

## CHAPTER 3. APPLICATION PROCESSING

## SECTION I - RECEIPT OF APPLICATIONS

- 3-1. LOGGING. All applications for Section 811 Fund Reservations submitted shall be routed to Processing Control and Reports (PC&R) to be dated and time-stamped immediately upon receipt. Applications received after the deadline date will not be accepted and will be returned to the Sponsor. Likewise, applications postmarked, but not received, by the deadline date will not be accepted. Applications submitted by facsimile are not acceptable.
- 3-2. PROJECT NUMBERING. PC&R shall number all applications as follows:
- A. Section 811 project numbers will be eight characters: standard three digit office code; letters "HD"; and, three digit sequential number assigned to each application received by the individual office beginning in FY 1991. For example, the first application received in an individual office would be assigned 001 for the three digit sequential number. As appropriate, the following suffix letters are to be appended to project numbers:
1. NP---Nonprofit.
  2. WPD--Wholly for persons with physical disabilities.
  3. WDD--Wholly for persons with developmental disabilities.
  4. CMI--Wholly for persons with chronic mental illness.
- B. PRAC numbers will be assigned using the standard State, alpha and numerical codes, the letter "Q", the fiscal year and invitation number, followed by the number in numerical order. EXAMPLE: SC16-Q911-001

- 3-3. SECTION 811 LOG. All applications must be reported under the Multifamily Information Processing System (MIPS) and the Management Information System (MIS) within the time period specified in the Housing Notice for each fiscal year's program.
- A. Field Offices must complete:

1. MIS Form HUD-52491.2
2. Appropriate screens on the MIPS.

B. Reporting Schedule

Field Offices must input all information by the date specified in the annual Housing Notice. Regional Directors of Housing are responsible for monitoring to assure that this schedule is met.

The National Section 811 Log will be made available to all Field Offices through the computer PRINTLIST. This should be used to determine (1) the financial capacity of an organization submitting multiple proposals and (2) if an organization has applied for more than the allowable number of units in any Region. See Paragraph 1-8 above.

C. Information which must be reported:

Column	Element
1	DATE Received - Processing Status Date (SAMA Application)
2	811 Project - Project Number
3	PRAC NCR - Project Rental Assistance Contract Number
4	CD - Congressional District  Must be project location. If project is on scattered sites, choose one locality.
5	SPONSOR NAME - Sponsor Official Name

- (3-3)                    There are 36 spaces to this element. If the name is lengthy and will not fit in the allotted space, it should be abbreviated to provide good identification of the Sponsor entity. See Appendix 15 for a list of standard abbreviations.
- |   |  |
|---|--|
| 6 | ADDRESS - Sponsor Street/Post Office Box<br>Sponsor City<br>Sponsor State<br>Sponsor 9-Digit Zip |
| 7 | ADDRESS - Project Street/Post Office Box<br>Project City   |

Project State  
Project 9-Digit Zip

Follow directions shown under 4 above.

- 8 MIN - Minority Designation Code
- A Minority Sponsor is one in which more than 50% of the Board members are minority. The Codes are:
- 2 - Black
  - 3 - Native American
  - 4 - Hispanic
  - 5 - Asian Pacific
  - 6 - Asian Indian
  - 7 - Hasidic Jewish
- 9 TOTAL - Total Units (C105)  
Include revenue and non-revenue
- 10 PROD METH - Production Method Code (If proposal is combination of the methods below, code based on predominant construction method.)
- 1 - New Construction
  - 2 - Rehabilitation
  - 9 - Acquisition
- 11 M (metro) - SMSA Code

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- (3-3) 12 NM (nonmetro) - SMSA Code
- 13 AMOUNT REQUESTED - Capital Advance Amount
- 14 APPLCTN 106(b) AMOUNT - 106(b) Seed Money  
Loan Amount Requested

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SECTION II - PRELIMINARY EVALUATION

3-4. ASSIGNING APPLICATIONS. PC&R will assign a copy of each application concurrently to:

- Mortgage Credit (MC)
- Architectural, Engineering & Cost (A&E)
- Valuation (VAL)

- Fair Housing & Equal Opportunity (FH&EO)
- Multifamily Housing Representative (MHR)
- Counsel
- Economic and Market Analysis (EMAS)

The preliminary evaluation is to determine if:

- A. Required exhibits or forms are missing or if any exhibits are incomplete, and
- B. Whether the proposal meets all the initial threshold requirements described in 3-5B.

3-5. PRELIMINARY EVALUATION REVIEW CHECKLIST.

- A. The Checklists provided in Appendix 16, shall be used by all technical staffs to check applications for completeness and to document their findings with respect to compliance with the threshold requirements listed below. Each technical staff representative is responsible for evaluating the appropriate portion of the application as indicated on the checklists, and forwarding findings to PC&R within 14 calendar days of receipt.
- B. Initial Threshold Requirements. The application must meet the following initial threshold requirements (with technical discipline identified who is responsible for review) in order to be eligible for technical processing:
  - 1. The application was received by the appropriate Field Office by the deadline date, and was complete or was missing no more than one complete exhibit (excluding exhibits which are certifications) (MHR, MC, VAL, A&E, Counsel, EMAS, FHEO);

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- (3-5) 2. The Sponsor acceptably corrected deficiencies (including furnishing missing certifications) within 14 calendar days from the date of the notification of deficiency letter described in C.2. below. (MHR);
- 3. The Sponsor, proposed facilities and proposed occupants are eligible under Section 811 (MHR);
- 4. The Sponsor has experience in developing and/or operating housing, medical or other facilities and/or providing services to persons with disabilities, families or minority groups (MHR);

NOTE: The experience of board members will not be considered in lieu of corporate experience.

5. There is reasonable expectation that the Sponsor can meet the Minimum Capital Investment requirement and start-up expenses (MC);

NOTE: Funds from a Section 106(b) loan, if requested, may be counted in determining whether the Sponsor can meet the start-up expenses but not the minimum capital investment.

6. Application contains evidence of site control or the appropriate identification of a site (MHR);
7. Sponsor is in compliance with civil rights laws and regulations as follows (FH&EO):

- a. There are no pending civil rights suits against the Sponsor instituted by the Department of Justice;
- b. There are no outstanding findings of noncompliance with civil rights statutes, Executive Orders or regulations as a result of formal administrative proceedings, or where the Secretary has issued a charge under the Fair Housing Act, unless the Sponsor is operating under a compliance agreement designed to correct the areas of noncompliance;

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- (3-5) c. There has not been a deferral of the processing of applications from the Sponsor imposed by HUD under Title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3), and the HUD Title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040-1) or under Section 504 of the Rehabilitation Act of 1973 and the HUD Section 504 Regulation (24 CFR 8.57).
8. Even without a site visit, it is reasonable to expect the proposed site meets site and neighborhood standards, including minority and disabled concentration considerations, and is not in a floodway (VAL, FH&EO);
9. There is sufficient market demand for the number and type of units proposed based on preliminary

review (EMAS);

NOTE: An application passing this threshold may still be rejected for insufficient market demand during technical, processing based on a more detailed review.

10. The application included a supportive services plan meeting the requirements of Section 890.265 (b) of the regulations (MHR); and,
11. The application was responsive to the Field Office Invitation (i.e., did not request more units than advertised for the Region) (MHR).

C. When Checklists are completed, the MHR will prepare for signature of Director, Housing Development Division (HDD):

1. Acknowledgement letters (format in Appendix 17) to all Sponsors whose applications are acceptable for technical processing.
2. Deficiency letters (format in Appendix 17) which:
  - a. Give the Sponsors 14 calendar days from the date of the letter to provide missing information;

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(3-5) b. Discuss inconsistencies in the application;

NOTE: A deficiency letter is to be sent by certified mail and is not intended to provide Sponsor with an opportunity to correct or amend its original application.

3. Rejection letters (format in Appendix 18) if an application did not meet any of the initial threshold requirements listed above.

NOTE: A Field Office is authorized to issue rejection letters without prior authorization from the Regional Office or Headquarters.

NO APPLICATION IS TO BE PLACED IN TECHNICAL PROCESSING WHICH DOES NOT COMPLY WITH ALL THRESHOLD REQUIREMENTS.

3-6. REPORTING TO HEADQUARTERS AT THE CONCLUSION OF PRELIMINARY EVALUATION. At the conclusion of preliminary evaluation,

the following must be sent to Headquarters:

- A. A copy of the log indicating the status of each application (eligible for technical processing or preliminary evaluation rejection);
- B. Copies of all rejection letters; and
- C. Exhibits 18, 19, 20 and Form HUD-92013 of the following applications approvable for technical processing:
  - 1. Applications requesting restricted occupancy (See paragraph 1-5F).
  - 2. Applications requesting mixed occupancy (a mix of two or more of the three major disability categories defined in paragraph 1-5B).
  - 3. Applications proposing a group home to be licensed as an intermediate care facility.

Headquarters will review the information and provide the Field Office with the results of its review in a timely fashion.

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3-7. REJECTION APPEALS.

- A. Sponsor - must submit written appeal to FO;
- B. Field Offices must:
  - 1. Notify Sponsor of decision; and
  - 2. Submit immediately to Headquarters:
    - a. Original basis for rejecting;
    - b. Sponsor's appeal;
    - c. FO decision and justification; and
    - d. FO notification letter to Sponsor.

3-8. INTERGOVERNMENTAL REVIEW REQUIREMENTS.

- A. The requirements of Executive Order 12372 apply to all Section 811 projects.
- B. HUD must complete the process in 24 CFR Part 52, Intergovernmental Review Regulations.
- C. No application may be recommended to Headquarters for approval until the 60-day comment period has ended.
- D. If favorable comments are received and the project is

rejected during technical processing, the "non-accommodation" procedures described below will apply.

- E. If there are adverse comments on applications on either the selection or "approvable but unfunded" lists (and favorable comments on applications on the "approvable but unfunded" list) submitted to Headquarters:
1. Field and Regional Offices must state "adverse or favorable comments received" in the "Comments" section of the appropriate list and attach a copy of the comments.
  2. Such applications will not be funded unless Headquarters notifies the State Point of Contact (SPOC) of the non-accommodation prior to the announcement of fund reservation selections.

3-9. NOTIFICATION TO BEGIN TECHNICAL PROCESSING. PC&R shall notify the staffs listed in Paragraph 3-10 below to begin technical processing of all acceptable applications.

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SECTION III - GENERAL TECHNICAL PROCESSING INSTRUCTIONS

3-10. TECHNICAL REVIEW SHEETS. The appropriate portion of Appendix 19 must be completed by:

- A&E
- EMAS
- FH&EO
- HM
- MC
- VAL
- MHR
- CPD (when property is to be (or has recently been) acquired or the property is (or has recently been) occupied)

See Paragraph 3-16 through 3-49 for discussion of technical disciplines, review responsibilities.

3-11. CLARIFICATION. If a reviewer finds that clarification is needed to complete the review, he/she shall immediately advise the MHR who will:

- A. Request the information from the Sponsor by telephone, and
- B. Follow up by letter. Communications must be attached to the technical review sheet.

3-12. TIMELINESS OF REVIEW. Technical reviews shall be completed



within 15 working days. PC&R shall maintain records concerning the status of all reviews and assure that reviews are completed on time. The HDD shall be advised immediately if problems develop which would prevent timely completion of reviews.

3-13.LEGAL QUESTIONS. Reviewing offices shall refer to the Field Office Counsel any questions requiring further legal determination. Any comments or determinations shall be recorded on the Preliminary Evaluation Review Checklist or on a separate sheet attached thereto.

