

BILLING CODE 4210-32-C

III. Program Description; Eligible Applicants; Eligible Activities

(A) *Program Description.* HUD provides capital advances and contracts for project rental assistance in accordance with 24 CFR part 891. Capital advances may be used to construct, rehabilitate, or acquire structures (including structures from the Federal Deposit Insurance Corporation (FDIC)), to be developed into a variety of housing options described in section III(C) below. Capital advance funds bear no interest and are based on development cost limits in section IV(E) below. Repayment of the capital advance is not required as long as the housing remains available for at least 40 years for occupancy by very low-income persons with disabilities. 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.

(B) *Eligible Applicants.* Nonprofit organizations with a section 501(c)(3) tax exemption from the Internal Revenue Service and who meet the threshold requirements contained in Section V of the General Section of the SuperNOFA are the only eligible applicants for this program. See section IV(B) regarding limits on the total number of units and projects that an applicant may request.

(C) *Eligible Activities.* Section 811 capital advance funds must be used to finance the development of housing through new construction, rehabilitation, or acquisition with or without rehabilitation. Capital advance funds may also be used in combination with other non-Section 811 funding sources to develop additional units for a mixed-finance project. 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). The types of housing that can be developed with Section 811 capital advance funds include independent living projects, dwelling units in multifamily housing developments, condominium and cooperative housing and small group homes.

Note: For purposes of approving Section 811 capital advances, HUD will consider a proposal involving mixed-financing for additional units if you have legal control of an approvable site and the additional units do not cause the project, as a whole, to exceed the project size limits if the additional units will also house persons with disabilities. However, you must obtain funds to assist the additional units with other than

PRAC funds. HUD will not provide PRAC funds for non-Section 811 units.

(D) *Ineligible Activities.* Section 811 funds may not be used for any of the following:

- (1) Nursing homes, infirmaries and medical facilities;
- (2) Transitional housing;
- (3) Manufactured housing;
- (4) Intermediate care facilities;
- (5) Community centers, with or without special components for use by persons with disabilities;
- (6) Sheltered workshops and centers for persons with disabilities;
- (7) Headquarters for organizations for persons with disabilities; and
- (8) Refinancing of Sponsor-owned facilities without rehabilitation.

Note: You may propose to rehabilitate an existing currently-owned or leased structure that may or may not already serve persons with disabilities, 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 811 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, section 202/8 or section 202/PAC direct loan projects cannot be refinanced with capital advances and project rental assistance.)

IV. Program Requirements

By signing Form HUD-92016-CA, Application for a Section 811 Capital Advance, you are certifying that you will comply with the program requirements listed in the General Section of this SuperNOFA as well as the following requirements:

(A) *Statutory and Regulatory Requirements.* In addition to the statutory, regulatory, threshold and public policy requirements listed in Section V of the General Section of this SuperNOFA, you must comply with all statutory and regulatory requirements listed in Sections III, IV and IX of this program section of the SuperNOFA.

(B) *Application Unit/Project Limits.* A Sponsor or Co-Sponsor may not apply for more than 70 units of housing or 4 projects (whichever is less) for persons with disabilities in a single Hub. In addition, a Sponsor or Co-Sponsor may not apply for more units in a given HUD Office than allocated for the section 811 program in that HUD Office, or for more than 10 percent of the total units allocated in all HUD Offices. If the proposed project will be an independent living project, your application must request at least five units, not necessarily in one structure. If your proposed project will be a group home,

you must request at least two units per group home. If your proposed project will be a combination of an independent living project and a group home, your application must request at least the minimum number of units for each project type (*i.e.*, 5 units for an independent living project and 2 units for a group home). Affiliated entities that submit separate applications are considered a single entity for the purpose of these limits.

(C) *Project Size Limits.* (1) *Independent living project.* The minimum number of units that can be applied for in one application is five. All of the units are not required to be in one structure and they may be on scattered sites. The maximum number of persons with disabilities that can be housed in an independent living project is 14 plus one additional one or two bedroom unit for a resident manager, if necessary. However, if the proposed independent living project will be located on the same site or on an adjacent site containing existing housing for persons with disabilities, the total persons with disabilities housed in both the existing and the proposed project cannot exceed 14.

(2) If you are submitting an application for an independent living project with site control, you may request an exception to the above project size limit by providing the information required in Exhibit 4(d)(ix) in Appendix A of this program section of the SuperNOFA.

(3) *Group home.* The minimum number of persons with disabilities that can reside in a group home is two, and the maximum number is six. An additional one-bedroom unit can be provided for a resident manager. Only one person per bedroom is allowed, unless two residents choose to share one bedroom or a resident determines he/she needs another person to share his/her bedroom.

(D) *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) *Development Cost Limits.* (1) The following development cost limits, adjusted by locality as described in Section IV(E)(2) below, must be used to