than 30 percent** of the original capital advance amount approved by HUD.

(2) **(-6 points).** The amount of the amendment money required was equal to **30 percent and less than 35 percent** of the original capital advance amount approved by HUD.

(3) (-7 points). The amount of amendment money required was **equal to 35 percent and less than 40 percent** of the original capital advance amount approved by HUD.

(4) (-8 points). The amount of amendment money required was **equal to 40 percent and less than 45 percent** of the original capital advance amount approved by HUD.

(5) (-9 points). The amount of amendment money required was **equal to 45 percent and less than 50 percent** of the original capital advance amount approved by HUD.

(6) (-10 points). The amount of the amendment money required was equal or greater than **50 percent** of the original capital advance amount approved by HUD.

No points will be deducted if the need for amendment funds was due to unforeseen circumstances beyond your control. Examples of unforeseen circumstances outside of your control includes, but are not limited to, increased costs due to litigation; new government regulations or controls; additional requirements imposed by local authorities; or a disaster, as declared by the President of the United States.

2. Rating Factor 2: Need/Extent of the Problem (8 Points)

This factor addresses the extent to which there is a need for funding the proposed activities to address a documented problem in the target area. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 4(a) and 4(b) of Section IV.B. above. HUD will consider the extent of need for the project in the area based on a determination by the Multifamily Hub 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 Multifamily Hub 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 applications to ensure the proposed site does not create a barrier to and/or the project does not exacerbate conditions identified in the Analysis of

Impediments to Fair Housing for the proposed area in which the project is to be located. The proposed project should further the removal of barriers to fair housing and work to affirmatively further fair housing in the community in which the project will be located. Therefore, HUD is looking for a connection between the proposed project and the community's Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes and addresses fair housing issues such as racial and ethnic diversity, access to transportation, educational and community facilities, as well as employment opportunities. The document providing the analysis can be prepared by a HUD Community Development Block Grant grantee, a local or regional planning body, or similar organization. The Department will review applications more favorably depending on how well this connection is made and issues of fair housing are addressed. 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.

For all Section 811 projects that are determined to have sufficient demand, HUD will rate your application based on the unmet local need for housing assistance among the income-eligible disabled non-elderly population within your county/parish. Points will be assigned based on the ratio of unassisted very low-income disabled renter households paying more than fifty (50) percent of their income for housing to the total number of disabled very low-income renter households, from special tabulations of the American Community Survey 2009 five year estimates, with greater points awarded for locations with greater need. Disabled households are defined as households where a non-elderly member has responded “yes” to at least one of seven questions on disability status in the American Community Survey. Unmet need is measured at the Public Use Microdata Area, or “PUMA”, level. A PUMA is a Census-defined geography. PUMAs can be defined in terms of counties, census tracts and/or places. Large urban counties are typically subdivided into multiple PUMAs with boundaries based on census tracts and/or places. When counties are subdivided into multiple PUMAs, PUMA-level estimates are aggregated to the county level. In less populated rural areas PUMAs are typically comprised of smaller (population-wise) contiguous counties. PUMAs must contain at least 100,000 persons. PUMAs do not cross state boundaries; they cover the entirety of the United States. HUD will evaluate this factor using the information provided at <http://www.huduser.org/PUMA/puma.html>

a. (5 points). Unmet needs ratio (expressed as a percent)

NOTE: Percentage calculations will be rounded to the nearest integer. Points are assigned based on six quintile rankings of the unmet needs ratio. The points correspond to following ratio values:

- (1) **(0 points)** The project has an unmet needs ratio less than or equal to 38 percent;
- (2) **(1 points)** The project has an unmet needs ratio of greater than 39 percent and less than or equal to 47 percent;
- (3) **(2 points)** The project has an unmet needs ratio of greater than 48 percent and less than or equal to 53 percent;

(4) **(3 points)** The project has an unmet needs ratio of greater than 54 percent and less than or equal to 57 percent;

(5) **(4 points)** The project has an unmet needs ratio of greater than 58 percent and less than or equal to 63 percent; or

(6) **(5 points)** The project has an unmet needs ratio of greater than 64 percent.

