

CHAPTER 1. GENERAL INTRODUCTION TO SECTION 811 PROGRAM

1-1. AUTHORITY.

Section 811 of the National Affordable Housing Act of 1990, 42 U.S.C. 8013 replaces the Section 202 Program of Housing for Handicapped People as authorized by Section 202 of the Housing Act of 1959, as amended by Section 162 of the Housing and Community Development Act of 1987. Section 202 projects for the handicapped currently in the pipeline that were funded prior to Fiscal Year 1989 remain governed by Handbook 4571.1 REV-2. Projects, funded under Section 202 as amended by Section 162 are governed by Notice 90-I. Applicable Interim Regulations for the Section 811 program appear in the Federal Register, dated June 12, 1991, 24 CFR Part 890.

1-2. DELEGATION OF AUTHORITY IN HUD.

Responsibility for program administration is delegated to Regional Administrators and Field Office Managers.

Field Office Managers and their deputies recommend for approval or disapproval Section 811 capital advances for housing projects for persons with disabilities, amend fund reservations for approved Owners, and make contracts and execute documents. As used in this Handbook, Field Office Managers and Housing Development Directors also means Supervisors of Multifamily Service Offices.

1-3. PURPOSE OF SECTION 811 PROGRAM.

The purpose of the Section 811 program is to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of housing that provides supportive services which address the individual health, mental health and other needs of the residents and is designed to accommodate these special needs. To accomplish this purpose, direct Federal capital advances are provided to assist private, nonprofit corporations to finance the acquisition with or without rehabilitation (group homes only), construction or rehabilitation of housing, including the acquisition of property from the Resolution Trust Corporation (RTC) (group homes and independent living facilities), and may include

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real property acquisition, site improvement, conversion, demolition, relocation, and other expenses of supportive housing for persons with disabilities.

Project rental assistance is made available to Owners of Section 811 projects for assisted units.

1-4. PARTICIPANT ELIGIBILITY.

A. Sponsor. Only a Sponsor may obtain a reservation for a capital advance, which will be transferred to an Owner to be organized by the Sponsor.

1. Definition.

- a. Must be a private nonprofit entity (need not be incorporated) and must have an IRS tax exemption ruling.
- b. May not be a public body or instrumentality of a public body.
- c. No part of its earnings may inure to the benefit of any private shareholder, contributor or individual.
- d. May not be controlled by or directed by persons or firms seeking to derive profit or gain from the project.

2. Significance of Sponsor.

- a. HUD provides a Section 811 fund reservation on the basis of the Sponsor's management experience (housing or services) and its pledge of financial support to the project.
- b. The Sponsor will be evaluated on the strength of its activities as an organization and not on the individual records of the officers, board members, or general membership.

B. Owner. The Owner corporation, to be formed by the Sponsor, must comply with the requirements of Part 890, as follows:

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1. Must be a private nonprofit corporation whose purposes must include the promotion of the welfare of persons with disabilities.
 2. May not be a public body or instrumentality of a public body.
 3. No part of its net earnings may inure to the benefit of any private shareholder, contributor,

or individual.

4. May not be controlled by or directed by persons or firms seeking to derive profit or gain from the project.
5. Must be a single asset corporation. It may not engage in any other business or activity or incur any liability or obligation unrelated to the project.
6. Must be exempt from Federal income taxes under Section 501(c)(3) or (4) of the Internal Revenue Code.

C. Ineligible Participants.

1. Religious organizations.
 - a. Religious bodies may not be an Owner (but may be a Sponsor).
 - b. Under Constitutional requirement for separation of church and State, Section 811 capital advances may not be made to religious organizations or ones that have religious purposes.
2. Public bodies and instrumentalities of public bodies.
 - a. Public bodies (examples: Public Housing Agencies and Local Public Agencies) may not serve as Sponsors or Owners.
 - b. Instrumentalities of public bodies also are ineligible.

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- (1-4) c. Indications of instrumentality relationship:
- (1) Articles of Incorporation or by-laws provide for control of corporation by public body.
 - (2) Public body names majority of Board members or exercises supervisory power in operation of corporation.
 - (3) Dissolution clause runs to a public body.
- d. Public bodies may provide housing consultant

and management services to Section 811 projects.

1-5. RESIDENT ELIGIBILITY.

- A. Eligibility for Occupancy (General). Occupancy of Section 811 housing is open to persons with disabilities. A person with a disability is a household composed of one or more persons, at least one of whom meets the following criteria:
1. is at least 18 years of age or older; and,
 2. has a physical, mental or emotional impairment which:
 - a. is expected to be of long-continued and indefinite duration,
 - b. substantially impedes the person's ability to live independently, and
 - c. is of a nature that such ability could be improved by more suitable housing conditions.

OR

3. has a developmental disability, defined as a severe chronic disability which:
 - a. is attributable to a mental or physical impairment or combination of mental and physical impairments,

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- b. is manifested before the person attains age twenty-two,
 - c. is likely to continue indefinitely,
 - d. results in substantial functional limitation in three or more of the following areas of major life activity:
 - (1) self-care,
 - (2) receptive and expressive language,
 - (3) learning,
 - (4) mobility,
 - (5) self-direction,
 - (6) capacity for independent living, and
 - (7) economic self-sufficiency.
 - e. reflects the person's need for a combination

and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong, or extended duration and are individually planned and coordinated.

- B. Disability Categories. For the purposes of the Section 811 program, disabilities are separated into three major categories: Physical disability (meeting the criteria in 2. above), developmental disability (meeting the criteria in 3. above), and chronic mental illness (meeting the criteria in 2. above).
- C. Eligibility of Alcoholics, Drug Addicts and Persons with the Human Acquired Immunodeficiency Virus (HIV). A person whose sole impairment is alcoholism, drug addiction or an HIV-positive diagnosis (i.e., who does not have a physical disability, developmental disability or chronic mental illness which is the disabling condition required for eligibility in a particular project) is not considered disabled under the Section 811 program and is, therefore, not eligible for occupancy in any Section 811 project.
- D. Eligibility of Households with a Disabled Child. As described above, eligibility for occupancy is contingent upon one member of the household being at least 18 years of age and disabled. Thus, in order for a household that has a child with a disability to qualify for occupancy in Section 811 housing, the child

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(1-5) must be at least 18 years old or an adult (age 18 or older) in the household must have a disability meeting one or more of the criteria above.

- E. Restriction of Occupancy to Persons Having Similar Disabilities. With HUD Headquarters approval, Owners may restrict occupancy of Section 811 projects to persons who have similar disabilities (i.e., subcategories of the three major disability categories described in paragraph B. above) if they can justify that the proposed occupants share a need for a similar set of supportive services that are unique to their disability.

1-6. DEVELOPMENT METHODS.

Projects may be developed using one of the following three methods:

- A. New construction
- B. Rehabilitation - the improvement of the condition of a

property from deteriorated and substandard to good condition.

