

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5300-N-21]

**Notice of Funding Availability (NOFA) for HUD's Fiscal Year 2009
Section 202 Supportive Housing for the Elderly**

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

ACTION: Notice of Funding Availability for HUD's Fiscal Year (FY) 2009 Section 202 Supportive Housing for the Elderly (Section 202).

SUMMARY: This NOFA announces the availability of funding for approximately up to \$420.9 million for HUD's Section 202 Program for FY2009. HUD's Section 202 Program is authorized by section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended.

Applicants for Section 202 assistance must address applicable requirements established by HUD's Fiscal Year 2009 Notice of Funding Availability (NOFA) Policy Requirements and General Section to the HUD's FY2009 NOFAs for Discretionary Programs published on December 29, 2008 (73 FR 79548), as amended on April 16, 2009 (74 FR 17685). The notice providing information regarding the application process, funding criteria and eligibility requirements is available on the Grants.gov website.

DATES: The application deadline date is **November 13, 2009**. Applications submitted through <http://www.grants.gov> must be received by Grants.gov no later than 11:59:59 pm eastern time on the application deadline date. See Section IV of the **General Section**, published on December 29, 2008, regarding application submission procedures and timely filing requirements.

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

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

OVERVIEW INFORMATION

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

B. Funding Opportunity Title: Section 202 Supportive Housing for the Elderly.

C. Announcement Type: Initial announcement.

D. Funding Opportunity Number: OMB Approval Number is 2502-0267.

E. Catalog of Federal Domestic Assistance (CFDA) Number: 14.157, Section 202 Supportive Housing for the Elderly.

F. Dates: The application deadline date is on or before **November 13, 2009**. Applications must be received by Grants.gov by 11:59:59 p.m. eastern time on the deadline date. Please be sure to read the **General Section**, published December 29, 2008 (73 FR 79548), as amended, for information regarding application submission and receipt requirements.

G. Optional, Additional Overview Content Information:

1. Purpose of the Program. This program provides funding for the development and operation of supportive housing for very low-income persons 62 years of age or older.

2. Available Funds. Approximately \$420.9 million in capital advance funds, plus associated project rental assistance contract (PRAC) funds and any carryover funds available.

3. Types of Funds. Capital advance funds are to assist in the cost of developing the housing.

Please refer to Section IV.E.3 for additional information on calculating the capital advance amount to be awarded. PRAC funds will cover the difference between the HUD-approved operating costs of the project and the tenants' contributions toward rent (30 percent of their adjusted monthly income).

4. Eligible Applicants. Private nonprofit organizations and nonprofit consumer cooperatives. (See Section III.C.3.k of this NOFA for further details and information regarding the formation of the Owner corporation).

5. Eligible Activities. New construction, rehabilitation, or acquisition (with or without rehabilitation) of housing. See Section III.C.1 below of this NOFA for further information.

6. Match Requirements. None required.

7. Local HUD Offices. The local HUD office structure, for the purpose of implementing the Section 202 program, consists of 18 Multifamily Hub Offices. Within the Multifamily Hubs, there are Multifamily Program Centers with the exception of the New York Hub, the Buffalo Hub, the Denver Hub and the Los Angeles Hub. All future references shall use the term "local HUD office" unless a more detailed description is necessary as in Limitations on Applications and Ranking and Selection Procedures, below.

FULL TEXT OF ANNOUNCEMENT

I. Funding Opportunity Description

A. Program Description. HUD provides capital advances and contracts for project rental assistance in accordance with 24 CFR part 891. Capital advances must be used for the construction or rehabilitation of a structure, or acquisition of a structure with or without rehabilitation. (See Section IV.E.3 below for additional information on calculating the capital

advance amount.) Capital advance funds bear no interest and are based on development cost limits in Section IV.E.3. Repayment of the capital advance is not required as long as the housing remains available for occupancy by very low-income elderly persons for at least 40 years.

PRAC funds are used to cover the difference between the tenants' contributions toward rent (30 percent of adjusted income) and the HUD-approved cost to operate the project. PRAC funds may also be used to provide supportive services and to hire a service coordinator in those projects serving frail elderly residents. The supportive services must be appropriate to the category or categories of frail elderly residents to be served.

B. Authority. The Section 202 Supportive Housing for the Elderly Program is authorized by section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625, approved November 28, 1990); the Housing and Community Development Act of 1992 (Pub. L. 102-550, approved October 28, 1992); the Rescissions Act (Pub. L. 104-19, enacted on July 27, 1995); the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106-569, approved December 27, 2000); the Housing and Economic Recovery Act of 2008 (Pub. L. 110-289, approved July 30, 2008) and the Omnibus Appropriations Act, 2009 (Pub. L. 111-8, approved March 11, 2009).

C. Calculation of Fund Reservation. If selected, you will receive a fund reservation that will consist of both a reservation of capital advance funds and a reservation of three years for project rental assistance.

1. Capital Advance Funds. The reservation of capital advance funds is based on a formula which takes the development cost limit for the appropriate building type (elevator, non-elevator) and unit size(s) and multiplies it by the number of units of each size (including a unit for a

resident manager, if applicable) and then multiplies the result by the high cost factor for the area. The development cost limits can be found in Section IV.E.3. of this NOFA.

2. PRAC Funds. The initial PRAC award covers three years. The amount awarded is determined by multiplying the number of revenue units for elderly persons by the appropriate operating cost standard times 3. The operating cost standards will be published by Notice.

II. Award Information

A. Available Funds. For FY 2009, approximately \$420.9 million is available for capital advances for the Section 202 Supportive Housing for the Elderly Program. The Omnibus Appropriations Act, 2009 (Pub. L. 111-8, approved March 11, 2009) provides approximately \$765 million for capital advances, including amendments to capital advance contracts, for supportive housing for the elderly as authorized by Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625, approved November 28, 1990), for project rental assistance, amendments to contracts for project rental assistance, and the renewal of expiring contracts for such assistance for up to a one-year term, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959 as well as the amount of \$1.6 million to be transferred to the Working Capital Fund. Additionally, of the amount appropriated, approximately \$90 million is provided for Service Coordinators and the continuation of Congregate Services grants, up to \$25 million is provided for Assisted Living Conversion grants and Emergency Capital Repairs, and approximately \$20 million is provided for a Section 202 Demonstration Pre-Development Grant Program.

The announcements of the availability of the funds under the Assisted Living Conversion and the Emergency Capital Repairs Programs will be addressed in separate Federal Register publications.

In accordance with the waiver authority provided in the Department of Housing and Urban Development Appropriations Act, 2006 (Pub. L. 109-115, approved November 30, 2005), the Secretary is waiving the following statutory and regulatory provision: The term of the project rental assistance contract is reduced from 20 to 3 years. HUD anticipates that at the end of the contract terms, renewals will be approved subject to the availability of funds. In addition to this provision, HUD will reserve project rental assistance contract funds based on 75 percent rather than on 100 percent of the current operating cost standards for approved units in order to take into account the average tenant contribution toward rent

The allocation formula used for Section 202 reflects the “relevant characteristics of prospective program participants,” as specified in 24 CFR 791.402(a). The FY 2009 formula consists of one data element from the 2000 Census: The number of one-person elderly renter households (householder age 62 and older) with incomes at or below the applicable Section 8 very low-income limit, and with housing conditions. Housing conditions are defined as paying more than 30 percent of income for gross rent, or occupying a unit lacking some or all kitchen or plumbing facilities, or occupying an overcrowded unit (1.01 persons per room or more). To view the exact income limits for a particular area of the country you may access the FY 2009 Income Limit Documentation System at: <http://www.huduser.org/datasets/il/il08/index.html>.

Under Section 202, 85 percent of the total capital advance amount is allocated to metropolitan areas and 15 percent to nonmetropolitan areas. In addition, each local HUD office jurisdiction receives sufficient capital advance funds for a minimum of 20 units in metropolitan

areas and 5 units in nonmetropolitan areas. The total amount of capital advance funds to support these minimum set-asides are subtracted from the respective (metropolitan or nonmetropolitan) total capital advance amounts available. The remainder is fair shared to each local HUD office jurisdiction whose fair share exceeds the minimum set-aside based on the allocation formula fair share factors described below.

NOTE: The allocations for metropolitan and nonmetropolitan portions of the local HUD office jurisdictions reflect the definitions of metropolitan and nonmetropolitan areas as of the June 2003 definitions by the Office of Management and Budget. Also starting this fiscal year the allocation chart has been expanded to include the state of Nevada.

A fair share factor is developed for each metropolitan and nonmetropolitan portion of each local HUD office jurisdiction by dividing the number of elderly renter households in the respective metropolitan and nonmetropolitan portion of the jurisdiction by the total number of elderly rental households in the metropolitan and nonmetropolitan portions of the United States. The resulting percentage for each local HUD office jurisdiction is then adjusted to reflect the relative cost of providing housing among the local HUD office jurisdictions. The adjusted needs percentage for the applicable metropolitan or nonmetropolitan portion of each jurisdiction is then multiplied by the respective total remaining capital advance funds available nationwide. Based on the allocation formula, HUD has allocated the available capital advance funds as shown on the following chart:

FISCAL YEAR 2009 SECTION 202 ALLOCATION BY FIELD OFFICE

Offices	Metropolitan		Non-Metropolitan		Totals	
	Units	Capital Advance	Units	Capital Advance	Units	Capital Advance
BOSTON HUB						
BOSTON	90	14,106,944	5	787,761	95	14,894,705
HARTFORD	49	7,651,943	5	787,761	54	8,439,704

MANCHESTER	20	2,546,843	16	1,944,773	36	4,491,616
PROVIDENCE	20	3,151,044			20	3,151,044
TOTAL	179	27,456,774	26	3,520,295	205	30,977,069

BUFFALO HUB

BUFFALO	62	8,686,969	17	2,328,602	79	11,015,571
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NEW YORK HUB

NEW YORK	205	32,228,879	5	787,761	210	33,016,640
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PHILADELPHIA HUB

PHILADELPHIA	87	13,568,746	12	1,908,062	99	15,476,808
NEWARK	100	15,751,970		0	100	15,751,970
CHARLESTON	20	2,375,402	9	1,012,885	29	3,388,287
PITTSBURGH	48	6,143,146	11	1,351,019	59	7,494,165
TOTAL	255	37,839,264	32	4,271,966	287	42,111,230

BALTIMORE HUB

BALTIMORE	47	6,014,311	5	636,269	52	6,650,580
RICHMOND	44	5,212,079	11	1,254,024	55	6,466,103
WASHINGTON	45	6,407,448		0	45	6,407,448
TOTAL	136	17,633,838	16	1,890,293	152	19,524,131

GREENSBORO HUB

GREENSBORO	48	7,380,541	19	2,913,407	67	10,293,948
COLUMBIA	34	4,315,938	10	1,196,336	44	5,512,274
TOTAL	82	11,696,479	29	4,109,743	111	15,806,222

JACKSONVILLE HUB

JACKSONVILLE	122	13,802,215	9	1,005,164	131	14,807,379
BIRMINGHAM	37	4,024,279	12	1,288,468	49	5,312,747
JACKSON	20	2,084,537	12	1,299,796	32	3,384,333
TOTAL	179	19,911,031	33	3,593,428	212	23,504,459

ATLANTA HUB

ATLANTA	50	5,431,251	14	1,518,154	64	6,949,405
LOUISVILLE	34	3,918,343	14	1,639,978	48	5,558,321
KNOXVILLE	20	2,181,492	5	545,373	25	2,726,865
NASHVILLE	35	3,919,067	11	1,191,943	46	5,111,010
CARIBBEAN	20	2,787,462	5	696,866	25	3,484,328
TOTAL	159	18,237,615	49	5,592,314	208	23,829,929

CHICAGO HUB

CHICAGO	103	16,187,143	15	2,440,896	118	18,628,039
INDIANAPOLIS	51	5,888,014	13	1,504,293	64	7,392,307
TOTAL	154	22,075,157	28	3,945,189	182	26,020,346

COLUMBUS HUB

COLUMBUS	20	2,326,925	11	1,279,537	31	3,606,462
CINCINNATI	40	4,593,296	5	575,672	45	5,168,968
CLEVELAND	59	7,527,413	10	1,336,588	69	8,864,001

TOTAL	119	14,447,634	26	3,191,797	145	17,639,431
DETROIT HUB						
DETROIT	61	8,405,396	8	1,066,507	69	9,471,903
GRAND RAPIDS	36	3,523,794	11	1,051,428	47	4,575,222
TOTAL	97	11,929,190	19	2,117,935	116	14,047,125
MINNEAPOLIS HUB						
MINNEAPOLIS	47	6,815,424	16	2,248,961	63	9,064,385
MILWAUKEE	54	7,675,319	16	2,272,799	70	9,948,118
TOTAL	101	14,490,743	32	4,521,760	133	19,012,503
FT WORTH HUB						
FT WORTH	66	7,000,980	16	1,727,077	82	8,728,057
HOUSTON	45	4,772,912	5	527,194	50	5,300,106
LITTLE ROCK	20	2,011,820	12	1,188,636	32	3,200,456
NEW ORLEANS	40	4,141,978	10	1,080,383	50	5,222,361
SAN ANTONIO	41	3,946,790	8	789,601	49	4,736,391
TOTAL	212	21,874,480	51	5,312,891	263	27,187,371
KANSAS CITY HUB						
KANSAS CITY	41	5,158,851	14	1,721,640	55	6,880,491
OKLAHOMA CITY	20	2,133,014	12	1,248,495	32	3,381,509
DES MOINES	20	2,133,014	14	1,477,467	34	3,610,481
OMAHA	20	2,411,761	10	1,214,942	30	3,626,703
ST LOUIS	36	4,980,119	10	1,447,363	46	6,427,482
TOTAL	137	16,816,759	60	7,109,907	197	23,926,666
DENVER HUB						
DENVER	56	6,802,967	20	2,130,937	76	8,933,904
LOS ANGELES HUB						
LOS ANGELES	157	24,591,594	5	784,731	162	25,376,325
SAN FRANCISCO HUB						
SAN FRANCISCO	87	13,684,500	5	787,761	92	14,472,261
HONOLULU	20	4,362,984	5	1,090,746	25	5,453,730
PHOENIX	43	4,716,021	5	548,403	48	5,264,424
SACRAMENTO	39	6,030,006	5	778,671	44	6,808,677
NEVADA	34	4,405,268	5	642,328	39	5,047,596
TOTAL	223	33,198,779	25	3,847,909	248	37,046,688
SEATTLE						
SEATTLE	55	8,245,246	10	1,439,496	65	9,684,742
ANCHORAGE	20	4,362,984	5	1,090,746	25	5,453,730
PORTLAND	42	5,311,176	13	1,560,104	55	6,871,280
TOTAL	117	17,919,406	28	4,090,346	145	22,009,752
NATIONAL TOTAL	2,630	357,837,558	501	63,147,804	3,131	420,985,362

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

Section 202 applications.

