

FY 2020 Section 202 Capital Advance NOFA Frequently Asked Questions

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63. The NOFA appears to allow prospective applicants to request HUD review of their proposed justification for locating a project in an area of elderly minority concentration prior to the application deadline. Per page 24 of the NOFA: *“As compliance with the site and neighborhood standards is a threshold criteria and as the selection of the proposed site is the foundation upon which an application is based, applicants may request HUD review of the proposed justification for locating a project in an area of elderly minority concentration prior to the application deadline for submission of the NOFA. If HUD receives such a request, HUD will determine whether to review such materials and will post its decision together with answers to other questions submitted pursuant to Section VII of this NOFA. If HUD determines, in its sole discretion at that time, to review proposed justifications, HUD will review materials submitted by any potential applicant pursuant to uniform procedures specified in the posted decision.”* Will HUD allow a review of justifying materials for the Site and Neighborhood Standards criteria of the FY20 Section 202 NOFA prior to full submission of a NOFA application due on May 26, 2021?

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A. PROJECT ELIGIBILITY

1. What are the age requirements for households occupying units awarded under this NOFA?

Units supported by a PRAC can only be occupied by households composed of one or more persons at least one of whom is 62 years of age or older at the time of occupancy. If the owner intends to have other populations occupy some units, those units could not be included under the PRAC.

2. Can Section 202 properties contain non-elderly or mixed generation units?

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 at the property must be developed and operated with non-202 funds.

3. What are the required AMI set-aside thresholds for PRAC 202 units? Is it permissible to voluntarily set-aside the PRAC 202 units at a lower AMI-level (e.g., 30% of AMI), so that the PRAC 202 units are classified as Extremely Low-Income units?

PRAC units are designated for elderly households at or below 50% of AMI. Units could be set aside below 50% AMI.

4. The Section 202 NOFA specifies that units must be restricted to Very-Low-Income (<50% AMI) households. In conjunction with a low-income housing tax credit development, can this restriction be lowered to serve Extremely-Low-Income (<30%) households?

202 PRAC units must be rented to elderly persons whose incomes are very low income (50% AMI) and cannot be restricted to extremely low-income (30% AMI). The Housing Act of 1959, as amended, 12 USC § 1701q provides in Section (c)(1) that housing constructed with a Capital Advance must remain available for very low-income residents. Additionally, Section (d)(1) provides that the projects built with capital advance funds shall be made available for very low-income elderly for not less than 40 years. Accordingly, restricting these units to extremely low-income residents would be in violation of the law as cited below.

12 U.S. Code § 1701q - Supportive housing for the elderly

(c) Forms of assistance.

(1) Capital advances. A capital advance provided under this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very low-income elderly in

accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

(d) Term of commitment.

(1) Use limitations. All units in housing assisted under this section shall be made available for occupancy by very low-income elderly persons for not less than 40 years.

5. Can funding under this NOFA be used in the development of a continuing care retirement community?

Pursuant to Section I.A.1. of the NOFA, Capital Advance funds cannot be used for assisted living facilities or nursing homes. However, the Capital Advance can be used to develop independent living that is located within a continuing care retirement community.

6. Would existing HUD 202 projects in need of substantial rehabilitation qualify for funds under the latest HUD 202 Capital Advance NOFA?

No. Section I.A.1. specifically states that per 24 CFR 891.809, Capital Advance Funds cannot be used “for the financing or re-financing of federally assisted units or properties servicing or encumbered by federally insured debt.” Properties assisted under Section 202 PRACs may consider conversion under the Rental Assistance Demonstration to address rehabilitation needs.

7. Is it possible for a successful applicant under this 202 NOFA to undergo a RAD for PRAC conversion simultaneous with or shortly after the commencement of the awarded PRAC Contract? If so, how would the RAD rents be established? While the NOFA is clear that PRAC units may not support debt service, may an applicant assume that PRAC units that have converted to a Section 8 contract can support permanent debt?

