

FY 2022 Section 202 Capital Advance NOFO Frequently Asked Questions

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A. PROJECT ELIGIBILITY

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

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. For intergenerational dwelling units, residents can include a child who is not older than 18 years of age and is not attending school or an individual who is not older than 19 years of age and is also attending school full or part-time. 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 a property funded under the standard 202 funding track must be developed and operated with non-202 funds. However, if the project is funded under the intergenerational dwelling unit funding track, Capital Advance and PRAC funds can be used to construct and operate the intergenerational units.

3. **If I am applying for funding for intergenerational units, what is the minimum number of intergenerational units I must include in my project?**

As stated in Section III.F.2 of the NOFO, applicants for intergenerational units must include the greater of 5 units or 20% of all PRAC units as intergenerational units in their proposal. The proposed intergenerational units are included in the count of all PRAC units. For example, if an applicant is proposing 50 non-intergenerational PRAC units, they would need to include at least 13 intergenerational units (13/63 units) to meet the 20% threshold.

4. **What bedroom sizes are permitted when proposing intergenerational units?**

As stated in Section III.F.2 of the NOFO, any intergenerational units proposed by applicants can have no fewer than 2-bedrooms. In contrast to non-intergenerational units, capital advance awarded to intergenerational units can be used to finance the cost of units with two or more bedrooms.

5. **How are rents set for intergenerational units?**

PRAC rents for intergenerational units will be adjusted for intergenerational units larger than 1-BR for each extra bedroom. 2-BR units will receive 1.15 times the baseline PRAC rents; 3-BR units will receive 1.15 times that 2-BR amount, and 4-BR

units will receive 1.15 times that 3-BR amount, etc.

6. The Section 202 NOFO 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 restricted through execution of an elderly use agreement to elderly persons whose incomes are at or below 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.

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

No. Pursuant to Section I.A of the NOFO, 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.

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

No. Section I.A 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.” Any federally insured debt must be paid off prior to award with proof of the debt being extinguished during the cure period. Properties assisted under Section 202 PRACs may consider conversion under the Rental Assistance Demonstration to address rehabilitation needs.

9. **Is it possible for a successful applicant under this 202 NOFO 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 NOFO 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 NOFO 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 complies 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.

Applicants under this NOFO who are interested in pursuing conversion to a Section 8 contract under RAD may indicate this to justify how units developed under this NOFO can 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 the 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 will be the established PRAC rents, which are set at the Operating Cost Standards referenced in this NOFO, not to exceed statutory Section 8 initial contract rent limits.

10. **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.

11. **May a project be partially assisted under a PRAC (awarded through this NOFO) and partially assisted under another assistance program?**

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

12. **In a mixed finance development, can 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 will be allocated to the construction of each unit.

Yes, the property as described could be fully assisted by the PRAC. However, funds cannot be used to service debt.

13. 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 currently Federally assisted or Federally insured.

14. 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 NOFO?

SROs are not considered the same as an efficiency unit and are not permissible for funding under this NOFO.

15. 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.

16. Does an Owner need to purchase property prior to an application being awarded under this NOFO 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.6. of the NOFO describes how the applicant can demonstrate site control, for example, through a deed or long-term leasehold.

17. 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 has been submitted to HUD, applicants shall not acquire, rehabilitate, convert, demolish, repair, or construct property, nor commit or expend HUD or non-HUD funds for these program activities with respect to any eligible property, until HUD has completed its full (not preliminary) environmental review.

Existing multifamily properties may continue normal operations during the application process including leasing to new tenants, completing maintenance and repairs related to unit turnover, and regularly scheduled or emergency repairs. Applicants may undertake actions that qualify as routine maintenance (discussed in detail in Section 9.1.3.C.2.a of the Multifamily Accelerated Processing (MAP) Guide). Applicants may also continue to perform obligations to sustain an existing leasehold or option to lease agreement. Any other activities, including ALL development or demolition activities, are strictly prohibited until HEROS is reviewed and approved by HUD. Failure to observe this requirement can render your site permanently ineligible for HUD funding.

18. The NOFO 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 NOFO 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).

19. 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 NOFO, 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.

20. I plan to renovate a historic building using 202 Capital Advance funds. Can I begin work on the property before receiving an award?

No. Section 110 of the National Historic Preservation Act prohibits an agency from granting assistance to an applicant that, with intent to avoid the historic preservation consultation requirements of Section 106 of the Act, has “intentionally significantly adversely affected a historic property,” unless the agency, after consultation with the Advisory Council on Historic Preservation, determines that circumstances justify granting the assistance despite the adverse effect created or permitted by the applicant. HUD must complete its Section 106 review before an applicant can begin any work on the property. Part of this review will include a finding from the State Historic Preservation Officer that the proposed work would not constitute an adverse effect on the historic property.

