

FY 2018 Section 202 Capital Advance NOFA Frequently Asked Questions (FAQs)

SITE AND NEIGHBORHOOD STANDARDS (April 25, 2019)

1. What is an area of minority elderly concentration?

For the purpose of the FY 2018 Section 202 Capital Advance NOFA, an area of minority elderly concentration is a neighborhood that meets at least one of the following criteria:

- (i) The neighborhood's percentage of elderly persons of a particular racial or ethnic minority is at least 20 points higher than the percentage of elderly persons of that particular racial or ethnic minority in the housing market as a whole.
- (ii) The neighborhood's total percentage of minority elderly persons is at least 20 points higher than the total percentage of minority elderly persons in the housing market area as a whole.

2. What are the minority groups considered in the minority elderly concentration analysis?

There are seven minority groups considered in this analysis:

- a. Black or African American (alone), non-Hispanic
- b. American Indian or Alaska Native (alone), non-Hispanic
- c. Asian (alone), non-Hispanic
- d. Native Hawaiian or Other Pacific Islander (alone), non-Hispanic
- e. Some Other Race, non-Hispanic
- f. Two or More Races, non-Hispanic
- g. Hispanic or Latino

3. What is considered the “neighborhood” or “area” of a proposed project?

For the purpose of the FY 2018 Section 202 Capital Advance NOFA, the “neighborhood” generally corresponds to the census tract where the proposed project is located.

However, in some cases, the census tract may not be an accurate representation of the neighborhood. See question #10 for further discussion.

4. What is the “housing market area” of a proposed project?

For the purpose of the FY 2018 Section 202 Capital Advance NOFA, the “housing market area” generally corresponds to, as applicable (i) the Metropolitan Statistical Area (MetroSA); (ii) Micropolitan Statistical Area (MicroSA); or (iii) if the site is neither in a MetroSA or MicroSA, the county or statistically equivalent area.

However, in some cases, the MetroSA, MicroSA, or county, as applicable, may not be an accurate representation of the housing market area. See question #11 for further discussion.

5. How can I determine if my proposed project is located in an area of minority elderly concentration?

Applicants can determine if their proposed project is located in an area of minority elderly concentration by using the Minority Elderly Concentration Analysis Tool available at <https://www.huduser.gov/portal/maps/nofa/home.html>. Applicants will need to create an account in order to obtain the documentation that must be submitted with the NOFA application. After an applicant enters the address of the proposed project into the tool, a map will appear that pins the location of the proposed project on a map. The map will be shaded red if the census tract meets the definition of an area of minority elderly concentration contained in the FY 2018 Section 202 Capital Advance NOFA. The tool will also generate a report that includes the minority population in the census tract and the housing market area (i.e., the MetroSA, MicroSA, or county, as applicable) and the calculation of whether the proposed project is located in an area that meets the definition of an area of minority elderly concentration contained in the FY 2018 Section 202 Capital Advance NOFA. The tool will send the report to the email address associated with the account.

6. What documentation do I need to submit with my NOFA application if the Minority Elderly Concentration Analysis Tool shows that my proposed project is not located in an area of minority elderly concentration?

In most cases, an applicant will only need to submit the report from the Minority Elderly Concentration Analysis Tool showing that the project is not located in an area of minority elderly concentration.

However, if one or more of the following circumstances applies to the proposed project, an applicant must provide additional information to demonstrate that the proposed project is not located in an area of minority elderly concentration.

- (i) The proposed project is located near the edge of a census tract that is an area of minority elderly concentration;
- (ii) The proposed project is separated from a significant portion of the occupied land in its census tract by a major geographic barrier (such as rivers and interstate highways).

If one or more of these circumstances applies to the proposed project, the applicant must provide supporting documentation that the boundaries of the census tract are consistent with local community understanding of the neighborhood. For example, the applicant may include official planning documents of the jurisdiction that describe the boundaries

of the neighborhood to support its claim that the boundaries of the census tract are consistent with local community understanding of the neighborhood.

