
CHAPTER 3. APPLICATION PROCESSING

SECTION I - RECEIPT OF APPLICATIONS

- 3-1. Logging. All applications for Section 202 Fund Reservations submitted shall be routed to Processing Control and Reports (PC&R) to be dated and time-stamped immediately upon receipt. Applications received after the deadline date and time specified in the Federal Register NOFA will not be accepted and will be returned to the Sponsor. Likewise, applications postmarked but not received, by the deadline date will not be accepted. Applications submitted by facsimile are not acceptable.
- 3-2. Project Numbering. PC&R shall number all applications as follows:
- A. Section 202. Project numbers will be eight characters: standard three digit office code; letters "EE"; and, three digit sequential number assigned to each application received by the field office. As appropriate, the following suffix letters are to be appended to project numbers:
 - 1. NP---Nonprofit.
 - 2. WAH--Wholly for the elderly, not congregate.
 - 3. WAC--Wholly for the elderly, with central dining facilities.
 - B. Project Rental Assistance. Numbers will be assigned using the standard state, alpha and numeric codes, the letter "S", current fiscal year and invitation number, followed by the number in numerical order, beginning each fiscal year.
EXAMPLE: SC16-S931-001.
- 3-3. Section 202 Log. All applications must be reported under the Multifamily Information Processing System (MIPS) and the Management Information System (MIS) within the time period specified in the Housing Notice for each fiscal year's program.

A. Field Offices must complete:

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

B. Reporting Schedule:

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

The national Section 202 Log will be made available to all Field Offices through the computer PRINTLIST. This should be used to determine if an organization has applied for more than the allowable number of units in any Region or nationwide. (See Paragraph 1-10 above).

C. Information to be reported:

Column	Element
1	DATE Received - Processing Status Date (SAMA Application)
2	202 Project - Project Number
3	PRAC NBR - Project Rental Assistance Contract Number
4	CD - Congressional District Must be project location. If project is on scattered sites, choose one locality.
5	SPONSOR NAME - Sponsor Official Name There are 36 spaces to this element. If the name is lengthy and will not fit in the allotted space, it should be abbreviated to provide good identification of the Sponsor entity. See Appendix 7 for a list of standard

the Sponsor's/Owner's name.

6 ADDRESS - Sponsor Street/Post Office Box
Sponsor City Sponsor State
Sponsor 9-Digit Zip

7 ADDRESS - Project Street/Post Office Box
Project City
Project State
Project 9-Digit Zip

Follow directions shown under 4 above.

8 MIN Minority Designation Code

A Minority Sponsor is one in which more than 50% of the Board members are minority. The Codes are:

- 2 - Black
- 3 - Native American
- 4 - Hispanic
- 5 - Asian Pacific
- 6 - Asian Indian
- 7 - Hasidic Jewish

9 TOTAL - Total Units (C105)
Include revenue and non-revenue

10 PROD METH - Production Method Code (If proposal is combination of below, code based on predominant construction method.)

- 1 - New Construction
- 2 - Rehabilitation
- 9 - Acquisition from the Resolution Trust Corporation

11 M (metro) - SMSA Code

12 NM (nonmetro)

13 AMOUNT REQUESTED - Capital Advance
Amount

3-4. Assigning Applications. PC&R will assign all applications (except those received after the deadline date) to the Multifamily Housing Representative (MHR) to determine if the Sponsors submitted all required exhibits. THE CONTENTS OF INDIVIDUAL EXHIBITS ARE NOT TO BE REVIEWED.

When the Initial Screening Checklist (Appendix 8) is completed, the MHR will prepare for signature of the Director, Housing Development Division (HDD):

- A. Acknowledgement letters (format in Appendix 9) to all Sponsors whose applications are acceptable for technical processing; or
- B. Deficiency letters which give the sponsors calendar days from the date of the letter to provide missing documents.