C. Type of Assistance Instrument. The Agreement Letter stipulates the terms and conditions for the Section 202 fund reservation award as well as the submission requirements following the fund reservation award. The duration of the fund reservation award for the capital advance is 18 months from the date of issuance of the fund reservation.

D. Anticipated Start and Completion Date. Immediately upon your acceptance of the Agreement Letter, you are expected to begin work toward the submission of a Firm Commitment Application, which is the next application submission stage. The Firm Commitment Application is to be submitted to the local HUD office within 180 days from the date of the Agreement Letter. Initial closing of the capital advance and start of construction of the project are expected to be accomplished within 18 months of the fund reservation award. Final closing of this capital advance is expected to occur no later than six months after completion of project construction.

III. Eligibility Information

A. Eligible Applicants. Private nonprofit organizations and nonprofit consumer cooperatives that meet the threshold requirements contained in the **General Section III.C. 2** and **Section III.C. 2** of this NOFA are the only eligible applicants under this Section 202 program. Neither a public body nor an instrumentality of a public body is eligible to participate in the program.

Applicant eligibility for purposes of applying for a Section 202 fund reservation under this NOFA has not changed; i.e., all Section 202 Sponsors and Co-Sponsors must be private nonprofit organizations and nonprofit consumer cooperatives. However, the Owner corporation, when later formed by the Sponsor, must be (1) a single-purpose private nonprofit organization that has tax-exempt status under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code of 1986, (2) nonprofit consumer cooperative, or (3) for purposes of developing a mixed-finance project pursuant to the statutory provision under Title VIII of the American

Homeownership and Economic Opportunity Act of 2000, a for-profit limited partnership with a private nonprofit organization as the sole general partner.

B. Cost Sharing or Matching. No cost sharing or match is required; however, you are required to make a commitment to cover the estimated start-up expenses, the minimum capital investment of one-half of one percent of the HUD-approved capital advance, not to exceed \$10,000 or for a national Sponsor not to exceed \$25,000, and any funds required in excess of the capital advance, including the estimated cost of any amenities or features (and operating costs related thereto) which are not covered by the capital advance. You make such a commitment by signing the Form HUD-92042, Sponsor's Resolution for Commitment to Project in Exhibit 8(g) of the application found in Section IV.B.

C. Other

1. Eligible Activities. Section 202 capital advance funds must be used to finance the development of housing through new construction, rehabilitation, or acquisition with or without rehabilitation. In accordance with 24 CFR 891.800, capital advance funds may be used in combination with other non-Section 202 funding sources leveraged by a single purpose for-profit limited partnership (of which a private nonprofit organization is the sole general partner) to develop a mixed-finance project, which may or may not include additional unassisted housing units for the elderly over and above the Section 202 units. In a mixed-finance transaction, only the capital advance units will receive project rental assistance. Project rental assistance funds are provided to cover the difference between the HUD-approved operating costs and the amount the residents pay (each resident pays 30 percent of adjusted income) as well as to provide supportive services to frail elderly residents.

The development of a mixed-use project in which the Section 202 units are mortgaged separately from the other uses of the structure is not considered a mixed-finance project. A mixed-use is defined as a property in which a portion is used for commercial or retail purposes and the other portion is used for residential purposes. A property can also be considered mixed use if different combinations of uses are present such as commercial/industrial or residential/industrial. For example, a multi-unit dwelling with the front unit used as a commercial store and the back unit used as a dwelling.

A portion of the PRAC funds (not to exceed \$15 per unit/per month) may be used to cover some of the cost of any supportive services for those frail elderly or those elderly determined to be at-risk of being institutionalized. The balance of the cost for services must be paid for from sources other than the capital advance or PRAC funds. Also, the cost of employing a service coordinator for those projects serving principally the frail elderly (when at least 25 percent of the residents will be frail or determined to be at-risk of being institutionalized) is an eligible use of PRAC funds. Section 202 projects receiving Congregate Housing Services assistance under Section 802 of the National Affordable Housing Act are not eligible to use capital advance or PRAC funds for supportive services or the cost of a service coordinator.

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

a. Applications Must Be Responsive. Your application will be considered non-responsive to the NOFA and will not be accepted for processing if you:

(1) requested and received approval to submit a paper application and you submit less than the required number of paper copies. Applicants receiving waiver approval to submit a paper application must follow the instructions in the approval notification regarding where to

submit the application and the number of copies required. Failure to submit paper applications to the appropriate local HUD office by that office's close of business on the application deadline date will deem the application late and therefore ineligible for funding consideration.

(2) submit paper copies of the application if you have not received approval from HUD for a waiver of the electronic submission requirements;

(3) submit a substantially deficient application (i.e., a majority of the required exhibits, are not submitted with your application, particularly, but not limited to, those exhibits which are not curable). HUD reserves the right to determine whether your application is substantially deficient for purposes of determining whether the application is non-responsive to the NOFA. Refer to Section IV.B., Content of Form of Application Submission, for information on the required exhibits for submission with your application to ensure that your application is complete at time of submission;

(4) request more units than were allocated in either the metropolitan or nonmetropolitan allocation category to the local HUD office that will be reviewing your application or 125 units, whichever is less (see the allocation chart in Section II.A. above);

(5) request less than the minimum number of 5 units per site;

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

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

b. Application Must Meet These Additional Threshold Requirements.

(1) There must be a market need for the number of units proposed in the area of the project location. If HUD determines that there is not sufficient sustainable demand for additional

units without longer term adverse impact on existing federally assisted housing, the proposed project must be rejected.

(2) You, or a co-Sponsor, must have experience in providing housing or services to elderly persons.

(3) You and any co-Sponsor must be eligible private nonprofit organizations or nonprofit consumer cooperatives with tax exempt status under Internal Revenue Service code.

(4) Your application must contain acceptable evidence of the following:

(a) **Evidence of Site Control.** You must provide evidence of site control as described in this section and Exhibit 4(d)(i) of Section IV.B. of this NOFA).

(b) **Historic Preservation.** You are required to send a letter to the State/Tribal Historic Preservation Officer (SHPO/THPO) that attempts to initiate consultation with their office and requests their review of your determinations and findings with respect to the historical significance of your proposed project. A sample letter to the SHPO/THPO that you may adapt for your use, if you so choose, is available on HUD's Web site at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>. You must include a copy of your letter to the SHPO/THPO in your application and a statement that you have not received a response letter(s) from the SHPO/THPO or a copy of the response letter(s) received from the SHPO/THPO.

(c) **Contamination.** HUD must determine if a proposed site contains contamination, such as hazardous waste, petroleum, or petroleum products, and, if so, HUD must be satisfied that it is eliminated to the extent necessary to meet non site-specific federal, state or local health standards. You must assist HUD by doing the following:

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

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

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

(ii) **Phase II ESA.** If the Phase I ESA concludes that recognized environmental conditions are present, you must decide whether to continue with this site or choose another site. Should you choose another site, the same Phase I ESA process identified above must be followed for the new site. However, if you choose to continue with the original site on which the Phase I

ESA indicated contamination or hazards, you must undertake a detailed Phase II ESA by an appropriate professional. In order for your application to be considered for review under this FY 2009 funding competition, the Phase II must be received by the local HUD office on or before December 14, 2009.

(iii) **Clean-up** – If the Phase II ESA reveals site contamination, the extent of the contamination and a plan for clean-up of the site must be submitted to the local HUD office. The plan for clean-up must include a contract for remediation of the problem(s) and an approval letter from the applicable federal, state, and/or local agency with jurisdiction over the site. In order for your application to be considered for review under the FY 2009 funding competition, this information must be received by the local HUD office on or before December 14, 2009. If the above information is not received by the local HUD office by that date, the application will be rejected.

NOTE: Clean-up could be an expensive undertaking. You must pay for the cost of any clean-up and/or remediation with sources other than the capital advance funds. If the application is approved, clean-up must be completed prior to initial closing. Completion of clean-up means that HUD must be satisfied that the contamination has been eliminated to the extent necessary to meet non site-specific federal, state or local health standards, with no active or passive remediation still taking place, no capping over of any contamination, and no monitoring wells. However, it is acceptable if contamination remains solely in groundwater that is at least 25 feet below the surface.

(d) **Asbestos.** Asbestos is a hazardous substance commonly used in building products until the late 1970s. Therefore, you must submit one of the following with your application:

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

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

(5) You are required to include a Supportive Services Plan that describes the supportive services proposed to be provided to the anticipated occupants, including a description of the public or private funds that are expected to fund the proposed services and the manner in which the services will be provided to the proposed residents (see Exhibit 5 in Section IV.B. of this NOFA). You must not require residents to accept any supportive services as a condition of occupancy or admission.

(6) Delinquent Federal Debt. This policy is applicable to applicants as well as their boards and development team members. Refer to the **General Section** for further information regarding delinquent federal debt.

3. Program Requirements. By signing Form HUD-92015-CA, Supportive Housing for the Elderly Section 202, Application for Capital Advance Summary Information, you are certifying

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

a. Statutory and Regulatory Requirements. In addition to the statutory, regulatory, threshold and public policy requirements listed in the **General Section and in this NOFA**, you must comply with all statutory and regulatory requirements that govern the Section 202 program.

Note: Section 2835(b) of the Housing and Economic Recovery Act of 2008 (HERA) directs the Department to delegate review and processing of certain Section 202 Supportive Housing for the Elderly projects to selected State or local housing agencies that will serve as Delegated Processing Agency (DPA). Such processing *is required* where the Sponsor's application indicates that development funds for a proposed Section 202 project are coming from a combination of capital advance and other sources of funding, including low-income housing tax credits. These sponsors will be notified by the department if their applications will be processed by a Delegated Processor and the location of the Delegate Processor approximately 30 days after the announcement of the Section 202 awards. However, the Secretary shall retain authority to process capital advances in cases in which no State or local housing agency has applied to provide delegated processing or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency for the selected application.

A Notice defining the Department's delegated processing procedures will be published shortly.

b. Application/Project Size Limits.

(1) Application Limits Applicable to Sponsors or Co-Sponsors. A Sponsor or Co-sponsor may not apply for more than 200 units of housing for the elderly in a single Hub or more than 10 percent of the total units allocated to all HUD offices. Affiliated entities (organizations

that are branches or offshoots of a parent organization) that submit separate applications are considered a single entity for the purpose of this limit.

(2) Maximum Project Size. No single application may propose the development of a project for more than the number of units allocated to a local HUD office (in either the metropolitan or nonmetropolitan allocation category, depending on the location of your proposed project) or 125 units, whichever is less. For example, the local HUD office, which has jurisdiction over the area of your proposed project, was allocated 80 units (metropolitan) and 20 units (nonmetropolitan) for a total of 100 units. You cannot apply for more than 80 units if your proposed project is in a metropolitan area and no more than 20 units if the project is in a nonmetropolitan area. The maximum project size includes a resident manager's unit, if proposed.

