

CHAPTER 2. APPLICATION PREPARATION

2-1. NOTICE OF FUND AVAILABILITY.

- A. Headquarters publishes a Notice of Fund Availability (NOFA) in the Federal Register.
- B. Multifamily Housing Representatives (MHR) develop Invitations for publication in local general circulation newspapers and minority media, based upon the NOFA and the fund allocation Notice issued by Headquarters.
 - 1. The Invitation will cover the entire Regional Office jurisdiction, or such smaller allocation areas as practicable in accordance with the requirements of 24 CFR Part 791 of the regulation.
 - 2. The Invitation will state:
 - a. That copies of the applicable regulations and program information may be obtained at the Field Office;
 - b. The time and place of the workshop;
 - c. The date, time and place applications will be accepted; and
 - d. The deadline date for receipt of applications.
 - 3. The Invitation may state a minimum and/or maximum number of units acceptable per application.
 - 4. The Invitation is published once, conforming to Section 890.205.
 - 5. Use the format in Appendix 10.
- C. Processing Control and Reports (PC&R) staff must send a copy of the Invitation to the following agencies and organizations within the Field Office jurisdiction:
 - 1. Minority Media;

- (2-1) 2. Minority organizations involved in housing and community development and fair housing groups (the names and addresses of such organizations and groups shall be provided to the PC&R staff by the

Equal Opportunity Division Directors); and,

3. Chief executive officers of appropriate units of state/local government in all instances where there is a Comprehensive Housing Affordability Strategy (CHAS), beginning in FY 1992.
4. State and local disability agencies (e.g., Department of Mental Health and Developmental Disabilities).
5. In addition, the following must be notified, where feasible:
 - a. Trade association journals;
 - b. Associations representing persons with disabilities;
 - c. State agencies, such as departments of human resources.

D. Field Offices must schedule at least one workshop within their jurisdictions to make available and explain Section 811 application requirements for each fiscal year's program.

2-2. PREPARATION OF APPLICATION PACKAGE.

The MHR prepares the application package which specifies the allocation area and includes:

- A. This Handbook and Handbook 4535.3 REV-1.
- B. Any Notice issued by Headquarters pertaining to the Section 811 selection/development process for that particular fiscal year.
- C. A copy of the Field Office Invitation for applications.
- D. List of unacceptable amenities.

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- E. Any special requirements identified by the Field Office, e.g., appropriate utility combinations, etc.
- F. Special requirements for location, density and site planning.
- G. Copy of the current year Federal Register Section 811 NOFA.

H. Names and telephone numbers of Field Office staff who can answer questions.

I. Forms: HUD-92013 HUD-92013-E
 HUD-92290 HUD-92417
 HUD-92531A-EH HUD-2530
 SF-424 HUD-2013 Supplement

There must be sufficient copies of the application package for all persons responding to the Field Office Invitation.

2-3. PROGRAM COMPLIANCE.

Every application submitted must conform to all requirements of Section 890 of the regulations, the Federal Register Notice of Fund Availability, this Handbook, and any Housing Notice which may be issued for the funding year.

2-4. CONTENTS OF THE APPLICATION.

Each application consists of seven parts and must include all the materials, forms, and exhibits set forth in Appendix 11. The following additional information is provided to aid Sponsors in preparing applications.

A. Exhibit 1 - Form HUD-92013

Any nonrevenue-producing units proposed for an independent living facility must be included within the total units advertised.

For example, if an independent living facility consists of 24 one bedroom units which will house 24 persons with disabilities, and if a nonrevenue unit (i.e., residential staff unit) is planned, the configuration is 24 revenue units plus one nonrevenue unit. Additions of nonrevenue units at a later stage of processing will not be accepted.

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B. Exhibit 3 - IRS Exemption.

1. Sponsor must have:

- a. A letter from the IRS granting individual exemption by the application deadline date, OR
- b. A blanket or group exemption, with a copy of exemption letter for national/parent organization and page from entity's official publication or directory listing the

organizations covered by same.

NOTE: HUD does not have staff qualified to determine whether the Sponsor is, in fact, a church. Therefore, although IRS does not require churches to obtain a formal exemption, HUD requires all Sponsors, including churches, to obtain an exemption ruling. (An IRS letter stating churches do not need to apply for tax exempt status under 501(c)(3) is NOT acceptable.)

2. For Puerto Rican nonprofit organizations, evidence of tax exemption under Puerto Rican law is required.

C. Exhibit 14 - Format of Financial Statements.

1. The Sponsor must submit:
 - a. Balance sheets;
 - b. Income and Expense Statements;
 - c. Schedules;
 - d. Combined or Consolidated Statements; and
 - e. Any other necessary financial data.