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 (48 Points)

This factor addresses the quality and effectiveness of your proposal, including access to transit and amenities, provision of supportive services; 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; the extent you consulted with Continuum of Care organizations to address efforts to assist persons and families with disabilities who are chronically homeless; and whether the site provides opportunities for persons in the development to have access to supportive services as well as improved living environments through use of green building techniques and products, and universal design in the design, construction, rehabilitation and operation of the proposed housing. 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 Submission 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. above. In evaluating this factor, HUD will consider the following:

a. **(10 points) Site approvability** -- The extent to which the proposed project's proximity or accessibility of the site to services and amenities as described below is likely to facilitate integration into the surrounding community and promote a resident's ability to live as independently as possible.

(1) (5 points) Transit-Served Location. Reliable and accessible public transportation is available by private door-to-door shuttle/van service and/or a located transit stop. If by the local transit, the residents must be able to get to the stop without barriers. Up to 5 points will be awarded according to the following criteria:

(a) Distance: a transit stop located within a ¼ mile of the project site will receive 2 points.

(b) Availability: Sites with more than 1 public transit line with a transit stop located within ¼ mile will receive 1 point.

(c) Frequency: Evidence that the available transit lines provide a minimum of 40 daily trips will receive 2 points OR transit lines providing a minimum of 20 daily trips will receive 1 point. Trips may be counted in both directions. OR

(d) Evidence of a private door-to-door shuttle/van service available on a daily basis to the project site will receive 5 points.

(2) (5 points). Amenity-Served Location. To earn points, the site must be within one-half mile walking distance of amenities that are appropriate to persons with disabilities. Applicants must provide a map and photograph identifying each amenity. Up to 5 points are available to project sites in proximity to the following categories of amenities; however, applicants may not receive more than one point in any one category:

(a) Grocery Store such as a supermarket or other store that sells produce and meat products will receive 1 point.

(b) Social Services Facilities such as a licensed adult care, hospital, medical clinic or a social service organization that offers services relevant to persons with disabilities will receive 1 point.

(c) Neighborhood-serving amenities such as an apparel store, convenience store, pharmacy, bank, hair care, dry cleaners, and restaurant will receive 1 point.

(d) Recreational Facilities such as a community or senior center, gym, health club, or family entertainment venue will receive 1 point.

(e) Civic Facilities such as a government office that serves the public on-site, place of worship, police or fire station, post office, public library, or public park will receive 1 point.

(f) Educational facilities such as community or 4-year colleges, vocational classes; or job training or on –the job training opportunities will receive 1 point.

b. (5 points). Affirmatively Furthering Fair Housing (AFFH). This sub-rating factor addresses the quality and effectiveness of your proposal to provide housing and supportive services in such a way as to remedy barriers to fair housing for low-income residents with disabilities of the community. The application should demonstrate how the proposed project will increase fair housing choice regardless of race, color, national origin, religion, sex, familial status, and disability and what activities applicant will take to AFFH. Fair Housing encompasses a variety of issues that should be addressed in this factor. In evaluating all aspects of this factor, actions that are comprehensive, innovative, and likely to become models for “best practices” will be awarded the most points. The following affirmative fair housing activities must be addressed:

(1) **(1 point). Limited English Proficiency (LEP).** You will receive one point for LEP if you demonstrate that you have conducted a four factor analysis of language needs for the jurisdiction(s) you serve, have implemented a language implementation plan for written and oral language interpretation, have trained your staff members on LEP, and translated vital documents in target language(s).

(2) **(2 points). Affirmative Fair Housing Marketing.** You must describe past strategies to reach persons that are least likely to apply for the housing, and address planned improvements in the manner specified in Exhibit 4(d).

(3) **(2 points). Site and Neighborhood Standards.** You must choose a site location that provides desirable housing to residents in the manner specified in Exhibit 4(e) and below.

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 contained in Exhibit 4(d)(v) of your application, or in the Multifamily Hub 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.