(3) Minimum Project Size. The minimum number of units that can be applied for in one application is five units. If the proposed project will be a scattered-site development, the five-unit minimum requirement will apply to each site.

c. Minimum Capital Investment. If selected, you must provide a minimum capital investment of one-half of one percent of the HUD-approved capital advance amount, not to exceed \$10,000 in accordance with 24 CFR 891.145, with the following exception: If you, as Sponsor or Co-Sponsor, have one or more Section 202 or one or more Section 811 project(s) under reservation, construction, or management in two or more different HUD geographical regions (Hubs), the minimum capital investment shall be one half of one percent of the HUD-approved capital advance amount, not to exceed \$25,000.

d. Accessibility. Your project must meet accessibility requirements published at 24 CFR 891.120, 24 CFR 891.210, and Section 504 of the Rehabilitation Act of 1973 and its

implementing regulations at 24 CFR part 8, and, if new construction, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100. Applicants may obtain technical guidance on the Fair Housing Act's design and construction requirements by contacting Fair Housing Accessibility FIRST at 1-888-341-7781 or <http://www.fairhousingfirst.org>. Fair Housing Accessibility FIRST is a HUD-funded initiative that promotes compliance with the Fair Housing Act's design and construction requirements. In addition, 24 CFR 8.4(b)(5) prohibits the selection of a site or location which has the purpose or effect of excluding persons with disabilities from the federally assisted program or activity. Refer to Section V.A. below and the **General Section** for information regarding the policy priority of encouraging visitability and universal design.

e. Conducting Business in Accordance with HUD Core Values and Ethical Standards. You are not subject to the requirements of 24 CFR parts 84 and 85 as outlined in the **General Section**, except that the disposition of real property may be subject to 24 CFR part 84. However, you are still subject to the core values and ethical standards as they relate to the conflict of interest provisions in 24 CFR 891.130. To ensure compliance with the program's conflict of interest provisions, you are required to sign a Sponsor's Conflict of Interest Resolution, Form HUD 92041, and include it in your Section 202 application. Further, if awarded a Section 202 fund reservation, the officers, directors, board members, trustees, stockholders and authorized agents of the Section 202 Sponsor and Owner entities will be required to submit to HUD individual certifications regarding compliance with HUD's conflict of interest requirements.

f. National Environmental Policy Act. You must comply with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and applicable related environmental authorities at 24 CFR 50.4, HUD's programmatic implementing regulations at 24 CFR part 50 and 24 CFR

891.155(b), especially, but not limited to, the provision of information to HUD at 24 CFR 50.31(b), and you must comply with any environmental “conditions and safeguards” at 24 CFR 50.3(c). In addition pursuant to NEPA, you must not perform any rehabilitation or construction on the proposed site during the period in which HUD is reviewing your application.

Pursuant to 24 CFR part 50, HUD has the responsibility for conducting the environmental reviews. HUD will commence the environmental review of your project upon receipt of your completed application. However, HUD cannot approve any site unless it first completes the environmental review and finds that the site meets its environmental requirements. In rare cases where HUD is not able to complete the environmental review, it is due to a complex environmental issue that could not be resolved during the time period allocated for application processing. To assist HUD in completing the environmental review on time, you must provide certain information regarding site contamination and building asbestos and attempt to obtain comments from the State/Tribal Historic Preservation Officer (see Exhibit 4(d)(ix) of Section IV.B. below). It is also why HUD may contact you for additional environmental information. So that you can review the type of information that HUD needs for its preparation of the environmental review, the type of information requests that HUD may make to you, and the criteria that HUD uses to determine the environmental acceptability of a site, you are invited to go to the following web site to view the HUD form 4128, including the Sample Field Notes Checklist, which HUD uses to record the environmental review:

www.hud.gov/utilities/intercept.cfm?/offices/cpd/energyenviron/environment/compliance/forms/4128.pdf.

g. Fair Housing Requirements. Refer to the **General Section** for information regarding fair housing requirements.

h. Economic Opportunities for Low and Very Low-Income Persons (Section 3).

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

i. Design and Cost Standards. You must comply with HUD's Section 202 design and cost standards (24 CFR 891.120 and 891.210), the Uniform Federal Accessibility Standards (24 CFR 40.7), Section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8, and for covered multifamily dwellings designed and constructed for first occupancy after March 13, 1991, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100, and, where applicable, the Americans with Disabilities Act of 1990. Applicants may obtain technical guidance on the Fair Housing Act's

design and construction requirements by contacting Fair Housing Accessibility FIRST at 1-888-341-7781 or <http://www.fairhousingfirst.org>. Fair Housing Accessibility FIRST is a HUD-funded initiative that promotes compliance with the Fair Housing Act's design and construction requirements.

j. Formation of Owner Corporation. You must form an Owner entity (in accordance with 24 CFR 891.205 or 891.805 for mixed-finance developments) after issuance of the capital advance fund reservation and must cause the Owner entity to file a request for determination of eligibility and a request for capital advance, and must provide sufficient resources to the Owner entity to ensure the development and long-term operation of the project, including capitalizing the Owner entity at firm commitment processing in an amount sufficient to meet its obligations in connection with the project over and above the capital advance amount.

k. Davis-Bacon. You must comply with the labor standards provisions at 24 CFR 891.155(d). These include Davis-Bacon prevailing wage and reporting requirements and the overtime provisions of the Contract Work Hours and Safety Standards Act.

4. Promoting Energy Star and Green Development.

You are encouraged to take specific energy-saving actions in furtherance of HUD's Energy Action Plan described in the August 2006 Report to Congress entitled: "Promoting Energy Efficiency at HUD in a Time of Change," submitted under section 154 of the Energy Policy Act of 2005 (Pub. L. 109-58). (A copy of the report can be obtained at <http://www.huduser.org/publications/destech/energyefficiency.html>.) Under this policy priority, HUD is providing up to two policy priority points as follows:

a. **Energy Star Appliances and Products.** You can receive one policy priority point for incorporating energy-efficiency measures in the design, construction and operation of your

development. You are especially urged to purchase and use Energy Star-labeled products.

Although it is not a requirement, you are encouraged to promote energy efficiency in design and operation of your proposed project. To receive the one point, you must meet the following criteria:

- Moderate rehabilitation and/or Building Operation and Maintenance: Use Energy Star-labeled appliances and products.
- *New construction or substantial rehabilitation (multifamily)*: Meet ASHRAE 90.1-2007 plus 20 percent (Appendix G) *and* appliances must be Energy Star qualified. A heat load analysis showing compliance with this standard must be completed by the project architect or engineer during the design phase of the project.

For further information about Energy Star, see <http://www.energystar.gov>, or call 1-888-STAR-YES (1-888-782-7937). Persons with hearing or speech impairments may access the following number 1-888-588-9920 TTY.

b. Green Development. You can receive an additional policy priority point for green development if you fulfill the requirements for use of Energy Star appliances and products above. Refer to the General Section for further details on green development.

IV. Application and Receipt Instructions

A. Applications under this NOFA must be received electronically through the Federal website Grants.gov, unless a waiver of this requirement is granted in accordance with the instructions below. The procedures for electronic submission of applications published in HUD's General Section on December 29, 2008 (73 FR 79548), including the provisions at Section IV.C., entitled "Receipt Dates and Times," removed by HUD's Amendment to the

General Section published on April 16, 2009 (74 FR 17685), are reinstated and apply to this NOFA.

Applicants that are unable to submit their application electronically must seek a waiver of the electronic grant submission requirement. Waiver requests must be submitted no later than 15 days before the application deadline date. Waiver requests submitted by mail or fax should be submitted on the applicant's letterhead and signed by an official with the legal authority to request a waiver from the Department. Waiver requests must be submitted no later than 15 days prior to the application deadline date and must be submitted in accordance with the following requirements:

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

If a waiver is granted, you must submit the required number of copies of your application to the Director of the appropriate local HUD office, and **the application must be received no later than that HUD office's close of business on the application deadline date.** There is no grace period. The waiver approval notification will identify the appropriate HUD office where the application should be submitted and the required number of copies that must be submitted. Paper applications will not be accepted from applicants that have not been granted a waiver.

Applicants must follow the instructions on the December 29, 2008 General Section, unless a waiver for cause in accordance with HUD's waiver policy of 24 CFR 5.1005, to the electronic application requirements is approved by HUD.

1. The application deadline for receipt of HUD applications via Grants.gov is 11:59:59 p.m. on November 13, 2009. Applications must be received by Grants.gov by the deadline in order to meet the program deadline. Received means that the application has been successfully uploaded to the Grants.gov server and the applicant has received confirmation of successful submission to Grants.gov. Applicants should be aware that hitting the “sign and submit” button to transmit the application does not mean the application has been successfully uploaded to Grants.gov. Only when the upload is complete is the application date and time stamped by the Grants.gov system. An application that has been rejected by Grants.gov is not deemed to have been received by Grants.gov. (Please see Section D.1. of the General Section for a detailed explanation of Timely Receipt Requirements and Proof of Timely Receipt.) As in the past, HUD encourages applicants to submit their applications early and with sufficient time to address any issues that might affect the applicant’s ability to have an application successfully uploaded and received by Grants.gov.

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

a. Applicants that have successfully uploaded their application to Grants.gov prior to the deadline, and subsequently receive a rejection notice from Grants.gov after the deadline date and time, will have a one-day grace period from the date stamp on the first Grants.gov rejection notice after the deadline, to cure the basis for the rejection and upload an application that corrects the problems cited in the rejection notice. Applicants can upload the application as many times as needed to cure noted deficiencies within the one-day grace period. The Grants.gov rejection

notice identifies the reasons why the application was rejected. Applicants that do not understand the error messages received in the rejection notice should immediately contact the Grants.gov Help Desk so they can get assistance in clearing the problem. Generally, Grants.gov will reject an application because it contains an incorrect DUNS number or a DUNS number that does not match the AOR's registration, the application was submitted by an individual without proper authorization as the AOR, and/or the application contains file names that trigger a "VirusDetect" message. The grace period ends one day after the date stamp on the first rejection notice received after the deadline date.

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

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

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

(1) Applications uploaded and received by Grants.gov after the deadline date and time for which there is no prior rejection notice in the Grants.gov system logs will be considered late

and will not be rated and ranked or receive funding consideration. Failure to successfully upload the application to Grants.gov by the deadline date and time does not qualify for the grace period as described above.

(2) Applications receiving a rejection notice due to the funding opportunity being closed will not be provided the one day grace period to correct the “opportunity closed” deficiency or any other basis for rejection because the applicant missed the deadline date and time and therefore does not qualify for the grace period as described above.

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

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

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

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

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

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

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

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

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

Assistance may require diagnosing an applicant's particular issues. An applicant that does not follow HUD's advice increases the applicant's risk of not being able to meet the timely receipt requirements. A submission attempt less than the recommended 48 hours before the deadline does not allow the time needed to research the reason for the problem or to work with the

applicant in overcoming the uploading difficulty. Similarly, attempting to submit within 24 hours of the deadline or when the Grants.gov Help Desk is closed does not allow the time needed for Grants.gov or HUD to provide the needed assistance. In addition, HUD staff cannot provide assistance or contact Grants.gov on your behalf after the Help Desk is closed. HUD strongly encourages applicants to carefully read the December 29, 2008 General Section for additional information regarding the Grants.gov registration process, submitting an application through Grants.gov, and timely receipt instructions. Applicants need to be aware that following submission applications go through a validation process in which the application may be accepted or rejected. The process may take 24 to 48 hours to complete. Your completed application must be received by Grants.gov no later than 11:59:59 p.m. eastern time on November 13, 2009, the application deadline date. HUD advises applicants to submit their applications early with sufficient time to address issues that might prevent their applications from being received by Grants.gov to meet the timely receipt requirements contained in this NOFA.

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

B. Content and Form of Application. The exhibits to be included in your application are contained in the body of this NOFA. A response to each exhibit is required. If the exhibit is not applicable including optional exhibits, a statement to that effect is required. Before preparing your application, you should carefully review the requirements of the regulations (24 CFR part 891) and general program instructions in Handbook 4571.3 REV-1, Section 202 Capital Advance

Program for Housing the Elderly. **Note:** Section 1001 of Title 18 of the United States Code (Criminal Code and Criminal Procedure, 72 Stat. 967) applies to all information supplied in the application submission. (18 U.S.C. 1001, among other things, provides that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.)

The Application for a Section 202 Capital Advance consists of four parts with a total of eight Exhibits. Included with the eight Exhibits are prescribed forms, certifications and resolutions. The components of the Application are:

- Part 1 - Application Form for Section 202 Supportive Housing - Capital Advance (Exhibit 1).
- Part 2 - Your Ability to Develop and Operate the Proposed Project (Exhibits 2 and 3).
- Part 3 - The Need for Supportive Housing for the Target Population in the Area to be Served, Site Control and Suitability of Site, Adequacy of the Provision of Supportive Services and of the Proposed Project (Exhibits 4 and 5).
- Part 4 - General Application Requirements, Certifications and Resolutions (Exhibits 6 through 8).

The following additional information, which may assist you in preparing your application, is available on HUD's Web site at

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

- Listing of Local HUD Offices.
- Letter Requesting SHPO/THPO Review.

