

(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 your application to be considered as an application with site control 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.

(4) If your application contains evidence of site control where either the evidence or the site is not approvable, your application will *not* be rejected provided you indicate in your application that you are willing to seek an alternate site and provide an assurance that site control will be obtained within six months of fund reservation notification.

(T) *Lead-Based Paint*. You must comply with the requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and implementing regulations at 24 CFR part 35.

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

(V) *Commercial Facilities*. A commercial facility for the benefit of the residents may be located and operated in the Section 811 project. However, the commercial facility cannot be funded with the use of Section 811 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.

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

(X) *Expiration of Section 811 Funds*. The FY 2003 Consolidated Appropriations requires HUD to obligate all Section 811 funds appropriated for FY 2003 by September 30, 2006. Under 31 U.S.C. 1551, no funds can be disbursed from this account after September 30, 2011. Under Section 811, 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 to determine if there are any curable deficiencies. A curable deficiency is a missing Exhibit or portion of an Exhibit that will not affect the rating of your application. The following is a list of the only deficiencies that will be considered curable in a Section 811 application:

Exhibits

- (1) Form 92016–CA (Application Form)*
- (2) (a) Articles of Incorporation*
- (b) By-laws*
- (c) IRS tax exemption ruling*
- (4) (c)(ii) Energy efficiency
- (d)(vii) Letter from the State Historic Preservation Officer (SHPO)
- (d)(viii) Seek alternate site
- (5) Supportive Services Plan
- (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

(j) Form HUD–92043, Supportive Services Certification

The HUD Office will notify you in writing if your application is missing any of the above exhibits or portions of exhibits and will give you 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 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 HUD Office.

Your application(s) 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 811 applicant, based on HUD's evaluation of your previous participation activities as reported on Form HUD–2530, Previous Participation Certification, your application 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 missing until technical processing, HUD will provide you with 14 calendar days in which to cure the deficiency.

(C) *Ranking and Selection Procedures*. Applications that have a total base score of 75 points or more (without the addition of RC/EC/EZ bonus points) and meet all of the applicable threshold requirements of Section V(B) of the General Section of the SuperNOFA will be eligible for selection and will be placed in rank order. HUD will select applications, after adding any bonus points for RC/EC/EZ, based on rank order, up to and including the last application that can be funded out of each HUD Program Center Office's allocation. HUD Program Center Offices will not skip over any applications in order to select one based on the funds