Rehabilitation may include any of the following provided the cost of the rehabilitation requires at least 15 percent of the estimated development cost to rehabilitate the project to a useful life of 55 years:

1. gutting and extensive reconstruction.
2. cure of substantial accumulation of deferred maintenance.
3. renovation, alteration or remodeling for the conversion or adaptation of structurally sound property to the design and condition required for use in the Section 811 program.
4. repair or replacement of major building systems or components in danger of failure.

- C. Acquisition - the purchase of (or otherwise obtaining title to) existing structures to be used as group homes, including housing and related facilities from the Resolution Trust Corporation (RTC). The housing to be acquired may or may not require rehabilitation.

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(1-6) With the exception of property acquired from the RTC, the following requirements must be met:

1. The structure must be developed as a group home.
2. The structure must have been completed at least three years before the date of the Sponsor's application, or at least three years must have elapsed from the date of initial occupancy, whichever is later.
3. A capital advance may not be used to refinance a structure already owned by the Sponsor.
4. Sponsors may use capital advances to acquire structures they currently lease.

1-7. PROJECT ELIGIBILITY.

A. Types of Housing. The following types of housing are eligible to be developed under the Section 811 program:

1. Group home. A single family residential structure that may combine multiple bedrooms (single or double occupancy) with a kitchen, shared living

areas, utility areas and at least one bathroom for every four (4) persons, all of which are known as common areas. A one-bedroom unit may be provided for residential staff.

2. Independent living facility. A project consisting of separate units where each dwelling unit includes a kitchen and a bath. The structure may contain a congregate dining facility, community space, a laundry, small administrative office and storage. A one-bedroom unit may be provided for residential staff.
3. Intermediate care facility. A group home for persons with developmental disabilities that is licensed by the State Medicaid Agency and receives Title XIX funds to cover the cost of services. In order to qualify as an intermediate care facility, the project must meet the following criteria:
 - a. The proposed project will be a housing facility rather than be medical in nature.

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 - b. Necessary medical services will be provided off-site.
 - c. The design of the facility must not include medical features. (e.g., nursing stations, oxygen outlets, lavatories in bedrooms, call buttons in bedrooms).
 - d. The in-house staff are not medical professionals.
 - e. The residents will be enrolled in structured programs outside the home for at least six hours each weekday.
 - f. The State Agency (e.g., Medicaid) accepts responsibility to pay the tenant contribution to rent in the Medicaid payment to the Owner.
4. Cooperative/Condominium Projects. An independent living facility can be developed for cooperative ownership by the residents. A Sponsor can also purchase units in an existing condominium, provided the condominium documents do not conflict with the HUD Regulatory Agreement.
- B. Project Size Limits. An optional resident manager's bedroom/unit is not counted when determining the following project size limits.

1. Group home. A group home may house no more than 8 persons with disabilities, with no more than two persons per bedroom.
2. Independent living facility. An independent living facility for persons with physical or developmental disabilities may house no more than 24 persons with disabilities. An independent living facility for persons with chronic mental illness may house no more than 20 persons with disabilities. 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 with a disability.

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C. Exceptions to Project Size Limits.

1. Increased limits. Field Offices may approve exceptions to the project size limits described above for group homes and independent living facilities as follows:
 - a. Group homes may be approved up to 15 residents with disabilities.
 - b. Independent living facilities for persons with physical disabilities and/or developmental disabilities may be approved up to 40 residents with disabilities. (Exceptions will not be considered to the 20 person limit for projects for persons with chronic mental illness.)
2. Approval criteria. Sponsors must provide justification in their applications for a larger project including the following:
 - a. The increased number of persons is necessary for the economic feasibility of the project;
 - b. The project is compatible with the surrounding residential development and with the population density of the area in which it will be located;
 - c. The project can be integrated successfully into the community; and
 - d. The project is marketable.

D. Multiple Structure Projects. Sponsors may apply for a project that will consist of more than one structure. However, the following restrictions apply:

1. If the project will consist of more than one group home, each home must be located on a separate site which is not located adjacent to a site containing another such facility.
2. In cases of an independent living facility, the Sponsor may design it in such a way to create clusters of units on one site, as long as the

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(1-7) project does not exceed the size limits in paragraph B. 2. above. This design flexibility may not be applied to group homes.

1-8. PROGRAM COMPONENTS.

A. Capital Advances. Capital advances bear no interest and their repayment is not required as long as the housing remains available for very low-income persons with disabilities for not less than 40 years.

1. Establishment of cost limits for independent living facilities and group homes. Periodically, the Secretary shall establish development cost limits by market area for various types and sizes of supportive housing for persons with disabilities by publishing a notice of the cost limits in the Federal Register, in accordance with the factors in Section 890.245.
2. Development cost limits. To determine the capital advance amount to be reserved for new construction or rehabilitation projects for persons with disabilities, the following development cost limits shall be used:

a. Independent living facilities

(1) For nonelevator structures:

\$28,032 per family unit without a bedroom;

\$32,321 per family unit with one bedroom;

\$38,979 per family unit with two bedrooms;

\$49,893 per family unit with three bedrooms;

\$55,583 per family unit with four or more bedrooms.

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(2) For elevator type structures:

\$29,500 per family unit without a bedroom;

\$33,816 per family unit with one bedroom;

\$41,120 per family unit with two bedrooms;

\$53,195 per family unit with three bedrooms;

\$58,392 per family unit with four or more bedrooms.

b. Group homes

Type of Disability

Number of Residents	Physical or Developmental Disability	Chronic Mental Illness
3	\$128,710	\$124,245
4	137,730	131,980
5	146,750	139,715
6	155,760	147,450
7	162,876	153,576
8	168,126	157,731
9	170,840	160,920
10	178,000	167,000
11	185,160	173,070
12	192,320	179,150
13	199,920	185,380
14	207,510	191,610
15	215,100	197,830

c. Increased capital advance limits.