NOTE: The deficiency letter is to be sent by certified mail. Any requested document may be executed or prepared within the deficiency period, EXCEPT FOR FORMS HUD-92015-CAs, ARTICLES OF INCORPORATION, IRS EXEMPTION RULINGS, FORMS SF-424, BOARD RESOLUTION COMMITTING MCI, AND SITE CONTROL DOCUMENTS, ALL OF WHICH MUST BE DATED NO LATER THAN THE APPLICATION DEADLINE DATE.

3-5. Response to Deficiency Letter. When the response to the deficiency letter is received or at the end of the deficiency period if no response is received, the application shall be placed in technical processing.

NOTE: ALL APPLICATIONS WILL BE PLACED IN TECHNICAL PROCESSING REGARDLESS OF APPLICATION CONTENTS. REVIEW SHEETS SHALL BE COMPLETED TO THE EXTENT POSSIBLE AND NO APPLICATIONS SHALL BE REJECTED UNTIL AFTER TECHNICAL PROCESSING IS COMPLETED.

SECTION III - GENERAL TECHNICAL PROCESSING INSTRUCTIONS

3-6. Review and Findings Memoranda. The appropriate portion of Appendix 10 must be completed by:

- o Counsel
- o A&E
- o EMAS
- o FHEO
- o HM

- o VAL
- o MHR
- o CPD

See Paragraph 3-12 through 3-49 for discussion of technical review responsibilities.

- 3-7. Clarification. If a reviewer finds that clarification is needed to complete the review or an exhibit is missing that was NOT requested after initial screening, he/she shall immediately advise the MHR who will:
- A. Request, by telephone, that the Sponsor submits the information within five (5) working days, and
 - B. Follow up by certified letter. Communications must be attached to the review and findings memorandum.

NOTE: Documents or exhibits are not to be requested which were requested previously in a deficiency letter.

- 3-8. Timeliness of Reviews. Technical reviews shall be completed within 30 calendar days. PC&R shall maintain records concerning the status of all reviews and assure that reviews are completed on time. The HDD shall be advised immediately if problems develop which would prevent timely completion of reviews.
- 3-9. Legal Questions. Reviewing offices shall refer to the Field Office Counsel any questions requiring further legal determination. Any comments or determinations shall be recorded on the Technical Review and Findings Memorandum or on a separate sheet attached thereto.
- 3-10. Preparing Technical Review and Findings Memoranda. After each technical discipline completes its analysis, a Review and Findings Memorandum for each application shall be completed and forwarded to PC&R.

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- 3-11. Technical Rejections. The reviewer shall immediately notify the MHR of all applications determined to be technical rejections. As soon as all reviews on the application have been completed, the MHR shall prepare letters for the signature of the HDD notifying each Sponsor of all the bases for technical rejection. The letter (Appendix 11) shall be sent by certified mail and state that the Sponsor has 14 calendar days (unless modified for a particular fiscal year) from date of

letter to appeal the decision. COPIES OF ALL TECHNICAL REJECT LETTERS SHALL BE SENT TO HEADQUARTERS, ATTENTION: HOUSING FOR THE ELDERLY AND HANDICAPPED PEOPLE DIVISION (HMEE).

If a timely appeal is received, the Field Office shall make a final determination within 5 working days from receipt of appeal. If the rejection is sustained, the Sponsor shall be so notified. If the appeal is successful, the Sponsor shall be sent a reinstatement letter, processing shall be completed, and the application shall be forwarded to the rating panel. In either case, copies of the letters to the Sponsors shall be sent to Headquarters as specified above.