Otherwise, the applicant may propose an alternative geography for the neighborhood. See question #10 for further discussion. If the alternative geography is an area of minority elderly concentration, the applicant must provide supporting documentation that the site meets an exception that would allow new construction in an area of minority elderly concentration. See question #14 for further discussion.

7. What should an applicant do if it does not believe that the census tract is an accurate representation of the neighborhood of the proposed project?

The applicant may propose an alternative geography for the neighborhood where there is strong evidence that such geography is more appropriate. When selecting the alternative geography for the neighborhood, the applicant should keep in mind that typical neighborhood boundaries are delineated by major streets or physical topography, do not encompass more than one municipal jurisdiction, and are an area less than two miles wide.

The applicant must enter the boundaries of the alternative geography for the neighborhood into the Minority Elderly Concentration Analysis Tool and include the report from the tool in its NOFA application. See question #12 for further discussion. The applicant must also include supporting documentation in its NOFA application that the boundaries it has selected for the neighborhood are consistent with local community understanding of the neighborhood. Local community understanding of the neighborhood is often informed by factors such as patterns of housing stock (such as different residential densities in different areas or differential housing prices for similar properties), community facilities and amenities (such as schools and commercial areas) or major geographic barriers (such as rivers or interstate highways). For example, the applicant may include official planning documents of the jurisdiction that describe the boundaries of the neighborhood to support its claim that its proposed alternative geography is consistent with local community understanding of the neighborhood.

See Question #11 for additional submissions that may be needed when proposing an alternative geography.

8. What should an applicant do if it does not believe that the MetroSA, MicroSA, or county, as applicable, is an accurate representation of the housing market area of the proposed project?

The applicant may propose an alternative geography for the housing market area when there is strong evidence that such geography is more appropriate.

The applicant must include the 2010 Decennial Census tables showing the racial and ethnic characteristics for the alternative geography for the housing market area in its NOFA application. The applicant must also include supporting documentation in its NOFA application that the boundaries that it has selected for the alternative housing market area is the geographic region from which it is likely that tenants would be drawn for the proposed project. For example, the applicant may include supporting documentation showing that factors such as regional employment centers and commuting patterns serving such employment centers support its request to use an alternative geography.

9. Can an applicant use the Minority Elderly Concentration Analysis Tool to obtain the minority population of an alternative geography for the neighborhood or housing market area?

Alternative Geography for the Neighborhood: If an applicant is requesting an alternative geography for the neighborhood, it must use the “draw” feature in the Minority Elderly Concentration Analysis Tool to draw the boundaries of the neighborhood. The tool will generate a report that includes the minority population in the alternative geography for the neighborhood and the housing market area (i.e., the MetroSA, MicroSA, or county, as applicable) and the calculation of whether the proposed project is located in an area that meets the definition of an area of minority elderly concentration contained in the FY 2018 Section 202 Capital Advance NOFA. The tool will send the report to the email address associated with the account. The report from the Minority Elderly Concentration Analysis Tool must be included in the NOFA application.

Alternative Geography for the Housing Market Area: The Minority Elderly Concentration Analysis Tool cannot be used to draw an alternative housing market area. The applicant must obtain data on the minority elderly population using the 2010 Decennial Census Data.

10. The Minority Elderly Concentration Analysis Tool shows that my proposed project is in an area of minority elderly concentration. However, I do not believe that the census tract is an accurate representation of the neighborhood of the proposed project and am proposing an alternative geography for the neighborhood that is not an area of minority elderly concentration. What happens if HUD does not accept my proposed alternative geography? Will I be given a chance to show that the site meets an exception that would allow new construction in an area of minority elderly concentration?

If a proposed project is in an area of minority elderly concentration, the applicant must provide evidence that the site meets an exception that would allow new construction in an area of minority elderly concentration (see question #14), unless it proposes, and HUD approves, the use of an alternative geography for the neighborhood or housing market

area that would result in the project not being located in an area of minority elderly concentration.