(1) Field Offices may increase the cost limits set forth above by the Headquarters approved high cost factor of up to 140 percent. Where the cost levels require, Headquarters may approve

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- (1-8) high cost factors above 140 percent up to 160 percent on a project-by-project basis.
- (2) If high construction costs in Alaska, Guam, or Hawaii make it infeasible to construct dwellings without sacrificing sound standards of construction, design, and livability standards within the cost limits provided above, and adjusted by the Field Office's approved high cost factor, the amount of the capital advance may be increased to compensate for such costs. The increase may not exceed the limits established after applying the Field Office's approved high cost factor by more than 50 percent.
- (3) Regional Offices may approve requests by Field Offices for increases of up to 10 percent in cost limits provided in paragraph 2.b. above (group homes only) in areas which can provide convincing documentation that high land costs limit or prohibit project feasibility. The Sponsor must submit documentation such as the following;
- Evidence of at least three land sales which have actually taken place (listed prices for land are not acceptable) within the last two years in the area in which the project is to be built. The sites for which sale prices are given must be reasonably comparable to the project site. The average cost of the documented sales must exceed 7 percent of the development cost limit for which the project in question is eligible.
- d. Rehabilitation projects. A capital advance that involves a project to be rehabilitated is subject to the following additional limitations:

- (1-8) (1) Property held in fee. If the Sponsor is the fee simple owner of an unmortgaged property, the capital advance amount may not exceed 100 percent of the cost of the proposed rehabilitation.
- (2) Property subject to existing mortgage. If the Sponsor owns a mortgaged property that is to be refinanced with part of the capital advance, the maximum capital advance amount may not exceed the cost of rehabilitation plus the portion of the outstanding indebtedness that does not exceed the fair market value of the land and improvements before the rehabilitation, as determined by the Field Office.
- (3) Property to be acquired. If the property is to be acquired by the Owner from an entity other than the Sponsor, and the purchase price is to be financed with a part of the Section 811 capital advance, the maximum capital advance amount may not exceed the cost of the rehabilitation plus the portion of the purchase price that does not exceed the fair market value of such land and improvements before the rehabilitation, as determined by the Field Office.
- (4) Leaseholds. If the site is secured by a leasehold estate rather than by a fee simple estate, the amount of the capital advance attributable to the cost of the property may not exceed the value of the leasehold estate.

3. Revisions to development cost limits. Periodically, the Department will revise the development cost limits by market area for various types and sizes of supportive housing for persons with disabilities by publishing a notice of the cost limits in the Federal Register in accordance with Section 890.245 of the regulations.

- (1-8) 4. Annual adjustments. The cost limits shall be adjusted at least once annually to reflect changes in the general level of construction or rehabilitation costs.

5. Prevailing cost data. In establishing development cost limits for a given market area, data will be used that reflect currently prevailing costs of acquisition, construction or rehabilitation, and land acquisition in the area.
6. RTC Properties. In the case of existing housing and related facilities to be acquired from the RTC under Section 21A(c) of the Federal Home Loan Bank Act, the cost limits shall include:
 - a. the cost of acquiring such housing (or such lesser amount as may be supported by the HUD appraisal);
 - b. the cost of rehabilitation, alteration, conversion, or improvement, including the rehabilitation thereof; and
 - c. the cost of the land on which the housing and related facilities are located.

NOTE: In the case of existing housing and related facilities which require no rehabilitation and are to be acquired from the RTC, 85 percent of the development cost limits identified in paragraph A. of this section shall be used to calculate the capital advance amount to be reserved.

7. Savings incentive. The development cost limits established under paragraph A. above, adjusted by the Field Office's high cost factor up to 140 percent, shall be used to calculate the fund reservation amount of the capital advance to be made available to individual Owners. If actual development costs are less than the amount of the initial fund reservation, the Owner is entitled to

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(1-8) retain 50 percent of the savings in a Replacement Reserve Account. This percentage shall be increased up to 75 percent for Owners which add energy efficiency features which:

- a. exceed the energy efficiency standards promulgated by the Secretary in accordance with Section 109 of the National Affordable Housing Act;

- b. substantially reduce the life-cycle cost of the housing;
- c. reduce gross rent requirements; and
- d. enhance tenant comfort and convenience.

The Replacement Reserve Account may only be used with the approval of the Field Office Manager for repairs, replacements and capital improvements to the project.

- 8. Funds from non-Federal sources. An Owner may voluntarily provide funds from non-Federal sources for amenities and other features of appropriate design and construction suitable for supportive housing for persons with disabilities if the cost of such amenities is not (1) financed with the capital advance, and (2) taken into account in determining the amount of Federal assistance or of the tenant payments.

B. Project Rental Assistance Contracts (PRAC)

- 1. Annual contract amount. The annual contract amount for any project shall not exceed the HUD-approved annual operating budget for all units so occupied (or as approved by the Secretary held for occupancy) and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance

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(1-8) payments available are inadequate to provide for reasonable HUD-approved operating costs.

- 2. Operating cost standards. HUD shall establish operating cost standards based on the average annual operating cost of comparable housing for persons with disabilities in each Field Office, and shall adjust the standard annually based on appropriate indices of an increase in housing costs such as the Consumer Price Index. HUD may adjust the operating cost standard applicable to an approved project to reflect such factors as differences in costs based on location within the Field Office jurisdiction. The operating cost standard will be used to determine the initial reservation amount of the project assistance

funds. The Owner must submit estimates based on project design, maintenance and services provided at the time of issuance of conditional and firm commitment stages of processing. NOTE: The cost of supportive services is not included in the project rental assistance.

- C. Term of Commitment. All units in housing assisted under Part 890 shall be made available for occupancy by very low-income persons with disabilities for not less than 40 years. The initial term of a project rental assistance contract shall be 240 months. The Secretary will, to the extent approved in appropriations acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.
- D. Tenant Payment. A very low-income person with a disability shall make a tenant payment for a dwelling unit assisted under Part 890, which will be the highest of the following amounts, rounded to the nearest dollar:
1. 30 percent of the person's monthly adjusted income (as defined in 24 CFR 813.102),
 2. 10 percent of the person's monthly income, or

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- (1-8) 3. If the person is receiving payments for welfare assistance from a public agency and a part of such payment, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated.

If the person's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under 3. above shall be the amount resulting from one application of the percentage.

- E. Financial Obligations of Sponsor.
1. Owner deposit (Minimum Capital Investment). The Owner must deposit one-half of one percent (0.5%) of the HUD-approved capital advance amount not to exceed \$10,000 in a special escrow account to assure the Owner's commitment to the housing. The

Minimum Capital Investment (MCI) will be placed in escrow prior to disbursing any capital advance funds and will be held by HUD or by a HUD-approved escrow agent. If construction starts within the initial 18 months of the fund reservation, HUD will waive one-half of the MCI, which would be required under the aforementioned formula, at the time the deposit would be required. If final closing occurs within six months after construction completion, HUD will approve the return of all remaining funds not used to cover operating deficits during the first three years of operation. If final closing does not occur within six months after project completion (unless extended by the Field Office for up to two months due to Justifiable delay), the balance remaining at the end of three years will not be returned and shall be deposited in the Replacement Reserve Account.

