

ESA must include the following: (i) An asbestos report that identifies the location and condition of any asbestos and (ii) a certification that any asbestos identified in the asbestos report that is in friable condition will be abated, that any non-friable asbestos that has been identified in the asbestos report and that will be affected by the demolition/rehabilitation will be abated, and that any asbestos to be abated have been included within the project costs.

(b) For a project that does not involve demolition and/or rehabilitation of structures built before 1978, the Phase I ESA must include a certification to the same.

If the Phase I ESA indicates the possible presence of contamination and/or hazards, 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.

Note: If the property is to be acquired from the FDIC, include a copy of the FDIC prepared Transaction Screen Checklist or Phase I ESA, and applicable documentation, per the FDIC Environmental Guidelines.

(3) *Phase II ESA.* 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 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 the application to be considered for review under this FY 2003 funding competition, you must submit this information to the local HUD Office on or before July 14, 2003.

Note: This could be an expensive undertaking. You must pay for the cost of any clean-up and/or remediation.

(S) *Delinquent Federal Debt.* See Section V of the General Section of this SuperNOFA.

(T). *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 and other community space cannot exceed 10 percent of the total project cost. 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.

(U) *False Statements.* See section V of the General Section of this SuperNOFA.

(V) *Expiration of Section 202 Funds.* The FY 2003 Consolidated Appropriations require HUD to obligate all Section 202 funds appropriated for FY 2003 by September 30, 2006. Under 31 U.S.C. Section 1551, no funds can be disbursed from the account after September 30, 2011. Under Section 202, obligation of funds occurs for both capital advances and project rental assistance upon fund reservation and acceptance. If all funds are not disbursed by HUD and expended by the project Owner by September 30, 2011, 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 no later than September 30, 2011. Furthermore, all unexpended balances, including any remaining balance on PRAC contracts, will be cancelled as of October 1, 2011. Amounts needed to maintain PRAC payments for any remaining term on the affected contracts beyond that date will have to be funded from other current appropriations.

V. Application Selection Process

(A) *Review for Curable Deficiencies.* You should ensure that your application is complete and that you have an original and four copies before submitting it to the appropriate HUD Office. HUD will screen all applications received by the deadline for curable deficiencies. A curable deficiency is a missing Exhibit or portion of an Exhibit that will not affect the rating of the application. The following is a list of the deficiencies that will be considered curable in a Section 202 application:

Exhibits (See Appendix A of the Section 811 Program Section of the SuperNOFA)

- (1) Form 92015-CA (Application Form)*
- (2) (a) Articles of Incorporation*
- (b) By-laws*
- (c) IRS tax exemption ruling*
- (4) (c)(ii) Energy efficiency
- (d)(i) Evidence of site control
- (d)(ii) Evidence site is free of

- limitations, restrictions or reverts
- (d)(vi) Phase I Environmental Site Assessment
- (d)(vii) Letter from State Historic Preservation Officer (SHPO)
- (7) Relocation
- (8) (a) Form HUD 424, Application for Federal Assistance
- (b) Standard Form LLL, Disclosure of Lobbying Activities, if applicable
- (c) Form HUD-424B, Applicant Assurances and Certifications
- (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*
- (i) Form HUD-2530, Previous Participation Certification.

The HUD Office will notify you in writing if your application is missing any of the above exhibits or portions of exhibits and you will be given 14 days from the date of the HUD notification to submit the information required to cure the noted deficiencies. The items identified by an asterisk (*) must be dated on or before the application deadline date.

(B) *Rating.* HUD will review and rate your application in accordance with the Application Selection Process in the General Section of this SuperNOFA with the following exception. HUD will not reject your application based on technical review without notifying you of that 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 HUD Office.

Your application will be either rated or technically rejected at the end of technical review. If your application meets all program eligibility requirements after completion of technical review, including HUD approval of you, the section 202 applicant, based on HUD's evaluation of the applicant's previous participation activities as reported on Form HUD-2530, Previous Participation Certification, it will be rated according to the rating factors in Section V(D) below. The HUD Office will make a determination on any appeals before making its selection recommendations.

If an Exhibit or portion of an Exhibit listed above as curable is not discovered as a missing item until technical processing, HUD will provide you with 14 calendar days in which to cure the deficiency.