PRAC units developed under this NOFA may be eligible to convert to the Section 8 platform using the authorities under the Rental Assistance Demonstration (RAD) once the units are constructed and placed under the executed PRAC, provided the conversion is in compliance with all requirements of the RAD Notice. Any property assisted under a 202 PRAC, regardless of the period of time that it had operated under a 202 PRAC, would be eligible for conversion. Further, the Section 8 contract rents would be set based on the existing 202 PRAC rents.

Applicants under this NOFA that are interested in pursuing conversion to a Section 8 contract under RAD may indicate this intent to justify how units developed under this NOFA could support permanent debt service. Applicants should indicate the timing of the anticipated RAD conversion of the units initially supported under the PRAC

and the relationship between that timing and the closing of any financing which may require debt service from any formerly PRAC units. The applicant may assume Section 8 contract rents would be set at the Operating Cost Standards referenced in this NOFA, not to exceed statutory Section 8 initial contract rent limits.

8. Can Capital Advance funds be used in a project which proposes to tear down and reconstruct an obsolete property currently owned and operated by the Sponsor?

Yes.

9. May a project be partially assisted under a PRAC (awarded through this NOFA) and partially assisted under another assistance program?

Yes, a property may result in some units covered by the PRAC and other units assisted under other assistance programs.

10. In a mixed finance development, could a Sponsor request PRAC assistance for 100% of units if only efficiencies and one-bedroom units will be constructed, there will be no excess amenities, and a portion of 202 Capital Advance funds would be allocated to the construction of each unit?

Yes, the property as described could be fully assisted by the PRAC.

11. Can an applicant request only Capital Advance funds (without any PRAC), for example, if a project already has an agreement with the local housing authority for Project-Based Vouchers?

No. Any units that are developed using Capital Advance Funds must be covered under the PRAC and may not be assisted under another program.

12. Will HUD consider SRO housing to be the same as efficiencies? Would an SRO project currently serving very low-income seniors be eligible for this 202 NOFA?

SRO's are not considered the same as an efficiency unit and are not permissible for funding under this NOFA.

13. 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?

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.

14. Would an Owner need to purchased property prior to an application being awarded under this NOFA or can an owner receive an award first and then find property to develop?

Applicants must have site control at the time the application is submitted. Section III.E.5. of the NOFA describes how the applicant can demonstrate site control.

15. Is it permissible for a project to break ground in advance of 202 funding being awarded, and still remain eligible for 202 funding even though the project will have broken ground prior to the award/allocation/closing of the 202 funding?

No. Once an application is submitted no “choice limiting actions (i.e. site acquisition, ground disturbances, etc.) is permitted until the environmental review is complete.

16. The NOFA and 24 CFR 891.809 state that Capital Advance Funds cannot be used for the financing or refinancing of Federally assisted units or properties servicing or encumbered by Federally insured debt. Does this prohibit an owner from using FHA-insured debt as one of the development sources in the project budget?

The NOFA and regulation prohibit the use of Capital Advance funds on a project that is currently servicing or encumbered by Federally insured debt, including FHA-insured debt. However, an owner may use new FHA-insured debt as one of the development sources in a project budget, as long as the project has revenue that is eligible to be used to cover debt service and that Capital Advance funds are not used to cover any financing costs associated with the FHA loan. PRAC assistance cannot be used as debt service. The revenue from the assisted units could cover debt service expenses if the sponsor states its intention to convert the PRAC, once executed, to a project-based Section 8 contract via the Rental Assistance Demonstration (RAD) (see Section IV of H-2019-09/PIH 2019-23).

17. What is the difference between substantial rehabilitation and gut rehabilitation?

Gut rehabilitation is more extensive, as it involves total removal and replacement of a building’s “guts,” leaving just the exterior shell of the building. Substantial rehabilitation can be broadly defined as update and upgrade of the building at levels associated with the appraised value, cost, and/or number and type of building systems to be replaced.

For purposes of this NOFA, the work proposed for use of the Capital Advance funds on existing structures (not new construction) can be either substantial or gut rehabilitation. HUD’s definition of substantial rehabilitation can be found in the [Multifamily Accelerated Processing \(MAP\) guide](#).