2. Other possible financial obligations. Besides the minimum capital investment, additional funds may be required as follows:
 - a. Front-end money for any project costs (such as individual unit balconies) which are not

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- (1-8) eligible to be included in the capital advance.
 - b. Off-site escrow for off-site drives, walk-ups, etc., which may be required but may not be included in the capital advance.
 - c. Initial operating deficit escrow if an expected slow rent-up would result in a projected operating deficit.
 - d. Unforeseen expenses incurred during construction or operation of project.
 - e. Incremental development and operational cost of facilities not eligible for capital advances (e.g., amenities not covered under HUD's design and cost standards).
 - f. Supportive services (see paragraph 1-6F).
3. Loans. Funds for the Minimum Capital Investment may not be borrowed, nor may letters of credit be used. Where the Sponsor entity lacks the financial resources, it may borrow the necessary

funds for any other project purposes from third parties, under the following conditions:

- a. Loans from the contractor or other parties standing to gain a profit from the project are prohibited.
- b. Indebtedness must not create a situation where such a creditor can exercise any direction or control over the Owner.
- c. Funds used to cover items which are in excess of those permitted under HUD's design and cost standards may not be repaid from project resources. Funds borrowed outside of capital advance proceeds for other approved purposes may be secured only by a promissory note executed by the Owner on a Form FHA-1710 after a prior written approval by the Field Office. The note shall be endorsed as follows:

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(1-8) "Approval to make repayment of this loan from Residual Receipts is hereby granted this _____ day of _____, 19____.

Assistant Secretary for
Housing-Federal Housing Commissioner by
"Authorized Agent"

1-9. Supportive Services.

- A. General. While adequate housing is a basic necessity of life for everyone, the provision of housing alone cannot create a stable living environment for many persons with disabilities. Housing is one component in the spectrum of services needed for persons with disabilities to live independently in the community. Thus, the provision of supportive services is essential to the success of any Section 811 project. It is the responsibility of the Sponsor to arrange for the provision and funding of those services appropriate to the assessed needs of the residents. For some residents with physical disabilities, for example, services may be limited to housekeeping assistance, personal care attendants, or structured recreational or educational activities. Other residents with more severe physical or mental disabilities may require more intensive services such as case management, training in the skills of independent living (i.e., personal grooming, cooking, money management, etc.), medication

monitoring, occupational therapy, or training in social skills. Necessary supportive services should be provided off-site to the greatest extent possible to ensure a normal (non-institutional) home environment for the residents.

B. On-site services may include the following:

1. case management
2. personal assistance/attendant care
3. housekeeping assistance
4. supervision
5. counseling/advocacy/referral
6. training in independent living skills

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7. recreation
 8. transportation
 9. meals and nutrition

C. Off-site services may include the following:

1. health and dental care (Health care must be based in the community, not in the project. No on-site staff provisions may be made for doctors, nurses or other medical personnel.)
2. periodic inter-disciplinary diagnostic and assessment services
3. specialized educational/vocational services

D. Supportive services plan. The supportive services plan is one of the most essential components of each application for a Section 811 fund reservation. It is through this plan that the Sponsor must describe the prospective residents of the proposed group home or independent living facility in terms of their general disability, the supportive services needs of the residents, the services to be provided (who will provide them and where), the staffing plan for the facility, and most important, an identification of the extent, source and commitment of funds for the services.

Since funding for supportive services is essential to the long-term stability of Section 811 housing, HUD will not select any application that does not contain satisfactory evidence of a commitment to provide funding for the supportive services.

Sponsors must provide documentation in writing from the agency that will be providing the funding for the

supportive services, indicating the extent of its commitment. Usually, funds for supportive services are provided by the State and are allocated in various ways, i.e., to localities, projects, or to individual residents. States generally are unable to make binding, long-term funding commitments, but can indicate planned funding subject to future appropriations actions.

- (1-9) In those States where, due to fiscal or other constraints (e.g., States which have been retracting funding for services in group homes), the State indicates funds cannot be made available for services, the Sponsor must secure and provide documentation of other funding sources to meet the anticipated needs of the residents. In States where existing projects are experiencing difficulty with continuation of State funding, the proposed projects should not be recommended for approval unless satisfactory evidence of a commitment from other service funding sources is provided.

A commitment to provide funds for services from an outside funding source must be in the form of a letter of intent demonstrating the reasonable expectation of the funding source and its resolve to provide the funds if the application is selected.

If the Sponsor is providing funds for supportive services, evidence of its financial capability to do so must be provided.

- E. Management capacity. The Field Office shall ensure that Owners have the managerial capacity to: (1) assess the ongoing service needs of residents; (2) coordinate the provision of supportive services and tailor such services to the individual needs of residents; and (3) seek on a continuous basis new sources of assistance to ensure the long-term provision of supportive services.

1-10. General Application Limits.

No Sponsor in a given fiscal year may singly or as a co-sponsor (including affiliated entities) apply for more units in a given Region than advertised for that Region in the Invitation. Affiliated entities which submit separate applications shall be deemed to be a single entity for purposes of this limit.

NOTE: Any Sponsor found to exceed the above limit will be afforded the opportunity to withdraw the excess applications. If it refuses, funding will be denied

for all of its applications.

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1-11.PROGRAM REQUIREMENTS.

A. Accessibility Requirements.

1. Applicable laws. Projects must comply with Section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR Part 8 and the Fair Housing Amendments Act of 1988 and HUD's implementing regulations at 24 CFR Part 100.

a. Section 504 of the Rehabilitation Act of 1973.

- (1) 5 percent of all units (at least one) must be accessible according to the Uniform Federal Accessibility Standards or an equivalent standard.
- (2) An additional 2 percent of the units (at least one) must be designed to meet the needs of persons with visual and/or hearing impairments.

Each project should have appliances/accessories available to be installed on an as-needed basis in the number of units required to be accessible to individuals with hearing or visual impairments. In addition, each project should be prepared to provide tenants or prospective tenants with information on the available accommodations.

Since the 2 percent requirement is to be met through subsequent installation or adaptation, there is no design impact during processing. The only processing implication is that Owners must commit to their willingness to provide reasonable accommodation when requested and must demonstrate that they have provided appropriate equipment on-site to meet the needs of tenants with hearing and/or visual impairments. A requirement to this effect must be in the Regulatory Agreement.

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In units for people with hearing impairments:

- Visual alarms should be available. Alarms should be installed in accordance with UFAS 4.28.4 (either connected to the building emergency alarm system or plugged into a standard 110 volt electrical receptacle).
- If telephone wiring is installed in the unit as a standard practice, an electrical outlet should be provided adjacent to the telephone outlet to permit use of a telecommunications device for the deaf (TDD). The outlet may be one of the unit's required outlets.
- Peep sights should be available for installation on all doors leading into the unit.
- If the unit has a buzzer or doorbell, at the time of occupancy by a person with a hearing impairment, it should be wired to provide a flashing light signal.

In units for people with visual impairments:

- Any lighting fixtures provided in the unit should be equipped with receptacles capable of handling 150-watt bulbs for tenants with residual vision.
- Cooktop controls should be mounted on the front or side of the range and controls with tactile markings should be available for installation if required by the tenant.

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- Baseboards, doors and door frames, and window frames should be painted to contrast with the wall and floor

color for tenants with residual vision.