- Choosing an Environmentally Safe Site.
- Supplemental to Choosing an Environmentally Safe Site.

Your application must include all of the information, materials, forms, and exhibits listed below (unless you were selected for a Section 202 fund reservation within the last three funding cycles). If you qualify for this exception, you are not required to submit the information described in Exhibits 2(a), (b), and (c), which are the articles of incorporation, (or other organizational documents), by-laws, and the IRS tax exemption, respectively. If there has been a change in any of these documents since your previous HUD approval, you must submit the updated information in your application. The local HUD office will verify your previous HUD approval by checking the project number and approval status with the appropriate local HUD office based on the information submitted.

In addition to this relief of paperwork burden in preparing applications, you will be able to use information and exhibits previously prepared for prior applications under Section 202, Section 811, or other funding programs. Examples of exhibits that may be readily adapted or amended to decrease the burden of application preparation include, among others, those on previous participation in the Section 202 or Section 811 programs, your experience in the provision of housing and services, supportive services plans, community ties, and experience serving minorities.

For programmatic information, you MUST contact the appropriate local HUD office about the submission of applications within the jurisdiction of that Office. A listing of the local HUD offices is available on HUD's Web site at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>.

Please submit your application using the following format provided in this NOFA. For applications to be submitted electronically, in which you have created files to be attached to the electronic application, you should number the pages of the attached file and include a header that identifies the exhibit that it relates to. Please be sure to follow the file labeling and file format instructions in the General Section.

For applicants that have received a waiver of the electronic application submission, you must number the pages of each file, narratives and other attached files. Include the name of the applicant organization that appears on box 8a of the SF-424 and the corresponding DUNS number for that organization, and the exhibit number that you are responding to on the header of each document.

1. Table of Contents. (This is also to be used as a checklist to assist you in submitting a complete application.)

a. Part I – Application Form.

(1) Exhibit 1: Form HUD-92015-CA Application for Capital Advance Summary Information.

b. Part II – Ability to Develop/Operate Project.

- (1) Exhibit 2: Legal Status.
 - (a) Organizational Documents.
 - (b) Bylaws.
 - (c) IRS Tax Exemption Ruling.
- (2) Exhibit 3: Purpose/Community Ties/Experience.
 - (a) Purpose(s), current activities, etc.
 - (b) Community ties, description of area.

- (c) Other Funding Sources.
- (d) Letters of support.
- (e) Housing/Supportive Services experience.
- (f) Involvement of target population.
- (g) Practical solutions.
- (h) Section 3 requirements.

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

- (1) Exhibit 4: Project Information.
 - (a) Evidence of need for project.
 - (b) Benefit to population/community.
 - (c) Narrative project description:
 - (i) Building design;
 - (ii) Energy efficiency features and Green Development undertaking;
 - (iii) Mixed-financing for additional units.
 - (d) Site control and zoning:
 - (i) Site control documents;
 - (ii) Freedom of site from restrictions;
 - (iii) Zoning requirements;
 - (iv) URA site notification requirements;
 - (v) Topographical/demographical description of site/area and opportunities for minorities;
 - (vi) Racial composition/map of site;
 - (vii) Phase I ESA;

- (viii) Asbestos Statement/Survey;
- (ix) SHPO/THPO requirements.
- (2) Exhibit 5: Supportive Services Plan.
 - (a) Description of services.
 - (b) Other funding sources.
 - (c) How services will be provided.

d. Part IV – Requirements/Certifications/Resolutions.

- (1) Exhibit 6: Other Applications.
 - (a) FY09 Sections 202/811 applications to other Offices.
 - (b) Information on FY08 and prior years' Sections 202/811 applications
- (2) Exhibit 7: Required information on:
 - (a) All property occupants;
 - (b) Relocation costs/services;
 - (c) Staff to carry out relocation;
 - (d) Occupant move-outs within past 12 months
 - (e) Issuance of general information notice and advisory services information.
- (3) Exhibit 8: Forms/Certifications/Resolutions.
 - (a) SF-424 Application for Federal Assistance;
 - (b) SF-424 Supplement "Survey on Ensuring Equal Opportunities for Applicants" (Faith Based EEO Survey (SF-424 SUPP));
 - (c) SF-LLL, Disclosure of Lobbying Activities;
 - (d) HUD-2880. "Applicant/Recipient Disclosure/Update Report";
 - (e) HUD-2991 Certification of Consistency with the Consolidated Plan;

- (f) HUD-92041 Sponsor's Conflict of Interest Resolution;
- (g) HUD-92042 Sponsor's Resolution for Commitment to Project;
- (h) HUD-2990 Certification of Consistency with the RC/EZ/EC-II Strategic Plan (if applicable);
- (i) HUD-96010 Program Outcome Logic Model;
- (j) HUD-2994-A Form HUD-2994A – You are Our Client! Grant Applicant Survey (Optional).

2. Programmatic Applications Requirements

a. PART I – APPLICATION FORM FOR SECTION 202 SUPPORTIVE HOUSING – CAPITAL ADVANCE

(1) EXHIBIT 1 - Form HUD-92015-CA, Supportive Housing for the Elderly Section 202, Application for Capital Advance Summary Information. A copy of the form is available in the instructions download at https://apply07.grants.gov/apply/forms_apps_idx.html or http://www.hudclips.org/sub_nonhud/html/forms.htm.

b. PART II - YOUR ABILITY TO DEVELOP AND OPERATE THE PROPOSED PROJECT

(1) EXHIBIT 2 - Evidence of your legal status (i.e., evidence of your status as a private nonprofit organization or nonprofit consumer cooperative). If another organization(s) is co-sponsoring the application with you, each co-sponsor must also submit the following:

- (a) Articles of Incorporation, constitution, or other organizational documents;
- (b) By-laws;

(c) IRS tax exemption ruling (this must be submitted by all Sponsors, including churches).

NOTE: HUD will review your articles of incorporation, constitution, by-laws, or other organizational documents to determine, among other things, that (i) you are an eligible private nonprofit entity and are not a public body or an instrumentality of a public body, (ii) your corporate purposes are sufficiently broad to provide you the legal authority to sponsor the proposed project for the elderly, to assist the Owner, and to apply for a capital advance, (iii) language is included in the documents stating that no part of the Sponsor's net earnings inures to the benefit of any private party (Also, there should be nothing in the by-laws or other organizational documents that contradicts this requirement.), and (iv) that you are not controlled by or under the direction of persons seeking to derive profit or gain therefrom.

[EXCEPTION: If you received a section 202 fund reservation within the last three funding cycles, you are not required to submit the documents described in (a), (b), and (c) above. Instead, submit the project number of the latest application and the local HUD office to which it was submitted. If there have been any modifications or additions to the subject documents, indicate such, and submit the new material.]

(2) EXHIBIT 3 -Your purpose, community ties and experience:

(a) A description of your purpose(s), current activities, including your ability to enlist volunteers and raise private and local funds, and how long you have been in existence.

(b) A description of your ties to the community in which your project will be located and to the minority and elderly communities in particular, including a description of the specific geographic area(s) in which you have served.

(c) A description of other funding sources for the project (including financial assistance, donation of land, provision of services, etc.). Note: As a reminder, pursuant to the law (HERA) delegated processing is *required* where development funds for a proposed Section 202 project are coming from a combination of capital advance and other sources of funding. However, the Secretary shall retain authority to process capital advances in cases in which no State or local housing agency has applied to provide delegated processing or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency. Refer to Section III.C.3.a., Statutory and Regulatory Requirements, for a complete discussion regarding the Delegated Processing requirement.

(d) Letters of support for your organization and for the proposed project from organizations familiar with the housing and supportive services needs of the target population that you expect to serve in the proposed project.

(e) A description of your housing and/or supportive services experience. The description should include any rental housing projects and/or supportive services facilities that you sponsored, own and/or operate, your past or current involvement in any programs other than housing that demonstrates your management capabilities (including financial management) and experience, your experience in serving the target population (the elderly and/or families and minorities); and the reasons for receiving any increases in fund reservations for developing and/or operating previously funded Section 202 or Section 811 projects. The description should include data on the facilities and services provided, the racial/ethnic composition of the populations served, if available, and information and testimonials from residents or community leaders on the quality of the activities. Examples of activities that could be described include

housing counseling, nutrition and food services, special housing referral, screening and information projects.

(f) A description of your efforts to involve members of the target population (elderly persons, including minority elderly persons) in the development of the application as well as your intent to involve the target population in the development and operation of the project.

(g) A description of the practical solutions you will implement which will enable residents of your project to achieve independent living. In addition, describe the educational opportunities you will provide for the residents and how you will provide them. This description should include any activities that will enhance the quality of life for the residents. And, finally, describe how your proposed project will be an improved living environment for the residents when compared to their previous place of residence.

(h) A detailed description of how you plan to incorporate the Section 3 requirements found at 24 CFR Part 135, into your proposed project including specific strategies for directing new employment and contracting opportunities to low- and very low-income persons residing in the project area and the businesses that substantially employ these persons. This exhibit is optional, but to obtain up to 2 points you must submit this exhibit and adequately describe how you (or your contractors/developers) plan to employ low- and very low-income residents of the project area and award covered contracts/subcontracts to eligible business concerns. (NOTE: It should be noted that all successful applicants will be required to comply with Section 3 whether they submitted this exhibit or not).

c. PART III - THE NEED FOR SUPPORTIVE HOUSING FOR THE TARGET POPULATION, SITE CONTROL AND SUITABILITY OF SITE, ADEQUACY OF THE PROVISION OF SUPPORTIVE SERVICES AND OF THE PROPOSED PROJECT

(1) EXHIBIT 4 - Need and Project Information

(a) Evidence of need for supportive housing. Include a description of the category or categories of elderly persons the housing is intended to serve and evidence demonstrating sustained effective demand for supportive housing for that population in the market area to be served, taking into consideration the occupancy and vacancy conditions in existing federally assisted housing for the elderly (HUD and the Rural Housing Service (RHS)) e.g., public housing, state or local data on the limitations in activities of daily living among the elderly in the area; aging in place in existing assisted rentals; trends in demographic changes in elderly population and households; the numbers of income eligible elderly households by size, tenure and housing condition; the types of supportive services arrangements currently available in the area; and the use of such services as evidenced by data from local social service agencies or agencies on aging. Also, a description of how information in the community's or (where applicable) the state's Consolidated Plan, Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues was used in documenting the need for the project.

(b) A description of how the proposed project will benefit the target population and the community in which it will be located.

(c) Description of the project.

(i) Narrative description of the building design including a description of the number of units with bedroom distribution, any special design features, including any features that incorporate visitability standards and universal design, amenities, and/or commercial and community spaces, and how this design will facilitate the delivery of services in an economical fashion and accommodate the changing needs of the residents over the next 10-20 years.

NOTE: If the community spaces, amenities, or features do not comply with the project design and cost standards of 24 CFR 891.120(a) and (c), the special standards of 24 CFR 891.210, and the limitation on bedroom unit sizes as required by paragraph 1-11.B.4. of HUD Handbook 4571.3 REV-1, you must demonstrate your ability and willingness to contribute both the incremental development cost and continuing operating cost associated with the community spaces, amenities, or features;

(ii) Describe how the project will promote energy efficiency and undertake green development, including any plans to incorporate energy efficiency measures in the design, construction, and operation of the project and the use of Energy Star labeled products and appliances. Refer to Section III.C.4. of this NOFA and the General Section for additional guidance.

(iii) If you are proposing to develop a mixed-finance project a description of any plans and actions you have taken to create such a mixed-finance project with the use of Section 202 capital advance funds, in combination with other funding sources. If additional units will be developed, provide the number of non-Section 202 units to be included in the mixed-finance project (also provide the number of additional units in the appropriate space on Form HUD-92015-CA). Also, provide copies of any letters you have sent seeking outside funding and any responses thereto. You also must demonstrate your ability to proceed with the development of a Section 202 project, as proposed in your application, in the event you are later unable to obtain the necessary outside funding. **NOTES:** (A) If approved for a reservation of capital advance funds, you will be required to submit, with your Firm Commitment Application, the additional documents required by HUD for mixed-finance proposals. (B) A mixed-finance project does not

include the development of a mixed-use project in which the Section 202 units are mortgaged separately from the other uses of the structure.

(d) Evidence of site control and permissive zoning.