B. SUBMISSION REQUIREMENTS

18. Is use of the Section 202 NOFA Toolkit required for an application to be considered complete?

The Section 202 NOFA Toolkit provides applicant with a template to satisfy numerous submission requirements of the 202 NOFA. HUD will be using the Toolkit, when submitted, to support its review and scoring of applications. HUD strongly encourages, but does not require, it to be included in the application. Use of the Toolkit (or lack thereof) will not affect an applicant's score. If using the Toolkit, note that it does **not** replace all NOFA rating factors and supplemental materials will still be needed.

19. Are Sponsors or Owners allowed to include development fees within the HUD Budget?

Please refer to [24 CFR 891.815](#) governing allowable developer's fees in 202 projects.

20. How should an applicant estimate the revenue that the PRAC units will generate?

The revenue for the PRAC units will be the "Contract Rents" included in the PRAC once the units are placed in service. Residents will pay 30% of adjusted gross income in rent to the owner and HUD will use the PRAC funding to cover the difference between the Contract Rents and the residents' contribution. The initial Contract Rents will be based on the Operating Cost Standards published in Appendix A of the NOFA (see Appendix A for full description).

21. How would an applicant determine the utility allowances that will be included in the PRAC?

[Housing Notice 2015-04](#) provides information on acceptable approaches for developing a utility allowance for a property. It is not necessary to determine projected utility allowances for the property at the time of application.

22. If a city is specifically not shown in the Total Development Cost tool, what should the applicant do?

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

23. We propose building a new Section 202 project on surplus land from an existing Section 202 project. Do we need approval from HUD for a release of security (for the surplus land) prior to submittal of the current NOFA?

In addition to the requirements stated in Section III.E.5., the Owner would have to apply for a partial release of the surplus land from the Multifamily HUB. The actual partitioning and re-plating of the fee can be contingent on the new Sponsor applicant receiving a Capital Advance award. In addition to HUD approval, the Sponsor may need approval from other lien holders.

24. With regard to a market study (Rating Factor 2), the NOFA contains language stating "if requested". Is HUD requiring a market study as part of application submission or just creating an optional spot in the application to include one if the owner opts to have one completed?

HUD will notify the applicant if it determines that a market study is necessary. This is determined on a case-by-case basis during the review process.

25. Does the Owner need to be formed (and have DUNS/SAM, etc.), or just the Sponsor?

The sponsor (applicant) is required to have a DUNS number to be eligible to receive funding and they must have registered with SAM to submit applications via Grants.gov. The property ownership is generally formed later in the process. All applicants must be registered with SAM and DUNS. If the Owner is not the applicant, then no DUNS number is required.

26. If a project is conducting a gut rehab of an existing structure (meaning everything except for the framing will be replaced) is a Capital Needs Assessment still required?

No, a Capital Needs Assessment ("CNA") is not required. Per Section F.3 in the NOFA, gut rehabs and new construction do not require a CNA. All other rehabilitation projects do.

27. Section IV.B.1 states that "Evidence of Structure" is a submission requirement for Tab A. Is this required of all applicants?

The Evidence of Structure is only required when the project utilizes mixed finance.

28. Is a certification or sign-off required for the Supportive Service Plan?

No, however if the applicant will be working with a Partner(s), a letter of support from each Partner is required to be submitted with the application.

29. If a Sponsor opts to submit their Previous Participation Certification through APPS rather than using the 2530 form, can you please confirm the "Reason for submittal" that Sponsors should select so the submission gets routed to the appropriate party at HUD?

Within the APPS system, and after all of the 2530 information has been put in, you should be able to generate a Certification document that will include an identification

number. You can print this certification from APPS and submit it with your application as “Other Forms”.

30. When applicants have completed their portion of the environmental review, who should they assign it to?

Please assign your environmental report in the HEROS system to Kara Williams-Kief, Kara.S.Williams-Kief@hud.gov.