- (3) Section 504 applies on a project-by-project basis. For example, if an Owner has a scattered-site project, the 5% and 2% requirements described above would apply to the entire project, not to each individual building.
 - (4) Section 504 requirements cannot be waived.
- b. Fair Housing Amendments Act of 1988
- (1) Requires limited accessibility in all covered multifamily dwellings of 4 or more units designed for first occupancy after March 13, 1991.
 - (a) If the building was occupied before March 13, 1991 or the last building permit or renewal was obtained before June 15, 1990, it is exempt from the design and construction requirements of the Fair Housing Amendments Act of 1988.
 - (b) Each covered multifamily dwelling must have the following:
 - At least one (1) building entrance must be on an accessible route.
 - Public and common use areas must be readily accessible to and usable by persons with disabilities.
 - All doorways designed to allow passage into and within the premises must be at least 32 inches wide.

- (1-11) (c) Units in covered multifamily dwellings fall into two categories:
 - Elevator building - all units must be adaptable.
 - Non-elevator building - all

ground floor units must be adaptable.

- (d) New construction dwelling unit design requirements
 - Accessible route into and throughout the dwelling unit,
 - Light switches, outlets, and environmental controls in accessible location,
 - Reinforced bathroom walls at tub, toilet and shower stall,
 - Usable kitchens and bathrooms that will allow room for a wheelchair user to maneuver about the space.
- (2) Tenant Accommodations - Owners must allow tenants to make reasonable modifications to their units (e.g., lower kitchen cabinets).
 - (a) The tenant must pay for the modifications.
 - (b) The Owner may require the money to be placed in an escrow account to restore the unit to its original condition when the tenant leaves.
- (3) The requirements apply on a building-by-building basis.
- (4) Group homes are not subject to the design and construction requirements.

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- (1-11) 2. Program Accessibility Requirements. Section 811 projects are also subject to the following program accessibility requirements which must be met using UFAS specifications.
 - a. New Construction.
 - (1) Projects for Persons with Chronic Mental Illness
 - (a) All entrances, common areas, units to be occupied by residential

staff, and amenities, must be readily accessible to and usable by persons with physical disabilities.

(b) In an independent living facility, a minimum of 10 percent of all dwelling units, but at least one, must be accessible or adaptable for physically disabled people.

(c) In a group home, a minimum of 10 percent of all bedrooms and bathrooms, but at least one of each, must be accessible or adaptable for physically disabled people.

(2) Projects for Persons with Physical or Developmental Disabilities

(a) All entrances, common areas, amenities, and units for residential staff must be readily accessible to and usable by persons with physical disabilities.

(b) All units in independent living facilities, and all bedrooms and bathrooms in group homes, must be accessible or adaptable for persons with physical disabilities.

(1-11) b. Projects to be Acquired and/or Rehabilitated

(1) Projects designed for persons with chronic mental illness must comply with the applicable requirements for new construction above.

(2) Projects designed for persons with physical or developmental disabilities may provide less than full accessibility if the following criteria are met:

(a) The cost of providing full accessibility makes the project financially infeasible;

(b) Less than one-half of the intended occupants will have mobility impairments; and

(c) The project complies with the requirements of 24 CFR 8.23.

B. Affirmative Marketing. The Owner must determine the racial or ethnic groups least likely to apply for project occupancy taking into consideration the location of the project, and shall establish a plan to inform and encourage such groups to apply.

C. Certifications. The following certifications are required for participation in the Section 811 program:

1. Conflict of Interest. Officers and board members of either the Sponsor or Owner cannot have any financial interest in any contract with the Owner or in any firm which has a contract with the Owner.

a. This restriction includes individuals of the Sponsor and Owner organization who serve as:

(1) a board member, officer, director, partner, employee or authorized agent of any firm providing services or products related to the construction or operation of the proposed project.

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(1-11) (2) the attorney, general contractor, land seller, architect, housing consultant, or service provider, among other things, in connection with the project, EXCEPT that the:

(i) Sponsor or its nonprofit affiliate may contract for a fee with the owner to provide management services and/or supportive services. In such cases, only two persons who are paid by the Sponsor or its nonprofit management firm may serve as directors on the Owner board and only in a nonvoting capacity.

(ii) Sponsoring entity may enter into an agreement to sell the land to the Owner.

b. Family members of any officer, director, or authorized agent of the Sponsor or Owner are prohibited from entering into any contracts for services with the Sponsor or Owner.

- c. When submitting its application for a Section 811 fund reservation, Sponsor must include a Conflict of Interest Resolution (Appendix 1) duly adopted by the Sponsor, along with an Incumbency Certificate (Appendix 2) agreeing to comply by the Department's conflict of interest requirements,
- d. At time of submission of a conditional commitment application, both Sponsor and Owner must file Conflict of Interest and Disclosure Certifications (Appendix 3) for each officer, director, and authorized agent along with an updated Incumbency Certificate.
- e. The Section 811 fund reservation is subject to cancellation if the certifications under item d. above are not provided for all officers, directors, and authorized agents of the Sponsor and Owner.

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- (1-11) f. Certifications from only Executive board members are not acceptable.
2. Identity of Interest. An identity of interest between the Sponsor/Owner and the development team member or between development team members is prohibited.
- a. Development team members include, but are not limited to, consultant, architect, general contractor, attorney, management agent and seller of the land.
 - b. This prohibition excludes the following:
 - (1) An identity is permitted between the Sponsor and its nonprofit affiliate, and the Owner.
 - (2) The Sponsor or its nonprofit affiliate may contract for a fee with the Owner to provide management services under the conditions specified in 1a. above.
 - (3) The Owner may self-manage the project provided the salaried employee responsible for managing the project is not an officer, director or authorized agent of the Sponsor or Owner.

- (4) The Sponsor may be the seller of the land.
- (5) The consulting firm may serve as the management agent with the prior approval of the local HUD Field Office.
- (6) Staff of the Sponsor/Owner may perform services typically performed by the consultant. In such cases, no consultant fees or expenses related to overhead salaries for these services may be included in the Section 811 capital advance.
- (7) An identity of interest may exist between the general contractor and the

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(1-11)

subcontractors, material suppliers and equipment lessors with the prior approval of their contracts and the allowance for general overhead and profit by the local HUD Field Office.

- (8) An officer, director or board member of the Sponsor or Owner or any development team member may donate their services to the project, except that a donation of the land may only be made by the Sponsor or Owner or an individual/firm/corporation which had no other involvement in the project.

c. A prohibited identity of interest will exist if any development team member firm/corporation or any officer, director, partner or authorized agent of a development team member's firm/corporation:

- (1) is also an officer, director, board member, partner, or authorized agent for any other development team member.
- (2) has any financial interest in any other development team member's firm/corporation.
- (3) has a family relationship with any officer, director, board member, partner or authorized agent of any other development team member's firm/corporation.