(i) Acceptable evidence of site control is limited to any one of the following:

(A) Deed or long-term leasehold which evidences that you have title to or a leasehold interest in the site. If a leasehold, the term of the lease must be at least 50 years with renewable provisions for 25 years, except for sites on Indian trust land, in which case, the term of the lease must be at least 50 years with no requirement for extensions. A sublease is not considered an acceptable form of site control;

(B) Contract of sale for the site that is free of any limitations affecting the ability of the seller to deliver ownership to you after you receive and accept a notice of Section 202 capital advance. (The only condition for closing on the sale can be your receipt and acceptance of the capital advance.) The contract of sale cannot require closing earlier than the Section 202 closing;

(C) Option to purchase or for a long-term leasehold, which must remain in effect for six months from the date on which the applications are due, must state a firm price binding on the seller, and be renewable at the end of the six-month period. The only condition on which the option may be terminated is if you are not awarded a fund reservation;

(D) If the site is covered by a mortgage under a HUD program, (e.g., a previously funded Section 202 or Section 811 project or an FHA-insured mortgage) you must submit evidence of site control as described above **AND** evidence that consent to release the site from the mortgage has been obtained or has been requested from HUD (all required information in order for a decision on the request for a partial release of security must have been submitted to the local HUD office) and/or from the mortgagee, if other than HUD. Approval to release the site from

the mortgage must be done before the local HUD office makes its selection recommendations to HUD Headquarters. Refer to Chapter 16 of HUD Handbook 4350.1 REV-1, Multifamily Asset Management and Project Servicing, for instructions on submitting requests to the local HUD office for partial release of security from a mortgage under a HUD program; or

(E) For sites to be acquired from a public body, evidence is needed that the public body possesses clear title to the site and has entered into a legally binding agreement to lease or convey the site to you after you receive and accept a notice of Section 202 capital advance. The same requirements for site control are applicable to sites to be acquired from public bodies as are applicable to sites to be acquired from other entities. Where HUD determines that time constraints of the funding round will not permit you to obtain all of the required official actions (e.g., approval of Community Planning Boards) that are necessary to convey publicly-owned sites, you may include in your application a letter from the mayor or director of the appropriate local agency indicating that conveyance or leasing of the site is acceptable without imposition of additional covenants or restrictions, and only contingent on the necessary approval action. Such a letter of commitment will be considered sufficient evidence of site control but only if the commitment does not contain restrictions or qualifications that would be unacceptable in the case of other entities. Where a public housing site is to be acquired from a public housing agency (PHA), the PHA must have applied to HUD for permission to dispose of the site or received approval of the disposition from HUD.

(ii) Whether you have title to the site, a contract of sale, an option to purchase, or are acquiring a site from a public body, you must provide evidence (a current title policy or other acceptable evidence) that the site is free of any limitations, restrictions, or reverters which could adversely affect the use of the site for the proposed project for the 40-year capital advance period

under HUD's regulations and requirements (e.g., reversion to seller if title is transferred). If the title evidence contains restrictions or covenants, copies of the restrictions or covenants must be submitted with the application. If the site is subject to any such limitations, restrictions, or reverters, the application will be rejected. Purchase money mortgages that will be satisfied from capital advance funds are not considered to be limitations or restrictions that would adversely affect the use of the site. If the contract of sale or option agreement contains provisions that allow a Sponsor not to purchase the property for reasons such as environmental problems, failure of the site to pass inspection, or the appraisal is less than the purchase price, then such provisions are not objectionable and a Sponsor is allowed to terminate the contract of sale or the option agreement.

NOTE: A proposed project site may not be acquired or optioned from a general contractor (or its affiliate) that will construct the Section 202 project or from any other development team member.

(iii) Evidence that the project, as proposed, is permissible under applicable zoning ordinances or regulations or a statement of the proposed action required to make the proposed project permissible **AND** the basis for the belief that the proposed action will be completed successfully before the submission of the firm commitment application (e.g., a summary of the results of any requests for rezoning and/or the procedures for obtaining special or conditional use permits on land in similar zoning classifications and the time required for such rezoning, or preliminary indications of acceptability from zoning bodies, etc.).

(iv) Evidence of compliance with the URA requirement that the seller has been provided, in writing, with the required information regarding a voluntary, arm's length purchase transaction (i.e., (A) applicant does not have the power of eminent domain and, therefore, will

not acquire the property if negotiations fail to result in an amicable agreement, and (B) of the estimate of the fair market value of the property).

NOTE: A certification for this requirement is not sufficient. Evidence must be submitted to meet this requirement. This information should have been provided before making the purchase offer. However, in those cases where there is an existing option or contract, the seller must be provided the opportunity to withdraw from the agreement or transaction, without penalty, after this information is provided.

(v) Narrative describing topographical and demographic aspects of the site, the suitability of the site and area (as well as a description of the characteristics of the neighborhood), how use of the site will promote greater housing opportunities for minority elderly and elderly persons with disabilities (if applicable), and how use of the site will affirmatively further fair housing.

NOTE: You can best demonstrate your commitment to affirmatively furthering fair housing by describing how your proposed activities will assist the jurisdiction in overcoming impediments to fair housing choice identified in the applicable jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice, which is a component of the jurisdiction's Consolidated Plan or any other planning document that addresses fair housing issues. The applicable Consolidated Plan and AI may be the community's, the county's, or the state's, to which input should have been provided by local community organizations, agencies in the community and residents of the community. Alternatively, a document that addresses fair housing issues and remedies to barriers to fair housing in the community that was previously prepared by a local planning, or similar organization, may be used. Applicable impediments could include the need for improved housing quality and services for elderly minority families, lack of affirmative marketing and

outreach to minority elderly persons, and the need for quality eldercare services within areas of minority concentration when compared with the type and quality of similar services and housing in nonminority areas.

(vi) A map showing the location of the site, the racial composition of the neighborhood, and any areas of racial concentration.

NOTE: For this competition, when determining the racial and ethnic composition of the neighborhood surrounding the proposed site, use data from the 2000 Census of Population. Data from the 2000 Census may be found at:

www.factfinder.census.gov/servlet/BasicFactsServlet.

(vii) A Phase I Environmental Site Assessment (ESA), prepared in accordance with the ASTM Standard E 1527–05, as amended, using the table of contents and report format specified at Appendix X4 thereto must be completed and submitted with the application (although it is a curable deficiency). The Findings, Opinions, and Conclusions sections of the Phase I ESA must be based on ASTM1527-05, Sections 12.5, 12.6, and 12.8, respectively with justifications as to why any suspect recognized environmental conditions, historical recognized conditions, or de minimis conditions are not deemed to be recognized environmental conditions (with all such terms as defined in ASTM E 1527-05). The Phase I ESA that you submit must have been completed within one year of the application due date; and any Phase I ESA completed more than 180 days but less than one-year prior to the application due date, must be updated pursuant to Section 4.6 ASTM Standard E 1527–05. Therefore, it is important that you start the Phase I ESA process as soon after publication of the NOFA as possible. **NOTE: Failure to follow any and all of the above criteria for preparation and submission of the Phase I ESA will result in a technical rejection of your application.**

If the Phase I ESA concludes that recognized environmental conditions are present, you must decide whether to continue with this site or choose another site. Should you choose another site, the same Phase I ESA process identified above must be followed for the new site. If you choose to continue with the original site on which the Phase I ESA indicated contamination or hazards, you must undertake a detailed Phase II ESA by an appropriate professional. If the Phase II Assessment reveals site contamination, you must submit the extent of the contamination and a plan for clean-up of the site including a contract for remediation of the problem(s) and an approval letter from the applicable federal, state, and/or local agency with jurisdiction over the site to the local HUD office. The Phase II ESA and any necessary plans for clean-up do not have to be submitted with the application but must be received by the local HUD office by December 14, 2009. If it is not received by that date, the application will be rejected. **NOTE: You must pay for the cost of any clean-up or remediation which can be very expensive. See NOTE at Section III.C.2.b.(4)(c)(iii).**

(viii) You must submit one of the following:

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

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

NOTE: In those cases where suspect asbestos is found, it would either be assumed to be asbestos or would require confirmatory testing. If the asbestos survey indicates the presence of

asbestos, or the presence of asbestos is assumed, and if the application is approved, HUD will condition the approval on an appropriate mix of asbestos abatement and an asbestos Operations and Maintenance Plan.

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

(2) EXHIBIT 5 – Supportive Services Plan

(a) A detailed description of the supportive services proposed to be provided to the anticipated occupancy.

(b) A description of public or private sources of assistance that reasonably could be expected to fund the proposed services.

(c) The manner in which such services will be provided to such persons (i.e., on or off-site), including whether a service coordinator will facilitate the adequate provision of such services, and how the services will meet the identified needs of the residents.

NOTE: You may not require residents, as a condition of admission or occupancy, to accept any supportive services.

d. PART IV - GENERAL APPLICATION REQUIREMENTS, CERTIFICATIONS AND RESOLUTIONS

(1) EXHIBIT 6: Other Applications

(a) A list of the applications, if any, you are submitting to any other local HUD office in response to the FY 2009 Section 202 or Section 811 NOFA. Indicate by local HUD office, the proposed location by city and state and the number of units requested in each application.

(b) Include a list of all FY 2008 and prior years approved Section 202 and Section 811 capital advance projects to which you are a party. Identify each by project number and local HUD office and include the following information:

(i) Whether the project has initially closed and, if so, when;

(ii) If the project was older than 24 months when it initially closed (specify how old) or if older than 24 months now (specify how old) and has not initially closed, provide the reasons for the delay in closing;

(iii) Whether amendment money was or will be needed for any project in (ii) above, including the amount of the amendment money; and,

(iv) Those projects that have not been finally closed.

(2) EXHIBIT 7: A statement that:

(a) Indicates that no relocation will occur and why (e.g. property is vacant land or property was unoccupied and no person was made to move for the project), if applicable. If relocation will occur, complete items (2)(b) through (2)(g).

(b) Identifies all persons (families, individuals, businesses and nonprofit organizations) by race/minority group, and status as owners or tenants occupying the property on the date of submission of the application for a capital advance.

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

(d) Indicates the source of funds to be used to pay relocation costs. If such costs will be funded from sources other than the Section 202 Capital Advance, you must provide evidence of a commitment of these funds.

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

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

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

NOTE: If any of the relocation costs will be funded from sources other than the Section 202 capital advance, you must provide evidence of a firm commitment of these funds. When evaluating applications, HUD will consider the total cost of proposals (i.e., cost of site acquisition, relocation, construction and other project costs).

EXHIBIT 7 IS REQUIRED FOR ALL SECTION 202 APPLICATIONS.

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

(a) Standard Form 424 – Application for Federal Assistance, including a DUNS number, an indication of whether you are delinquent on any federal debt, and compliance with Executive Order 12372 (a certification that you have submitted a copy of your application, if required, to the State agency (Single Point of Contact/(SPOC)) for state review in accordance with Executive Order 12372). If the SPOC requires a review of your application, you must include in your Section 202 application, a copy of the cover letter sent to the SPOC. Refer to Section IV.D. of this NOFA for additional information on compliance with Executive Order 12372. If you are located in a state that does not have a SPOC, please indicate such. **NOTE:** For Section 202

program purposes, in Item 14, Areas Affected by Project, of SF-424, provide the names of the City, County and State where the project will be located (not the largest political entities as indicated on the instructions page of SF-424).

(b) Standard Form 424 Supplement, Survey on Ensuring Equal Opportunity for Applicants ("Faith Based EEO Survey (SF-424 SUPP)"). Although the information on this form will not be considered in making funding decisions, it will assist the federal government in ensuring that all qualified applicants have an equal opportunity to compete for federal funding.

(c) Standard Form LLL- Disclosure of Lobbying Activities (if applicable). A disclosure of activities conducted that may influence any federal transactions.

(d) Form HUD-2880, Applicant/Recipient Disclosure/Update Report, including Social Security and Employee Identification Numbers. A disclosure of assistance from other government sources received in connection with the project.

(e) Form HUD-2991, Certification of Consistency with the Consolidated Plan (Plan) for the jurisdiction in which the proposed project will be located. The certification must be made by the unit of general local government if it is required to have, or has, a complete Plan. Otherwise, the certification may be made by the state or by the unit of general local government if the project will be located within the jurisdiction of the unit of general local government authorized to use an abbreviated strategy, and if it is willing to prepare such a Plan. All certifications must be made by a public official responsible for submitting the Plan to HUD. The certifications must be submitted as part of the application by the application submission deadline date set forth in the NOFA. The Plan regulations are published in 24 CFR part 91.

(f) Form HUD-92041, Sponsor's Conflict of Interest Resolution. A certified Board Resolution that no officer or director of the Sponsor or Owner has or will have any financial

interest in any contract with the Owner or in any firm or corporation that has or will have a contract with the Owner, including a current listing of all duly qualified and sitting officers and directors by title and the beginning and ending dates of each person's term.

(g) Form HUD-92042, Sponsor's Resolution for Commitment to Project. A certified Board Resolution acknowledging responsibilities of sponsorship, long-term support of the project(s), your willingness to assist the Owner to develop, own, manage and provide appropriate services in connection with the proposed project, and that it reflects the will of your membership. Also, it shall indicate your willingness to fund the estimated start-up expenses, the Minimum Capital Investment (one-half of one-percent of the HUD-approved capital advance, not to exceed \$10,000 or for national Sponsors, not to exceed \$25,000), and the estimated cost of any amenities or features (and operating costs related thereto) that would not be covered by the approved capital advance.

(h) Form HUD-2990, Certification of Consistency with the RC/EZ/EC-II Strategic Plan. A certification that the project is consistent with the RC/EZ/EC-II's strategic plan, is located within the RC/EZ/EC-II, and serves RC/EZ/EC-II residents. (This certification is not required if the project site(s) will not be located in a RC/EZ/EC-II).