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3-14.TECHNICAL REJECTIONS. If a reviewer determines that an application should be rejected, he/she shall immediately notify the MHR, who shall notify the Sponsor of all the bases for technical rejection. The letter (Appendix ) shall be sent by certified mail and state that the Sponsor has 14 calendar days (unless modified for a particular fiscal year) from the date of the letter to appeal the decision.

If a timely appeal is received, the Field Office shall make a final determination within 5 working days from receipt of the appeal. The applicant shall be so notified and a copy of the notification shall be mailed to the Housing for Elderly and Handicapped People Division in Headquarters. If the appeal is successful, technical processing shall be completed and the application shall be forwarded to the rating panel.

3-15.PREPARATION OF TECHNICAL REVIEW SHEETS. After each technical discipline completes its analysis, a Technical Review Sheet for each application shall be completed and forwarded to the PC&R.

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#### SECTION IV - MORTGAGE CREDIT REVIEW

3-16.GENERAL POLICY. This review will be completed in accordance with HUD Handbook 4470.1, except as modified herein. The Sponsor will be reviewed for evidence of financial capacity and history, stability, and prior experience in the provision of housing and/or services to the client group.

3-17.REVIEW FACTORS will include the following:

A. Eligibility determination of Sponsor.

- B. Credit investigation.
- C. Contacting HM and other HUD Field Offices in whose jurisdiction the Sponsor or its principals are doing or have done business to obtain reports of their experiences.
- D. Financial analysis for the purpose of determining Sponsor's:
  - 1. Financial history and capacity to carry the project through to completion and successful rent-up and operation.
  - 2. Ability to provide the minimum capital investment, and
  - 3. Ability to meet start-up expenses.
- E. Evaluation of the housing consultant, if identified.

3-18. ELIGIBILITY DETERMINATION. To determine if a Sponsor is qualified to initiate, complete, and operate a project, MC shall review exhibits in the application to assure that all of the following criteria are satisfied.

- A. Exhibit 1 - Form HUD-92013, Exhibit 2 - Consultant's Identity of Interest and Disclosure Certification and Exhibit 4 - Sponsor's Conflict of Interest Resolution to determine that:
  - The Sponsor is acting on its own behalf and is not, either knowingly or unwittingly, under the influence, control or direction of any outside

- (3-18) party seeking to derive a profit or gain from the proposed project, such as a land owner, real estate broker, contractor, architect, attorney or consultant.
- B. Exhibit 5 - Evidence of local Community Base and Reputation, Exhibit 6 - Form HUD-92530, Exhibit 8 - Description of all Rental Housing Projects and other Facilities, Exhibit 7 - Financial Defaults or Legal Actions Against Sponsor, Exhibit 9 - Programs or Services Provided by Sponsor and Exhibit 6 - List of Sponsor's Section 811 Projects to determine that:
  - The Sponsor has continuity and evidence of a serious, long-term history of providing housing or services for the client group. Its community involvement is favorable in terms of reliability,

service, and commitment to persons with disabilities, and minority persons and it is likely to be in existence as a viable organization throughout the life of the project.

- The Sponsor is reliable based on its reputation and past performance. HUD will consider the Sponsor's previous experience, including the success and extent of such experience and the type of service furnished (financial, volunteer work, management, etc.) in providing housing or supportive services.

C. Exhibit 10 - Sponsor and Parent Organization's (if applicable) Resolutions of Support for the Project (Appendix 21) to determine that:

- The Sponsor acknowledges its responsibilities, by unanimous or majority resolution of its board. If a local Sponsor is backed by a national, State, or regional organization, a similar resolution or an affirmation of support must be provided by that organization.

3-19.CREDIT INVESTIGATION. MC shall conduct a credit investigation which includes ordering factual data and/or commercial credit reports to determine basic acceptability of the Sponsor's credit reputation and previous experience.

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- A. Credit checks are to be conducted on the:
  - 1. Sponsor entity,
  - 2. Officers of the Sponsor, and
  - 3. Officers of the Owner (when formed) if different than those with the Sponsoring entity.
- B. To reduce program administrative cost, NC may delay ordering credit reports until after applications are selected for funding. If credit reports are not ordered at this times
  - 1. The notification of selection letter must be conditioned upon receiving a satisfactory credit report.
  - 2. Credit reports must be requested prior to the Conditional Commitment stage.

3-20.ANALYSIS OF FINANCIAL DATA.

A. Financial statement analyses are to determine Sponsor's:

1. Financial history and capacity to carry the project through completion, successful rent-up and operation. MC shall analyze the financial statements to establish trends in:
  - a. Current assets and liabilities;
  - b. Working capital;
  - c. Fixed assets;
  - d. Long-term liabilities;
  - e. Net income; and
  - f. Current ratios (current assets divided by current liabilities)

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These determinations shall be recorded on a financial statement analysis worksheet. (See Paragraph 3-22 below.)

2. Ability to Provide the minimum capital investment of one half of one percent of the capital advance or \$10,000 (whichever is less) to be escrowed at the initial closing. MC shall determine whether the Sponsor's working capital and/or liquid assets are sufficient to produce the required minimum capital investment. Sponsors may not use borrowed funds or letters of credit to satisfy this requirement.
  - a. MC shall consider that the Sponsor will recover funds expended for eligible start-up expenses at the initial closing and these funds would be available to cover all or a portion of the minimum capital investment.
  - b. Section 106(b) funds, if requested, cannot be used to satisfy the minimum capital investment requirement.
  - c. A donation of all or a portion of the land draw available to the Sponsor at initial closing can be used to meet the minimum capital investment.
  - d. Funds to meet the minimum capital investment

cannot be borrowed, except in an agreement between the Sponsor and Owner. In the event the Sponsor specifies that these funds are to be returned, the agreement must provide for recovery only of the unused portion.

3. Ability to meet start-up expenses.
  - a. If the Sponsor plans to use a Section 106(b) loan to meet a portion of the start-up expenses, it must evidence its capability to provide the required 20 percent share.
  - b. If the Sponsor indicates very limited start-up expenses and states that the architect, attorney, and/or consultant have agreed to

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- (3-20) defer the payment for their services until the initial closing, the Sponsor must submit documentation from those parties in the form of:
- (1) Contracts, or
  - (2) Letters of Agreement
- c. Sponsors may obtain funds to cover start-up expenses from persons or firms in no way connected with the project provided that the indebtedness will not create a situation where the person or firm can exercise any control over the Sponsor or Owner (when formed).

B. Section 106(b) applications.

1. If the Sponsor has applied for a Section 106(b) loan, MC shall indicate on Page 5 of its Technical Review Sheet whether the Sponsor, in the absence of Section 106(b) funds, could meet the start-up expenses out Of its own financial resources.
2. MC will complete processing of Form HUD-92290 (Block 8) for all approvable applications and insert the Section 106(b) application number in Block 4. The Field Office Manager will indicate approval in Block 11. The Field Office also will flag any application which must have the Section 106(b) loan to meet the start-up expenses by placing an asterisk on the upper right hand corner of the Form HUD-92290.

3-21.MULTIPLE APPLICATIONS.

- A. When an organization, including affiliated entities, submits multiple applications, MC must:
1. Evaluate the Sponsor's financial capacity to provide the minimum capital investment and meet the start-up expenses for each application.

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(3-21) EXAMPLE: If a Sponsor has submitted two applications--one to the Greensboro Office and the other to the Chicago Regional Office--and each requests a capital advance amount of \$1,500,000, MC in each Office shall assume that both projects will be funded.

Therefore, to satisfy this requirement, MC must determine that the Sponsor could provide \$15,000 - \$7,500 for each project.

2. Ascertain whether a group, as a Sponsor or Co-sponsor has submitted applications to other Field Offices in response to the current Section 811 Invitation by reviewing the statement(s) submitted in response to Exhibit 3 of each Application.
- B. Each Field Office will be able to produce a MIDLIS listing of all Section 811 applications received including one in alphabetical order by Sponsor's name. MC will use the MIDLIS listing to verify all applications submitted by the Sponsor.

3-22.RESULTS OF THE ANALYSES OF THE FINANCIAL STATEMENTS shall be recorded using the format in Appendix 8, considering the following:

- A. The entities are nonprofit and, therefore, may not have as strong a financial position as a profit-motivated entity and should not be expected to reflect a significant profit.

EXAMPLE: A current ratio of 1 to 1 for a nonprofit group may be considered good.

- B. If the financial statements reflect "goodwill" as an asset, it and other intangible assets (such as patent and trademarks) may not be used to satisfy cash requirements an a project.
- C. Depreciation may be reflected on the balance sheets and/or the income and expense statements, but as it may have a significant detrimental effect on the net worth

or income, it is important to consider this in analyzing the financial statements.

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- D. The Sponsor must have sufficient working capital or must have escrowed funds to meet the minimum capital investment, start-up expenses and any other funds committed to the project(s).
- E. Project size must be related to the capability of the Sponsor. It would be unreasonable to expect a small group with limited financial capacity to assume the responsibility for a large project.
- F. Real estate equity encumbered by high ratio of loan-to-value mortgages and unlisted stocks will not be considered a source of funds.
- G. The financial statements of many large nonprofit organizations reflect various funds, such as general fund, building fund, etc. In such cases, MC must note inter-fund receivables and payables which cancel each other out. If any funds are restricted, MC may not consider those funds in the analysis.

3-23.HUD REVIEW OF THE CONSULTANT.

- A. Mortgage Credit (MC) shall:
  - 1. Review the proposed contract, utilizing Form HUD-92531A(EH), Guide Form for Housing Consultant Services, and the Addendum (Appendix 13) to determine if the contract contains clauses or provisions which violate Section 811 regulations, and the requirements of the Housing Consultant's Identity of Interest and Disclosure Certification (Appendix 4).
  - 2. Determine whether conflict of interest or identity of interest situations exist.
  - 3. Review the consultant's qualifications contained in Exhibit 2 of the application.
  - 4. Determine if services proposed are sufficient to permit development, completion and successful operation of the project, and the proposed fee is in accordance with services provided.

- (3-23) 5. Determine if the proposed fee to be paid from the Section 811 capital advance is within allowable limits set forth in the fee schedule in subparagraph B. below and is related to the services to be provided.

B. Maximum Fees Allowable

1. Base Fees

	FEE
a. Capital Advance up to \$1,500,000	\$20,000
from \$1,500,000 to \$3,500,000	\$20,000 plus 1% of excess over \$1,500,000
over \$3,500,000	\$40,000
b. Review of the Proposed Fee. MC compares services specified in the Contract with those listed in Form HUD-92531A-EH. If services proposed are less than the full range allowed, MC must reduce proposed fees per the following schedule of maximum percentages.	

Service to be Performed by the Housing Consultant	Percentage of Total Fee Earned
Initial meeting with non-profit Sponsor and formation nonprofit corporation	6%
Selection of Development Team	4%
Preparation and submission of Fund Reservation Application	8%
Preparation and submission of the Conditional Commitment Application	22%
Preparation and submission of the Firm Commitment Application	12%
Initial Closing	8%

- (3-23) Construction Period - site visits,  
preparation of construction draws,



preparation of and advice regarding  
change orders and any application(s)  
for an increase in the capital advance 15%

Cost Certification 7%

Final Closing 9%

Rent-Up 9%

(1) EXAMPLE: Assume a maximum capital advance amount of \$1,800,000. The maximum allowable consultant fee would be \$23,000. If the consultant's contract includes all services except construction related activities, the maximum allowable would be reduced by 15%, accordingly, the upset price would be \$19,550.

(2) If a processing stage is by-passed, the percentage attributable to the by-passed phase will be added to the next phase.