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SECTION IV. VALUATION REVIEW

- 3-12. General. Valuation analyses are to be completed in accordance with HUD Handbook 4465.1, except as modified herein. The value of the site fully improved will not be established until the Conditional Commitment Stage. Immediately upon receipt of the application for technical processing, Valuation should contact the State Housing Preservation Officer (SHPO) for review of the application for historic preservation significance.
- 3-13. Review Factors. Valuation processing will include:
- A. Inspecting the site(s) and surrounding neighborhood(s) to determine acceptability of the location(s) for housing for the elderly and compliance with the Site and Neighborhood Standards set forth in applicable Regulations.
 - B. Initiating environmental clearance.
 - C. Determining marketability.
 - D. Determining acceptability of zoning for proposed construction. It is permissible under the applicable zoning ordinances, or will be, based on actions proposed to make the construction permissible.
- 3-14. Location Criteria. As site location can greatly influence the success or failure of such specialized housing, following are criteria for site selection:

A. Convenient Access to Services and Shopping.

1. Residents must have ready access to religious institutions, hospitals or clinics, and other community services, shopping, recreational facilities, and public transportation, which also may be needed by project employees (if available).
2. Shopping facilities for day-to-day necessities (such as groceries and drugs) should be within walking distance.

- B. Safety. The site and the area surrounding the site must be safe for elderly tenants, who are particularly vulnerable, and for project employees.
- C. Accessibility. Steep and uneven topography must be avoided or design must ameliorate any site deficiencies in order for site to be barrier-free.

The above site criteria represent the ideal situation. Proximity to all facilities may not always be possible, however, particularly in areas which are rural or which are rural in character. Therefore, other factors, such as the Sponsor's willingness, capacity, and plan to provide needed services to compensate for the lack of any such facilities, especially in rural areas, will be considered.

3-15. Location Analysis. The appraiser's site analysis shall consider whether (see Handbook 1390.2):

- A. Size, exposure and contour accommodate the number and type of units proposed. Adequate utilities (water, sewer, gas and electricity) and streets must be available to serve the site.
- B. Adverse natural or manmade environmental conditions exist, such as:
 - o soil instability
 - o flooding
 - o septic tank back-ups
 - o sewage hazards

- o mudslides
- o harmful air pollution, smoke or dust
- o excessive noise, vibration, or vehicular traffic
- o rodent or vermin infestation
- o fire hazards

The neighborhood must not have predomination of undesirable elements (such as substandard dwellings), unless there is an active concerted remedial program and rebuilding of the area has progressed to the point that the convenience and safety of the Section 202 project residents would not be sacrificed.

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C. Access to amenities, such as:

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

D. Travel time and transportation costs from the neighborhood to places of employment. While the elderly should not be totally isolated from employment opportunities, this requirement need not be rigidly applied for such projects.

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

1. No project may be approved that is located in a coastal high hazard area, velocity zone (V, VE or V1-30) or in a floodway identified on FEMA maps or Flood Insurance Study.

2. For technically acceptable applications whose sites are located in the 100 year floodplain, the Field Office shall initiate and cover the cost of the Water Resources Council (WRC) Guidelines 8-Step procedures (24 CFR 50-4(b)). IF THE FIRST SIX STEPS ARE NOT COMPLETED PRIOR TO REGIONAL OFFICE SUBMISSION TO HEADQUARTERS, THE APPLICATION CANNOT BE RECOMMENDED FOR FUNDING.
3. Applications for either acquisition and or rehabilitation are subject to the same requirements and analysis (including consideration of alternatives, which are the other projects in the competition) of the WRC Guidelines, 8-Step procedures, as applications for proposed/new construction (24 CFR 50.20).

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

requirements of Executive Order 11990, Wetland Protection. For technically acceptable applications with projects affecting wetlands, the Field Office must initiate and cover the cost of the WRC 8-Step procedures (discussed above for flooding). If the first six steps are not completed and the Field Office doesn't make a finding that:

1. There is no practicable alternative to such construction, and
2. The project includes all practicable measures to minimize harm to wetlands which may result from such construction prior to Regional Office submission to Headquarters, the application cannot be recommended for funding.