31. Do Phase I Environmental Site Assessments (ESA) expire? How should they be submitted?

ESAs are valid for 5 years and may be submitted via HEROS. In the event the report is older than 5 years, you may submit a “transaction screen” in accordance with ASTM E 1528-14 (or the most recent edition) that is up to one (1) year old at time of submission. A transaction screen will identify potential environmental concerns based on questionnaires, owner/occupant inquiry, site visit, government records inquiry and historical sources inquiry. The transaction screen must be prepared by a qualified professional, in accordance with 24 CFR 50.3(i)(4).

32. Do I need to submit a property appraisal, and if so, how recent must it be?

For purposes of responding to the FY 2020 Section 202 NOFO, an appraisal is submitted in cases where the current value of the land is claimed for consideration of the Leveraging score. Per the Multifamily Accelerated Processing (MAP) Guide, appraisals must have an effective date within 120 calendar days before the date of submission of the application package. More details on appraisal requirements can be found in section 7.6 of the [MAP Guide](#).

33. What happens if an application fails to meet the minimum requirements for physical design?

During the initial review, application reviewers will evaluate threshold *and* minimum program compliance. If the project meets the threshold *and* minimum program requirements, the reviewer will preliminarily rate each eligible application, solely based on the rating factors described in Section V.A. of this NOFA. When minimum requirements for physical design are not met the applicant may provide an explanation with supporting documents. In such cases, HUD will review the explanations and determine at its discretion if the application should continue through the remaining review process.

C. SITE AND NEIGHBORHOOD STANDARDS

34. What is an area of minority elderly concentration?

For the purpose of the FY 2020 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.

35. 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

36. What is considered the "neighborhood" or "area" of a proposed project?

For the purpose of the FY 2020 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 #41 for further discussion.

37. What is the "housing market area" of a proposed project?

For the purpose of the FY 2020 Section 202 Capital Advance NOFA, the "housing market area" generally corresponds to, as applicable (i) the Metropolitan Statistical Area (Metros); (ii) Micropolitan Statistical Area (Micros); or (iii) if the site is neither in a metros 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 #42 for further discussion.

38. 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 Section 202 Elderly Minority Concentration 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 2020 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 2020 Section 202 Capital Advance NOFA. The tool will send the report to the email address associated with the account. This report must be included in the NOFA application.

39. What if the Section 202 Elderly Minority Concentration Analysis Tool does not have any racial/ethnic data for the location of my proposed project?

In certain of the U.S. Territories, the Section 202 Elderly Minority Concentration Analysis Tool will not be able to generate a report on the racial and ethnic characteristics of the census tract and housing market area. In any situation where the tool does not have sufficient data to determine minority elderly concentration for a specific location, the applicant, based on local knowledge and any available local data, will determine whether the site is in an area of minority elderly concentration. The applicant must submit as part of its NOFA application a certification stating that it has determined that that the site is or is not in an area of minority elderly concentration and maintain records of its analysis and the data relied upon in making its determination. If the applicant determines that the site is in an area of minority elderly concentration, the applicant must provide supporting documentation that the proposed site qualifies for an exception permitted under 24 CFR, Part. 891.125(c)(2). See questions 44 & 45 below.

40. What documentation do I need to submit with my NOFA application if the Section 202 Elderly Minority Concentration 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 Section 202 Elderly Minority Concentration 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 #41 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 questions 44 & 45 for further discussion.

41. 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 Section 202 Elderly Minority Concentration Tool and include the report from the tool in its NOFA application. See questions 43 & 44 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 #45 for additional submissions that may be needed when proposing an alternative geography.

42. 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.

43. Can an applicant use the Section 202 Elderly Minority Concentration 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 Section 202 Elderly Minority Concentration 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 2020 Section 202 Capital Advance NOFA. The tool will send the report to the email address associated with the account. The report from the Section 202 Elderly Minority Concentration Tool must be included in the NOFA application.

Alternative Geography for the Housing Market Area: The Section 202 Elderly Minority Concentration 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.

44. The Section 202 Elderly Minority Concentration 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 questions 45 & 46), 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.