(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.

c. **(4 points)** The extent to which the proposed design will meet the needs of the anticipated residents, and the extent to which the proposed design incorporates visitability standards and universal design in the construction or rehabilitation of the project. Universal design practices increase access to housing to the elderly and individuals with disabilities. The most common barriers include narrow doorways, lack of adequate lighting, fixtures and controls placed too low

or too high, lack of handrails, and steps at entrances. Universal design increases accessibility for persons with physical limitations and provides flexibility necessary to add features such as lifts, ramps, and handrails if desired at a later date. For further information on universal design, see the General Section.

d. **(2 points)** Your board includes persons with disabilities or persons professionally involved in the disability community and/or you have an established advisory board which includes persons with disabilities or persons professionally involved in the disability community.

e. **(2 points)** You involved persons with disabilities (including minority persons with disabilities) living in the area of the project 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.

f. **(3 points)** The extent to which you coordinated your services with organizations not directly involved with this application with which you share common goals and objectives and are working toward meeting these goals and objectives in a holistic and comprehensive manner to serve the needs of the residents.

g. **(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 and families with disabilities who have been experiencing chronic homelessness become more productive members of society.

h. **(4 points)** The extent to which the proposed supportive services meet the identified needs of the anticipated residents, and the extent to which the proposed project will remain viable as housing with the availability of supportive services for the target population for the 40-year affordability period. This description should address the measures you would take should any of the following occur:

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

(2) 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

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

i. **(4 Policy Priority points)**. The extent to which you describe and firmly commit to a comprehensive plan to undertake green development in the design, construction, rehabilitation, and operation of the proposed housing. **NOTE:** Although this is not a requirement, HUD has a Policy Priority to fully commit to utilizing a recognized green building standard in the design and construction/rehabilitation of the proposed project. Please refer to the General Section and to Section III.C.4 above for examples of recognized green rating programs. You will receive zero points if you do not commit to an identified standard and if your plan does not evidence your efforts and understanding of the process necessary to build to the identified standard. HUD

expects that architectural drawings and specifications submitted to HUD for your project will demonstrate the commitment to green development standards and the level of green certification stated in the application.

j. (11 points). Readiness. To receive the maximum points available, the project must have received all discretionary approvals (building permits are not considered discretionary approvals), have completed initial architectural design work, have a budget showing that necessary sources of funds have been identified to cover all costs, a site in which either a plan to clean-up contamination is not necessary or a clean-up plan of contamination that has been submitted by the applicant has included federal or State approvals, and a site in which there are no major environmental impacts or environmental impacts that require regulatory compliance.

(1) **(6 points).** Evidence that the project, as proposed, is permissible under applicable zoning ordinances or regulations and does not require discretionary action from a governing body such as rezoning, variances, special or conditional use permits, design review, or any other land use approval, OR

(4 points). Evidence that the project, as proposed, is permissible under applicable zoning ordinances or regulations and does not require discretionary action from a governing body such as rezoning, variances, special or conditional use permits, or any other land use approval, OR

(2 points). Evidence that the project as proposed is permissible under applicable zoning ordinances or regulations but requires other discretionary approvals.

(2) **(2 points).** A letter from a licensed architect that a set of schematic plans and outline specifications acceptable to HUD's standard (see Section IV.D.3.a.(2) of this NOFA) have been completed. Plans must include landscape and utility design, building design, unit layout, materials and colors for all elevations and preliminary definitions of all systems serving the project and be consistent with the statements made in the application.

(3) **(2 points).** A detailed budget identifying sources and uses which indicates that all the permanent funding sources necessary to cover the cost of the project (including any required off-site infrastructure costs, environmental clean-up costs, and any commercial space proposed) have been committed (other than tax credit equity commitments or Federal Home Loan Bank AHP funds). The budget should be based upon a construction cost estimate performed by a professional cost estimator with itemized sources of funds to cover costs.

(4) **(1 point).** Provide "will serve" letters from all utility providers for water, sewer, gas, and electric indicating that sufficient capacity exists to serve the proposed project.