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- 3-16. Environmental Review shall be conducted in accordance with HUD Regulations 24 CFR Part 50 and 51, Handbook 1390.2, Environmental Assessment Guide for Housing Projects and Handbook 1390.4, a Guide for HUD Environmental Criteria and Standards contained in 24 CFR Part 51. All applications, with proposed sites, accepted for technical processing require either an environmental assessment (HUD Form 4128) or Compliance Finding (HUD 4128.1) completed, and attached to the Valuation Branch Technical Processing Review and Findings Memorandum. For an application whose site is being acquired from RTC, HUD's environmental assessment is to include a review of RTC's Transaction Screen Checklist or Phase I Environmental Site Assessment of the site.
- 3-17. Marketability. Although there is not a rent comparability test, a Section 202 project must not be approved which would not be marketable without PRAC assistance because of relative undesirability of its location.
- 3-18. Reasons for Rejection. Some of the reasons for rejection of an application by Valuation include:
- o Did not meet site and environmental criteria.
 - o There were unresolved environmental problems (such as, contaminated sites, i.e., underground storage

tanks, toxic materials, etc.).

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SECTION V. FAIR HOUSING AND EQUAL OPPORTUNITY REVIEW

- 3-19. General. Fair Housing and Equal Opportunity (FHEO) staff review Section 202 applications to determine:
- o Sponsor's capacity to develop and operate the proposed housing on a long-term basis, based on the Sponsor's experience in providing housing or related services to minority persons or families and experience in providing opportunities for minority and women-owned business enterprises participation.
 - o Need for supportive housing for the elderly in the area to be served and the suitability of the site, based on whether project promotes a greater choice of housing opportunities for minority elderly persons/families.
- 3-20. Review Factors. To determine acceptability, FHEO shall consider:
- A. Sponsor's record of compliance with civil rights laws and requirements.
 - B. Sponsor's experience in providing housing or related services to minorities and in awarding contracts to minority and women-owned business enterprises.
 - C. Site's compliance with HUD's Site and Neighborhood Standards (24 CFR 889.230). The site will also be rated based upon its suitability of promoting a greater choice of housing opportunities for minority elderly persons/households.
 - D. Project's participation rate of elderly minority applicants and identified need for housing of elderly minority persons or families.
- 3-21. Site and Neighborhood Standards Review. The following will be evaluated:
- A. Site and neighborhood must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title

Housing Act, Executive Order 11063, and HUD's implementing regulations at 24 CFR Parts 1, 100, 108, 109, 110 and 107, respectively.

- B. If new construction is proposed, the site must not be located in an area of minority elderly concentration (except as described in Paragraph C below), and must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority elderly to nonminority elderly residents in the area.
- C. Location in area of minority elderly concentration permitted only if:
 - 1. Sufficient, comparable opportunities exist for housing for minority elderly families, in the income range to be served by the proposed project, outside areas of minority elderly concentration, or
 - 2. The project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in that housing market area.
 - a. A determination of overriding need may be made if:
 - (1) The site is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood; or
 - (2) The site is located in a neighborhood experiencing significant private investment which is demonstrably changing the economic character of the area (a "revitalizing area").
 - b. However, an overriding need may not serve as the basis for determining that a site is acceptable if:
 - (1) The use of this standard in recent years has had the affect of

circumventing the Department's obligation to provide housing choice; or

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

NOTE: In evaluating sites for housing for the elderly located in areas of minority elderly concentration, more often FHEO's concern is whether there is a substantial, unmet need for such housing in the minority community because such housing had not been provided previously, it is less often a concern of whether sufficient, comparable housing opportunities are available outside the areas of minority elderly concentration,

Each proposed site, however, must be evaluated on its own merits to determine whether there are sufficient, comparable housing opportunities to justify placing a project in an area of minority concentration, or whether there is an overriding need for such housing as discussed in the Site and Neighborhood Standards. If either requirement is met, the site should be approved.