If an applicant proposes to use an alternative geography, the applicant must make this request as part of its NOFA application. If HUD does not approve the alternative geography, the applicant will not be given an opportunity to amend its application. The application will be rejected if it does not also include supporting documentation that the site meets an exception that would allow new construction in an area of minority elderly concentration. An applicant that is proposing to use an alternative geography may wish to also provide supporting documentation showing that the site meets an exception that would allow new construction in an area of minority elderly concentration, in case HUD does not approve its proposed alternative geography.

11. The Minority Elderly Concentration Analysis Tool shows that my proposed project is in an area of minority elderly concentration. What do I need to submit in order to show that the proposed project meets site and neighborhood requirements for new construction in an area of minority elderly concentration?

The NOFA application should include supporting documentation showing that the proposed project meets one of the following exceptions that would allow new construction in an area of minority elderly concentration:

- (1) Sufficient, comparable opportunities exist for housing for minority elderly households in the income range to be served by the proposed project outside areas of minority concentration. (See questions 15-19)
- (2) The project is necessary to meet overriding housing needs that cannot be met in that housing market area. (See 24 CFR 891.125(c)(2)(ii)) Application of the overriding housing needs criterion, for example, permits approval of sites that are an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood and of sites in a neighborhood experiencing significant private investment that is demonstrably changing the economic character of the area (a “revitalizing area”). (See 24 CFR 891.125(c)(4)) (See questions 20-25)

12. Does the NOFA application need to include supporting documentation for both exceptions that would allow new construction in an area of minority elderly concentration?

No. The NOFA application only needs to include supporting documentation that the proposed project meets one of the exceptions.

13. Can an applicant provide supporting documentation for both exceptions that would allow new construction in an area of minority elderly concentration?

Yes. While the proposed project only needs to meet one exception, an applicant may choose to provide supporting documentation for both exceptions.

14. How can an applicant demonstrate that the proposed project meets the sufficient, comparable opportunities exception?

The applicant must include in its NOFA application an analysis of the availability of housing choices for very low-income minority elderly households in and outside areas of minority concentration that takes into account the extent to which the following factors are present, along with any other factors relevant to housing choice. (See 24 CFR 891.125(c)(iii)) Under this exception, it is not sufficient for one factor to be present, nor is it required that all factors be present, as the analysis must consider all relevant facts and evaluate the totality of the circumstances. (Note: This analysis examines comparable housing opportunities outside areas of minority concentration, rather than areas of minority elderly concentration. Therefore, applicants will not be able to use the Minority Elderly Concentration Analysis Tool to determine if a comparable project is located in or outside of an area of minority concentration.)

- (a) A significant number of assisted housing units are available outside areas of minority concentration.

While HUD must consider all factors relevant to housing choice, 30% or more of deeply subsidized housing units for very low-income persons would be a significant number. To facilitate HUD's consideration of this factor, an applicant should provide the number, occupancy type, and location of all comparable assisted units.

- (b) There is significant integration of assisted housing projects constructed or rehabilitated in the past ten years, relative to the racial mix of the eligible population.

To facilitate HUD's consideration of this factor, an applicant should provide the name and location of assisted housing projects constructed or rehabilitated in the housing market area in the past 10 years and the demographic characteristics of the residents of each of these projects.

- (c) There are racially integrated neighborhoods in the locality.

To facilitate HUD's consideration of this factor, an applicant should provide the name and census tracts where these racially integrated neighborhoods are located. In general, HUD will consider a neighborhood racially integrated if the neighborhood does not have a high concentration of persons of a particular race or ethnicity when compared to the housing market area in which the neighborhood is located.

- (d) Programs are operated by the locality to assist minority elderly households that wish to find housing outside areas of minority concentration.

To facilitate HUD's consideration of this factor, an applicant should provide the names of the applicable program(s); the entity responsible for implementing the program(s) (e.g., city, county, state government); and any information demonstrating that the program(s) has been successful or predictably will achieve success in assisting persons who wish to move to non-concentrated areas.