2. Incentive Payments

a. Consultants may receive additional payments of up to \$10,000, depending upon the capital advance amount, as an incentive for bringing the project to a prompt initial closing, construction start, completion of an acceptable cost certification and final closing. The incentive payment schedule is as follows:

Capital Advance	Incentive Payment Schedule
Up to \$1,500,000	\$5,000
From \$1,500,000 to \$3,500,000	\$5,000 plus 1/4 of 1% (.25%) of excess over \$1,500,000
Over \$3,500,000	\$10,000

(3-23) b. The factors for approving incentive payments and the method for calculating such payments are described as follows:

Services Performed	Percentage of
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the total fee the consultant would be entitled to receive:

Actions Completed Within Time Frames	%	Base Fee Amount*	%	Incentive Payment Amount	Total
Conditional Application--Up to	40%	\$ 8,000	10%	\$ 500	\$ 8,500
Firm Application--Up to	52%	\$10,400	20%	\$1,000	\$11,400
Initial Closing/ Start of Construction--Up to	60%	\$12,000	50%	\$2,500	\$14,500
Construction Period and Cost Certification--Up to	82%	\$16,400	75%	\$3,750	\$20,150
Rent-Up and Final Closing-----Up to	100%	\$20,000	100%	\$5,000	\$25,000

\*NOTE: Refer to subparagraph B.1. above for the percentage breakdown related to the consultant's base fee.

4. Upset Price -- Contract Amount

- (a) The Addendum in Appendix 14 which provides for the incentive payment shall be made a part of the consultant's contract (Form HUD-92531A-(EH)).
- (b) The maximum allowable incentive payment plus the base fee cannot exceed \$50,000.
- (c) If any time frames are missed or for any service not provided by the consultant under

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(3-23) the contract, the consultant will not be entitled to receive the portion of the incentive payment related to that service.

- (d) The initial capital advance amount shall include the maximum possible consultant fee (base fee plus incentive payment amount).

C. A qualified consultant also may, subject to the Field Office Manager's approval, be retained to act as management agent for the same project. See Paragraph 3-36 of this Handbook.

NOTE: If the consultant is approved to act as the management agent for a project that will have supplemental management fees included in processing, the Supplemental Management fund must be reduced by \$25 per unit as the consultant will not be entitled to collect the full fee for this item.

- D. If staff of the Sponsor/Owner will be providing services normally performed by a consultant, no consultant fees for such services may be allowed.
- E. A credit investigation of the consultant is not required.
- F. Approval or Disapproval of Consultant's Contract. MC shall prepare language for inclusion in the Notification Letter to approved Sponsors, which:
  - 1. Approves the contract as proposed;
  - 2. Approves the contract contingent on certain modifications being made; or
  - 3. Disapproves the contract.

NOTE: Disapproval does not signify rejection of the project. The Sponsor must either select another consultant acceptable to HUD, or proceed without one.

- G. Payment of the Consultant's Fee. Payment of the fee is approved by MCE using the following schedule:

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  - 1. Up to 60 percent of base fee plus 50 percent of incentive payment at initial closing.
  - 2. Up to 75 percent of base fee (an additional 15 percent) during the construction period.
  - 3. Up to 82 percent of base fee (an additional 7 percent) plus 75 percent of incentive payment (an additional 25 percent) at cost certification.
  - 4. The base fee balance of 18 percent plus incentive payment balance of 25 percent at final closing.

SECTION V. VALUATION REVIEW

3-24.GENERAL. Valuation analyses are to be completed in accordance with HUD Handbook 4465.1, except as modified herein. The value of the site fully improved will not be established until the Conditional Commitment Stage.

3-25.REVIEW FACTORS. Valuation processing will include the following for applications which contain satisfactory evidence of site control:

- A. Inspection of the site(s) and surrounding neighborhood(s) to determine acceptability of the location(s) for housing for persons with disabilities and compliance with the Site and Neighborhood Standards set forth in applicable regulations.
- B. Initiation of environmental clearance.
- C. Marketability determination.
- D. Acceptability of zoning for proposed construction. It is permissible under the applicable zoning ordinances, or will be, based on actions proposed to make the construction permissible.
- E. Acceptability of Evidence of Site Control. Sponsor has title to or has submitted other acceptable evidence of site control (see subparagraph 1-9.H).
- F. Exceptions to project size limits. If the project will exceed the project size limits in Section 890.215, whether the project is compatible with other residential development and the population of the locality, and whether the project can be integrated into the community.

3-26.LOCATION CRITERIA. As site location can greatly influence the success or failure of such specialized housing, following are criteria for site selection:

- A. Remote or isolated locations are not acceptable.
  - 1. Residents must have ready access to employment opportunities, religious institutions, hospitals

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- (3-26) or clinics, recreational facilities and other community services, and public transportation (if available).
  - 2. Shopping facilities for day-to-day necessities (such as groceries and drugs) should be within

walking distance (no more than approximately six blocks).

3. Convenience of location for others such as project employees, some of whom may require public transportation.
4. Steep and uneven topography must be avoided or design must ameliorate any site deficiencies in order for site to be accessible.
5. The site must be located in areas where other family housing is located, i.e., if the project is a group home it should be located among and resemble other single family residences; if it is an independent living facility it should be located among other apartment buildings and have similar characteristics so as not to be labeled as housing for persons with disabilities.
6. The project must not be located adjacent to or in areas where the following facilities are concentrated: (a) other housing serving primarily elderly persons or persons with disabilities (e.g., two group homes may not be located on the same site nor may a group home be located on a site adjacent to another group home) (b) schools or day care centers for persons with disabilities, (c) sheltered workshops, (d) medical facilities.

- B. These site criteria represent the ideal situation. However, proximity to all facilities may not always be possible. These criteria are not intended to rule out housing in rural areas or any metropolitan area which is rural in character. Other factors, such as the Sponsor's willingness, capacity, and plan to provide needed services to compensate for the lack of any such facilities in rural areas, also will be considered.

3-27.LOCATION ANALYSIS. The appraiser's analysis of the site shall consider the following:

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- A. Size, exposure and contour must accommodate the number and type of units proposed. Adequate utilities (water, sewer, gas and electricity) and streets must be available to serve the site.
- B. Must have no adverse natural or manmade environmental conditions, such as:
  - soil instability

- flooding
- septic tank back-ups
- sewage hazards
- mudslides
- harmful air pollution, smoke or dust
- excessive noise, vibration, or vehicular traffic
- rodent or vermin infestation
- fire hazards

The neighborhood must not have predomination of undesirable elements (such as substandard dwellings), unless there is an active concerted remedial program.

C. Must have access to:

- social
- recreational
- commercial
- health facilities and services
- other municipal facilities and services (equivalent to those typically found in neighborhoods consisting largely of unsubsidized, standard housing).

D. Travel time and public or private transportation costs from the neighborhood to places of employment.

E. Flooding. All project sites must be reviewed for compliance with the Flood Disaster Protection Act of 1973, Executive Order 11988 Floodplain Management and HUD requirements. Federal Emergency Management Agency (FEMA) issued maps, Special Flood Hazard Area Flood Hazard Boundary Map (FHBM), Flood Boundary and Floodway Map (FBFM), Flood Insurance Rate Map (FIRM) and Flood Insurance Study shall be used to determine if a site is a floodplain.

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1. No project may be approved that is located in a coastal high hazard area, velocity zone (V, VE or VI-30) or in a floodway identified on FEMA maps or a Flood Insurance Study.
  2. For technically acceptable applications whose sites are located in the 100 year floodplain, the Field Office shall initiate and cover the cost of the Water Resources Council (WRC) Guidelines 8-Step procedures (24 CFR 50-49b)0. If the first six steps are not completed prior to Regional Office submission to Headquarters, the application cannot be recommended for funding.
  3. Applications for either acquisition and/or rehabilitation are subject to the same

requirements and analysis (including consideration of alternatives) of the WRC Guidelines, 8-Step procedures, as applications for proposed/new construction. (24 CFR 50.20)

4. Documentation of completion of the first six steps of the WRC procedures shall be attached to the Appraiser's environmental record (HUD 4128 or 4128.1) and submitted with the Valuation Branch Technical Review Sheet.
5. For projects that are funded, the Field Office will complete the last two steps of the 8-Step procedure and insert the following conditions in the notification of approval letter:
  - a. The elevation of the lowest finished floor (including basements) must be at or above the base flood elevation (100 year floodplain);
  - b. The project must be protected by flood insurance; and
  - c. Prior to approval for occupancy a Letter of Map Amendment or Letter of Map Revision (whichever is applicable) must be secured from FEMA, thereby removing the requirement for the project to continue maintaining flood insurance.

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- F. Wetlands. All projects involving new construction must be reviewed for compliance with the requirements of Executive Order 11990, Wetland Protection. For technically acceptable applications with projects affecting wetlands, the Field Office must initiate and cover the cost of the WRC 8-Step procedures (discussed above for flooding). If the first six steps are not completed and the Field Office doesn't make a finding that:
  1. There is no practicable alternative to such construction, and
  2. The project includes all practicable measures to minimize harm to wetlands which may result from such construction.

3-28. ENVIRONMENTAL REVIEW shall be conducted in accordance with HUD Regulations in 24 CFR Parts 50 and 51, Handbook 1390.2, Environmental Assessment Guide for Housing Projects and Handbook 1390.4, a Guide for HUD Environmental Criteria and



Standards contained in 24 CFR Part 51. All applications with site control accepted for technical processing require either an environmental assessment (HUD Form 4128) or Compliance Finding (HUD 4128.1) completed, and attached to the Valuation Branch Technical Review Sheet.

3-29.MARKETABILITY. Although there is not a rent comparability test, a Section 811 project must not be approved which would not be marketable without PRAC assistance because of the relative undesirability of its location.

Any waiver requests which the Field Office recommends for approval should be submitted to Headquarters at least two weeks prior to convening the Field or Regional Office Rating panel.

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SECTION VI. FAIR HOUSING AND EQUAL OPPORTUNITY REVIEW

3-30.GENERAL. Fair Housing and Equal Opportunity (FH&EO) staff shall be responsible for reviewing Section 811 applications to determine whether:

- A. The Sponsor is in compliance with civil rights laws and requirements.
- B. The Sponsor has prior experience in providing housing or related services to minorities and in awarding contracts to minority and women-owned business enterprises.
- C. The proposed project site is in compliance with the Department's Site and Neighborhood Standards (24 CFR 890.230). The site will also be rated based upon its suitability from the standpoint of promoting a greater choice of housing opportunities for minority disabled persons/households.
- D. The proposed project will address a low participation rate and identified need for housing of disabled minority persons or families.
- E. The Sponsor's relocation advisory procedures promote a greater choice of housing opportunities for minority persons/households.

3-31.REVIEW FACTORS. FH&EO's review of Section 811 applications during technical processing consists of the following review factors:

- A. Site and Neighborhood Standards.
  - 1. The site and neighborhood shall be suitable from

the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063, and HUD's implementing regulations at 24 CFR Parts 1, 100, and 107, respectively.

2. If the application proposes new construction, the site shall not be located in an area of minority concentration (except as described in paragraph 3. below), and must not be located in a racially

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(3-31) mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

3. A project may be located in an area of minority concentration only if:
  - a. sufficient, comparable opportunities exist for housing for minority disabled families, in the income range to be served by the proposed project, outside areas of minority concentration, or
  - b. the project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in that housing market area.
    - (1) A determination of overriding need may be made if:
      - (i) The site is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood; or
      - (ii) The site is located in a neighborhood experiencing significant private investment which is demonstrably changing the economic character of the area (a "revitalizing area").
    - (2) However, an overriding need may not serve as the basis for determining that a site is acceptable if:
      - (i) The use of this standard in recent years has had the effect of circumventing the

Department's obligation to provide housing choice; or

- (ii) Discrimination on the basis of race, color, creed, sex, or national origin renders sites outside areas of minority concentration unavailable.