(i) Form HUD-96010, Program Outcome Logic Model. The information provided in the Logic Model will be used in rating your application for Rating Factor 5, Achieving Results and Program Evaluation. Form HUD-96010, Program Outcome Logic Model must be submitted in Excel format. Logic Models converted to any other format will receive zero points.

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

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

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

C. Receipt Dates and Time. Your application must be received electronically by Grants.gov no later than 11:59:59 p.m. eastern time on **November 13, 2009**, the application deadline date, unless a waiver of the electronic delivery process has been approved by HUD in accordance with the following procedures. Refer to the General Section for a detailed discussion on Receipt Dates and Times.

D. Intergovernmental Review.

1. State Review. This funding opportunity is subject to Executive Order (EO) 12372, “Intergovernmental Review of Federal Programs.” You must contact your State’s Single Point of Contact (SPOC) to find out about and comply with the state’s process under EO 12372. The names and addresses of the SPOCs are listed in the Office of Management and Budget’s home

page at <http://www.whitehouse.gov/omb/grants/spoc.html>. If required by the state, the submission to the state needs to occur before the Section 202 application deadline date, but in no event later than the application deadline date. It is recommended that you provide the state with sufficient time to review the application. Therefore, it is important that you consult with the SPOC for State review timeframes and take that into account when submitting the application. If the SPOC requires a review of your application, you must include a copy of the cover letter you sent to the SPOC in Exhibit 8(a) of your Section 202 application. If you are located in a state that does not have a SPOC, please indicate that on Exhibit 8(a) of your application.

2. HUD/RHS Agreement. HUD and the Rural Housing Service (RHS) have an agreement to coordinate the administration of the agencies' respective rental assistance programs. As a result, HUD is required to notify RHS of applications for housing assistance it receives. This notification gives RHS the opportunity to comment if it has concerns about the demand for additional assisted housing and possible harm to existing projects in the same housing market area. HUD will consider RHS' comments in its review and application selection process.

E. Funding Restrictions.

1. Ineligible Activities. Section 202 funds may not be used for:

- a. Nursing homes;
- b. Infirmaries;
- c. Medical facilities;
- d. Mobile homes;
- e. Community centers;
- f. Headquarters for organizations for the elderly;
- g. Residential units without kitchens and/or bathrooms.

- h. Refinancing of sponsor-owned facilities without rehabilitation,
- i. Housing that you currently own or lease that is occupied by elderly persons; and
- j. Projects licensed or to be licensed as assisted living facilities.

NOTE: You may propose to rehabilitate an existing currently-owned or leased structure that does not already serve elderly persons, except that the refinancing of any federally-funded or assisted project or project insured or guaranteed by a federal agency is not permissible under this Section 202 NOFA. HUD does not consider it appropriate to utilize scarce program resources to refinance projects that have already received some form of assistance under a federal program. (For example, Section 202 or Section 202/8 direct loan projects cannot be refinanced with capital advances and project rental assistance.)

2. Application Limits (Units/Projects). Refer to Section III.C. of this NOFA for information applicable to the limitations on the number of units you may apply for in a single application and the project sizes.

3. Development Cost Limits.

a. The following development cost limits, adjusted by locality as described in Section IV.E.3.b. below must be used to determine the capital advance amount to be reserved for projects for the elderly.

NOTE: The capital advance funds awarded for this project are to be considered the total amount of funds that the Department will provide for the development of this project.

Amendment funds will only be provided in exceptional circumstances (e.g., to cover increased costs for construction delays due to litigation or unforeseen environmental issues resulting in a change of sites) that are clearly beyond your control. Otherwise, you are

responsible for any costs over and above the capital advance amount provided by the Department as well as any costs associated with any excess amenities and design features.

(1) The capital advance amount for the project attributable to dwelling use (less the incremental development cost and the capitalized operating costs associated with any excess amenities and design features and other costs you must pay for) may not exceed:

Non-elevator structures:

\$50,232 per family unit without a bedroom;

\$57,917 per family unit with one bedroom;

\$69,849 per family unit with two bedrooms;

For elevator structures:

\$52,862 per family unit without a bedroom;

\$60,597 per family unit with one bedroom;

\$73,686 per family unit with two bedrooms

(2) These cost limits reflect those costs reasonable and necessary to develop a project of modest design that complies with HUD minimum property standards; the accessibility requirements of § 891.120(b); and the project design and cost standards of § 891.120 and § 891.210.

b. Increased development cost limits.

(1) HUD may increase the development cost limits set forth above, by up to 140 percent in any geographic area where the cost levels require, and may increase the development cost limits by up to 160 percent on a project-by-project basis. This increase may include covering additional costs to make dwelling units accessible through rehabilitation.

NOTE: In applying the applicable high cost percentage, the local HUD Office may use a percentage that is higher or lower than that which is assigned to the local HUD Office if it is needed to provide a capital advance amount that is comparable to what it typically costs to develop a Section 202 project in that area.

(2) If HUD finds that high construction costs in Alaska, Guam, the Virgin Islands, or Hawaii make it infeasible to construct dwellings, without sacrificing sound standards of construction, design, and livability, within the development cost limits provided in sections IV.E.3.a.(1) and IV.E.3.b.(1) above, the amount of the capital advances may be increased to compensate for such costs. The increase may not exceed the limits established under this section (including any high cost area adjustment) by more than 50 percent.

4. Commercial Facilities. A commercial facility for the benefit of the residents may be located and operated in the Section 202 project. However, the commercial facility cannot be funded with the use of Section 202 capital advance or PRAC funds. The maximum amount of space permitted for a commercial facility cannot exceed 10 percent of the total project floor space. An exception to this 10 percent limitation is if the project involves acquisition or rehabilitation and the additional space was incorporated in the existing structure at the time the proposal was submitted to HUD. Commercial facilities are considered public accommodations under Title III of the Americans with Disabilities Act of 1990 (ADA), and thus must comply with all the accessibility requirements of the ADA.

5. Expiration of Section 202 Funds. The Consolidated Appropriations Act, 2009 requires HUD to obligate all Section 202 funds appropriated for FY 2009 by September 30, 2012. Under 31 USC Section 1552(a), no funds can be disbursed from the account after September 30, 2017. The obligation of Section 202 of funds occurs for both capital advances and project rental

assistance upon execution of the agreement letter by the Assistant Secretary of Housing. If all funds are not disbursed by HUD and expended by the project Owner by September 30, 2017, the funds, even though obligated, will expire and no further disbursements can be made from this account. In submitting an application you need to carefully consider whether your proposed project can be completed through final capital advance closing and expenditure of PRAC funds no later than September 30, 2017. Furthermore, all unexpended balances, including any remaining balance on PRAC funds, will be cancelled as of October 1, 2017. Amounts needed to maintain PRAC payments for any remaining term on the affected contracts beyond that date will have to be funded from current appropriations, if available. Amounts needed to bring a project to completion will also be subjected to the availability of funds.

F. Other Submission Requirements:

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

2. Special Instructions for Section 202 Applications That Will Have More Than One Applicant, i.e., Co-Sponsors. The applicants must designate a single individual to act as the authorized representative for all co-Sponsors of the application. The designated authorized representative of the organization submitting the application must be registered with Grants.gov, the Federal Central Contractor Registry and with the credential provider for E-Authentication. Information on the Grants.gov registration process is found in Section IV.B. of the General

Section. When the application is submitted through Grants.gov, the name of the designated authorized representative will be inserted into the signature line of the application. Please note that the designated authorized representative must be able to make legally binding commitments for each co-Sponsor to the application.

Each co-Sponsor must complete the documents required of all co-sponsoring organizations to permit HUD to make a determination on the eligibility of the co-Sponsor(s) and the acceptability of the application based on the assistance and commitments the co-Sponsor(s) has pledged to the project. Each co-Sponsor must submit the following information using the scanning and/or faxing method described in Section IV. of the **General Section**: Standard Form-424, Application for Federal Assistance; Standard Form-424 Supplement, Survey on Ensuring Equal Opportunity for Applicants; Standard Form LLL, Disclosure of Lobbying Activities (if applicable); Form HUD-92015-CA, Section 202 Application for Capital Advance, Summary Information; Form HUD-92041, Sponsor's Conflict of Interest Resolution; and Form HUD-92042, Sponsor's Resolution for Commitment to Project. The forms identified above are discussed in the Program instructions package and can be downloaded from Grants.gov under the program application download at www.Grants.gov. The downloaded and completed forms should be saved as separate electronic files and attached to the electronic application submission following the requirements of Section IV.

As stated in the **General Section** as well as Section IV of this NOFA, scanning documents to create electronic files increases the size of the file. If your computer has the capacity to upload scanned documents, submit your documents with the application by using the Attachment Form in the Mandatory or Optional Forms section of the application. Such documents must be saved according to the instructions provided in the General Section and

attached using the “Attachment” form included in the application package downloaded from Grants.gov. Electronic files must be labeled and numbered according to the appropriate Exhibit in order for HUD reviewers to identify the file and its contents. If the applicant is creating an electronic file, the file should contain a header that identifies the name of the Sponsor submitting the electronic application, that Sponsor’s DUNS number, and the unique ID that is found at the top of the Facsimile Transmission form found in the electronic application package. The naming convention for each electronic file should correspond to the labeling convention used in the application Table of Contents found in Section IV.B.1. of this program NOFA and the General Section. For example, the organizational documents of a co-Sponsor would be included under Part II, Exhibit 2(a) of the Section 202 application. Please be sure that you eliminate any spaces or special characters such as parentheses or periods when naming the files or else they will be rejected by the grants.gov system with a virus detect message.

Third party letters, certifications requiring signatures, and other information required to be submitted with the electronic application may be scanned or transmitted via fax using Form HUD-96011, Facsimile Transmittal found in the downloaded application package. Applicants should only use the fax method when documents cannot be attached to the electronic application package or when the size of the submission is too large to upload from the applicant’s computer. Please note that the facsimile transmittal form, found in the downloaded application, contains an embedded ID number that is unique to your application submission. Make a copy of this facsimile transmittal cover page and provide that copy to the third party for use with the fax transmission. Co-Sponsors should use the form HUD-96011 provided by the Sponsor that is submitting the electronic application. The submitting Sponsor should fill in the SF-424 form prior to giving the Form HUD-96011 to the co-Sponsors. By following these directions, the

Form HUD-96011 will be pre-populated with the submitting Sponsor's organizational information exactly as the submitting Sponsor has provided it on the electronic application. In addition, HUD will be using the unique identifier associated to the downloaded application package as a means of matching the faxes submitted with the applications received via Grants.gov. The Facsimile Transmittal form also has space to provide the number of pages being faxed and information on the type of document. Co-Sponsors or the submitting applicant can insert the document name in the space labeled Program Component. **NOTE:** Do not insert any additional or other cover pages as it will cause problems in electronically matching the pieces of the application. See Section IV.B.3. of the **General Section** for further instructions.

If you are not faxing any documents: Even though you are not faxing any documents, you must still complete the facsimile transmittal form. In the section of the form titled "Name of Document Transmitting," enter the words "Nothing Faxed with this Application." Complete the remaining highlighted fields and enter the number "1" in the section of the form titled "How many pages (including cover) are being faxed?"

V. Application Review Information:

A. Criteria.

Policy Priorities. HUD encourages applicants to undertake specific activities that will assist the Department in implementing its policy priorities and which help the Department achieve its strategic goals for FY 2009. Refer to the **General Section** for information regarding HUD's Strategic Goals and Policy Priorities. For the Section 202 program, applicants who include work activities that specifically address the policy priorities of encouraging accessible design features by incorporating visitability standards and universal design, promoting energy

efficiency and undertaking green development in design, construction, rehabilitation, and operations, will receive additional points.

Rating Factors. HUD will rate applications that successfully complete technical processing using the Rating Factors set forth below and in accordance with the application requirements in this NOFA. The maximum number of points an application may receive under this program is 102. This includes two (2) RC/EZ/EC-II bonus points, as described in the **General Section** and Section V.A.6. below.

1. Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (25 Points)

This factor addresses the extent to which you have the organizational resources to successfully implement the proposed activities in a timely manner. Submit information responding to this factor in accordance with Application Requirements in Exhibits 3(a), 3(b), 3(e), 5 and 6 of Section IV.B. of this NOFA. In rating this factor, HUD will consider the extent to which your application demonstrates your ability to develop and operate the proposed housing on a long-term basis, considering the following:

a. (15 points). The scope, extent, and quality of your experience in providing housing or related services to those proposed to be served by the project and the scope of the proposed project (i.e., number of units, services, relocation costs, development, and operation) in relationship to your demonstrated development and management capacity as well as your financial management capability.

b. (10 points). The scope, extent and quality of your experience in providing housing or related services to minority persons or minority families and your ties to the community at large and to the minority and elderly communities in particular.