(5) **(-2 points).** HUD will deduct 2 points if HUD's preliminary environmental review determines that there are obvious adverse environmental conditions and appropriate mitigation of such does not appear to be achievable within 6 months of the fund reservation date.

k. **(2 points). Section 3.** As noted in Section III.C.3.h., you must comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and its implementing regulations at 24 C.F.R. part 135. Specifically, you are required to ensure, to the greatest extent feasible, that training, employment, contracting, and other economic opportunities will be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing, and to business concerns that provide economic opportunities to low- and very-low income persons in the area in which the project is based. You will be rated as follows:

(1) **(1 point).** The extent to which you describe the following (at a minimum): the number of new employment opportunities you anticipate will be created 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 this requirement. To receive this point, you must address this requirement in your application submission.

(2) **(1 Policy Priority point).** As explained in the General Section's policy priorities, 1. Job Creation/Employment, HUD seeks to fund grantees that undertake activities to create jobs and further local economic development, particularly for low-income populations and communities. These activities should be more comprehensive and exceed those required under HUD's Section 3 requirements. To receive one policy priority point you must describe the number and type of activities that will expand job creation and other economic opportunities and how those activities will increase economic security and self-sufficiency for low- and very-low income persons in the area in which the project is based. The description must address the extent to which the activities that you undertake are focused on improved access to skills training, building and strengthening of partnerships with community-based organizations, and increased collaborating with federal, state, and local entities. The description should specifically address how the activities you intend to undertake will lead to sustainable economic opportunities for low-income populations and communities on a long term basis and how those activities will be supported.

4. Rating Factor 4: Leveraging Resources (6 Points)

This factor addresses your ability to secure other funding sources and community resources that can be combined with HUD's program resources to achieve program purposes. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 3(a), 3(b), 3(c), 3(d), 3(e), and 5(f) of Section IV.B above.. For each commitment document, HUD will evaluate the commitment for completeness and add the amounts that are acceptably documented. 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. **(1 point).** The application contains written evidence of firm commitments toward the development of the project (including financial assistance, donation of land from other funding sources (e.g., private, local community, and government sources) where the dollar value totals between 3 percent and 5 percent or less of the capital advance amount as determined by HUD

- b. **(2 points)**. The application contains written evidence of firm commitments toward the development of the proposed project (including financial assistance, donation of land) from other funding sources (e.g., private local community and government sources) where the dollar value totals between 6 percent and 10 percent of the capital advance amount as determined by HUD.
- c. **(3 points)**. The application contains written evidence of firm commitments toward the development of the proposed project (including, financial assistance, donation of land) from other funding sources (e.g., private local community and government sources) where the dollar value totals between 11 percent and 15 percent of the capital advance amount as determined by HUD.
- d. **(4 points)**. The application contains written evidence of firm commitments toward the development of the proposed project (including financial assistance, donation of land,) from other funding sources where the dollar value totals between 16 percent and 25 percent of the capital advance amount as determined by HUD.
- e. **(5 points)**. The application contains written evidence of firm commitments toward the development of the proposed project (including, financial assistance, donation of land,) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals between 26 percent and 30 percent of the capital advance amount as determined by HUD.
- f. **(6 points)**. The application contains written evidence of firm commitments toward the development of the proposed project (including, financial assistance, donation of land,) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals over 30 percent of the capital advance amount as determined by HUD.

5. Rating Factor 5: Achieving Results and Program Evaluation (10 Points)

This factor reflects HUD's goal to embrace high standards of ethics, management and accountability and, as such, evaluates whether you have an effective, quantifiable, outcome-oriented evaluation plan for measuring your performance. 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), Form_HUD96010_Program Outcome Logic Model, as well as the Assessment Matrix will be used when reviewing and scoring this factor. Form_HUD96010_Program_Outcome_Logic_Model must be submitted in Excel format. Logic_Models converted to any other format will receive zero points. Submit information responding to this factor in accordance with Application Submission Requirements in Exhibits 3(e), 3(g), 3(h), 3(i), 6(b), and 8(j) of Section IV.B. above.

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 subfactors 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.