- (e) Minority elderly households have benefitted from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisition of units for use as assisted housing units) undertaken to expand choices for minority households (or families) outside of areas of minority concentration.

To facilitate HUD's consideration of this factor, an applicant should provide the names of the applicable activity(s); the entity responsible for implementing the activity(s) (e.g., city, county, state government); and any information demonstrating that the activity(s) has been successful in expanding choice for minority families outside of areas of minority concentration.

- (f) A significant proportion of minority elderly households have been successful in finding units in nonminority areas under the Section 8 Certificate and Housing Voucher programs.

To facilitate HUD's consideration of this factor, an applicant should provide the number of minority households receiving Housing Choice Vouchers; the number of minority households using HCVs in non-minority areas; and the non-minority census tracts where the HCVs are being used. While each local situation is distinct and HUD must consider all factors relevant to housing choice, 30% or more of new leases signed by minority heads of household using HCVs located in non-minority areas over a period greater than three years prior to the date of HUD's analysis would be a significant proportion.

- (g) Comparable housing opportunities have been made available outside areas of minority concentration through other programs.

To facilitate HUD's consideration of this factor, an applicant should describe the opportunities that have been made available, the location of those opportunities, and the number of minority families that have benefitted from the program in recent years.

15. For the sufficient, comparable opportunities exception, what does "sufficient" mean?

"Sufficient" does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year which over a period of several years will approach an appropriate balance of housing opportunities within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing

choices available for very low-income minority elderly households and in relation to the racial mix of the locality's population. (See 24 CFR 891.125(c)(3)(i))

16. For the sufficient, comparable opportunities exception, what does “comparable” mean?

Units may be considered to be “comparable opportunities” if they have the same household type (elderly) and tenure type (renter); require approximately the same total tenant payment; serve the same income group; are located in the same housing market; and are in standard condition. (See 24 CFR 891.125(c)(3)(ii))

17. What geographic area should I examine when determining if there are sufficient, comparable opportunities that are not in areas of minority concentration?

The applicant should examine all comparable housing opportunities in the housing market area to determine if there are sufficient, comparable opportunities that are not in an area of minority concentration.

18. My proposed project will contain 100 Section 202 units. Can I meet the sufficient, comparable opportunities exception if I show that in the housing market area there is another Section 202 project with 100 units that is not in an area of minority concentration?

No. The applicant must conduct a comprehensive analysis of the availability of housing choices for very low-income minority elderly households in and outside areas of minority concentration in the housing market area. See question #17 for further discussion.

19. How can an applicant demonstrate that the proposed project meets the overriding housing need exception?

In general, an applicant must demonstrate that the proposed project meets one of the following conditions. (See 24 CFR 891.125(c)(4))

(1) The proposed project is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood. See question #24 for further discussion.

(2) The proposed project is in a neighborhood experiencing significant private investment that is demonstrably changing the economic character of the area (a “revitalizing area”). See question #27 for further discussion.

20. What supporting documentation should an applicant submit to show that the proposed project is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood?

To establish that a proposed project is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood, an applicant must demonstrate the following:

- i. The proposed project is located in a defined geographic area that is the subject of an official, currently operational and realistically achievable plan for the improvement or revitalization of the immediate neighborhood (which plan may include areas beyond the immediate neighborhood); and
- ii. The proposed project conforms to, and the site is integral to, the goals, strategies, and objectives of the improvement or revitalization plan.