In addition, no construction or modification of any site (e.g., grading, clearing, filling) is permitted unless and until HUD has given express approval. Further, no buildings/structures on site should be removed or modified in any way unless and until HUD has given express approval. Failure to abide by these restrictions could permanently make your site ineligible for HUD funds.

B. SUBMISSION REQUIREMENTS

21. 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.

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

The Section 202 NOFO Toolkit is strongly recommended but not required. It provides applicants with a template to satisfy numerous submission requirements of the 202 NOFO. HUD will be using the Toolkit, when submitted, to support its review and scoring of applications. Use of the Toolkit (or lack thereof) will not affect an applicant’s score. NOTE: If using the Toolkit, know that it does **not** replace all NOFO rating factors and supplemental materials are still required.

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

Yes, subject to the provisions at [24 CFR 891.815](#) governing allowable developer’s fees in 202 projects.

24. 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 NOFO (see Appendix A for full description). Completing the Operating Cost Standard section in the 202 NOFO Toolkit will provide an estimate of the PRAC revenue for the property.

25. 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.

26. 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.

27. 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 NOFO?

In addition to the requirements stated in Section III.F.6, the Owner would have to apply for a partial release of the surplus land 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. In addition to HUD approval, the Sponsor may need approval from other lien holders. The applicant must be able to submit evidence of site control.

28. Does the Owner need to be formed (and have UEI, etc.), or just the Sponsor?

No, the Owner does not need to be formed. The property ownership is generally formed later in the process. However, the sponsor (applicant) is required to have a UEI number to be eligible to receive funding and they must have registered with SAM to submit applications via Grants.gov.

29. If a project is conducting a substantial 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 III.F.4 in the NOFO, new construction and substantial rehabilitation requires a professional cost estimate, while all other applications require a CNA.

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

Yes.

31. 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.

32. 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?

Select "202 Capital Advance." Within the APPS system, after entering all of the required information in the 2530, 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 in either the "mandatory" or "optional" upload tab in Grants.gov.

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

ESAs are valid for 5 years and may must be submitted via HEROS. HUD will accept a Phase I conducted within 180 days of the application deadline and must meet the MAP requirements laid out at 9.4.1. 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).

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

For purposes of responding to the FY 2022 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.

35. 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 NOFO. 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

36. What is an area of minority elderly concentration?

For the purposes of the FY 2022 Section 202 Capital Advance NOFO, the term “area of minority elderly concentration” is defined as one where either of the following statistical conditions exists:

a) The percentage of elderly persons of a particular racial or ethnic minority in the neighborhood is at least 20 points higher than the percentage of elderly persons of that racial or ethnic minority in the housing market area as a whole; or

(b) The total percentage of elderly persons of all racial or ethnic minorities in the neighborhood is at least 20 points higher than the total percentage of elderly persons of all racial or ethnic minorities for the housing market area as a whole. 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.

37. 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

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

For the purpose of the FY 2022 Section 202 Capital Advance NOFO, 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 #40 for further discussion.

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

For the purpose of the FY 20221 Section 202 Capital Advance NOFO, 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 #4 for further discussion.

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

Applicants must use the **Section 202 Elderly Minority Concentration Analysis Tool** (Minority Concentration Tool) to identify whether a site is in an area of minority elderly concentration. The Minority Concentration Tool is available publicly at www.huduser.gov/portal/maps/section202/home.html, and applicants will need to create an account in order to obtain the report that must be submitted with their application.. After an applicant enters the address of the proposed project into the Minority Concentration 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 2022 Section 202 Capital Advance NOFO. The Minority Concentration Tool will also generate a report

that includes the minority population in the census tract and the applicable 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 2022 Section 202 Capital Advance NOFO. The Minority Concentration Tool will send the report to the email address associated with the account, which the applicant **must** provide in **Tab I** of its Section 202 NOFO application.

41. What if the Minority Concentration Tool does not have any racial/ethnic data for the location of my proposed project?

For some geographic areas, the Minority Concentration Tool does not have sufficient data to determine minority elderly concentration and will not be able to generate a report on the racial and ethnic characteristics of the census tract and housing market area. This currently applies to Guam, the Northern Mariana Islands, American Samoa, and the U.S. Virgin Islands. 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 NOFO application a certification stating that it has determined that the site is or is not in an area of minority elderly concentration and a description of the analyses it undertook with references to the sources of information.

The applicant must also 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.

42. What documentation do I need to submit with my NOFO application if the 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 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 #40 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.

43. 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 NOFO application. See questions 42 & 43 for further discussion. The applicant must also include supporting documentation in its NOFO 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 #42 for additional submissions that may be needed when proposing an alternative geography.