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

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. In addition to the examples provided in the General Section, a curable deficiency will exist when: (1) there are no documents associated with a particular exhibit; (2) the exhibit contains missing pages; or (3) documents submitted are wholly unrelated to what the exhibit requires. The following is a list of the only deficiencies that will be considered curable in a Section 811 application:

EXHIBIT	DESCRIPTION
1	Form HUD92016CA Application Form*
2(a)	Articles of Incorporation*
2(b)	Bylaws*
2(c)	IRS tax exemption ruling*

4(c)(v)	Description of mixed-financing plans for additional units, if applicable
4(d)(i)	Evidence of site control
4(d)(i)(A)	Deed or long-term leasehold
4(d)(i)(B)	Contract of sale*
4(d)(i)(C)	Option to purchase or for long-term lease; or
4(d)(i)(F)	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)(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 HUD2880, Applicant/Recipient Disclosure/Update Report
8(e)	Form HUD2991, Certification of Consistency with Consolidated Plan
8(f)	Form HUD92041, Sponsor's Conflict of Interest Resolution

8(g)	Form HUD92042, Sponsor's Resolution for Commitment to Project*
8(i)	Form HUD92043, Supportive Services Certification
8(k)	Form HUD2530, Previous Participation Certification

The items identified by an asterisk (*) must be dated on or before the application submission date.

The Multifamily Hub 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. Your response to a curable deficiency notification may only be submitted directly to the HUD via facsimile using the Form HUD96011 from your electronically submitted application. Applicants that granted a waiver of the electronic application submission through grants.gov may respond by electronic mail. All responses must be received no later than 14 calendar days from the date of HUD's written notice. When submitting technical deficiency cure items, please place in the box labeled "Name of Document Submitting" of form HUD96011, the following information: **Technical Cure** plus the name of the document. If the name of the document is long and you need space to fit the document name, just label the Technical Cure as TC, plus the document name. When submitting a facsimile, applicants must follow the facsimile requirements found in the General Section. If an Exhibit or portion of an Exhibit listed above as curable is not discovered as missing until technical processing, HUD will provide you with a deadline to cure the deficiency.

2. Rating. HUD Multifamily Hubs will review and rate your application in accordance with the Review 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, including HUD approval of you, the Section 811 applicant, based on HUD's evaluation of your previous participation activities as reported on Form HUD2530, Previous Participation Certification, 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 Multifamily Hub 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 Multifamily Hub 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 Multifamily Hub 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, 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 the initial selections from the applicable category, however, Multifamily Hubs 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.

Funds remaining after the Multifamily Hub selection process is completed will be returned to Headquarters. HUD Headquarters will first use these residual funds to fund any applications that were not funded due to administrative errors. Second, HUD Headquarters will use the residual funds to restore units to projects reduced by Multifamily Hubs as a result of the instructions for using their residual funds. Next, HUD Headquarters will then use funds for selecting additional 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.

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. Language regarding environmental stipulations will be included in all Section 811 Agreement Letters pursuant to sections III.C.3.f.4 and III.C.3.f.5 above as well as any conditions specifying actions to be undertaken for environmental approval of the site. All Owners are required to register in the Central Contractor Registry (CCR) and obtain a Data Universal Numbering System (DUNS) number before funds can be disbursed to that entity. The DUNS number must be provided on all financial/banking documents sent to HUD. If the DUNS number is not included on such documents, HUD will not process the action(s) and the document(s) will be returned.

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 HUD Multifamily Hub 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 the Multifamily Hub office.

4. Code of Conduct. After selection, but prior to award, applicants selected for funding will be required to provide HUD with their written Code of Conduct if they have not previously done so and it is not recorded on the HUD website at www.hud.gov/offices/adm/grants/codeofconduct/cconduct.cfm

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 (URA), as amended, 42 U.S.C. 4601-4655, including implementing regulations at 49 CFR part 24 and 24 CFR 891.155(e), which covers the acquisition of sites, with or without existing structures. You must also comply with the Section 504 regulations, including 24 CFR 8.4(b)(5), which prohibits the selection of a site or location of a federally-assisted facility which has the purpose or effect of excluding persons with disabilities by denying them the benefits of, or otherwise subjecting them to discrimination under the Federally assisted program activity. As required by Section 504 of the Rehabilitation Act and 49 CFR part 24, replacement dwellings must also contain the accessibility features needed by displaced persons with disabilities.