- (4) advances any funds or thing of value to the Sponsor/Owner including the land option or the land or the cost of providing the land option or takes stock or any interest in the Sponsor/Owner corporation or property as part of consideration for payment.

d. This prohibition extends to:

- (1) the consultant firm/corporation or any of its officers, directors, or partners

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- (1-11) who are involved as an officer, director, board member or general partner in a business venture with any other development team member.
- (2) the attorney for the Sponsor/Owner who also serves as the attorney for a development team member, except that the Sponsor/Owner's attorney may serve as the personal attorney for an individual associated with a development team member in matters not involving the Section 811 project.
 - (3) any firm or subsidiary having an identity of interest with a contractor that is providing the option or selling the land to the Sponsor/Owner. In such cases, the Sponsor/Owner is prohibited from selecting that contractor or its affiliate to construct the project for which the Application for a Fund Reservation is being made.

e. Identity of Interest Disclosure Certifications (Appendix 4) on the development team members noted in subparagraph 2.a. above are to be submitted along with the Owner's Application for a Conditional Commitment, except:

- (1) where a consultant has been identified at the time of filing of the Section 811 Fund Reservation Application, the certification on the consultant must be submitted at that time.
- (2) where the development team member's

initial contact with the Owner occurs at a later processing stage, the certification must be filed at that time, but prior to initial closing.

3. Delinquent Federal Debt. OMB Circular A-129, Managing Federal Credit Management Programs,

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- (1-11) requires Owner certification relating to credit availability from private sources and also requires each Owner corporation official to certify that he or she is not delinquent on the repayment of any Federal debt.
- a. At the time the Application for a Fund Reservation is submitted, the Sponsor completes and includes a copy of Form SF-424, Application for Federal Assistance. SF-424 includes a question regarding delinquent Federal debt. The Sponsor is required to answer this question and provide an explanation if any delinquent Federal debt is acknowledged.
 - b. Included with the Application for a Conditional Commitment, each officer, and director of the Owner corporation submits the certification regarding delinquent Federal debt as contained in Appendix 6.
 - (1) This certification requirement applies to all Section 811 Owners regardless of the type of project proposed.
 - (2) Should any officer or director of an Owner corporation be unable to bring current his or her Federal debt, the individual will be unable to receive approval.
 - (3) Examples of Federal debts are:
Department of Education student loans,
IRS tax payments, HUD, FmHA, SBA and VA loans, audit disallowances and mortgages.
4. Lobbying Activities. Pursuant to statutory requirements, Sponsors and Owners cannot use grant or loan funds to lobby the Executive or Legislative branches of the Federal Government.
 - a. A certification form and a Disclosure of

Lobbying Activities Form (Standard Form - LLL)
as found in Appendix 7 must be submitted

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- (1-11) by the Sponsor with its Application for a Fund Reservation.
- b. The forms in item a. above must be submitted by the Owner with its Application for a Conditional Commitment.
5. Drug-Free Workplace. In accordance with the Drug-Free Workplace Act, all Sponsors and Owners must certify to comply with the requirements under the Act.
- a. The required certification form, Certification Regarding Drug-Free Workplace Requirements, in Appendix 8 must be submitted by the Sponsor at the time of filing its Application for a Fund Reservation.
- b. The above certification must be submitted by the Owner with its Application for a Conditional Commitment.
6. Design and Cost Standards. The Sponsor must certify that the project will comply with HUD's design and cost standards. (Appendix 9)
7. Civil Rights Compliance. The Owner must certify to comply with the following civil rights requirements. (Appendix 23)
- a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and regulations pursuant thereto (24CFR Part 1);
- b. The Fair Housing Act (42 U.S.C. 3601-19) and regulations pursuant thereto (24 CFR Part 100);
- c. The fair housing poster regulations (24 CFR Part 110) and advertising guidelines (24 CFR Part 109);
- d. Executive Order 11063 and regulations pursuant thereto (24 CFR Part 107);
- e. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and regulations issued pursuant thereto (24 CFR Part 8);

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- (1-11)
- f. The Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and regulations issued pursuant thereto (24 CFR Part 146);
 - g. Executive Order 11246 and all regulations pursuant thereto (41 CFR Chapter 60-1);
 - h. Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and regulations pursuant thereto (24 CFR Part 135);
 - i. The Affirmative Fair Housing Marketing Program requirements of 24 CFR 200, Subpart M and the implementing regulations at 24 CFR Part 108; and
 - j. The requirements of Executive Orders 11625, 12432, and 12138 (Minority and Women-Owned Business Enterprises).
- D. Facilities for Religious Observances. Facilities cannot be set aside for use only for religious purposes; however, a multipurpose room may be used for religious services and other related purposes. Religious articles or equipment may not be installed permanently and must be removed at the conclusion of any service or observance. Any room or space used for such purposes must be available for equitable use by all groups composing the tenancy.
- E. Project Design.
- 1. In designing housing for persons with disabilities, the following should be considered:
 - a. Land costs in relation to the economic feasibility of the project;
 - b. The social environment in relation to the safety and security of the residents;
 - c. The available sites which offer adequate proximity to community services and facilities and accessibility to low-cost transportation;

- (1-11) d. The established land-use patterns in the community.
- 2. Design and Cost Standards. The Owner, to the extent practicable, has the flexibility to design the housing appropriate to the proposed location and resident population, subject to the following design and cost standards.

- a. Unit sizes.

- (1) Group homes.

Group homes must provide no less than the general square footage requirements in the minimum group home standards. Each resident must have at least 290 square feet of prorated space, including a minimum area of 80 square feet in a shared bedroom (no more than two residents) or 100 square feet in a single bedroom.

- (2) Independent living facilities.

The proposed unit sizes and number of bathrooms shall not exceed the following (except for rehabilitation projects where it would be more expensive to comply with these limitations than to retain the existing features):

Number of Bedrooms	0	1	2	3	4
Sq. Ft. Rentable Area	415	540	800	1050	1150
Number of Baths	1	1	1	1 1/2	2

- (a) For projects involving five or more bedrooms, the maximum unit size may be increased up to 100 square feet for each additional bedroom.
- (b) Three or more bedroom units are limited to families and may not serve single, unrelated persons with disabilities.

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- (1-11) b. Restrictions on amenities.

- (1) Projects must be modest in design. Amenities not eligible for HUD funding include:

- (a) individual unit balconies and decks,
 - (b) atriums,
 - (c) bowling alleys,
 - (d) swimming pools,
 - (e) saunas
 - (f) jacuzzis
- (2) In independent living facilities, dishwashers, trash compactors, and washers and dryers in individual units will not be funded. However, space for these appliances may be provided and mechanical hook-ups for the appliances are eligible costs.
- (3) The use of durable materials to control or reduce maintenance, repair and replacement costs is not an excess amenity.
- c. Community spaces. The cost of construction of community spaces may not exceed 10 percent of the total cost of construction, except as provided in paragraph (d) of this section.
- d. Exceptions. HUD may approve a project that does not comply with the design and cost standards of paragraphs (b) and (c) of this section if:
- (1) The Sponsor demonstrates a willingness and ability to contribute the incremental development cost and continuing operating costs associated with the additional amenities or design features; or
 - (2) The proposed project involves rehabilitation or acquisition, the

(1-11) additional amenities or design features were incorporated into the existing structure before the submission of the application, and the total development cost of the project with the additional amenities or design features does not exceed the cost limits described in paragraph 1-6.A.2., unless the Sponsor indicates a willingness to pay the excess costs from other than capital advance proceeds.

e. Prohibited facilities. Project facilities may not include commercial spaces, infirmaries, nursing stations, spaces dedicated to the delivery of medical treatment or physical therapy, padded rooms, or space for respite care or sheltered workshops. Except for office space used by the Owner exclusively for the administration of the project, project facilities may not include office space.