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2. Financial Statements:
 - a. Must be for the most current three full years Sponsor has been in operation (or such lesser period as it has existed).
 - b. If unaudited, must not be more than six months old as of the application deadline date. (EXAMPLE: If Sponsor's fiscal year ended September 30, 1990, and the application deadline were to be June 30, 1991, supplemental statements for the period October 1 through December 31, 1990 would be required.)
 - c. If audited, must not be more than 12 months old as of the application deadline date and contain an unqualified opinion of an independent certified public accountant or

public accountant licensed by a regulatory authority of a state or other political subdivision of the United States.

- d. Must identify restricted and non-restricted funds.
- e. If the HUD-approved format is not used, any substitute statement must, at a minimum, include the information contained on Form HUD-92417(Exhibit 14).
- f. Must contain the following certification:

I HEREBY CERTIFY that the foregoing figures and the statements contained herein, submitted by me as an agent of the Sponsor for the purpose of obtaining a Section 811 capital advance under Section 811 of the National Affordable Housing Act of 1990, as amended, are true and give a correct showing of the financial condition as of this date:

Signed this _____ day of _____, 19__.

(Name/Authorized Agent) _____

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- D. Exhibit 16 - Evidence of Site Control or Identification of a Site
 - 1. Evidence of Site Control
 - a. Submit a legally binding option agreement (should extend through the end of the month in which funding selections will be announced and contain a renewal provision to guarantee site availability through subsequent processing stage), copy of a contract of sale, deed, long-term leasehold, or other evidence of legal ownership of the site (including properties to be acquired from the RTC).
 - b. Include a map showing the location of the site and the racial composition of the neighborhood, with any area of racial concentration delineated.
 - c. Include photographs of the site.
 - d. Provide evidence of permissive zoning,

or a description of the actions necessary to obtain permissive zoning with an indication of the time required.

- e. If acquisition is proposed (other than of RTC properties), provide evidence that the structure has been constructed or occupied for at least three years prior to the date of the application and that the property was not previously owned by the Sponsor.
- f. Indicate the willingness of the Sponsor to seek a different site if the site originally submitted is not approvable along with assurances (e.g., an alternate site already identified) that site control will be obtained within 6 months of notification of fund reservation.

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- g. Explain steps taken to comply with applicable real property acquisition requirements. (See Paragraph 5-1 of HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition.)
- h. Submit a completed copy of Exhibit 17, Data on Project Occupancy, Displacement and Real Property Acquisition, indicating the number of persons (families, individuals, businesses and nonprofit organizations) occupying the property on the date of the submission of the application for a Section 811 fund reservation (or, date of initial site control, if later) the estimated cost of relocation payments and other services, and the staff organization that will carry out the relocation activities. The cost of required relocation is an eligible project cost in the same manner and to the same extent as other project costs. Such assistance may also be paid for with funds available from other sources. When funds are to be provided by other sources, submit evidence of a firm commitment of the funds.

2. Identification of Site

- a. Describe the location of the site, neighborhood/community characteristics (include racial and ethnic data) and amenities, and adjacent housing or facilities.
- b. Describe the activities undertaken to identify the site as well as the actions that still need to be taken and the estimated time necessary to obtain control of the site.
- c. Indicate whether the site is properly zoned and, if it is not, indicate the

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- (2-4) actions/time necessary to obtain permissive zoning.
- d. Indicate the status of the sale of the site.
- e. Indicate whether the site is occupied.

E. Exhibit 20 - Supportive services Plan

- 1. Describe the disability category of the intended occupants;
- 2. Describe the referral and admissions policies for the facility;
- 3. Describe the needs of the intended occupants;
- 4. Identify agency(ies) responsible for providing supportive services to residents. Include evidence of the service provider's capability and experience in providing supportive services.
- 5. Describe the services that will be available to the residents of the project including how the services will be provided, who will provide them, where they will be provided (on/off-site) and the frequency of their provision;
- 6. Describe the staffing plan for project, including the qualifications of residential staff, if any, and other staff necessary to provide the proposed services;
- 7. Identify the extent of State and local funds available to assist in the provisions of supportive services. If any State or local

government funds will be provided, describe the State/local agency's philosophy/policy concerning residential facilities for the population to be served. Also, demonstrate that the application is consistent with State or local plans and policies governing the development and operation of facilities to individuals of the proposed occupancy category;

8. Identify source(s) for supportive service funds and provide assurances that funds will be secured

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- (2-4) by time project is ready for occupancy. Include a letter of intent from each funding source indicating its support for the application and the source and extent of commitment for the funding.