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- B. Sponsor's prior experience in housing and/or serving minorities. FH&EO reviews this area with a focus on whether the housing or related services examples include: housing counseling, nutrition and food services, special housing referral, screening and information projects) are directed toward disabled, very low income minority persons or families.
  - 1. The FH&EO review includes a consideration of:
    - a. The variety of services and facilities provided;
    - b. The number of persons, by race and ethnicity, served by the activities; and, if available,
    - c. Information from residents in the community regarding the quality of the activities.
  - 2. Where the Sponsor has done business previously with HUD, FH&EO shall review HUD Form-2530 for past HUD experience in housing minorities.
- C. Suitability of the site. FH&EO reviews the acceptability of the site from the standpoint of promoting a greater choice of housing opportunities for minority disabled persons/households.
- D. Opportunities for MBE/WBE, as follows:
  - 1. The type of activities the Sponsor has taken to assure MBE/WBE participation;
  - 2. The types of services which have been purchased or awarded by contract;
  - 3. Minority and/or women-owned businesses utilized by the Sponsor; and
  - 4. The dollar amount paid to each firm.
- E. Review of the housing needs of disabled minority

persons or families. FH&EO staff analyzes the

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(3-31) participation rate of disabled minority applicants in the Section 811 program within the jurisdiction (housing market area) of the proposed housing. Where there is an identified need for housing for persons with disabilities in the minority community, FH&EO compares that information with data in Exhibit 20 to determine whether the application will address that need.

F. Relocation and Displacement - If relocation is indicated, FH&EO staff shall review Exhibit 17 to determine whether the required information is acceptable and whether the Sponsor's relocation advisory procedures promote a greater choice of housing opportunities for minority disabled persons/households.

3-32. REVIEW OF THE AFFIRMATIVE FAIR HOUSING MARKETING PLAN (AFHMP). If HUD Form 935.2 is submitted with the application for a Section 811 fund reservation, FH&EO does not need to review it at this time since an application that contains the AFHMP may not be one of the applications selected for funding. If FH&EO does not review the AFHMP or, if it is reviewed but does not meet AFHMP requirements, HUD shall note such on the Notification of Selection for a Section 811 Fund Reservation and state that the AFHMP is subject to approval prior to issuance of a Conditional Commitment. (NOTE: If FH&EO reviews the AFHMP, the application is not rejected if it does not meet AFHMP requirements.)

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#### SECTION VII. HOUSING MANAGEMENT

3-33. GENERAL. Applications shall be evaluated to determine if the Sponsor's management capabilities and previous experience (including management agents, if identified) are acceptable.

3-34. REVIEW FACTORS. The following review factors correspond to those found on the Standard Rating Criteria Form (Appendix 25) for which HM is responsible.

A. The scope, extent and quality of the Sponsor's experience in providing housing or supportive services to the proposed disabled population.

1. Housing/Service Experience. While experience in both areas is not necessary for a good rating, the continuity, quality and scope of the Sponsor's experience should be reflected in the score.

If the Sponsor has housing experience, consider:

- o type of experience (i.e., development, management, consulting);
- o number and types of projects;
- o number of units per project;
- o types of persons served;
- o vacancy rates.

In making a determination as to the Sponsor's capacity, the housing, medical or other facility must be viable at the present time, with the experience related to the number of units being requested. For example, 30 units operated successfully in relation to a 20-unit request would indicate strength in this area while a Sponsor with 300 units having vacancies and financial difficulties would be a weakness. Additional indicators for an acceptable determination are low turnover and few, if any, vacancies.

(3-34) If the Sponsor has experience in providing supportive services, consider the following:

- o type of experience (direct provision, coordination, referral);
- o types of services and clientele served;
- o stability of funding sources.

In making a determination as to the Sponsor's capacity, there should be a direct relationship between the Sponsor's experience and what it is proposing in the application, both in terms of the services to be provided and the disabled population to be served.

Examine the length of experience and the number of clients served. Length of experience should be reflected in the score, with longer experience given a higher score. The number of people served

is an important indicator of the Sponsor's effectiveness as well as experience. Serving too many poorly or too few to achieve an efficient use of resources should be reflected in a lower score.

2. Review of Form HUD-2530. If Form HUD-2530 reveals the Sponsor has done business previously with HUD, HM shall review and summarize its experience with the Sponsor as described below, or obtain such information from the appropriate Field Office(s). HM shall forward its comments to Mortgage Credit to incorporate into its evaluation of the Sponsor.
  - a. Quality of management compliance with the regulatory agreement. If the Sponsor's performance is deficient, reduce the score accordingly.
  - b. Sponsor's performance: responsiveness to HUD requirements, diligent efforts to achieve construction start, completed final closing in timely manner. If the Sponsor's performance has not been satisfactory, reduce the score accordingly.

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- c. Experience with the Sponsor, if self-management or a nonprofit identity-of-interest management firm is proposed. If experience is unsatisfactory, reduce the score.
  4. If the Sponsor proposes to contract with a management agent and the identity of the agent is known, evaluate its experience, if any, with the management agent. The score should be reduced if the experience is unsatisfactory.
  5. Analyze information furnished in response to Part 2 of the application indicates that the required management and maintenance services will be provided.
- B. Extent of local community support for the Sponsor and its activities, including experience in providing housing and/or supportive services in area where the project is to be located, and the Sponsor's demonstrated ability to enlist volunteers and local funds for its efforts.

Consider the following:

1. Sponsor's ability to elicit community support,

provide services through volunteer programs, or obtain services through community service agencies, etc., the extent of its activities, period of involvement, and the size of the client group.

2. Whether the Sponsor has served the area where the project is to be located, the length of its experience, the type of experience and its ability to obtain support from this community (e.g., donations, successful fund drives, a wide variety of service activities in the community).
  3. Letters of support for the project from the local community.
- C. Extent to which size, plus unit mix in an independent living facility, will enable Sponsor to manage and operate the project to ensure that supportive services will be provided economically.

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(3-34) Consider the following:

1. Based on experience, does design lend itself to use by the intended residents - common areas, bath-shower facilities, kitchen area, etc.?
  2. Based on experience, would minor modification(s) generate better use of space?
  3. Based on experience, does the geographical area have a need for the proposed unit size(s)?
- D. Services will be provided on a consistent, long-term basis (strength of funding sources).

Examine the following:

1. The funding source(s) identified for the services to determine their stability. State funds subject to future appropriations actions are acceptable. Private donations as the only source of funding would not be acceptable unless there is a firm long-term commitment.
2. Evidence of letters of intent indicating a commitment to provide funding for the services. If there are no letters, the application will be rejected unless the Sponsor is the sole service provider.
3. The service provider(s) and their experience in

and capability of providing supportive services.

E. Quality of the services implementation plan.

Examine the following:

1. The Sponsor's description of the manner in which the supportive services will be provided (i.e., how, when, where, and frequency) to determine whether the Sponsor has thoroughly thought out the implementation of its plan and will be able to coordinate the provision of services off-site.

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- (3-34) 2. The number and qualifications of staff that will be providing any on-site services to determine if there are enough staff to provide the services and that they are sufficiently qualified. Since the underlying philosophy of the Section 811 program is that the majority of the supportive services must be provided off-site, be wary of supportive services plans indicating the project will be service/staff intensive. Also, look out for overly qualified, medically oriented staff.

3-35. OTHER FACTORS. HM shall also be responsible for reviewing the following additional factors:

- A. The proposed project site would not affect adversely other subsidized housing.
- B. There is a need in the area for the housing.

3-36. CONSULTANT AS MANAGEMENT AGENT.

- A. The HM staff may recommend approval of a housing consultant firm as the management agent if they determine:
  - a. the consultant is highly qualified to perform management services for the project; and,
  - b. that a benefit to the project will accrue through increased efficiency and/or lower costs.
- B. When approved, the consultant may receive management fees due for services rendered, but CANNOT collect the full fee stated in the Supplemental Management Fund. Since review of project feasibility and the management plan is done during project development, the fee must be REDUCED \$25.00 per unit to exclude that portion related to such services.



- C. If the management agent is not identified at the Fund Reservation stage, this review may be postponed until a subsequent stage of processing, but no later than Firm Commitment.

SECTION VIII - ECONOMIC AND MARKET ANALYSIS REVIEW

3-37.GENERAL. EMAS shall review each application to determine the project's overall market prospects taking into consideration such factors as the market conditions in current inventory of assisted rental housing for persons with disabilities and provide advisory comments, where possible, on the project's location relative to the adequacy of support facilities and services within convenient access, and the support services to be provided.

- A. The market review is to determine if there is a sufficient sustainable demand for the number and type of units proposed.
- B. The market review must take into consideration the current and anticipated conditions in assisted housing for persons with disabilities, as well as potential impact the project would have on occupancy in existing assisted projects for persons with disabilities.
- C. The market review of a proposed project will be conducted in two phases; the first at Preliminary Evaluation and a final more detailed analysis at Technical Processing, should the project pass the first review. The purpose of market reviews at Preliminary Evaluation is to identify those projects which are in market areas where there is clear evidence of the existence of adverse (soft) market conditions in the existing assisted housing for persons with disabilities.
- D. The market reviews by EMAS are a threshold requirement for project approval. Upon completion of Preliminary Evaluation and Technical Processing, EMAS shall forward to the Director of Housing Development the completed checklist as well as any data, previous market reviews or other information EMAS decides is necessary to support its findings and recommendations.

3-38.PROJECT MARKET REVIEW GUIDELINES.

- A. The EMAS review, to the extent possible, delineates the characteristics of the population that comprises the market for the particular type of project proposed.

(3-38) The field economist should take into consideration any State and local data and assessments of needs for the particular disability and geographic area; as well as information on the types of supportive services arrangements currently available in the area and the utilization of such services as evidenced by data from local housing and social service agencies.

B. The Housing Management staff should be contacted regarding the occupancy situation in assisted housing projects for persons with disabilities and the status of projects in the pipeline.

C. As appropriate, the EMAS review may also include an advisory opinion on aspects of the project that relate to its marketability prospects, given its location and characteristics, if they have readily available knowledge of the site and location.

3-39. PROJECT MARKET CONDITIONS AND ADVERSE IMPACT. Projects should not be approved in market areas where there may not be a sufficient level of demand for additional units to assure that the proposed project would not have an adverse impact on the long-term occupancy in existing assisted housing projects for the same disabled population as proposed in the application. A reliable decision of adverse impact can be made only after an effective analysis of all available data and information from Valuation and Housing Management.

3-40. SPONSOR'S EVIDENCE OF NEED FOR SUPPORTIVE HOUSING. This selection criteria is a statutory and regulatory requirement. Under the statute, the Sponsor is required to provide evidence of the need for assisted units with supportive services for the category or categories of persons with disabilities proposed to be served in the area. As part of the application rating, EMAS is to review the data and information provided by the Sponsor in Exhibits 15 and 20 and assess how well the Sponsor documented the need for supportive housing.

SECTION IX - ARCHITECTURAL, ENGINEERING AND COST REVIEW

3-41. GENERAL. All instructions contained in HUD Handbook 4460.1 relating to developing and processing of projects at the SAMA stage shall be followed. In addition the A&E analysis shall include an evaluation to assure that the design conforms to the design and cost standards.