3-22. Other Review Factors. FHEO also shall review applications to determine:

- A. Sponsor's Prior Experience in Housing and/or Providing Services to Minorities. The focus is on whether the housing or related services (i.e., housing counseling, nutrition and food services, special housing referral, screening and information projects) are directed toward elderly, very-low-income, minority persons or families.

The review includes a consideration of:

1. The variety of services and facilities provided;
2. The number of persons, by race and ethnicity, served by the activities, and, if available;

3. Information from residents in the community regarding the quality of the activities.

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- B. Suitability of the Site. FHEO will review and rate the acceptability of the site from the standpoint of promoting a greater choice of housing opportunities for minority elderly persons/households.
 - C. Opportunities for MBE/WBE, as follows:
 1. The type of activities the Sponsor has taken to assure MBE/WBE participation;
 2. The types of services which have been purchased or awarded by contract;
 3. Minority and/or women-owned businesses utilized by the Sponsor; and
 4. The dollar amount paid to each firm.
 - D. Housing Needs of Elderly Minority Persons or Families. FHEO will analyze the participation rate of elderly minority applicants in the Section 202 program within the jurisdiction (housing market area) of the proposed housing. Where there is an identified need for elderly housing in the minority community, FHEO will compare that information with submitted data to determine whether the application addresses that need.
 - E. Relocation and Displacement. If relocation is indicated, FHEO staff shall review Exhibit 7 to determine whether the required information is acceptable.
- 3-23. Affirmative Fair Housing Marketing Plans. Sponsors are not required to submit Affirmative Fair Housing Marketing Plans (AFHMP), HUD Form 935.2, at the initial application stage. If the AFHMP is submitted with the initial application, the Field Office FHEO staff shall determine if a review is necessary taking into consideration that that application might not be selected for funding.

NOTE: If the AFHMP is reviewed and it does not meet

AFHMP requirements, the application is not rejected. However, if the application is selected, the Field Office shall note on the Notification of Selection letter for a Section 202 Fund Reservation the

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conditions for approval of the AFHMP. The corrected AFHMP is to be submitted with the Application for Conditional Commitment Application.

3-24. Reasons for Rejection. Among the more obvious reasons for rejection by Fair Housing and Equal Opportunity are:

- o The site does not meet site and neighborhood standards, or
- o The sponsor has been determined to be in noncompliance with civil rights statutes, executive orders, or regulations.

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SECTION VI. HOUSING MANAGEMENT

3-25. General. Applications shall be evaluated to determine:

- o the Sponsor's capacity to develop and operate the proposed housing on a long-term basis.
- o the adequacy of the provision of supportive services and of the proposed facility.

3-26. Review Factors. Housing Management shall determine:

- A. Scope, extent and quality of Sponsor's management experience in providing housing or services and whether HUD's experience with the Sponsor has been satisfactory, if self-management or a nonprofit identity-of-interest management is proposed.
- B. Size and unit mix proposed will allow the Sponsor

to manage and operate the project efficiently and ensure that supportive services will be accomplished in an economical fashion.

- C. Design proposed will meet the special physical needs of elderly residents and will enable the Sponsor to provide the needed services.
- D. Lack of adverse impact on other existing Federally insured and assisted housing for the elderly (HUD and FmHA), taking into consideration recent trends in the occupancy and vacancy in such projects.
- E. Extent to which Sponsor demonstrated the identified services will be provided on a consistent long-term basis.

3-27. Prior Housing Experience. If the Sponsor has developed housing under a HUD program, HM shall review and summarize its experience with the Sponsor as described below, or obtain such information from the appropriate Field Office(s).

- A. Quality of management compliance with the regulatory agreement. If the Sponsor's performance is deficient, reduce the score accordingly.

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- B. Sponsor's performance: responsiveness to HUD requirements, efforts to achieve construction start, timely final closing. If Sponsor's performance has not been satisfactory, reduce score accordingly.