NOTE: Applicants are advised that if at any time during occupancy supporting funds are not available, they should secure alternate funding.

2-5. APPLICATION SUBMISSION. The Sponsor must:

- A. Submit an original and six copies, tabbed and indexed in accordance with Appendix 11 to the appropriate Field Office. A copy is also to be sent to the State Point of Contact, with a completed SF-424, in accordance with Executive Order 12372. A copy of the application must also be sent to the appropriate State or local agency depending upon the disability of the intended occupants as indicated by the Field Office in the application package. Included with the application submission to the appropriate State or local agency must be Exhibit 23 consisting of a certification to be completed by the agency indicating that it has reviewed the supportive services plan and whether the provision of services is well designed to meet the needs of the intended occupants. The certification form must be signed by the agency and sent to the appropriate HUD Field Office.
- B. Send the application(s) to the appropriate HUD Field Office by the deadline date established in the Federal Register NOFA for that year.
- C. Sponsor may not request, as Sponsor, co-Sponsor, or affiliated entity, more than the number of units advertised for any particular Region in the Invitation.
- D. The Sponsor and/or co-Sponsor(s) must demonstrate that they can provide funds for the minimum capital

investment, start-up expenses and other requirements for all applications submitted nationwide as well as all pipeline projects.

- E. A Sponsor may submit only one application per project which may consist of more than one site.

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- F. Applications from two or more Sponsors proposing to use the same publicly-owned site are ACCEPTABLE FOR PROCESSING in the normal manner, if the public body in each case has conditioned sale or lease of the site upon the particular Sponsor being selected for funding. (See paragraph 1-9.H.1.e.)

2-6. HOUSING CONSULTANT.

A. Definition.

An individual or firm experienced and competent in organizing and planning housing projects, housing market evaluation and marketing, procurement of financing, evaluation and selection of attorneys, architects, building contractors, property managers and other required participants in the development and management of a Section 811 project. The consultant may not have any other role on the development team, except as managing agent if the individual or firm has management capability and is approved by the Field Office Manager.

OTHERWISE, THE INDIVIDUAL OR FIRM MUST HAVE AN ARMS-LENGTH RELATIONSHIP WITH THE SPONSOR, OWNER AND ALL MEMBERS OF THE DEVELOPMENT TEAM.

B. Use of Consultants.

1. Consultants are used to:
 - a. Expedite development of the proposal;
 - b. Improve quality of the building design, and lower construction and other costs; and,
 - c. Assist the Sponsor and Owner in handling all aspects of project development through to final closing.
2. Consultant efforts must be directed exclusively toward serving the non-profit Sponsor and the Owner to be formed.

3. HUD permits reasonable consultant fees to be included in the Section 811 Capital Advance. (See subparagraph 3-23B.)

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- (2-6) 4. A consultant is not required for participation in the Section 811 program.

C. Identity of Interest.

1. Neither the Sponsor nor the Owner may receive a fee as consultant.

If staff of the Sponsor/Owner performs the services typically provided by the consultant:

- a. The Section 811 capital advance cannot cover the cost of salaries and overhead associated with these services; however,
 - b. The Sponsor/Owner is entitled to a typical organizational expense to cover actual costs of establishing the Owner entity and submitting the application (i.e. photocopying, stamps, etc.).
2. No individual or entity having an identity of interest with the Sponsor (or Owner) may earn a fee for providing services that would otherwise be provided on a fee basis by a housing consultant (for example, an executive director or other employee of the Sponsor).

D. Selection of a Housing Consultant.

1. Responsibility of the Sponsor/Owner

- a. Select the consultant.

(NOTE: Selection of a housing consultant who is located far from the project site is discouraged);

- b. Enter into a contract with the consultant, using Form HUD-92531A(EH), Guide Form of Contract for Housing Consultant Services for Non-profit Projects Under Section 811, and obtain:

- (1) A resume on the consultant; and

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- (2-6) (2) A completed Form HUD-2530, Previous Participation Certificate, prepared by the consultant.

NOTE: The housing consultant must also submit Form HUD-92013-Supplement.

- c. Enforce the terms of the contract.

2. Responsibility of

- a. Review the suitability and qualifications of the proposed consultant;
- b. Review the quality and the adequacy of the proposed services;
- c. Approve, approve with modifications, or disapprove the proposed contract;
- d. Evaluate the previous experience of the consultant based on Form-2530; and
- e. Set the consultant fee amount for inclusion in the Section 811 capital advance.