45. The Section 202 Elderly Minority Concentration 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 24 CFR 891.125(c)(2)(i)) (See questions 46-51)
- (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 question 54-63)

46. 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.

47. 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.

48. 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 Section 202 Elderly Minority Concentration 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.

49. 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))

50. 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))

51. 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.

52. 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 #48 for further discussion.

53. 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 #54 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 #57 for further discussion.

54. 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.

55. 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 #54. 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.

56. 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 be sufficient evidence that the proposed project meets this exception.

57. 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 should consider whether:

- i. The neighborhood has demonstrated signs of revitalization, through indicators such as low or declining 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.

58. Where can I find data on indicators of revitalization?

The Section 202 Elderly Minority Concentration Tool contains a report that includes data on indicators of revitalization, such as poverty rates, unemployment rates, and median household income, compared between the 2000 Census and 2012-2016 American Community Survey (ACS). Applicants may use this report to inform their analysis of whether their proposed project is in a revitalizing area. Applicants may also use other sources of data, including local data and local knowledge, when conducting this analysis.

59. What if the Section 202 Elderly Minority Concentration Tool does not have any data on indicators of revitalization for the location of my proposed project?

If there are no revitalization data available using the tool (which currently applies to certain of the U.S. Territories), the applicant, based on local knowledge and any available local data, will determine whether the site is in a revitalizing area, and include in its NOFA application a narrative describing its determination that the site is in a revitalizing area, along with supporting documentation, such as maps, data, studies, articles, or statements.

60. If my project is located in an Opportunity Zone, is this sufficient evidence that the project is part of a revitalization strategy or is located in revitalizing neighborhood?

In general, the fact that a project is located in a designated Qualified Opportunity Zone will not, on its own, be sufficient to show that the project is part of a revitalization strategy or located in a revitalizing neighborhood. However, HUD understands that we are in the early stages of the Opportunity Zone program. Therefore, if a project is located within a designated Qualified Opportunity Zone, HUD will accept evidence of the Qualified Opportunity Zone designation, together with evidence of a revitalization strategy that has started and will continue, as sufficient evidence that the project is part of a revitalization strategy. Revitalization planning, marketing of investment opportunities through a neighborhood prospectus, or substantial new investments by the jurisdiction with a significant likelihood of occurring to address the needs of the neighborhood in areas such as economic opportunity, environmental quality, transportation, infrastructure, health care, education, and crime reduction would constitute such evidence of a revitalization strategy that has started and will continue within a Qualified Opportunity Zone.

61. The NOFA permits Preference Points for projects located in a designated Opportunity Zone (OZ) census tract with documentation of the location and submission of Form 2996, Certification for Opportunity Zone Preference Points. I plan to use Criteria #3 which describes proposals that are outside of the OZ if the activity (202 housing project) being proposed substantially and directly benefits the OZ. What guidance can you give for how HUD defines directly and substantially benefitting the OZ?

In accordance with the FY 2020 Section 202 Notice of Funding Availability (NOFA), you may receive two (2) points for building (or rehabbing) on sites located in a designated Opportunity Zone (OZ) census tract, therein qualifying for the preference points under Criteria #1 or #2 only on [Form 2996](#). This form is a global HUD form designed for use by several grant programs. For purposes of FY 2020 Section 202 NOFO, Criteria #3 does not apply, and the construction or rehab of the housing must occur within the OZ to receive preference points.

62. 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.

63. The NOFA appears to allow prospective applicants to request HUD review of their proposed justification for locating a project in an area of elderly minority concentration prior to the application deadline. Per page 24 of the NOFA: “As

compliance with the site and neighborhood standards is a threshold criteria and as the selection of the proposed site is the foundation upon which an application is based, applicants may request HUD review of the proposed justification for locating a project in an area of elderly minority concentration prior to the application deadline for submission of the NOFA. If HUD receives such a request, HUD will determine whether to review such materials and will post its decision together with answers to other questions submitted pursuant to Section VII of this NOFA. If HUD determines, in its sole discretion at that time, to review proposed justifications, HUD will review materials submitted by any potential applicant pursuant to uniform procedures specified in the posted decision.” Will HUD allow a review of justifying materials for the Site and Neighborhood Standards criteria of the FY20 Section 202 NOFA prior to full submission of a NOFA application due on May 26, 2021?