3-28. Other Management Experience. If Sponsor has no prior HUD housing experience, but has submitted information concerning its non-HUD housing or service programs to demonstrate its management capabilities, HM should evaluate this experience to determine the extent to which the Sponsor has the capacity to manage its proposed housing project.

3-29. Provision of Services. HM shall determine:

- A. Whether Proposed Services are Appropriate for the Population Proposed to be Served. HM also must determine whether the building design will enable Sponsor to provide services in an economical

fashion over the life of the project as the residents' service needs change.

- B. Extent to which proposed services meet identified needs of expected residents and the identified services will be provided on a long-term basis.

3-30. Need for Housing. HM shall determine:

- A. Extent proposed housing will meet residents' physical needs.
- B. Whether proposed project is likely to adversely impact existing Federally insured and assisted housing for the elderly (HM and FmHA), taking into consideration recent trends in the occupancy and vacancy in such projects.

3-31. Reasons for Rejection. Housing management may reject an application for the following reasons:

- o The Department's experience with the Sponsor has been unsatisfactory in terms of managing its project(s).
- o It could reasonably be expected that the proposed units would have a long-term negative impact on the occupancy of existing Federally insured or assisted housing (HUD and FmHA) for the elderly in the area to be served.

SECTION VII - ECONOMIC AND MARKET ANALYSIS REVIEW

3-32. General. The Economic and Market Analysis Staff (EMAS) will review each application to determine the project's overall market prospects, the extent of sustained effective demand for the type of housing proposed for the elderly, and the impact of the project on existing Federally assisted housing for the elderly.

3-33. Review Factors. The Economic and Market Analysis Staff will determine:

- A. The extent of sustained effective demand/need for the project in the area to be served based on: consideration of the sponsor's evidence of need in Exhibit 16 under the guidelines in paragraph 3-34., as well as other economic, demographic and housing market data available to the Field Office

including, the availability of existing Federally assisted housing (HM and FmHA) for the elderly and current occupancy in such facilities, Federally assisted housing for the elderly under construction or for which fund reservations have been issued, and in accordance with an agreement between HUD and FmHA, comments from the FmHA regarding the demand for additional assisted housing and the possible harm to existing projects in the same housing market area.

- B. Whether there is a sufficient sustainable demand for the number and type of units proposed, taking into consideration the extent of need and possible long-term adverse impact on occupancy in existing Federally insured or assisted housing for the elderly. If a determination of sufficient sustainable demand cannot be made, the application must be rejected. An application that is technically rejected for lack of market or adverse impact in to be given zero points (0) on rating criterion 2a on the EMAS technical processing checklist.
- C. Rating points for all projects, determined to be marketable, based on the ratio of the number of units in the proposed project to the estimate of unmet need for housing assistance by the income eligible elderly households with selected housing conditions, are as follows:

- 1. The number of units proposed is 10 percent or less of the income eligible unmet need - 8 points.
- 2. The number of units proposed is 11 percent or more of the income eligible unmet need - 4 points.

3-34. Project Market Review Guidelines.

- A. The review must consider the extent of unmet need for additional assisted housing for the elderly taking into consideration the trend in demographic changes in the elderly population and households in the area, the change in incomes of the elderly, and the number of income eligible elderly households by size, tenure and selected housing

conditions, i.e., rent burden, overcrowding, and substandard housing.

- B. The review must also consider the information provided by the Sponsor in documenting the need for supportive housing for the elderly in the area and evidence of sustainable demand, and how well the Sponsor documented the need based on the criteria for Exhibit 16 outlined in paragraph 2-4C.
- C. While elderly households are defined as households of one or more persons at least one of which is age 62 or older, the review should take into consideration the characteristics of occupants currently in assisted housing projects for the elderly in the market area, e.g., household size, age and previous tenure.
- D. In analyzing the market and conditions in the current inventory of assisted rental housing resources available for the elderly in the area, the review should include: all project-based Federal assistance in projects exclusively for the elderly, e.g., Section 8, Section 202, Section 811, Section 236, Public Housing, FmHA, and tenant based assistance being used by the elderly (Section 8 Existing Certificates and Vouchers). Projects under construction or for which fund reservations have been reserved by HUD or FmHA should also be counted as available resources.