44. What should an applicant do if it does not believe that the MetroSA, MicroSA, or county (if the site is not in a MetroSA or MicroSA), 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 NOFO application. The applicant must also include supporting documentation in its NOFO 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.

45. Can an applicant use the Section 202 Elderly Minority 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 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 2022 Section 202 Capital Advance NOFO. The tool will send the report to the email address associated with the account. The report from the Minority Concentration Tool must be included in the NOFO application.

Alternative Geography for the Housing Market Area: The 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.

Where an applicant proposes an alternative geography for the neighborhood (other than the census tract) and the Minority Concentration Tool identifies the site to be outside of an area of minority elderly concentration, the applicant must provide a written explanation for claiming an alternative geography and HUD will review the explanation, map, and any evidence during the application review period. If an

applicant claims an alternative geography that is not approved by HUD and the Minority Concentration Tool reports that the proposed site is in an area of minority elderly concentration based on the census tract, the applicant may still seek an exception that would allow new construction in an area of minority elderly concentration (under 24 CFR 891.125(c)(2) and described below) to address the possibility that HUD does not approve the use of the alternative geography

46. The 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 43-60), 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 NOFO 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.

47. 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 NOFO 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)) and 891.125(c)(3) (See questions 47-51)
- (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 (“revitalization strategy”) 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 54-60)

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

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

49. 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.

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

The applicant must include in its NOFO 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 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.

51. 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)).

52. 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)).

53. 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.

54. 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 #47 for further discussion.

55. How can an applicant demonstrate that the proposed project meets the overriding housing needs 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 questions #53-55 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 questions #56-58 for further discussion.

56. 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.

57. 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 NOFO 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 #53. This narrative discussion should include the goals, strategies, and objectives of the revitalization plan, and a status of the activities included in the plan. 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, and education would constitute such evidence of a revitalization strategy that has started and will continue.

An applicant may submit a copy of the plan or include a link to the plan in its NOFO 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.

58. 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 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 the 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.

59. 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 or commercial 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 low or declining poverty rates or violent crime rates, high or increased educational opportunities, median household income, homeownership or employment rates, increased rates of housing values and housing wealth, or indicators of gentrification such as housing costs rising more sharply in the neighborhood relative to the neighborhood overall, accelerated rates of homeownership in the neighborhood, and disproportionate depletion of larger dwellings for families with children.

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

The 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.

61. What if the 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 Minority Concentration Tool (which currently applies to certain of the U.S. Territories), the applicant, based on local knowledge and any available local data, will include in its NOFO application a narrative describing its determination that the site is in a revitalizing area based on evidence of financial investment or other activity prior to or during the period of improvement and the indicators of revitalization listed above, along with sufficient supporting documentation, such as maps, data, studies, articles, or statements.

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.

D. SCORING

63. What is the maximum number of points available in the scoring of this NOFO?

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

Rating Factor 1: Physical Design and Supportive Services (39 points, minimum 20 for award)

- Physical Design (26 points)
 - Incorporation of optional design features from Physical Design and Livability Template. (22 points)
 - Written narrative describing other innovative building features designed to extend the period residents can live independently and age in place. (4 points)

- Supportive Services (13 points)

Rating Factor 2: Market (16 points)

- Neighborhood and Context (12 points)
- Poverty Rate (4 points)

Rating Factor 3: Capacity, Project Leverage, and Committed Funding (35 points, minimum 15 for award)

- 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 (10 points)
- Commitment of Sources (10 points)

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

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

64. Does the 202 NOFO’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.

65. 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 15 points (out of 35), among other considerations, for Rating Factor 3 in order to be recommended for an award of funding

66. 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 NOFO. 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 NOFO 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 NOFO (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.

67. How will projects applying for funding for intergenerational units be scored?

When applying for the FY22 202 NOFO, applicants will indicate whether they are applying for a regular 202 award or apply for the \$15 million available for intergenerational dwelling units. Applicants may only pick one set of funds to apply for, and if they are not awarded funds under the \$15 million for intergenerational dwelling units, they will not be considered for a regular 202 award.

At least 5 units or 20% of all PRAC units (whichever is greater) must be designated as intergenerational for a sponsor to qualify to apply for the intergenerational funding.

Applicants that apply for the intergenerational funding must meet all minimum scoring requirements of regular 202 projects. They must also submit responses to supplemental questions that demonstrate their qualifications and the appropriateness of their intergenerational proposals to support the targeted population.

Applicants can either submit answers to the supplemental questions in a separate attachment (no longer than 7 pages), or they may fill out answers to the questions in the 202 NOFO toolkit; either option satisfies the requirements of the NOFO.

Intergenerational units whose responses to the supplemental questions have been deemed sufficient will be ranked by their overall score.

