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## For the first time since 2010, HUD issues NOFA for Section 202 funds

By Deborah VanAmerongen and Kathie Soroka

On April 4, HUD issued a [Notice of Funding Availability](#) (“NOFA”) for Section 202 funds. This is the first time since 2010 that HUD has made money available for the development of new Section 202 housing. Applications are due by August 28, 2019.

### Background

The Section 202 program provides affordable housing for seniors (ages 62 and older) who are very low-income (50% of AMI or below) through a Capital Advance loan and a Project Rental Assistance Contract (“PRAC”). The Capital Advance loan can be used for acquisition, new construction or rehabilitation of senior housing. It may not be used to finance nursing homes. The loan is made at 0% interest and repayment is not required if the project maintains program compliance for 40 years. The PRAC provides operating subsidy through one-year subsidy contracts that are renewed annually.

The FY 2017 Consolidated Appropriations Act made a total of \$110 million available for new Section 202 development. This NOFA makes \$50 million available. HUD intends to issue a second NOFA in 2020 for the remaining funds. The minimum award under this NOFA will be \$50,000; the maximum will be \$5 million. HUD anticipates awarding funding to approximately 30 projects.

### NOFA terms

The NOFA emphasizes speed, leveraging funding and aging in place.

*Speed.* Applications are due August 28 and HUD expects to make awards approximately 90 days later. Projects are expected to close no later than 18 months after award and HUD reserves the right to withdraw awards from sponsors who fail to meet that deadline. Readiness is one evaluation criterion, with points awarded for having zoning approvals and financing commitments in hand. HUD also will deduct points from applicants who had delays in the development of previous Section 202 projects and/or required amendment funds to get to closing.

*Leveraging.* Given the limited amount of Capital Advance funds available and the ceiling on the maximum amount awarded to a project, HUD recognizes that the Capital Advance awards themselves are likely to be insufficient to finance new development. The NOFA emphasizes the need to leverage the Capital Advance and PRAC assistance. Applications are scored on the degree to which the applicant proposes leveraging the Capital Advance, with more points awarded for proposals with a higher ratio of additional sources to Capital Advance dollars. This scoring criterion counts for 15 of 100 points. If necessary, HUD will subordinate the Capital Advance loan documents to other funding sources to facilitate leveraging, except for the Section 202 Use Agreement, which must be recorded in first position.

*Aging in Place.* The NOFA encourages an approach that allows seniors to live independently longer and age in place. In the NOFA, HUD states that affordable housing for seniors with appropriate supportive services may let seniors live independently longer, allowing those for whom only a low level of assistance is needed to avoid the intensive and expensive level of care offered by nursing homes and assisted living facilities. In terms of scoring, projects are evaluated on their ability to support aging in place through several rating factors, including soundness of approach, physical design and supportive services. Previous NOFAs have not evaluated physical design in terms of aging in place principles.

Applications will be evaluated by a “Section 202 Capital Advance Team” in HUD Headquarters. This is a change from the past, when available Section 202 monies were allocated to each Multifamily Hub office and each office would evaluate applications received from sponsors in their region. All applications will be uploaded electronically to Grants.gov. Subject to receiving applications that attain a minimum acceptable score, HUD intends to award at least 15% of funds to non-metropolitan areas and at least 10% to each of the five Multifamily regions.

## **Application Requirements**

Eligible applicants must be 501(c)(3) nonprofit corporations. HUD will allow project owners to be limited partnerships or limited liability companies, if controlled by a nonprofit and created to leverage Section 202 monies with other capital sources in a mixed-finance transaction, in accordance with 24 CFR 981, sub-part F.

Other application requirements include:

- Site control;
- Phase I environmental report (and subsequent reports, such as Phase II, if needed);
- Capital needs assessment, if rehabilitation of an existing building is proposed; and
- Minority Concentration Analysis for Site and Neighborhoods Standards review.

For site control, applicants are allowed to enter into contracts for sale or options to purchase, but such agreements must be subject to cancellation if the project fails environmental review. HUD will conduct the environmental review for successful applicants pursuant to Part 50 requirements.

Additional applicable requirements for awarded projects include:

- Davis-Bacon wage requirements
- Uniform Relocation Act (URA)
- Energy efficiency

- Broadband internet service

Projects also must be consistent with their jurisdiction's Consolidated Plan.

## **Timeline**

- Applications due August 28, 2019
- Awards expected November 30, 2019
- Closing six–18 months after awards

HUD is hosting a [webinar](#) about this on April 25, at 2 p.m. Eastern.

This Section 202 NOFA offers a valuable opportunity for existing project owners and new partners to develop much-needed affordable housing for low-income elderly residents. Nixon Peabody's [affordable housing team](#) is one of the largest in the country, and we offer unparalleled knowledge in this field. Our experience, coupled with the key strategic relationships we continue to forge, gives our clients a special advantage as we bring parties together.

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