

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: (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 required to meet this requirement, however, your files must include an explanation, with reasonable evidence of the basis for the estimate.

(N) *Formation of Owner Corporation.* You must form an "Owner" in accordance with 24 CFR 891.305 after issuance of the capital advance; cause the Owner to file a request for determination of eligibility and a request for capital advance, and provide sufficient resources to the Owner to ensure the development and long-term operation of the project, including capitalizing the Owner at firm commitment processing in an amount sufficient to meet its obligations in connection with the project.

(O) *Supportive Services.* You are required to include a Supportive Services Plan and a certification from the appropriate state or local agency that the provision of services identified in your Supportive Services Plan is well designed to address the individual health, mental health and other needs of persons with disabilities who will live in your proposed project. Exhibit 5 in Appendix A of this program section of the SuperNOFA, below, outlines the information that must be in the Supportive Services Plan. You must submit one copy of your Supportive Services Plan to the appropriate state or local agency well in advance of the application submission deadline date for the state or local agency to review your Supportive Services Plan and complete the Supportive Services Certification and return it to you so that you can include it in the application you submit to HUD.

(1) HUD will reject your application if the supportive services certification:

(a) Is not submitted with your application *and* is not submitted to HUD within the 14-day cure period; or
(b) Indicates that the provision of supportive services is not well designed to address the individual health, mental health and other needs of persons with disabilities who will live in your project; or

(c) Indicates that the provision of supportive services will not enhance independent living success or promote the dignity of the persons with disabilities who will live in your proposed project.

(2) In addition, if the agency completing the certification will be a major funding or referral source for your proposed project or be responsible for licensing the project, HUD will reject your application if either the agency's supportive services certification indicates—or, where the agency fails to complete item 3 or 4 of the certification, HUD determines that:

(a) You failed to demonstrate that supportive services will be available on a consistent long-term basis; and/or

(b) The proposed housing is not consistent with state or local agency plans/policies addressing the housing needs of people with disabilities.

Any prospective resident of a Section 811 project who believes he/she needs supportive services must be given the choice to be responsible for acquiring his/her own services or to take part in your Supportive Services Plan which must be designed to meet the individual needs of each resident.

You must not require residents to accept any supportive services as a condition of occupancy or admission.

(P) *Davis-Bacon.* You must comply with the Davis-Bacon Requirements and the Contract Work Hours and Safety Standards Act.

(Q) *Flood Disaster Protection Act of 1973 and Coastal Barriers 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. 3601).

(R) *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 and 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).

(S) *Sites.* (1) *Site Control or Site Identification.* In your application, you must provide either:

(a) *Evidence of Site Control*—If you have control of a site at the time you submit your application, you must include evidence of such as described in Exhibit 4(d)(i) in Appendix A of this program section of the SuperNOFA relative to site control.

or

(b) *Site Identification*—If you do not have site control of one or more of your sites, you must provide the information required in Exhibit 4(d)(x) in Appendix A of this program section of the SuperNOFA under "site identified" for any site not under control as a reasonable assurance that site control will be obtained within six months of fund reservation notification.

(2) *Phase I Environmental Site Assessment (ESA)*—If you have control of the site(s) at the time you submit your application, you must submit a Phase I ESA, in accordance with the American Society for Testing and Material (ASTM) Standards E 1527–97, as amended, completed or updated no earlier than six months prior to the application deadline date, in order for the application to be considered as an application with site control. The Phase I ESA must be completed and submitted with the application. The Phase I study is not a curable deficiency for the Section 811 Program. Therefore, it is important that you start the Phase I ESA process as soon after publication of this SuperNOFA as possible. Documents providing guidance in choosing an environmentally safe site, entitled "Choosing An Environmentally Safe Site" and the "Supplemental Guidance Environmental Information", are available on HUD's Web site at www.hud.gov.

(a) For a project that will involve demolition and/or rehabilitation of a structure(s) built before 1978, the Phase I 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/rehabilitation of a structure(s) built before 1978, the Phase I 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.