In determining whether such an official, currently operational and realistically achievable plan for the improvement or revitalization of the area exists, HUD will consider relevant factors including, for example, whether:

- The strategy itself, or a plan supporting the strategy, has been enacted, adopted, or ratified by a municipal, county, or state legislative body;
- There has been progress to implement the plan, or the strategy as a whole. Indicators of progress should be appropriate to the amount of time since the plan or strategy was developed and there must be a reasonable, supportable expectation that the plan will continue to be implemented. For example, if a plan was launched 3-4 years prior and the initial steps of the plan required implementation of an initiative (such as real estate development) which has a long pre-development planning period, HUD may consider whether there has been activity to seek land development approvals or to develop construction drawings or to secure funding commitments or other activities providing evidence that one or more material elements of the plan or strategy are actually being implemented;
- The plan or strategy as a whole, or the elements applicable to the proposed project, are consistent with the jurisdiction's land use or zoning code, development regulations, or other official body of laws or rules;
- Strategies or activities under the plan are incorporated in current public, quasi-public agency or major institutional work plans;
- The plan, or the strategy as a whole, includes objectives and initiatives related to the preservation or restoration of a geography larger than the proposed project;
- A jurisdiction has published solicitations or incentives for development projects in the improvement or revitalization area;

- The plan is incorporated in the applicable jurisdiction’s Consolidated Plan or other comprehensive community development plan;
- A jurisdiction has explicitly designated the geographic area for improvement or revitalization (e.g., Business Improvement District; Enterprise Zone designation; Promise Zone designation; Choice Neighborhoods designation);
- An implementing agency has retained a construction firm to break ground on the improvement or revitalization; and/or
- An implementing agency has secured financing, such as the issuance of bonds or final approval for tax increment financing.

21. Is it sufficient to submit a copy of a revitalization plan for the immediate neighborhood of the proposed project to show that the proposed project is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood?

The NOFA application should include a narrative discussion that demonstrates that the proposed project is part of an official, currently operational and realistically achievable plan for the improvement or revitalization of the area, in accordance with the factors in question #24. This narrative discussion should include the goals, strategies, and objectives of the revitalization plan, and a status of the activities included in the plan. An applicant may submit a copy of the plan or include a link to the plan in its NOFA application. In general, however, the submission of the plan, without a narrative discussion regarding the status of the plan, will not be sufficient to show that the proposed project is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood.

22. Is an official revitalization plan for the city as a whole sufficient to show that the proposed project is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood?

An applicant may use an official revitalization plan for the city as a whole to support its claim that the proposed project is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood, if the plan includes specific the goals, strategies, and objectives for the improvement or revitalization of the immediate neighborhood of the proposed project. The applicant must demonstrate that the portions of plan related to the revitalization of the immediate neighborhood of the proposed project are currently operational and realistically achievable.

In general, an official revitalization plan for the city that does not specifically target the immediate neighborhood of the proposed project for revitalization will not meet be sufficient evidence that the proposed project meets this exception.

23. What supporting documentation should an applicant submit to show that the proposed project is in a neighborhood experiencing significant private investment that is demonstrably changing the economic character of the area (a “revitalizing area”)?

The applicant should consider all relevant factors in making a determination that the site is located in a “revitalizing area” but in particular will consider whether:

i. The neighborhood has demonstrated signs of revitalization, through indicators such as low or declining census tract poverty rates, low or declining violent crime rates or evidence of high or increased educational opportunity, high or increasing median household income, high or increasing homeownership rates and/or high or increased employment; and

ii. There is high private and public investment in retail, commercial, or housing development that has occurred or will imminently occur in the area which may include, among other considerations:

- Evidence of new or improved retail centers, grocery stores, pharmacies, healthcare facilities, community centers, educational and recreational facilities, municipal services, and transportation serving the neighborhood;
- Evidence of private and public investment or housing development that has occurred or will imminently occur in the area;
- Evidence of economic conditions that are impacting the preservation of affordable housing in the neighborhood, including indicators of gentrification such as housing costs rising more sharply in the neighborhood than in the jurisdiction overall, accelerated rates of homeownership in the neighborhood, and disproportionate depletion of larger dwellings for families with children

24. Can an applicant meet the overriding housing need exception by showing that there is a high demand or need for the proposed project?