If you do not have eminent domain authority, the site acquisition requirements of the URA (subpart B) apply to your acquisition unless: (a) prior to making an offer for the property, you clearly advise the owner that you will be unable to acquire the property if negotiations fail to result in an agreement and (b) you inform the owner in writing of what you believe to be the market value of the property. In such cases, an appraisal is not required; however, your files must demonstrate a reasonable basis for your estimate of market value. Evidence of compliance with this advance notice requirement must be included in Exhibit 4(d)(iv) of your application.

If you have 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(s) for each move. You will also have to be able to demonstrate that all persons occupying the site have been issued the required General Information Notice and appropriate advisory services information either at the time of the execution of the option to acquire the property or at the time of application submission. These items must be delivered either personally or by certified or registered first-class mail, return receipt requested.

For more information on URA acquisition/relocation policies, please consult Section III.C.5.h (“Real Property Acquisition and Relocation”) in the General Section.” Evidence of compliance with this advance notice requirement must be included in Exhibit 4(d)(iv) of your application.

3. Flood Disaster Protection Act of 1973 and Coastal 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 expected 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 HUD96010, 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. On an annual basis, applicants will report against the finalized logic model by documenting the achieved measures in the “Post” column.

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. The Owner will be required to use the HUD-PIH Benchmarking Tool at <http://www.hud.gov/offices/pih/programs/ph/phecc/econserve.cfm> to enter utility data for the first year after building occupancy and report the results to HUD. The building would be expected to achieve a score of at least 65 (15 percent over average). For more information on Energy Star Qualified Homes and Energy Star qualified products, see www.energy star.gov

2. The Regulatory Agreement (Form HUD92466CA) 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_27061H, Race and Ethnic Data Reporting Form (instructions for its use) found on www.HUDclips.org.

4. Section 3 Reporting: Recipients are required to submit an annual form HUD60002-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 HUD60002 shall be submitted to the Department annually, no later than January 10th or the 10th day after project completion, whichever is earlier.

5. Recipient Reporting to Meet the Requirements the Federal Financial Assistance Accountability and Transparency Act of 2006 as amended.

a. Prime Awardee Reporting. Prime recipients of HUD financial assistance are required to report subawards made either as pass-through awards, sub recipient awards, or vendor awards in the federal government wide website www.fsr.gov or its successor system.

Starting with awards made October 1, 2010 and after, prime financial assistance awardees receiving funds directly from HUD are required to report subawards and executive compensation information both for the prime award and subawards, including awards made as pass-through awards or awards to vendors, where both the initial award is \$25,000 or greater or the cumulative award will be \$25,000 or greater if funding incrementally as directed by HUD in accordance with OMB guidance. The reporting of award and subaward information is in accordance with the requirements of Federal Financial Assistance Accountability and Transparency Act of 2006, as amended by section 6202 of Public Law 110-252, hereafter referred to as the “Transparency Act” and OMB Guidance issued to the Federal agencies on September 14, 2010 (75 FR 55669) and in OMB Policy guidance. The prime awardee will have until the end of the month plus one additional month after a subaward or pass-through award is obligated to fulfill the reporting requirement. The Transparency Act requires the creation of a public government wide website in which the following subaward data will be displayed:

- (1) Name of entity receiving award;
- (2) Amount of award
- (3) Funding agency;
- (4) North American Industry Classification System (NAICS) code for contracts/CFDA program for financial assistance awards;
- (5) Program source;
- (6) Award title descriptive of the purpose of the funding action;
- (7) Location of the entity (including Congressional district);
- (8) Place of Performance (including Congressional district);
- (9) Unique identifier of the entity and its parent; and
- (10) Total compensation and names of top five executives.