3-42.PROJECT STANDARDS. All Section 811 projects must comply with HUD's Minimum Property Standards, the accessibility requirements of Section 890.210(c) and, for a group home, the minimum group home standards. See subparagraph 1-7E.2. for limits on unit sizes.

3-43.LIMIT ON COST NOT ATTRIBUTABLE TO DWELLING USE.

- A. Examples of community spaces which may be included are multipurpose rooms, game rooms, libraries and reading rooms, lounges and, in independent living facilities, central kitchen and dining.
- B. At the Fund Reservation stage, "Community Spaces" must not exceed 10 percent of the gross square foot area of the project.
- C. The 10 percent limit does not include such areas as offices, halls, mechanical rooms, laundry rooms and parking areas in independent living facilities and group homes. Furthermore, dwelling units and lobbies are excluded in independent living facilities; bedrooms, living rooms, dining and kitchen areas, shared bathrooms and resident staff dwelling units are excluded in group homes.
- D. At conditional and firm commitment stages of processing when actual costs are estimated, the cost not attributable to dwelling use percentage shall not exceed 10 percent of total project cost. The 10 percent cost-not-attributable calculation will include cost for areas (such as parking) not included in the 10 percent square foot limit referred to in B. above.
- E. Community spaces included at the fund reservation stage does not guarantee inclusion at later stages of processing. Where cost not attributable exceeds

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(3-43) allowable limits, reduction or redesign of the community spaces may be necessary or the sponsor may choose to pay for excess spaces.

- F. More flexibility will be allowed in imposing the design and cost standards for projects proposing rehabilitation due to the existing facility and to the extent such excess space would not render the project infeasible. The HDD shall document the file in such cases.

3-44.EXCEPTIONS TO DESIGN AND COST STANDARDS AT THE FUND RESERVATION STAGE.

The only exceptions to the design and cost standards (i.e., excessive amenities, unit size limits, limit on community spaces) will be:

- where rehabilitation is involved (see Paragraph 1-7.E.2.d.) or
- where the Sponsor states its willingness and ability to pay for the overly costly features. If such a statement is not provided or the Field Office determines that the Sponsor lacks the financial capacity to pay for such features, the application may be approved only if a condition is included in the Notification Letter that the features be eliminated.

As there is no construction cost analysis at the Fund Reservation stage of processing, Field Offices shall use their best estimates of the cost of such features. If such applications are selected, the valuation procedure shall be used at conditional/firm stages of processing to calculate the total reduction in the capital advance amount that would be reflected in the Rent Formula Supplement to Form HUD-92264.

SECTION X - MULTIFAMILY HOUSING REPRESENTATIVE'S REVIEW

3-45.GENERAL. The MHR shall review the application to determine if:

- A. The application is consistent with all program policies and requirements set forth in Chapters 1 and 2 of this Handbook.
  - 1. If yes, continue review.
  - 2. If no, reject application.
- B. The project site was recently acquired, or will be acquired; or the property is occupied, or was recently occupied.
  - 1. If yes, route copy of Exhibit 17, Data on Project Occupancy, Displacement and Real Property Acquisition, to CPD for review.
  - 2. If CPD rejects, or accepts the displacement/acquisition project information with comments, Notification Letter (Appendix 24) shall be conformed (e.g., indicate the additional data that must be provided by the Sponsor).

C. The Sponsor has experience in providing housing or related facilities.

1. Experience must be as a corporate entity.
2. Experience of individual board members shall not be considered in lieu of corporate experience.

3-46.REVIEW FACTORS. The following review factors correspond to those found on the Standard Rating Criteria Form (Appendix 25) for which the MHR is responsible.

A. The scope, extent and quality of the Sponsor's experience in providing housing or supportive services to the proposed disabled population.

1. Housing/Service Experience. While experience in both areas is not necessary for a good rating, the continuity, quality and scope of the Sponsor's experience should be reflected in the score.

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If the Sponsor has housing experience, consider the following:

- type and length of experience (i.e., development, management, consulting);
- number and types of structures;
- number of units operated in relation to the number of units requested;
- types of persons served;
- vacancy rates/waiting lists for projects;
- financial viability of project currently or previously operated;

If the Sponsor has experience in providing supportive services, consider the following:

- length and type of experience (direct provision, coordination, referral);
- types of services provided and clientele served;
- stability of funding sources.

In making a determination as to the Sponsor's

capacity, there should be a direct relationship between the Sponsor's experience and what it is proposing, both in terms of the services to be provided and the disabled population to be served.

Examine the length of experience and the number of clients served. The number of people served is an important indicator of the Sponsor's effectiveness as well as experience. Serving too many poorly or too few to achieve an efficient use of resources must be considered.

- B. Extent of local community support for the Sponsor and its activities, including experience in providing housing and/or supportive services in the area where the project is to be located, and the Sponsor's demonstrated ability to enlist volunteers and local funds for its efforts.

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(3-46) Consider the following:

1. Sponsor's ability to elicit community support, provide services through volunteer programs, or obtain services through community service agencies, etc., the extent of its activities, period of involvement and the size of the client group.
2. Whether the Sponsor has served the area where the project is to be located, the length of its experience, the type of experience and its ability to obtain support from this community (e.g., donations, successful fund drives, a wide variety of service activities in the community).
3. Letters of support for the project from the local community.

- C. Services will be provided on a consistent, long-term basis (strength of funding sources).

Examine the following:

1. The funding source(s) identified for the services to determine their stability. State funds subject to future appropriations actions are acceptable. Private donations as the only source of funding would not be acceptable unless there is a firm, long-term commitment.
2. Letters of intent indicating a commitment to provide funding for the services. If there are no

letters, the application will be rejected.

3. The service provider(s) and their experience in and capability of providing supportive services.

D. Appropriateness of the supportive services.

Examine the certification in Appendix 13 to determine if the appropriate State or local agency found the provision of services to be well designed and the facility to be consistent with its plans or policies governing the development and operation of similar residential facilities. If the agency finds the provision of services to be not well designed or the

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- (3-46) facility to be inconsistent with its plans/policies, the application will be rejected,

E. Quality of the services implementation plan.

Examine the following:

1. The Sponsor's description of the manner in which the supportive services will be provided (i.e., how, when, where, and frequency) to determine whether the Sponsor has thoroughly thought out the implementation of its plan and will be able to coordinate the provision of services off-site.
2. The number and qualifications of staff that will be providing any on-site services to determine if there are enough staff to provide the services and that they are sufficiently qualified. Since the underlying philosophy of the Section 811 program is that the majority of supportive services must be provided off-site, be wary of supportive services plans indicating the project will be service/staff intensive. Also, look out for overly qualified, medically oriented staff.

F. Likelihood that site control will be obtained within six months of fund reservation, if approved.

Examine the Sponsor's description of its activities to identify the site and what remains to be completed to obtain site control to determine whether the Sponsor has made a concerted effort to select the site and has every intention of pursuing its control.

3-47.COORDINATION OF REVIEWS. The MHR should oversee the coordination of the reviews by EMAS, Valuation and Housing Management to avoid the funding of additional projects in

areas identified as having current market problems in existing assisted housing for persons with disabilities, unless such problems are determined to be of a short-term, i.e., 12 months, or project specific nature.

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SECTION XI - COMMUNITY PLANNING AND DEVELOPMENT RELOCATION REVIEW

3-48. REFERRAL TO CPD. Where the property is to be (or has recently been) acquired, or the property is (or has recently been) occupied, the CPD Relocation Specialist shall review the occupancy and acquisition data described in Exhibit 17.

3-49. REVIEW OF RELOCATION AND REAL PROPERTY ACQUISITION. Exhibits 17 and 29 of the application shall be forwarded to CPD. CPD will review the data to determine whether:

- A. It is responsive.
- B. The cost estimates appear reasonable.
- C. When funds for all or part of the relocation costs are to be provided from sources other than the Section 811 capital advance, the Sponsor has a firm commitment of funds to meet such expenses.
- D. The Sponsor has provided an appropriate certification of compliance with the URA, the governmentwide rule at 49 CFR Part 24 and 24 CFR 890.260(e).
- E. An appropriate organization has been identified to administer relocation.
- F. The material is complete. (If incomplete, CPD shall notify the MHR and identify the additional information needed.)
- G. Technical assistance/training needs to be provided to the applicant.

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SECTION XII - SELECTION OF APPLICATIONS

3-50. ACTIVITIES AT CONCLUSION OF TECHNICAL PROCESSING.

- A. Upon completion of technical processing, the PC&R staff forwards to the MHR:
  - 1. Review comments from each technical review staff;



and

2. Comments received from the State pursuant to EO 12372.

B. The MHR must:

1. Reconcile any conflicting review comments by obtaining agreements from affected offices or by referring the matter to the Housing Development Director for a decision.

NOTE: The manner of resolving conflicting comments must be documented and retained with the appropriate review sheets.

2. Obtain the Field Office Manager's approval where a technical discipline's recommendation is overruled.

NOTE: The rationale for the overrule must be documented by a memorandum to the file and contain the Field Office Manager's signature.

3. Combine and review technical discipline's findings and prepare a Technical Processing Summary Report, as shown in Appendix 19, for each application.
4. Highlight significant comments with regard to the strengths and weaknesses of a specific application in the appropriate spaces on the Technical Processing Summary Report.

NOTE: The MHR may not alter any conclusions reached by the technical disciplines.

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- (3-50) 5. Calculate the amount of the fund reservation using the formula and procedures prescribed below and in accordance with outstanding Section 811 cost limits. The amount may not exceed the applicable cost limit.
  - a. Independent living facilities. Costs are calculated by the number and mix of units.
    - (1) Multiply the appropriate Section 811 cost limit found in Section 890.245 (adjusted by the high-cost area percentage, as appropriate) by the number of units for each bedroom type for an elevator or nonelevator structure as requested in

Exhibit 1 of the application.

- (2) Use the applicable high-cost percentage (up to 240 percent) in accordance with HUD Handbook 4445.1CHG.

Example: Assume an 18-unit nonelevator building with a bedroom distribution of 12 1-bedroom units and 6 2-bedroom units.

The calculation is as follows:

Bedroom Type	811 Cost Limits	HCP	Number of Units	Capital Adv. Amount
1-BR	32,321	x 150	x 12	\$ 581,778
2-BR	38,979	x 150	x 6	350,811
				<hr/>
				\$ 932,589

- b. Group homes. Costs are calculated by the number of residents with disabilities. The cost limit includes the cost of the residential staff unit.

- (1) Locate the applicable cost limit from Section 890.245 for the number of residents with disabilities (excluding the unit for residential staff) and occupancy type proposed in the application.

- (3-50)
  - (2) Multiply the cost limit by the high-cost area percentage, if applicable.
  - (3) Add special costs as specified in the Federal Register, if appropriate. For example, special State requirements related to licensure, such as sprinkler systems, may be an allowable cost.

Example: To the basic cost limit for a six resident group home for the persons with physical disabilities or developmental disabilities (adjusted as appropriate by the high-cost area percentage), add the cost of a sprinkler system (\$5,000) if required by State law:

Basic cost limit for a six resident group home for persons with physical or developmental disabilities:

\$155,760

Step 1:       \$155,760  
          x     150%(high-cost area %)  
          -----  
          \$233,640

Step 2:       \$233,640  
          +     5,000(sprinkler system)  
          -----  
          \$238,640 capital advance amount

c. The MHR will round down the capital advance authority to the nearest one hundred dollars for each approvable application. FOR EXAMPLE: \$932,589 is to be rounded down to \$932,500, and \$238,640 is to be rounded down to \$238,600.