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

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

To earn the maximum number of points under sub-criterion (b)(1) above, you must describe significant previous experience in providing housing and/or supportive services to minorities generally and to minority elderly in particular. For the purpose of this competition, “significant previous experience” means that the previous housing assistance or related services to minorities (i.e., the percentage of minorities being provided housing or related services in your current developments) was equal to or greater than the percentage of minorities in the housing market area where the previous housing or services occurred. To earn the maximum number of points under sub-criterion (b)(2) above, you should submit materials that demonstrate your efforts to make housing available to the community at large and the minority and elderly communities in particular and your relationships over time with the minority and elderly communities. Examples of documents that may be submitted to earn the maximum number of points under sub-criterion (b)(2) include letters of support from community leaders (including minority community leaders) that give information about the applicant’s relationship over time with the community (including the minority community). You may also submit copies of your affirmative marketing plan and the advertising/outreach materials you utilize to attract minority communities (including limited English proficient communities), elderly communities, and the community at large. Regarding your advertising/outreach materials, you should identify when advertising/outreach materials are circulated, to whom they are circulated, where they are circulated and how they are circulated. Descriptions of other advertising/outreach efforts to the

minority (including limited English proficient communities) and elderly communities and the dates and places of such advertising/outreach efforts should also be included.

c. (-3 to -5 points). HUD will deduct (except if the delay was beyond your control) 3 points if a fund reservation you received under either the Section 202 Program of Supportive Housing for the Elderly or the Section 811 Program of Supportive Housing for Persons with Disabilities in FY 2004 or later has been extended beyond 24 months, 4 points if beyond 36 months, or 5 points if beyond 48 months. Examples of such delays beyond your control include, but are not limited to, initial closing delays that are: (1) directly attributable to HUD, (2) directly attributable to third party opposition, including litigation, and (3) due to a disaster, as declared by the President of the United States. NOTE: Percentage calculations will be rounded to the nearest whole number (e.g. 5.5 percent will be rounded to 6 percent and 5.4 percent will be rounded to 5 percent).

d. (-3 to -5 points). HUD will deduct from 3 points to 5 points if HUD amendment money was required in connection with a fund reservation you received under either the Section 202 Program of Supportive Housing for the Elderly or the Section 811 Program of Supportive Housing for Persons with Disabilities in FY 2004 or later based on the following.

(1) **(-3 points).** The amount of the amendment money required was **25 percent or less** of the original capital advance amount approved by HUD.

(2) **(-4 points).** The amount of the amendment money required was between **26 percent and 50 percent** of the original capital advance amount approved by HUD.

(3) **(-5 points).** The amount of the amendment money required was over **50 percent** of the original capital advance amount approved by HUD.

2. Rating Factor 2: Need/Extent of the Problem (13 Points)

This factor addresses the extent to which there is a need for funding the proposed activities to address a documented problem in the target area. Submit information responding to this factor in accordance with Application Requirements in Exhibits 4(a) and 4(b) of Section IV.B. of this NOFA. HUD will take into consideration the following in evaluating this factor:

The extent of the need for the project in the area based on a determination by the local HUD Office. In making this determination, HUD will consider your evidence of need in the area, as well as other economic, demographic, and housing market data available to the local HUD office. The data should include but is not limited to:

- a general assessment of the current conditions in the market for the type of housing proposed,
- an estimate of the demand for additional housing of the type proposed in the applicable housing market area,
- information on the numbers and types of existing comparable Federally assisted housing units for the elderly (HUD and RHS) and current occupancy in such housing and recent market experience,
- comparable assisted housing for the elderly under construction or for which fund reservations have been issued, and
- in accordance with an agreement between HUD and RHS, comments from RHS on the demand for additional comparable subsidized housing and the possible harm to existing projects in the same housing market areas.

The Department will also review more favorably those applications that establish a connection between the proposed project and the community's Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues and is

prepared by a local planning or similar organization. You must show how your proposed project will address an impediment to fair housing choice described in the AI or meet a need identified in the other type of planning document.

For all Section 202 projects that are determined to have sufficient demand, HUD will rate your application based on the ratio of the number of units in the proposed project to the estimate of unmet need for housing assistance by the income eligible elderly households with selected housing conditions. Unmet need is defined as the number of very low-income elderly one-person renter households age 75 and older with housing conditions problems, as of the 2000 Census, minus the number of project-based subsidized rental housing units (HUD, RHS, or LIHTC) that are affordable to very low-income elderly provided in the area since 1999. Units to be occupied by resident managers are not counted. After HUD determines the estimate of unmet need and whether a connection has been made between the project and community's Consolidated Plan, Analysis of Impediments to Fair Housing Choice, or other planning document, HUD will rate your application as follows:

- a. (10 points).** The area of the project has an unmet needs ratio of 15 percent or less; OR
 - (5 points).** The area of the project has an unmet needs ratio greater than 15 percent; OR
 - (0 points).** The area of the proposed project has no unmet needs for housing assistance.
- b. (3 points).** The extent that a connection has been established between the project and the community's Consolidated Plan, Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues and is prepared by a local planning or similar organization.

3. Rating Factor 3: Soundness of Approach (45 Points)

This factor addresses the quality and effectiveness of your proposal, including compliance with site and neighborhood standards, provision of supportive services, and the extent to which you involved elderly persons including elderly minority persons, in the development of the application and will involve them in the development and operation of the project, whether you will promote energy efficiency in the design, construction, rehabilitation, and operation of the proposed housing, and your plans to expand economic opportunities for low- and very low-income persons and eligible business concerns (Section 3 requirements).

There must be a clear relationship between your proposed design, proposed activities, the community's needs and purposes of the program funding for your application to receive points for this factor. Submit information responding to this factor in accordance with Application Requirements in Exhibits 3(e), 3(f), 3(g), 3(j), 4(c)(i), 4(c)(ii), 4(d)(iii), 4(d)(v), 4(d)(vi), and 5 of Section IV.B. of this NOFA. In evaluating this factor, HUD will consider the following:

a. (18 points). The proximity or accessibility of the site to shopping, medical facilities, transportation, places of worship, recreational facilities, places of employment, and other necessary services to the intended occupants; adequacy of utilities and streets; freedom of the site from adverse environmental conditions; compliance with site and neighborhood standards (24 CFR 891.125(a), (d) and (e)).

b. (9 points). The suitability of the site from the standpoint of promoting a greater choice of housing opportunities for minority elderly persons/families and affirmatively furthering fair housing. In reviewing this criterion, HUD will assess whether the site meets the site and neighborhood standards at 24 CFR 891.125(b) and (c) by examining relevant data in your application or in the local HUD Office. Where appropriate, HUD may visit the site.

(1) The site will be deemed acceptable if it increases housing choice and opportunity by expanding housing opportunities in non-minority neighborhoods (if located in such a neighborhood). The term “non-minority area” is defined as one in which the minority population is lower than 10 percent. If the site will be in a minority neighborhood, the site will be deemed acceptable if it contributes to the revitalization of and reinvestment in the minority neighborhood, including improvement of the level, quality and affordability of services furnished to minority elderly. You should refer to the Site and Neighborhood Standards provisions of the regulations governing the Section 202 Supportive Housing for the Elderly program (24 CFR 891.125(b) and (c)) when considering sites for your project.

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

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

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

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

c. (2 points). The extent to which your proposed design will meet the special physical needs of elderly persons.

- d. (2 points).** The extent to which the proposed size and unit mix of the housing will enable you to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion.
- e. (2 points).** The extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, initially and over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve.
- f. (3 points).** The extent to which the proposed supportive services meet the identified needs of the anticipated residents and that the identified supportive services will be provided on a consistent, long-term basis.
- g. (2 points).** The extent to which your project will implement practical solutions that will assist residents in achieving independent living, educational opportunities, and improved living environments. Practical solutions may include but are not limited to activities that will improve access to educational, employment, and health resources.
- h. (1 point).** The extent to which the proposed design incorporates visitability standards and/or universal design in the construction or rehabilitation of the project. Refer to the **General Section** for further information.
- i. (2 points).** Your involvement of elderly persons, particularly minority elderly persons, in the development of the application and your intent to involve elderly persons, particularly minority elderly persons, in the development and operation of the project.
- j. (2 points).** The extent to which you will promote energy efficiency and undertake green development in the design, construction, rehabilitation, and operation of the proposed housing. Refer to Section III.C.4. of this NOFA . **NOTE:** Although this is not a requirement, you will receive: one (1) point, if your application demonstrates that you intend to incorporate energy

efficiency measures in the design, construction, rehabilitation, and operation of your project and use Energy Star-labeled products; and one (1) additional point if your application demonstrates that you will undertake green development in the design, construction, rehabilitation, and operation of the proposed housing. The additional point for green development is available only to applicants that receive the first point for energy efficiency measures.

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

NOTE: To receive up to 2 points, the applicant must have adequately described in Exhibit 3(h) how they (or their contractors/developers) plan to employ low- and very low-income residents of the project area and award covered contracts/subcontracts to eligible business concerns. All successful applicants will be required to comply with Section 3 requirements whether they submitted this exhibit or not. Refer to the **General Section** (See Section III. C.4.c.).

(1) **(1 point).** Provide opportunities to train and employ low- and very low-income residents of the project area.

(2) **(1 point).** Award substantial contracts to persons residing in the project area.

l. (-1). The site(s) is not permissively zoned for the intended use.

4. Rating Factor 4: Leveraging Resources (5 Points)

This factor addresses your ability to secure other funding sources and community resources that can be combined with HUD's program resources to achieve program purposes. Submit information responding to this factor in accordance with Application Requirements in Exhibits 3(a), 3(b), 3(c), 3(d), 3(e), and 5(b) of Section IV.B. of this NOFA.

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

a. (0 point). The application contains general support and/or written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals **5 percent or less** of the capital advance amount as determined by HUD.

b. (1 point). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals between **6 percent and 10 percent** of the capital advance amount as determined by HUD.

c. (2 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals between **11 percent and 15 percent** of the capital advance amount as determined by HUD.

d. (3 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of

land, provision of services, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals between **16 percent and 20 percent** of the capital advance amount as determined by HUD.

e. (4 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals between **21 percent and 25 percent** of the capital advance amount as determined by HUD.

f. (5 points). The application contains written evidence of firm commitments towards the development and operation of the proposed project (including, financial assistance, donation of land, provision of services, etc.) from other funding sources (e.g., private, local community, and government sources) where the dollar value totals **over 25 percent** of the capital advance amount as determined by HUD.

5. Rating Factor 5: Achieving Results and Program Evaluation (12 Points)

This factor reflects HUD's goal to embrace high standards of ethics, management and accountability and, as such, emphasizes HUD's commitment to ensuring that you keep the promises made in your application. This factor requires that you develop clear outputs and outcomes that measure your performance during the development of your project. Information provided in Exhibit 8(i), Project Outcome Logic Model (HUD-96010), as well as the Assessment Matrix will be used when reviewing and scoring this factor. Form HUD-96010, Program Outcome Logic Model must be submitted in Excel format. Logic Models converted to any other format will receive zero points. This rating factor also addresses the extent to which your past performance demonstrates your ability to develop the project within a timely manner. Submit

information responding to this factor in accordance with Application Requirements in Exhibits 3(h), 6(b) and 8(i) of Section IV.B.

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

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

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

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

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

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

b. (2 points). The extent to which your past performance evidences that the proposed project will result in the timely development of the project. Evidence of your past performance could include the development of previous construction projects, including but not limited to Section 202 and Section 811 projects.

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

B. Reviews and Selection Process

1. Review for Curable Deficiencies. Upon receipt of the application by HUD staff, HUD will screen all applications to determine if there are any curable deficiencies. For applicants receiving a waiver to submit a paper application, submitting fewer than the required **original and four copies** of the application is not a curable deficiency and will cause your application to be considered non-responsive to the NOFA and returned to you. A curable deficiency is a missing Exhibit or portion of an Exhibit that will not affect the rating of the application. Refer to the **General Section** for additional information regarding procedures for corrections to deficient applications. The following is a list of the only deficiencies that will be considered curable in a Section 202 application:

CURABLE EXHIBIT	DESCRIPTION
1	Form 92015-CA (Application Form)*
2(a) (b) (c)	Articles of Incorporation* By-laws* IRS tax exemption ruling*

4(c)(iii)	Description of mixed-financing plans for additional units, if applicable
4(d)(i)(A)	Deed or long-term leasehold;
4(d)(i)(B)	Contract of sale;
4d(i)(C)	Option to purchase or for a long-term leasehold::
4d(i)(E)	Evidence that the public body possess clear title & binding agreement
4(d)(ii)	Evidence site is free of limitations, restrictions or reverters
4(d)(iv)	Evidence of compliance with URA site notification requirement
4(d)(vii)	Phase I ESA
4(d)(viii)	Asbestos Statement or Survey
4(d)(ix)	Letter to the State/Tribal Historic Preservation Officer (SHPO/THPO) and a statement that the SHPO/THPO failed to respond OR the Letter from the SHPO/THPO
7	Relocation
8(a)	Letter sent to the State Point of Contact (SPOC)*
(b)	Standard Form 424 Supplement, Survey on Ensuring Equal Opportunity for Applicants
(c)	Standard Form LLL, Disclosure of Lobbying Activities, if applicable
(d)	Form HUD-2880, Applicant/Recipient Disclosure/Update Report
(e)	Form HUD-2991, Certification of Consistency with Consolidated Plan
(f)	Form-HUD-92041, Sponsor's Conflict of Interest Resolution
(g)	Form HUD-92042, Sponsor's Resolution for Commitment to Project*
(k)	Form HUD-2994-A, You are Our Client! Grant Applicant Survey (optional)

The local HUD office will notify you in writing if your application is missing any of the above exhibits or portions of exhibits and will provide you with a specified deadline to submit the information required to cure the noted deficiencies. **The items identified by an asterisk (*) must be dated on or before the application submission date.** If an Exhibit or portion of an Exhibit listed above as curable is not discovered as missing until technical processing, HUD will provide you with a deadline to cure the deficiency.