Yes, HUD will review and provide a response to applicants that submit for review their justifying materials for the Site and Neighborhood Standards criteria of the FY20 Section 202 NOFA prior to the application deadline. An applicant may send this request to the NOFA Mailbox at 202CapitalAdvanceNOFA@HUD.gov. HUD will aim to provide a response prior to the application deadline, though it may not always be possible to perform a complete review based on completeness and the complexity of the submission. The earlier a submission is made (e.g., at least two weeks prior to the application deadline), the more likely HUD will be able to perform a complete review and provide a complete response. Any response will be conditional. A final determination of compliance with Site and Neighborhood Standards will be made after the full application has been submitted.

D. SCORING

64. What is the maximum number of points available in the scoring of this NOFA?

The maximum score is 100, broken down in the following manner. See Section V.A. “Application Review Information” in the NOFA for more detailed information.

Rating Factor 1: Physical Design and Supportive Services (33 points)

- Physical Design (20 points)
 - Incorporation of optional design features from Physical Design and Livability Template. (12 points)
 - Evaluation of schematics, full list of design commitments and written narrative describing other innovative building features designed to extend the period residents can live independently and age in place. (8 points)
- Supportive Services (13 points)

Rating Factor 2: Market (14 points)

- Need, Absorption Ratio (4 points)
- Neighborhood and Context (10 points)

Rating Factor 3: Capacity, Project Leverage, and Committed Funding (41 points)

- Development and Management Experience (15 points)
 - Development experience (8 points)
 - Elderly and affordable housing experience (6 points)
 - PRAC property management experience (1 point)
- Leverage Ratio. (15 points)
- Commitment of Sources. (10 points)
- Employment Opportunities for Low- and Very-Low-Income Persons. (1 point)

Rating Factor 4: Land-use/Zoning (10 points)

- Evidence of Compliance with Local Land Use and Zoning Regulations. (10 points)

Preference Points (2 points)

- Opportunity Zones. (2 points)

65. Does the 202 NOFA’s leveraging calculation include or exclude the value of PRAC funding within the ratio calculation, or does the leveraging calculation only take into account Capital Advance funds?

The leverage ratio calculation (Rating Factor 3) considers the amount of financing brought to the project relative to the requested Capital Advance funds. It does not include the PRAC funds.

66. Is it possible that a project could be funded without any leveraging?

Section V.A., Rating Factor 3 details the point structure for awarding points for Project Leverage. An applicant must receive a minimum of 20 points (out of 41) for Rating Factor 3. Points are awarded for: development and management experience (up to 15 points), project leverage (up to 15 points), commitment of sources (up to 10 points), and Employment Opportunities for Low- and Very-Low-Income Persons (up to 1 point).

67. How will leverage points be awarded for non-committed funds? For example, a project could propose 9% funds, but the state's funding round may not coincide with when 202 applications are due under this NOFA. If the Sponsor submits with the expectation of a future 9% application and subsequent award, would they receive the

proper points for leveraging, but just not for funding commitment? If awarded a 202 Capital Advance, would their award be jeopardized if the 9% award didn't come through?

Rating Factor 3 in the NOFA considers both the leverage ratio and the amount of committed funds in the project.

The leverage ratio represents the amount of financing proposed to be brought to the project by the applicant relative to the amount of Capital Advance funding requested.

The committed funds calculation represents the percentage of non-Capital Advance funding for the project with a high likelihood of being secured.

Non-committed funds (such as a potential 9% LIHTC award) would count toward the leverage ratio but would **not** be counted toward the committed funds ratio. As described in Section V.A of the NOFA (Application Review Information), for a 9% award to be considered “committed”, the applicant must provide proof of a 9% LIHTC **allocation** along with a pricing letter from an investor.