6. Calculate the PRAC annual assistance funds, using the operating cost standard to be provided. To determine the total amount of annual project rental assistance to be reserved for a project, use the following formula:

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(3-50)       Group Homes:   Multiply the appropriate Field Office operating cost standard (OCS) by the number of residents with disabilities.

Independent Living Facilities:   Multiply the appropriate Field Office operating cost standard by the number of units.

Example:

      \$2,625 (hypothetical OCS in Pittsburgh, PA)  
      x     7 (# of disabled residents in GH)  
      -----  
      \$18,375 (annual operating cost for 7 res. GH)

7. Provide a list to the Rating Panel with the number of units and the total amount of capital advance authority allocated for each allocation area and include a summary of the applications received from each allocation area with the project number,

number of units, and amount of required capital advance authority.

3-51. CONSIDERATIONS PRIOR TO FORWARDING APPLICATIONS TO THE RATING PANEL.

- A. Applications found unapprovable during technical processing cannot be rated or considered by the Rating Panel. NOTE: Sponsors whose applications were found technically unapprovable must be promptly notified when all technical reviews are complete. The letters shall be sent by certified mail and shall innumerate all reasons for technical rejections. The Sponsors shall have 14 days from the date of the letter (or such lesser period as may be set in a particular year) to appeal the rejection.
- B. The selection process cannot take place until after receipt of comments from both the State Single Point of Contact or upon expiration of the comment period, whichever occurs first.

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(3-51)

- C. Field Office should alert the Rating Panel of any applications with adverse State comments.
- D. The Environmental Assessment (Form 4128 or 4128.1, as appropriate) must be completed for applications with satisfactory evidence of site control, all compliance findings made, including any Finding of No Significant Impact, and properly executed by the Chief of Valuation before technical processing can be completed. For projects that required the WRC 8-Step procedure (Floodplain - Wetlands), the Form 4128 or 4128.1 should indicate that Steps 1 through 6 have been completed, documentation attached. Also, the applicable determination under Historic Preservation procedures must be made and documented. After completion of technical processing, the Form 4128 or 4128.1 must be executed by the Director of Housing Development and attached to the Valuation Technical Review Sheet.
- E. Field Office should have initiated the eight-step process for sites located in the 100-year floodplain (500-year floodplain for ICFs) prior to submission to the Rating Panel. The first six steps must be completed prior to submission to the Regional Office.
- F. Any requests from applicants that require Headquarters approval, must be submitted in sufficient time to allow Headquarters to act on them prior to convening the Rating Panel.

3-52. NOTIFICATION OF TECHNICAL REJECTION. Upon completion of technical processing, a marked-up copy of the Section 811 log shall be sent to Headquarters, Attention: Housing for the Elderly and Handicapped People Division, Room 6116, noting each technical reject application and reason(s) for rejection along with a copy of the notification of rejection.

3-53. DETERMINING APPROVABLE APPLICATIONS.

- A. Establishing the Rating Panel. In order to provide maximum flexibility for each Regional Office to achieve an equitable process for making its selections across its jurisdiction, the following two alternative procedures for the final rating of applications are offered.

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- (3-53) 1. Field Office Rating Panel. Regional Offices may choose to have each of its Field Offices convene a separate rating panel with results from the Field Office ratings transmitted to the Regional Office for ranking and selection. If this option is chosen, it is strongly recommended that the Regional Office develop uniform scoring instructions for use by its Field Offices.

OR

2. Regional Office Rating/Selection Panel. Regional Offices may choose to convene a single rating/selection panel to consider applications from all Field Offices.

- B. The Rating Panel is convened to assure each application is approvable and to rate the approvable applications.

If each Field Office convenes a rating panel, it is comprised of the MHR and staff from:

- Mortgage Credit
- Valuation
- Architectural and Engineering
- Economic and Market Analysis
- Fair Housing and Equal Opportunity
- Housing Management

If the Regional Office convenes a rating/selection panel, it could include Field Office representatives from the technical disciplines identified above or could consist of appropriate staff from the Regional Office.

- C. The Rating Panel reviews each application to confirm its eligibility for funding consideration. All approvable applications must be evaluated and rated based on the criteria described in Paragraph 3-54, below.

3-54.FIELD OFFICE RATING PROCEDURES.

- A. The Rating Panel will evaluate all approvable applications on the basis of their merits relative to those of other approvable applications.

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- B. All applications with evidence of site control where the evidence and site are approvable will compete against each other and all applications with an identified site or evidence of site control where the site or evidence was not approvable will do likewise.
- C. Based on the findings from the Technical Review Sheets, the Rating Panel will assign recommended points using the Standard Rating Criteria Form (Appendix 25) for each of the rating criteria set forth in subparagraph E. of this section. Up to 100 points may be assigned under the five rating criteria.

NOTE: Indicate the scores in the score boxes on the Standard Rating Criteria Form.

- D. Assignment of Numerical Ratings.

Assign numerical ratings to each application, as follows:

FACTORS	MAXIMUM POINTS
(1) Sponsor's ability to develop and operate the proposed housing on a long-term basis.	20
(2) Sponsor's financial capacity	25
(3) Need for supportive housing for persons with disabilities	10
(4) Project design	10
(5) Provision of supportive services	20
(6) Extent to which Sponsor has	15

site control

Maximum

100

- E. Apply the guidelines below to determine the numerical rating for each factor listed above.

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- (3-54) 1. In determining the basis for the Sponsor's ability to develop and operate the proposed housing on a long-term basis, consider the following factors: (20 points maximum)
- a. Scope, extent and quality of the Sponsor's experience in providing housing or supportive services to the proposed disabled population. (10 points)
  - b. Scope, extent and quality of the Sponsor's experience in providing housing and/or supportive services to minority persons or families and opportunities for minority and women-owned business enterprises participation. (5 points)
- NOTE: When assigning points for the provision of housing assistance, from a civil rights perspective, more favorable consideration should be given to projects which propose to alleviate the problem of low-occupancy rate by disabled low-income minority persons.
- c. The extent of local community support for the Sponsor's activities, including previous experience in providing housing and/or supportive services in the area where the project is to be located, and demonstrated ability to enlist volunteers and local funds for its efforts. (5 points)
- NOTE: In assigning numerical ratings to factor number (1), consideration must be given to evidence provided by the Sponsor that it has organizational continuity and will be able to continue its support to the project.
2. In determining the Sponsor's financial capacity, consider the following factors: (25 points maximum)

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- a. financial history and current outlook. (5 points)
  - b. Sponsor's ability and willingness to provide start-up expenses and commit financial resources beyond the minimum capital investment. (10 points)
 

NOTE: If the Sponsor indicated a willingness to provide such funds, do its financial resources support such a commitment?
  - c. The scope of the proposed project in relationship to the financial capacity and commitment of the Sponsor. (10 points)
 

NOTE: Other proposed projects by the Sponsor as well as previous projects in development and/or under management must be reviewed.
3. In determining the need for supportive housing for persons with disabilities in the area to be served, consider the following factor: (10 points maximum)
- Extent to which the Sponsor demonstrates the need for supportive housing for persons with disabilities. (10 points)
4. In determining the acceptability of the project design consider the following factors: (10 points maximum)
- a. Extent to which the proposed design will meet the special needs of persons with disabilities. (4 points)
  - b. Extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of persons with disabilities the housing is intended to be served. (3 points)



- (3-54)
- c. Extent to which the proposed size, plus unit mix in an independent living facility, of the housing will enable the Sponsor to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion. (3 points)
5. In determining the acceptability of the supportive services proposed, consider the following factors: (20 points maximum)
- a. Extent to which the Sponsor has demonstrated that necessary supportive services will be provided on a consistent, long-term basis. (10 points)  
  
NOTE: Has the Sponsor identified the source(s) of funding? For what period is the commitment made?
  - b. The appropriateness of the supportive services to the needs of the proposed disabled population. (5 points)  
  
NOTE: Does the State/local agency certification indicate that the provision of services is well designed?
  - c. The quality of the service implementation plan. (5 points)  
  
NOTE: Is the plan well thought-out and realistic with adequate staff assigned?
6. In determining the extent to which the Sponsor has site control, consider the following factors: (15 points)
- a. Evidence of Site Control
    - (1) Proximity or accessibility to shopping, medical facilities, transportation,

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- churches, recreational facilities, job opportunities and other necessary services for the intended occupants (4 points).
  - (2) Suitability of the site from the

standpoint of promoting a greater choice of housing opportunities for minority disabled persons/families (4 points).

- (3) Freedom of the site from adverse environmental conditions and overconcentration of persons with disabilities (4 points).

NOTE: Examples of adverse environmental conditions are soil instability, flooding, mudslides, harmful air pollution, excessive noise or fire hazards.

- (4) Reasonableness of the site cost per unit and suitability of the property for the intended use and adequacy of utilities and streets (3 points)

NOTE: The proposed site development including number of units, location of building(s), parking, drives, service and recreation areas is suitable for the intended occupants. Special attention must be given to the estimated cost of site and whether the number of units proposed will be cost effective.

b. Identification of Site

- (1) Same as a.(1) above plus freedom of overconcentration of persons with disabilities (5 points)
- (2) Same as a.(2) above. (5 points)

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- (3-54) (3) Likelihood that site control will be obtained within six months Of fund reservation, if approved. (5 points)

F. The Rating Panel must use the Standard Rating Criteria Form without deviations (Appendix 25) to record the points assigned by each technical discipline.

3-55.FIELD OFFICE TRANSMITTAL OF RECOMMENDATIONS TO THE REGIONAL OFFICE.

If the Field Office convenes the Rating Panel, it must submit to the Regional Office a two-part list of the applications which meet all requirements and are approvable based on technical processing and those applications which are technically unacceptable.

- Categorize the lists by applications with evidence of site control (Category A) and those with an identification of a site (Category B).
  - Use format provided in Appendix 26.
- A. The first list consists of all the Field Office's approvable applications.
1. Include the original signed copies of the Standard Rating Criteria Form for each application.
  2. Also submit the original Technical Review Sheets. Include the original Field Office Counsel preliminary evaluation review checklist and any subsequent legal review memoranda, the environmental review forms and review Forms 4128 or 4128.1 and supporting documentation.

NOTE: Applications found technically unacceptable by each discipline should not be forwarded to the Regional Office unless overridden by the Field Office Manager. The memorandum overriding the discipline is to be submitted to the Regional Office.

3. Provide the name of the contact person for the Sponsor and the local telephone number (including the Area Code) for each approvable application.

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- (3-55) 4. Transmit Form HUD-92290, as appropriate, for each approvable application (if Section 106(b) seed money loan funds are available for the FY).

B. The second list will include all applications found acceptable for technical processing but subsequently found to be technically unacceptable for funding consideration. For these applications, include the:

- project number
- Sponsor name
- location
- number of units
- reason the application is technically unacceptable.

If the Regional Office holds the Rating/Selection Panel, the Field Offices must submit all of the above, with the exception of the Standard Rating Criteria Form.

3-56.REGIONAL OFFICE REVIEW AND POINT ASSIGNMENTS.

- A. If Field Offices hold Rating Panels, the Director, Office of Regional Housing, and appropriate staff will review Field Office findings and recommended ratings for all approvable applications.
  - 1. The Regional Office makes the final rating decisions giving consideration to Field Office recommendations.
  - 2. The Regional Office may change the Field Office's recommended scores only when a technical error has been made or when the Field Office has been inconsistent in making its ratings compared to other Field Offices within the Region.
    - a. Indicate and document each type of change in the comment section of the rating form.
    - b. For technical changes, cite consultation with Field Office staff, if appropriate, and reference the specific portion of the Field Office analysis in question.