For the purposes of reporting into the FSR reporting site, the unique identifier is the DUN and Bradstreet Universal Numbering System (DUNS) number the entity has obtained from Dun and Bradstreet, and for Prime awardees the DUNS number registered in the Central Contractor Registration as required by HUD regulation 24 CFR 5.1004.

b. Prime Awardee Executive Compensation Reporting.. Prime awardees must also report in the government wide website the total compensation and names of the top five executives in the prime awardee organization if:

- (1) More than 80% of the annual gross revenues are from the Federal government, and those revenues are greater than \$25 million annually; and
- (2) Compensation information is not readily available through reporting to the Securities Exchange Commission (SEC.)

c. Subaward Executive Compensation Reporting. Prime awardees must also report in the government wide website the total compensation and names of the top five executives in the subawardees, pass-through or vendor organization if:

- (1) More than 80% of the annual gross revenues are from the Federal government, and those revenues are greater than \$25 million annually; and
- (2) Compensation information is not readily available through reporting to the Securities Exchange Commission (SEC.)

d. Transparency Act Reporting Exemptions. The Transparency Act exempts any sub-awards less than \$25,000 made to individuals or to an entity whose annual expenditures are less than \$300,000. Subawards with a cumulative total of \$25,000 or greater are subject to subaward reporting beginning the date the subaward total award amount reaches \$25,000. Any other exemptions to the requirements must be approved by the Office of Management and Budget.

6. Compliance with Section 872 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417), hereafter referred to as “Section 872.” Section 872 requires the establishment of a government wide data system to contain information related to the integrity and performance of entities awarded federal financial assistance and making use of the information by federal officials in making awards. It is anticipated that the federal data system will be known as the Federal Awardee Performance and Integrity Information System (FAPIIS). Only federal officials and the entity will be able to view the information in the FAPIIS system. Further, each recipient of federal funds with a cumulative value greater than \$10 million and their direct (i.e., first-tier) subrecipients would be required to report to the FAPIIS system. The data collection requirements include information about certain civil judgments, criminal convictions, and outcomes of administrative proceedings that reached final disposition within the most recent 5-year period and were connected with the award or performance of a federal or state award. Recipients and first-tier subrecipients must report information at least semi annually to maintain the currency of the information. Section 872 also requires that an entity be allowed to submit comments to the data system about any information that system contains about the entity. Use of the FAPIIS system requires a DUNS number and current valid registration in the CCR for HUD awardees and first-tier sub recipients.

Prior to making a funding decision, the federal official authorized to make the award is required to determine whether the entity is qualified to receive an award, taking into consideration any information about the entity that is in the data system. OMB is in the process of issuing regulations regarding federal agency implementation of Section 872 requirements. A proposed rule was published in the Federal Register on February 18, 2010, by OMB seeking public comments no later than April 19, 2010. HUD’s terms and conditions to its FY2010 awards will contain requirements related to meeting Section FFATA and Section 872 requirements.

VII. Agency Contact(s):

Technical Assistance. For technical assistance in downloading an application package from www.grants.gov, contact the Grants.gov help desk at 800-518-4726s or send an email to support@grants.gov.

Programmatic Information. For programmatic information, you may contact the appropriate Multifamily Hub office or Marvis Hayward at HUD Headquarters at (202) 708-3000 (this is not a toll-free number), or access the Internet at: <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>. Persons with hearing and speech impairments may access the above number via TTY by calling the toll-free Federal Relay Service at 800-877-8339.

VIII. Other Information:

A. Local Workshops. 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 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 submission of applications to that particular office and to request any materials distributed at the workshop.

B. Satellite Broadcast. HUD will hold an information broadcast via satellite for potential applicants to learn more about the program and preparation of the application. It is strongly recommended that potential applicants, especially those who may be applying for Section 811 funding for the first time, tune in to this broadcast, if at all possible. For more information about the date and time of the broadcast, you should consult the HUD website at: <http://www.hud.gov/webcasts/index.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 above.

Dated: 4/7/11



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

[FR-541500-N-39]