2. Rating. HUD will review and rate your application in accordance with the Reviews and Selection Process in the **General Section** except as described in “3. Appeal Process” found below. Your application will be either rated or technically rejected at the end of technical review. If your application meets all program eligibility requirements after completion of technical review, it will be rated according to the rating factors in Section V.A. above.

3. Appeal Process. HUD will not reject your application based on technical review without notifying you of the rejection with all the reasons for rejection and providing you an opportunity to appeal. You will have 14 calendar days from the date of HUD's written notice to appeal a technical rejection to the local HUD office. In HUD's review of any appeal, it should be noted that in conformance with its regulations at 24 CFR part 4, subpart B, HUD will not consider any unsolicited information that you, the applicant, may want to provide. The local HUD office will make a determination on any appeals before making its selection recommendations.

4. Ranking and Selection Procedures. Applications submitted in response to the advertised metropolitan allocations or nonmetropolitan allocations that have a total base score of 75 points or more (without the addition of RC/EZ/EC-II bonus points) and meet all of the applicable threshold requirements of the **General Section** and this NOFA will be eligible for selection, and

HUD will place them in rank order per metropolitan or nonmetropolitan allocation. These applications, after adding any bonus points for RC/EZ/EC-II, will be selected based on rank order, up to and including the last application that can be funded out of each HUD Multifamily Program Center's metropolitan or nonmetropolitan allocation. HUD Multifamily Program Centers will **not** skip over any applications in order to select one based on the funds remaining. After making the initial selections in each allocation area, however, HUD Multifamily Program Centers may use remaining available funds to select the next highest rank-ordered application by reducing the number of units by no more than 10 percent, rounded to the nearest whole number, provided the reduction will not render the project infeasible. For this purpose, however, HUD will not reduce the number of units in projects of five units or less.

Once this process has been completed, HUD Multifamily Program Centers may combine their unused metropolitan and nonmetropolitan funds in order to select the next highest ranked application in either category, using the unit reduction policy described above, if necessary.

After the HUD Multifamily Program Centers have funded all possible projects based on the process above, combined metropolitan and nonmetropolitan residual funds from all HUD Multifamily Program Centers within each Multifamily Hub will be combined. First, these funds will be used to restore units to projects reduced by HUD Multifamily Program Centers based on the above instructions. Second, additional applications within each Multifamily Hub will be selected in Hub-wide rank order with only one application selected per HUD Multifamily Program Center. More than one application may be selected per HUD Multifamily Program Center if there are no approvable applications in other HUD Multifamily Program Centers within the Multifamily Hub. This process will continue until there are no more approvable applications within the Multifamily Hub that can be selected with the remaining funds. Applications may **not**

be skipped over to select one based on funds remaining. However, the Multifamily Hub may use any remaining residual funds to select the next highest rated application by reducing the number of units by no more than 10 percent rounded to the nearest whole number, provided the reduction will not render the project infeasible or result in the project being less than five units.

Funds remaining after the Multifamily Hub selection process is completed will be returned to Headquarters. HUD Headquarters will use these residual funds first to restore units to projects reduced by HUD Multifamily Program Centers or Multifamily Hubs as a result of the instructions for using their residual funds. Second, HUD Headquarters will use these funds for selecting applications based on HUD Multifamily Program Centers' rankings, beginning with the highest rated application nationwide. However, after restoring units to projects where necessary, priority will be given to those applications for projects in non-metropolitan areas, if necessary to meet the statutory requirement of Section 202 of the Housing Act of 1959 pertaining to Section 202 funding in nonmetropolitan areas. Only one application will be selected per HUD Multifamily Program Center from the national residual amount. If there are no approvable applications in other HUD Multifamily Program Centers, the process will begin again with the selection of the next highest rated application nationwide. This process will continue until all approvable applications are selected using the available remaining funds. HUD Headquarters may skip over a higher-rated application in order to use as much of the available remaining funds as possible.

5. Funding Error. In the event HUD commits an error that, when corrected, would have resulted in the selection of an otherwise eligible applicant during the funding round of this NOFA, HUD may select that applicant, subject to the availability of funds.

VI. Award Administration Information

A. Award Notices.

1. Agreement Letter. If you are selected to receive a Section 202 fund reservation, you will receive an Agreement Letter that stipulates the terms and conditions for the Section 202 fund reservation award as well as the submission requirements following the fund reservation award. The duration of the fund reservation award for the capital advance is 18 months from the date of issuance of the fund reservation.

Immediately upon your acceptance of the Agreement Letter, you are expected to begin work towards the submission of a Firm Commitment Application, which is the next application submission stage. You are required to submit a Firm Commitment Application to the local HUD office within 180 days from the date of the Agreement Letter. Initial closing of the capital advance and start of construction of the project are expected to be accomplished within the duration of the fund reservation award. Final closing of the capital advance is expected to occur no later than six months after completion of project construction.

2. Non-Selection Letter. If your application is approvable but unfunded due to insufficient funds or receives a rating that is below the minimum threshold score established for funding eligibility, you will receive a letter to this effect.

3. Debriefing. Refer to the **General Section** for further information regarding debriefings, except that the request for a debriefing must be made to the Director of Multifamily Housing in the appropriate local HUD office.

B. Administrative and National Policy Requirements:

1. Ensuring the Participation of Small Businesses, Small Disadvantaged Businesses, and Women-Owned Businesses. Although the Section 202 program is not subject to the provisions of 24 CFR 85.36(e) as described in the corresponding paragraph in the **General Section**, you are

required to comply with Executive Order 12432, Minority Business Enterprise Development and Executive Order 11625, Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise as they relate to the encouragement of HUD grantees to utilize minority business enterprises.

2. Acquisition and Relocation. You must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (49 CFR part 24, and 24 CFR 891.155(e)) (URA), which covers the acquisition of sites, with or without existing structures, and with 24 CFR 8.4(b)(5) of the Section 504 regulations which prohibits discrimination based on disability in determining the site or location of a federally-assisted facility. However, you are exempt from complying with the site acquisition requirements of the URA if you do not have the power of eminent domain and prior to entering into a contract of sale, option to purchase or any other method of obtaining site control, you inform the seller of the land in writing (1) that you do not have the power of eminent domain and, therefore, you will not acquire the property if negotiations fail to result in an amicable agreement, and (2) of the estimate of the fair market value of the property. An appraisal is not needed to meet this requirement; however, your files must include an explanation (with reasonable evidence) of the basis for the estimate. Evidence of compliance with this advance notice requirement must be included in Exhibit 4(d)(iv) of your application.

3. Flood Disaster Protection Act of 1973 and Coastal Barrier Resources Act. You must comply with the requirements under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128) and the Coastal Barrier Resources Act (16 U.S.C. 3501).

C. Reporting.

1. The Program Outcome Logic Model (Form HUD-96010) must be completed indicating the proposed measures against the proposed activities/output and proposed outcome(s) for the appropriate year. The proposed measures should be entered in the “Pre” column of the form. The Logic Model has been designed to clearly identify the stages of the development process and it must present a realistic annual projection of outputs and outcomes that demonstrates your full understanding of the development process. Using the “Year One” through “Year Three” tabs on the Logic Model, you must demonstrate your ability to ensure that the proposed measures will result in the timely development of your project. To provide for greater consistency in reporting, you must include all activities and outcomes excepted per year of the period of performance.

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

The Logic Model will capture information in two stages. Stage one will demonstrate your ability to develop the project within the required timeframe. This stage will capture data that relates to initial closing, construction, and final closing. Stage one will require the submission of a completed form HUD-96010, Logic Model on an annual basis, beginning with the date of the Agreement Letter and concluding with the date of Final Closing. At the time of the Project Planning Conference, HUD and the applicant will finalize the Logic Model. The finalized electronic copy of the Program Logic Model (form HUD-96010) must be sent to HUD after the Planning Conference. Do not convert the file to a PDF format, only the Microsoft Excel workbook format will be accepted. On an annual basis, applicants will report against the finalized Logic Model by documenting the achieved measures in the “Post” column. (**Note:** Applicants are not required to complete the YTD (year-to-date) column.) The final reporting requirement for the Logic Model will require that the applicant use the “Total” worksheet to fully document the activities and outcomes as well as the associated measures that have occurred

during the period of performance. In addition, a response to each of the program management evaluation questions is required at time of final report.

The second stage will require the Owner to submit a completed form HUD-96010, Logic Model on an annual basis, beginning one year after the date of the final Logic Model submission that was required in stage one and concluding at the conclusion of the mortgage. Stage two will require the Owner to document the services/activities that are made available to tenants and the expected outcomes and measures of such services. If the sponsor receives policy priority points for Energy Star and Green Development, during the second stage, the project owner will be required to use the HUD-PIH Benchmarking Tool at

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

2. The Regulatory Agreement (Form HUD-92466-CA) requires the Owner of the Section 202 project to submit an annual financial statement for the project. This financial statement must be audited by an Independent Public Accountant who is a Certified Public Accountant or other person accepted by HUD and filed electronically with HUD's Real Estate Assessment Center (REAC) through the Financial Assessment Subsystem for Multifamily Housing (MF-FASS). The submission of annual financial statements is required throughout the 40-year term of the mortgage.

3. Racial and Ethnic Data: HUD requires that funded recipients collect racial and ethnic beneficiary data. It has adopted the Office of Management and Budget's Standards for the Collection of Racial and Ethnic Data. In view of these requirements, you should use form HUD-

27061, Race and Ethnic Data Reporting Form (instructions for its use) found on www.HUDclips.org.

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

VII. Agency Contact(s)

For Technical Assistance. For technical assistance in downloading an application package from www.Grants.gov, contact the Grants.gov help desk at 1-800-518-Grants or by sending an email to support@grants.gov. For programmatic information, you may contact the appropriate local HUD office, or Alicia Anderson at HUD Headquarters at 202-708-3000 (this is not a toll-free number), or access the Internet at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>. Persons with hearing and speech impairments may access the above number via TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

VIII. Other Information

A. Field Office Workshop. HUD encourages minority organizations and grassroots organizations (e.g. civic organizations, faith-communities and grassroots faith-based and other community-based organizations) to participate in this program and strongly recommends that prospective applicants attend the local HUD office workshop. At the workshops, HUD will explain application procedures and requirements, as well as address concerns such as local market conditions, building codes and accessibility requirements, contamination identification

and remediation, historic preservation, floodplain management, other environmental requirements, displacement and relocation, zoning, and housing costs. If you are interested in attending the workshop, make sure that your name, address and telephone number are on the appropriate local HUD office's mailing list so that you will be informed of the date, time and place of the workshop. Persons with disabilities should call the appropriate local HUD Office to assure that any necessary arrangements can be made to enable their attendance and participation in the workshop.

If you cannot attend the workshop, call the appropriate local HUD office if you have any questions concerning the submission of applications to that particular office and to request any materials distributed at the workshop.

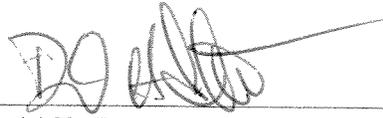
B. Satellite Broadcast. HUD will hold an information broadcast via satellite for potential applicants to learn more about the program and preparation of the application. It is strongly recommended that potential applicants, especially those who may be applying for Section 202 funding for the first time, tune in to this broadcast, if at all possible. Copies of the broadcast tapes are also available from the NOFA Information Center. For more information about the date and time of the broadcast, you should consult the HUD website at <http://www.hud.gov/offices/adm/grants/fundsavail.cfm>.

C. Related Programs. Funding for a related program, Section 202 Demonstration Pre-Development Grant Program, is available to provide predevelopment grants to private nonprofit organizations and consumer cooperatives in connection with the development of housing under the Section 202 program. The announcement of the availability of funding under this program will be addressed in a separate NOFA.

D. Paperwork Reduction Act. The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2502-0267. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. Public reporting burden for the collection of information is estimated to average 37.42 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing, and reporting the data for the application. The information will be used for grantee selection and monitoring the administration of funds. Response to this request for information is required in order to receive the benefits derived.

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

Dated: AUG 20 2009

A handwritten signature in black ink, appearing to read 'D. Stevens', written over a horizontal line.

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

[FR-5300-N-21]