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- (3-56) c. For consistency changes, document the standards of consistency being applied to the rating categories and the reason(s) why the Field Office was not consistent.
- B. Regional Office Rating/Selection Panel and Recommendations.
  - 1. If the Regional Office holds the Rating Panel, the Regional Administrator or his/her designee shall:
    - a. Convene a Rating/Selection Panel comprised of appropriate Regional and/or Field Office staff, which shall assign points to Criteria 1 through 6 for each approvable application based on the findings and recommendations of the Field Offices.
    - b. It will then rank those applications in descending order for Category A: those with approvable sites and Category B: those with sites identified (not under control) or those

with evidence of control where the site or the evidence was not approvable (provided the Sponsor is willing to seek an alternate site).

2. If the Field Offices hold Rating Panels, the Regional Administrator or his/her designee shall convene a Selection Panel and proceed as indicated in 1.b. above.
3. Initial Selection Recommendations.
  - a. Applications are to be selected in descending order which most reasonably approximate the estimated number of units and capital advance authority available for the Region, first in Category A and then in Category B until funds are exhausted or there are no approvable applications remaining which could be funded with the available funds.
  - b. Only those approvable applications that scored at least 50 points can be placed on the initial selection list.

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- c. The Selection Panel should support the Department's Minority Business Enterprise goals in considering approvable applications for funding. These goals will be published annually.
  - d. Handling of excess capital advance funds. The Regional Office will return to Headquarters any unused funds remaining available after following the procedures described in a. above, with a notation in the transmittal memorandum.

C. Approvable but Unfunded

After selecting applications that can be approved within the available funds, Regional Offices shall identify unfunded but otherwise approvable applications.

- D. Since the capital advance authority, rather than the estimated units in the NOFA and the Housing Notice, controls, the Regional Office may select more units than allocated if supported by the available capital advance authority.

- E. If the Regional Office review reveals any violations or

inconsistencies with outstanding instructions, such items must be noted for Headquarters' review.

3-57.SUBMISSION OF SELECTION RECOMMENDATIONS TO HEADQUARTERS.

- A. Regional Offices are to submit to Headquarters three separate lists on the standard format provided in Appendix 24:
1. Initial selections in rank order for Category A and Category B.
  2. Approvable, but unfunded, applications in rank order for Category A and Category B.
  3. All projects which failed to meet the threshold score of 50 points in rank order. List by Category A and Category B.

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- (3-57) NOTE: In no case may projects with technical deficiencies (such as unacceptable service plan description, ineligible Sponsor, inability to meet minimum capital investment, etc.) be considered by Field or Regional Office panels, or included on any of the three lists described above.
- B. In addition to the three lists described above the Regional Office must submit to Headquarters:
1. Original signed rating sheets for each listed application.
  2. Technical Review Sheets for all cases listed on any of the three lists, including the Field Office Counsel's Preliminary Review Checklist with any subsequent legal review memoranda, environmental reviews with supporting documentation, and any memoranda overriding technical disciplines.
- C. Include the contact person for the Sponsor and the local telephone number with area code for each application on the initial selection and approvable, but unfunded, lists.
- D. Any outstanding State comments (EO 12372) not to be accommodated and/or local adverse comments on any application on the initial selection or approvable, but unfunded, lists must be stated in the comment section of those lists.



2. Reviewing the covering memorandum and the format recapitulating the usage of the funds to determine if any transfers of funds are made in accordance with instructions contained in Paragraphs 3-64 and 3-65.
3. Preparing memoranda to the Regional Offices with a copies to the appropriate Field Offices identifying those applications, if any, for which additional capital advance authority will be provided.
4. Transmitting the Section 106(b) applications (Form HUD-92290) to the Office of Finance and Accounting (OFA) to record the reservation of funds.

NOTE: Only those Section 106(b) applications approved in connection with Section 811 applications selected for funding will be forwarded to OFA for a fund reservation.

5. Preparing and issuing notifications to States Single Points of Contact (SPOC), explanations of HUD's non-accommodation actions to official State comments under EO 12372.
- B. The Funding Control Division will prepare and transmit Forms HUD-185 assigning to the Regional Offices the Section 811 capital advance funds and Project Rental Assistance funds necessary to approve those selected applications.
- C. Upon processing the Section 106(b) fund reservations, OFA will return confirmed copies of Forms HUD-92290 to the appropriate Field Offices.

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SECTION XIII - PREPARATION AND NOTIFICATION OF SELECTIONS AND NON-SELECTIONS

3-59. PREPARATION OF FUNDING DOCUMENTS AND APPROVAL LETTERS.

For each application selected for funding, the following procedures will be used:

- A. The MHR will prepare the Letters of Notification of Selection for Section 811 Fund Reservation (see Appendix 24) and the Forms HUD-718, Funds Reservation and Contract Authority.
  1. Form HUD-718 shall be prepared in one original,





9 A Recommended: To be signed and dated by Housing Development Division Director.

B Authorized: To be signed and dated by the Field Office Manager.

C N/A

2. After Form HUD-718 has been prepared and signed by the source officer, the PC&R staff will transmit it to RAD for prevalidation.

3. RAD will process the prevalidation request within one day of receipt and return the form immediately to the Field Office Manager, Attention: Housing Development Division Director.

B. Upon RAD's verification of capital advance authority reserved on the Forms HUD-718, the PC&R staff will transmit the Notification Letters to the Housing Development Division Director for surname, and Forms HUD-718 for signature (Block 9A). The Housing

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(3-59) Development Division Director will transmit the Notification Letters and Forms HUD-718 to the Field Office Manager for signature (Block 9B).

C. After the Field Office Manager signs the Notification Letters and Forms HUD-718, the PC&R staff will:

1. Prepare the Project Accounting Data, Forms HUD-52540(PAD) and Forms HUD-52491.2, in accordance with Chapter 19 of Handbook 4050.1.

2. Notify the MHR to prepare the nonselection letters (Appendix 27) (see Paragraph 3-63).

D. The PC&R staff will mail two copies each of the following to the Regional Accounting Division (RAD):

1. Conformed copy of Form HUD-718.

2. Form HUD-52540(PAD), and

3. Form HUD-52491.2.

E. The RAD shall verify, within 24 hours, by return teletype to the Field Office Manager, Attention: Housing Development Division Director, the project number, the number of units and the amount of Project Rental Assistance Contract and Budget Authority

reserved for the project.

3-60.NOTIFICATION OF SELECTION.

A. Congressional.

The Office of Legislation and Congressional Relations will notify Congressional Offices of all approved Section 811 projects simultaneously.

1. The Office of Elderly and Assisted Housing will coordinate with the Offices of Legislation and Congressional Relations and Public Affairs to establish the public release date.
2. The public release date will occur after Congressional notification.

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B. Regional/Field Offices.

Headquarters will notify Regional/Field Offices by telegram:

- of any additional projects funded.
- when Notification and Nonselection Letters may be released.

3-61.ISSUANCE OF NOTIFICATION LETTERS.

After Congressional notifications have been completed, PC&R date the Notification letters in accordance with RAD's confirmation date and will distribute the Letters and Forms HUD-718 in accordance with the chart in Appendix 26.

3-62.APPLICATIONS NOT SELECTED.

- A. Upon notification from the PC&R staff, the MHR will prepare for the HDD Director's surname and the Field Office Manager's signature, letters to Sponsors whose applications were not selected.
- B. Letters to Sponsors shall state that either the application was evaluated and found approvable, but was not selected because sufficient funds were not available or that the application did not meet the threshold score of 50 points.

NOTE: Nonselection letters may be released only upon authorization by Headquarters.

3-63.DURATION AND EXTENSION OF SECTION 811 FUND RESERVATION.

- A. The term of the Section 811 fund reservation is 18 months from the date of issuance of the Notification Letter. The MHR shall:
1. monitor the progress of each fund reservation in accordance with processing time schedules set forth below.
  2. advise Sponsors at least 30 days prior to expiration of the fund reservation that extensions must be requested prior to the expiration date.

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- B. Notice of Intent to Cancel the Fund Reservation/  
Cancellation of the Fund Reservation. Subject to the approval of the Assistant Secretary, the Field Office shall issue a notice of intent to cancel the fund reservation under the following circumstances;
1. At the end of the six month period following the notification of fund reservation if the Sponsor does not have control of an approvable site.
    - a. The notice shall indicate that the fund reservation will be cancelled upon its one year anniversary unless the Owner submits evidence of control of an approvable site with ninety (90) days of receipt of the notification.
    - b. At the end of the 90 day period specified above, the Field Office shall mail a notice of fund reservation cancellation to the Owner by certified mail, return receipt requested, who either did not submit evidence of site control, or submitted evidence of site control but the evidence, site or both are unacceptable, in response to the notification of intent to cancel the fund reservation. The notice must:
      - (1) indicate that the fund reservation is being cancelled because the Owner does not have control of an approvable site; and
      - (2) advise the Owner that it may file an appeal of the cancellation in the form of satisfactory evidence of control of an approvable site with the Field Office

within 30 days of the cancellation notice and that failure to do so will result in the cancellation of the fund reservation at the end of the 30-day period.

- c. If the Owner fails to file an appeal of the fund reservation cancellation with 30 days of

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(3-63) receipt of the cancellation notice, the Field Office shall cancel the fund reservation and provide a written notice of cancellation to the Owner.

- d. If the Owner files an appeal, in the form of evidence of site control, within 30 days of receipt of the cancellation notice, HUD Headquarters will review the Field Office's recommendation after the Field Office has reviewed the evidence and evaluated the site and issue a decision within 45 days of receipt of the appeal.

- (1) If HUD determines that the Owner has satisfactory evidence of an approvable site, it shall provide a written notification of such to the Owner.

- (2) If HUD determines that the Owner does not have satisfactory evidence of site control or the site is rejected, it shall provide of such to the Owner, and cancel the fund reservation.

- 2. If the Field Office determines that the Owner is not making satisfactory progress toward the start of construction, rehabilitation or acquisition.

- 3. If the construction, rehabilitation or acquisition of a project is not begun within 18 months after the notification of fund reservation or within an extension of the 18-month period granted under Paragraph 3-64C below.

- C. Extension of the Fund Reservation. The Field Office may extend the period specified in Paragraph 3-4B.3. above up to 24 months after the notice of Section 811 fund reservation is issued, if HUD determines that the Owner is making satisfactory progress toward the start of construction, rehabilitation or acquisition. The Regional Office may grant additional extensions of up to 36 months after the notice of Section 811 fund

reservation is issued, if:

1. The delay has been for reasons beyond the Owner's control;

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- (3-63) 2. The Owner has done everything within its power to resolve the problems causing the delay;
3. All major problems have been resolved, or there is good reason to expect prompt resolution; and
4. There is good reason to expect the start of construction, rehabilitation or acquisition properties to begin within the extension period.

D. Notification Procedures.

1. If HUD determines that a fund reservation must be cancelled in the case of B.2 or B.3. above, the Field Office shall mail a notice of cancellation to the Owner by certified mail, return receipt requested. The notice of cancellation must:
  - a. Describe the reasons for the cancellation of the fund authority; and
  - b. Advise the Owner that it may file an appeal of the cancellation with the Field Office within 30 days of the receipt of the cancellation notice, and that the failure to file an appeal will result in the cancellation of the fund reservation upon the expiration of the 30-day period.
2. If the Owner fails to file an appeal of the fund cancellation within 30 days from the date of the cancellation notice, the Field Office shall cancel the fund reservation and provide a written notice of the cancellation to the Owner.
3. If the Owner files an appeal within 30 days of the date of the cancellation notice, HUD Headquarters will review the appeal and issue a decision on the appeal within 45 days of the receipt of the appeal, HUD will approve the appeal if the Owner demonstrates that it is making satisfactory progress toward the start of construction, rehabilitation or acquisition.
4. If HUD approves the appeal, it shall provide a written notification of the approval to the Owner. The notification shall indicate the duration of

the extended fund reservation.