F. Location of Project. Site location is of the utmost importance in the success of any housing development. Housing for persons with disabilities developed under Section 811 must be integrated into local communities and neighborhoods so that the residents are afforded the same opportunities for active participation in community life as are afforded to the population at large. Proper site location, therefore, can greatly influence the success of housing for persons with disabilities. Sponsors, in looking for an approvable site, should carefully review the site and neighborhood standards in Section 890.230 of the regulations with particular emphasis on the following:

1. The site must be in close proximity, either by foot or accessible transportation, to necessary services and facilities (i.e., employment and educational opportunities, shopping, recreational activities, etc.).
2. The site must be located in a residential neighborhood and have an appearance consistent

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- (1-11) with the type of project proposed, so as to not draw attention to itself as housing for persons with disabilities. If it is a group home, the site must be located among and resemble other single family homes. If the project will be an independent living facility, it must be situated among other apartment buildings and have similar physical characteristics.
3. Projects may not be located adjacent to the following facilities, or in areas where such facilities are concentrated:
 - a. schools or day-care centers for persons with disabilities
 - b. sheltered workshops

- c. medical facilities
- d. housing primarily serving elderly persons or persons with disabilities

G. Relocation, Displacement and Real Property Acquisition.

- 1. Applicable relocation and real property acquisition rules. The Section 811 program is subject to the following requirements:
 - a. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) and implementing regulations at 49 CFR Part 24. These requirements are described in Chapters 1 through 6 of HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition.
 - b. Section 24 CFR 890.265(e). These additional policies are described in this Section G.
- 2. Definition of displaced person. For purposes of providing relocation assistance (at URA levels), the term "displaced person" is generally described in Paragraph 1-8 of HUD Handbook 1378. However, 24 CFR 890.265(e)(6) provides the following additional guidance:

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- (1-11) a. The term "displaced person" includes, but may not be limited to:
 - (1) A person that moves permanently from the real property after receiving a notice from the Sponsor/Owner that requires such move, if the move occurs on or after:
 - (a) The date of the submission of the application to HUD for assistance for the project which is later approved, if the Sponsor has control of the site; or
 - (b) The date that the Sponsor obtains control of the site, if such control is obtained after the submission of the application to HUD.
 - (2) Any person, including a person who moves

before the date described in Paragraph G.2.a.(1), if either HUD or the Sponsor/Owner determines that the displacement directly resulted from acquisition, rehabilitation, or demolition for the project.

- (3) A tenant-occupant of a dwelling who moves permanently from the building/complex after execution of the Agreement between the Sponsor/Owner and HUD, if the move occurs before the tenant is provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions shall include a monthly rent and estimated average monthly utility costs that do not exceed the "total tenant payment," as determined under 24 CFR 813.107.

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- (1-11) (4) A tenant-occupant of a dwelling who is required to relocate temporarily and does not return to the building/complex, if either:
- (a) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation (including the cost of moving to and from the temporarily occupied unit and any increased housing costs), or
 - (b) Other conditions of the temporary relocation are not reasonable.
- (5) A tenant-occupant of a dwelling who moves from the building/complex permanently after he or she has been required to move to another unit in the building/complex, if either:
- (a) The tenant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or

(b) Other conditions of the move are not reasonable.

b. Persons Not Eligible. Notwithstanding the provisions of Paragraph G.2.a., a Person does not qualify as a "displaced person," if:

- (1) The person is excluded under Paragraph 1-8c of HUD Handbook 1378; or
- (2) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State or local law, or other good cause, and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance; or

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(1-11) (3) The person moved into the property after the submission of the application and, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" as a result of the project.

3. Definition of initiation of negotiations. For purposes of providing the appropriate notice under Paragraph 2-3b of HUD Handbook 1378 and determining whether a person displaced from a dwelling qualifies for a replacement housing payment under Paragraph 3-3 or Paragraph 3-4 of HUD Handbook 1378 (as opposed to paragraph 3-5), the term "initiation of negotiations" means the execution of the Agreement between the Sponsor/Borrower and HUD.

4. Application requirements. To evaluate the feasibility of a proposed project and assess training, technical assistance and monitoring needs, the Sponsor/Owner must provide HUD the information described in Exhibit 17. When preparing an estimate of the cost of required relocation payments and services, the applicant may wish to consult with the HUD CPD Relocation

Specialist serving the community.

5. Minimizing displacement. Consistent with the other goals and objectives of the Supportive Housing for Persons with Disabilities Program, the Sponsor/Owner shall assure that all reasonable steps have been taken to minimize displacement as a result of an assisted project.
6. Appeal by lower-income person. Under the Supportive Housing for Persons with Disabilities Program, a low-income person, who is dissatisfied with the determination of the Sponsor/Owner on his or her appeal under Paragraph 1-33 of HUD Handbook 1378, may request HUD to review that determination as described in Paragraph 1-33i of that handbook.

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- (1-11) 7. Compliance responsibility of Sponsor/Owner.
- a. Certification. Before receiving HUD financial assistance, the applicant must certify to HUD that it will comply with the URA, 49 CFR Part 24, and 890.265(e). The Sponsor/Owner is responsible for ensuring compliance with such requirements, as described in HUD Handbook 1378, notwithstanding any third party's contractual obligation to the Sponsor/Owner to comply with such provisions.
 - b. The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. However, such assistance may also be paid for with funds available from other sources.
 - c. The Sponsor/Owner must maintain records in sufficient detail to demonstrate compliance with the provisions of HUD Handbook 1378, as described in Chapter 6 of that handbook.

H. Site Control.

Sponsors must submit either (1) documentary evidence that they has site control, OR (2) an identification of a site with reasonable assurances that they will have control of the site within 6 months of notification of fund reservation (if approved), as described below.

1. Evidence of site control. Documentary evidence of site control may be in the form of a contract of

sale, a site option agreement, a deed or other legal commitment. The option agreement period should extend through the end of the month in which funding decisions are announced and contain a renewal provision to guarantee site availability through the subsequent stage of processing.