The top-ranking projects that meet the minimum requirements for the intergenerational supplement will be awarded funding from the available \$15 million.

Projects are awarded until all the funding has been allocated. Additional qualified projects beyond what the \$15 million can support will not be awarded in this round

but will be encouraged to apply in future rounds. Regular 202 Capital Advance funds cannot be used to support projects applying for the intergenerational funding.

If there are insufficient qualified intergenerational projects such that the \$15 million is not fully awarded, the balance of funds will be used to fund additional projects applying for the non-intergenerational 202 funding.

If an applicant's responses to the supplemental questions are deemed insufficient, they will not be considered in scoring and the next highest scoring project that satisfied the supplemental questions will be awarded.

68. What are the supplemental questions applicants for intergenerational housing must answer and how will HUD determine whether an applicant's submission is sufficient?

Section III.F.2 in the NOFO asks applicants applying for funding for intergenerational housing to submit a narrative describing the following:

Housing Need: The need for intergenerational housing in your area as well as your plan for leasing up the building and finding qualified households to live in the project's proposed intergenerational units. For example, an acceptable submission must include a written assessment of the intergenerational families' housing needs in the relevant community, completed in consultation with local child welfare agencies, caregiver support groups, Area Agencies on Aging, or other supportive service providers working with the families; information in the community's or State's Consolidated Plan, Analysis of Impediments to Fair Housing Choice, or other planning document that analyzes fair housing issues and need for intergenerational housing; a survey of the target population; waiting lists of other intergenerational housing in the community, or other documentation of the need and demand for intergenerational housing

Section III.F.2 in the NOFO asks applicants applying for funding for intergenerational housing to submit a narrative describing the following:

Housing Need: The need for intergenerational housing in your area as well as your plan for leasing up the building and finding qualified households to live in the project's proposed intergenerational units. For example, an acceptable submission must include a written assessment of the intergenerational families' housing needs in the relevant community, completed in consultation with local child welfare agencies, caregiver support groups, Area Agencies on Aging, or other supportive service providers working with the families; information in the community's or State's Consolidated Plan, Analysis of Impediments to Fair Housing Choice, or other planning document that analyzes fair housing issues and need for intergenerational housing; a survey of the target population; waiting lists of other intergenerational housing in the community, or other documentation of the need and demand for intergenerational housing.

Physical Design: How your proposed project's design will meet the special physical needs of young children as well as older adults. An acceptable submission will describe the features of the project that make the property appropriate for children (e.g., electrical outlet protections, handrails in the bathrooms and hallways, shower thermostats that keep the water from getting too hot, secure outside play areas visible from the dwelling units, and adequate, flexible community space that can accommodate varying uses, multiple ages being served, and the changing needs of the residents).

Services: Services, programming, or other supports in place at the property that support children raised by older adults. For example, an acceptable submission will describe items such as individualized case management, support groups, mental health services, before- and after-school activities, tutoring, safe and accessible transportation, recreational activities, or other programs designed for children.

Capacity & Experience: Prior experience of the project sponsor or its partners in owning, operating, developing, or managing intergenerational housing. An acceptable submission must identify rental housing projects and/or supportive services facilities that the sponsor or its partners own and/or operate that serve intergenerational families. The description should provide available information on successful performance of the project (e.g., occupancy rates, managing waitlists, testimonials from residents or community leaders on the quality of the activities, etc.).

HUD will review applicants' responses to each question considering a variety of factors, including, but not limited to:

- Whether the applicant's submission describes a need for intergenerational housing in the community
- Whether the applicant able to demonstrate that need with any documentation (e.g., survey of target population, waiting lists of other intergenerational housing in the community, etc.)
- Whether the applicant cites specific need for intergenerational housing in the community or state's Consolidated Plan, Analysis of Impediments to Fair Housing Choice, or other planning document that analyzing fair housing issues
- Whether the applicant's submission describes a process for leasing up the intergenerational units with qualified households
- Whether the applicant consulted external partners in identifying local need or reference partnerships with external partners to assist with lease up (e.g., local child welfare agencies, caregiver support groups, Area Agencies on Aging, or other supportive service providers?)
- Whether the applicant's submission describes how the physical design of the project will meet the unique needs of young children as well as older adults?

- Whether the applicant's submission describes multiple design features that would support the unique needs of the residents at the property
- Whether the applicant's submission describes services, programming, or others supports in place that support children raised by older adults
- Years of experience the applicant (or its service partner) has organizing or running services or age-appropriate programs designed for children
- Whether the applicant's submission describes a successful track record of developing, owning, or operating intergenerational housing
- The number of intergenerational projects the applicant has previously completed
- The number of years has the applicant owned and operated intergenerational housing