An applicant that claims that the proposed project meets the overriding housing need exception should include supporting documentation that shows that either the proposed project is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood or the proposed project is in a neighborhood experiencing significant private investment that is demonstrably changing the economic character of the area (a “revitalizing area”). A high demand for the proposed project is not sufficient to meet the overriding housing need exception.

GENERAL MAILBOX

25. Does the new 202 project rules allow sponsors or owners to include development fees within the HUD Budget? If so, please provide the guidance as to how those fees will be determined. (May 22, 2019)

Please refer to 24 CFR 891.815 governing allowable developer's fees.

26. Is an existing continuing care community eligible to be transformed into rental housing under this NOFA? (May 22, 2019)

Pursuant to Section I.A.1. of the NOFA, Capital Advance Funds cannot be used to "construct or operate assisted living facilities." However, transforming into housing for the elder is permissible under this NOFA.

27. Is the applicant required so fill out all information on the original HUD Form 92013 which was posted when the NOFA was published? (May 22, 2019)

A revised HUD Form 92013 was posted on Grants.gov on April 30, 2019. The revised form will significantly reduce the amount of information required to be completed for the FY 2018 Section 202 NOFA re Supportive Housing for the Elderly program.

The 202 Capital Advance Team highly encourages all applicants to submit their application on the revised form. The original form will be accepted.

28. Does the Sponsor need approval from HUD for a release of Security (the excess land [1.5 acres] is part of an existing Section 202 elderly project) prior to submittal to the current NOFA? (May 22, 2019)

In addition to the requirements stated in Section III.E.5., the Owner would have to apply for a partial release (the 1.5 acres) from the Multifamily HUB. The actual partitioning and re-platting of the fee can be contingent on the new Sponsor applicant receiving a Capital Advance award.

29. If my City is specifically not shown in the Total Development Cost tool, what should the applicant do? (May 22, 2019)

Section 202 funds are available in all geographical areas. For purposes of the Total Development Cost requirements, please utilize the closest City to the proposed site.

30. Would existing HUD 202 projects in need of substantial rehabilitation qualify for funds under the latest HUD 202 Capital Advance NOFA? (May 22, 2019)

No. Section IV.F. specifically states "Capital Advance awards are not available in connection with the financing or re-financing of federally assisted or insured projects.

31. If HUD’s proposed Section 3 Rule becomes final before the release of the second NOFA in calendar year 2020, does HUD anticipate incorporating those new Section 3 rules into the second NOFA? (May 22, 2019)

We cannot comment on the second NOFA until after the award of Capital Funds under this NOFA has been published.

32. The NOFA indicates that “Mixed Income and/or mixed generation projects are eligible pursuant to 24 CFR, part 891. Is there a definition as to mixed generations? (May 22, 2019)

The term “mixed generation”, although not specifically defined in 24 CFR simply means the co-mingling of generations, i.e. elderly/younger. Note: Capital Advance and PRAC funds may only be used for the construction and operation, respectively, of elderly units as defined by the 202 statute. Accordingly, any non-elderly units must be developed and operated with non 202 funds.

33. Can an LLC be an Owner entity if controlled directly or indirectly by one or more private non-profit organizations in a fashion analogous to that for limited partnerships as described in 24 CFR 891.805? (May 22, 2019)

No. Per the American Homeownership and Economic Opportunity Act of 2000 and regulations at 24 CFR 891.805, Limited Partnerships are the only statutorily eligible For-Profit Ownership entity. However, as the above citations provide, the general partner of the Limited Partnership may be an LLC that is wholly owned and controlled by a non-profit.

34. If HUD’s proposed Section 3 rule becomes final before the release of the second NOFA in calendar year 2020, does HUD anticipate incorporating those new Section 3 rules into the second NOFA? (May 22, 2019)

We cannot comment on the second NOFA until after the award of Capital Funds under this NOFA has been published.

35. Do you know when there will be update to the FAQ Rolling Word Doc (last update was for questions received through 5/13)?

We intend to update the FAQs at a minimum, once a week or as needed. The date in parenthesis is the date it was posted to the Funding Opportunities Page.