Sites to be acquired from public bodies. When sites are to be acquired from a public body, satisfactory site control consists of evidence that the public body:

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- (1-11)
- possesses clear title to the land, and
 - has entered into a legally binding written agreement to convey the property to the Sponsor when its receives a Section 811 Fund Reservation.
- a. A mere recitation of intent to convey the land made by an official of the public body to the Sponsor or preliminary actions (such as initiating condemnation proceedings or being under consideration by the City Council) on the part of the public body are not adequate evidence of site control. The contract of sale, option agreement, or other legal agreement must have been executed prior to the application deadline date.
 - b. If the public body does not own the land or public hearings have to be conducted at a later date, sufficient evidence of site control by the Sponsor does not exist.
 - c. However, since time constraints of the funding round may not permit all of the required official actions (e.g., approval of Community Planning Boards as required by New York City) which are necessary to convey city-owned sites, a letter in the application from the Mayor or Director of the appropriate local agency indicating their approval of conveyance of the site contingent upon the necessary approval action is acceptable.
 - d. The proposed site cannot be optioned or acquired from a general contractor (who is to be the project contractor) or any other development team member.
 - e. Applications from two or more Sponsors

proposing to use the same publicly-owned site are acceptable for processing in the normal manner if the locality has agreed to make the site available to more than one Sponsor, conditioned in each case on the particular

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- (1-11) Sponsor being the one selected for funding by HUD. In such instances, however, both the Field Office and the Regional Office must take steps to assure that duplicate selections are not made for the same site.
2. Identification of a site. The Sponsor must provide the location of the site, describe the activities undertaken thus far to identify the site as well as what actions must be taken and the time necessary to control the site, and provide a status of the sale of the site.
 3. Site Occupancy Data. The Sponsor must provide the information requested in Exhibit 17, Data on Project Occupancy, Displacement and Real Property Acquisition.
- I. Site and Neighborhood Standards. All sites must meet the following site and neighborhood requirements:
1. The site must be adequate in size, exposure and contour to accommodate the number and type of units proposed, and adequate utilities (water, sewer, gas and electricity) and streets must be available to service the site.
 2. The site and neighborhood must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063 and implementing HUD regulations.
 3. New construction sites must meet the following site and neighborhood requirements:
 - (a) The site must not be located in an area of minority concentration except as permitted under subparagraph 3 (e) of this section, and must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
 - (b) A project may be located in an area of

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- (1-11)
- (1) Sufficient, comparable opportunities exist for housing for minority disabled households in the income range to be served by the proposed project, outside areas of minority concentration (see subparagraph (c)(3) of this section for further guidance on this criterion); or
 - (2) The project is necessary to meet overriding housing needs that cannot be met in that housing market area (see subparagraph 3 (e)(8) of this section for further guidance on this criterion).
- (c) "Sufficient" does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year which, over a period of several years, will approach an appropriate balance of housing opportunities within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for very low-income minority disabled households and in relation to the racial mix of the locality's population.
- (d) Units may be considered to be "comparable opportunities" if they have the same household type (disabled) and tenure type (owner/renter); require approximately the same total tenant payment; serve the same income group; are located in the same housing market; and are in standard condition.
- (e) Application of this sufficient, comparable opportunities standard involves assessing the overall impact of HUD-assisted housing on the availability of housing choices for very low-income minority disabled households in and outside areas of minority concentration, and must take into account the extent to which

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- (1-11) the following factors are present, along with any other factor relevant to housing choice:
- (1) A significant number of assisted housing units are available outside areas of minority concentration.
 - (2) There is significant integration of assisted housing projects constructed or rehabilitated in the past ten years, relative to the racial mix of the eligible population.
 - (3) There are racially integrated neighborhoods in the locality.
 - (4) Programs are operated by the locality to assist minority disabled households who wish to find housing outside areas of minority concentration.
 - (5) Minority disabled households have benefitted from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisition of units for use as assisted housing units) undertaken to expand choice for minority households outside of areas of minority concentration.
 - (6) A significant proportion of minority disabled households has been successful in finding units in non-minority areas under the Section 8 Certificate and Housing Voucher programs.
 - (7) Comparable housing opportunities have been made available outside areas of minority concentration through other programs.
 - (8) Application of the "overriding housing needs" criterion, for example, permits approval of sites that are an integral part of an overall local strategy for

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- (1-11) the preservation or restoration of the immediate neighborhood and of sites in a neighborhood experiencing significant private investment that is demonstrably

changing the economic character of the area (a "revitalizing area"). An "overriding housing need", however, may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, creed, sex, or national origin renders sites outside areas of minority concentration unavailable or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.

4. The housing must be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.
5. Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for very low-income workers, must not be excessive.
6. The neighborhood must not be one which is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions.

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- (1-11) 7. Projects must be located in neighborhoods where other family housing is located. Projects may not be located adjacent to the following facilities or in areas where such facilities are concentrated:
- schools or day care centers for persons with disabilities,
 - workshops,
 - medical facilities, or
 - other housing primarily serving the elderly or persons with disabilities.

Not more than one group home may be located on any one site and no such home may be

located on a site contiguous to another site containing such a home.

1-12.HOW SECTION 811 WORKS.

A. Application Process.

1. Headquarters will allocate funds on a "fair share" basis to the HUD Field Offices.
2. Headquarters will publish annually a Notice of Fund Availability (NOFA) in the Federal Register to announce the availability of funds.
3. Field Offices will publish Invitations requesting applications in newspapers of general circulation and in any minority media serving the Field Office jurisdiction.
4. Field Offices will receive, process, and rate applications.
5. Regional Offices will review Field Offices, processing for consistency and compliance with program requirements, complete the rating and ranking of applications, and submit selection recommendations to Headquarters.
6. Headquarters will review Regional Offices' submissions, copies of applications that require

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(1-12) Headquarters' approval (see Chapter 3, paragraph 3-6) approve applications, and announce applications selected for funding.

- B. Competition for Fund Reservation. Due to funding limitations, competition for Section 811 fund reservations is intense. Since funding depends on strong sponsorship, unsuccessful applicants may wish to strengthen subsequent applications by obtaining experienced and financially sound cosponsors. To be considered for funding, a new application will have to be submitted for each Notice of Fund Availability.

1-13.INELIGIBLE PROPOSALS.

- A. Nursing homes, infirmaries and medical facilities.
- B. Transitional housing facilities.
- C. Manufactured housing projects.

- D. Community centers, with or without special components for use by persons with disabilities.
- E. Sheltered workshops and centers for persons with disabilities.
- F. Headquarters for organizations for persons with disabilities.
- G. Refinancing of Sponsor-owned facilities without rehabilitation.

1-14.UNACCEPTABLE PROPOSALS.

- A. Applications from "front" organizations for profit-motivated developers.
- B. Proposals based on syndication for profit-motivated investors.
- C. Proposals to finance construction or rehabilitation of a project, but without provision for occupancy under Project Rental Assistance Contract program.