5. If HUD disapproves the appeal, it shall notify the Owner in writing of the determination, and cancel the fund reservation.

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SECTION XIV - ACTIVITIES PRIOR TO SUBMISSION OF  
CONDITIONAL COMMITMENT APPLICATION

3-64. FORMATION OF OWNER CORPORATION.

The Sponsor must legally form the Owner corporation in accordance with Section 890.105 of the Regulations and Paragraph 1-4 of this Handbook prior to submitting the Application for Conditional Commitment and proof of such action must be submitted with the application.

- A. Single-Purpose Corporation. To give HUD sole claim over the assets of the Owner in case of default under the Regulatory Agreement, the Owner must be a single asset corporation.
  1. The Section 811 Owner will not be permitted to:
    - a. Engage in any other business or activity, including the operation of any other rental project, or
    - b. Incur any liability or obligation not in connection with the proposed project.
  2. Because of its single purpose, the Owner must be capitalized by the Sponsor in a sufficient amount to permit the Owner to meet its obligations in connection with the project.
- B. Incorporation. Only an Owner duly incorporated under State law can submit the Conditional Commitment Application.
  1. Foreign Corporations. An Owner may be incorporated in a State other than the one where the project is to be located.
    - a. The Owner should contact the State Corporation Commission for the State in which the project is to be located to ascertain what is necessary to allow it to do business in that State.
    - b. If a special certificate is needed in order for a foreign corporation to do business in a

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- (3-64) different State, the required document must be included in the Conditional Commitment Application, along with the Articles of Incorporation, By-laws and Incumbency Certificate.
2. Articles of Incorporation. The Articles of Incorporation should be consistent with the Guide Form of Certificate of Incorporation in Appendix 28 (Form HUD 91732A-EH) (3/91). If the Owner is applying for IRS tax exemption under 501(c)(3), its Articles also must conform to the addendum provisions required by the Internal Revenue Service.
- a. The Owner must be sufficiently empowered to have and borrow money, own stock, engage in real estate transactions, as well as construct and operate a housing project funded under the Section 811 program.
  - b. The Owner's purposes must include the promotion of the welfare of disabled households residing in the project.
  - c. No religious purposes may be included in the Articles of Incorporation, By-laws, etc.
  - d. The dissolution clause must not provide for or permit distribution of the corporate assets to a body created for religious purposes upon dissolution of corporate assets.  
  
NOTE: If the dissolution clause provides for distribution to a nonprofit fund, foundation, or corporation which has established its tax exempt status under IRS Code 501(c)(3), the dissolution clause must be amended to add "other than a religious corporation".
  - e. To avoid the appearance of being a public body or instrumentality of a public body, the dissolution clause may not provide for the



(3-64) transfer of the Owner's assets to a State or local government or any agency of a State or local government.

3. Evidence of Incorporation:

- a. In some States where the corporate existence begins with the Article of Incorporation are filed, under applicable statutes, the stamped note on the Articles of Incorporation is sufficient documentation.
- b. In most States the corporate existence begins with the issuance of a certificate of incorporation and in those cases, a certificate of incorporation with the State seal must be provided.

C. Tax Exempt Status. The Owner corporation must provide with its Application for Conditional Commitment:

1. A dated copy of the application filed with IRS requesting a tax exemption ruling under IRS Code 501(c)(3) or (c)(4) or a copy of such a ruling if available before the Owner submits its Application for Conditional Commitment.

NOTE: All Owner corporations must have individual IRS rulings. No group exemptions will be accepted. The IRS Section 501(c)(3) or (c)(4) tax exemption ruling must be submitted prior to initial closing.

2. For Puerto Rican nonprofit organizations, evidence of tax exemption under Puerto Rican law is required.

3-65. TRANSFER OF FUND RESERVATIONS FROM SPONSORS TO OWNERS. When the newly-formed Owner corporation has been approved by the Field Office, the MHR will complete the Form HUD-718 and PADs to effect the transfer of the Section 811 and Project Rental Assistance fund reservation from the Sponsor to the Owner and transmit the forms to the Regional Accounting Division. This is an amendatory action, not a recapture.

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3-66. INDIVIDUAL CONFLICT OF INTEREST AND DISCLOSURE CERTIFICATIONS.

- A. Officers and directors of either the Sponsor or Owner cannot have any financial interest in any contract with

the Owner or in any firm which has a contract with the Owner. This includes the provision of services or products related to the construction or operation of the proposed project or holding a position as a board member in any such firm.

- B. These restrictions include, but are not limited to, serving as the attorney, land seller, architect, housing consultant, or contractor.
- C. Each officer and director of the Sponsor and the Owner of each approved project must certify on the Conflict of Interest and Disclosure Certification, provided in Appendix 3 of this Handbook, that, among other things, he or she will not:
  - a. Receive any compensation from the Owner for his or her services,
  - b. Have any financial interest in the land sale or in any agreement with the Owner in connection with the proposed project, EXCEPT
    - (i) an Owner may enter into a contract for a fee with the Sponsor or its nonprofit affiliate for management services, and
    - (ii) The Sponsor may sell the project site to the Owner.
  - c. These certifications must be submitted with the Conditional Commitment Applications together with a current Incumbency Certificate.
  - d. The fund reservation is subject to cancellation if the Certifications are not provided for ALL officers and directors.

NOTE: Certifications from any Executive Boards of the Sponsor and Owner are not acceptable.

3-67. CERTIFICATION REGARDING CREDIT AVAILABILITY FROM PRIVATE SOURCES.

Pursuant to OMB Circular A-129, Managing Federal Credit Programs, the authorized officer of the Owner must submit with the Conditional Commitment Application the certification in Appendix 29 stating that it has been unable to obtain funds from private financial sources upon terms and conditions equally as favorable as the terms and conditions available under Section 811 of the National

Affordable Housing Act of 1990, as amended.

3-68.SITE APPRAISALS.

The Field Office will conduct the site appraisal in accordance with HUD Handbook 4465.1 and notify the Owner of HUD's determination of the value of the site fully improved within 30 days from the date the Owner accepts the Section 811 fund reservation.

3-69.FORM HUD-2530 PREVIOUS PARTICIPATION CLEARANCES AND CREDIT REPORTS.

Previous participation procedures and credit reports must now be completed for any applications approved subject to such clearance. If any negative comments are received, the Housing Development Director will be responsible for determining whether they are sufficiently serious to warrant cancelling of the Section 811 fund reservation. Where unfavorable comments are received, send the Sponsor or the individual officers or directors, as applicable, a letter requesting an explanation regarding the negative information or evidence that the issues in question have already been satisfactorily resolved.

- A. Delinquent Federal debt (e.g., IRS tax payments, HUD, FmHA, SBA and VA loans,, audit disallowances and mortgages) should be handled as follows:
1. The Sponsor must bring any delinquent Federal debt current or provide HUD a workout plan acceptable to all parties concerned to bring the delinquency current within a reasonable period of time before the Field Office can continue processing the application.

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- (3-69) 2. If an individual is delinquent on any Federal debt, processing of the application may continue but that individual must be advised to submit to the Field Office within 30 days a plan of action to cure the delinquent debt within a reasonable period of time (i.e., by making lump-sum payment or through an installment payment plan which has been approved by the authorizing lender to which the debt is owed).
3. Individual members who are unable to resolve their Federal delinquencies to the satisfaction of the lending agency cannot be approved and will have to resign from the Sponsor and/or Owner organization.

NOTE: All officers and directors of the Owner

Corporation must certify that he or she is not delinquent on the repayment on any Federal debt and must submit the certifications (see Appendix 6) with the Conditional Commitment Application.

- B. Fraudulent Activities. Disclosures of fraudulent activities on the part of the Sponsor will be a basis for cancellation of the fund reservation but if an individual officer or board member of the Sponsor and/or Owner organizations has engaged in fraudulent activities, only those affected individuals must resign from their positions with the organization(s).
1. If the results of the credit investigation reveals that the Sponsor or an individual officer or director disagrees with or is challenging a reported delinquency, such as a disagreement over an audit disallowance, the application may remain in processing until a final decision is made. The Sponsor or affected individual must be, however, warned of the possibility that processing may later be suspended or other action taken if the final decision goes against the Sponsor or the individual.
  2. Headquarters guidance should be sought prior to taking any action to cancel a fund reservation.
  3. It is important to not be overly concerned about minor or nonessential details (e.g., the Sponsor

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(3-69) is slow in making payments on its debts) which would not have a material bearing on the final determination of credit worthiness.

3-70. CONFERENCE WITH THE SPONSOR/OWNER REGARDING PROJECT DESIGN.

Prior to submission of the Conditional Commitment Application, the Design Representative designated at the Fund Reservation stage must work closely with the design architect to ensure compliance with HUD design and cost standards.

- A. Initial Meeting. Immediately upon receiving its Notification Letter of Selection for a Fund Reservation, contact must be made with the designated Design Representative to arrange a meeting to discuss project design and architectural considerations.
- B. Attendance. The meeting should be attended by the:

1. Representatives of the Sponsor and Owner
2. Consultant (if any)
3. Design Architect
4. HUD's designated Design Representative
5. Director of Housing Development
6. Multifamily Housing Representative

C. The Design Representative must be concerned with any design characteristics that could affect project economics, and must assure that the project will not be of elaborate design and extravagant materials.

1. Remind Sponsor of its signed certification to comply with HUD's design and cost standards.
2. Discuss particular prohibited items and Sponsor's financial responsibilities if they elect to include any such features in the design.

NOTE: Certain items may not be included whether or not paid for with Sponsor's funds if the inclusion of same results in keeping with the objectives of the program, such as, providing for nursing stations.

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3-71. SECTION 106(b) "SEED MONEY" LOANS. Although the Section 106(b) reservations were made in the Sponsor's name, the Owner will be the recipient of the loan proceeds and responsible for loan repayment. To transfer the Section 106(b) reservation to the Owner, the following procedures must be followed:

A. Notification of Section 106(b) Fund Reservation. Upon receipt of the confirmed copy of Form HUD-92290 from OFA, the Mortgage Credit staff will prepare a letter notifying the Sponsor of the Section 106(b) reservation with instructions that any future documents submitted in connection with the Section 106(b) loan must be in the name of the legally-formed Owner corporation. A copy of the confirmed copy of Form HUD-92290 must be sent with the letter, along with the following blank forms:

1. HUD 92291 - Loan Contract and Trust Agreement
2. HUD 92289 - Requisition for Advance of Funds from Section 106(b) Nonprofit Sponsor Assistance Fund
3. SF 1199A - Direct Deposit Sign-Up Form

NOTE: Refer to Chapter 3 of Section 106(b) Handbook 4535.3 REV-1 for the number of copies to be sent to the Sponsor and other relevant information.

B. Submission of Loan Documents. when ready to request disbursement of Section 106(b) loan proceeds, the Loan Contract and Trust Agreement, Requisition for Advance of Funds and Direct Deposit Sign-Up forms must be prepared and executed by the legally-formed Owner.

3-72.AFFIRMATIVE FAIR HOUSING MARKETING PLAN (AFHMP). Sponsors that have not already submitted an AFHMP are to be reminded that one must be approved prior to the issuance of a Conditional Commitment. FHEO staff are available to provide technical assistance in the completion of the form.