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- E. The Housing staff should be consulted regarding the occupancy situation in existing assisted housing projects for the elderly and the status of projects in the pipeline (units that are under construction or for which fund reservations have been issued by HUD or FmHA).
 - F. As appropriate, the review may also include an advisory opinion on aspects of the project that relate to its marketability prospects and the project's competitive position in the market given its location and characteristics, if they have readily available knowledge of the site and location. If the sponsor proposes that some of the units be efficiencies (0 bedrooms), the analysis should include an assessment of the

marketability of efficiency units in the market area.

- G. Upon completion of technical processing, shall forward to the Director of Housing Development the completed Technical Processing Review Memoranda, as well as any data (including previous market reviews or other information on the market conditions) EMAS decides are necessary to support its findings and recommendations. The actual content and format of the review may vary depending on the relevant circumstances of the project and the existence of recent prior market analyses and reviews in the same market area.

3-35. Problem Market Conditions and Adverse Impact.

- A. Projects should not be approved in market areas where there may not be a sufficient level of demand for additional units to assure that the proposed project would not have an adverse impact on the long-term occupancy in existing assisted housing projects for the elderly.
- B. The existence of one or more of the following market conditions does not in itself establish a market as over-supplied or indicate a lack of sufficient demand for additional units. A reliable decision can be made only after an effective analysis of all available data and information is received from Valuation and Housing Management.

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- 1. Slower than normal absorption experience in recently completed assisted housing projects for the elderly.
 - 2. Significant declines in length of waiting lists in existing projects and higher than normal turnover in the projects.
 - 3. Sustained higher than normal vacancy rates in assisted projects for the elderly of 7 percent or more for longer than 12 months.
 - 4. Movement of assisted tenants from existing assisted projects to newer projects, without replacement of the tenants in the older

project(s).

5. A significant percentage of the "specified need" being served, e.g., the total assisted rental housing available for the elderly is equal to or greater than 50 percent of the income eligible one person elderly renters in the market area.
6. Technical defaults in existing assisted housing projects for the elderly as a result of inability to reach sustainable occupancy.

3-36. Sponsor's Evidence of Need for Supportive Housing and Extent of Need for the Project. Under the statute, the Sponsor is required to provide evidence of the need for assisted units with supportive services for the category or categories of elderly persons proposed to be served in the area.

3-37. Reasons for Rejection. The basis for technical rejection of a project by EMAS is the lack of sufficient demand, i.e., there are not sufficient income eligible elderly households with selected housing conditions to assure a sustainable market for the number of additional units proposed or without adversely impacting the long term occupancy of existing Federally insured or assisted housing for the elderly.

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SECTION VIII - ARCHITECTURAL REVIEW

3-38. General. The purpose of this review is to determine, based upon the Sponsor's narrative description of the design, the adequacy of the proposed facility.

The Sponsor must certify that it agrees to comply with HUD's design and cost standards.

NOTE: Submission of plans and specifications and cost data are not required until the Conditional Commitment Stage. Therefore, there is no cost analysis at this stage of processing.

3-39. Review Factors. The Architectural staff shall determine:

- A. Extent to which the proposed design will meet the special physical needs of elderly persons.

- B. Extent to which the proposed size and unit mix of housing will enable the Sponsor to manage and operate the housing efficiently and ensure that the provision of services will be accomplished in an economical fashion.
- C. Extent to which the proposed design will accommodate the provision of supportive services that are expected to be needed initially and over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve.

SECTION IX - LEGAL REVIEW

- 3-40. General. The Field Office Counsel reviews Exhibits 1, 2A, 2B, 2C, 2D, 13 and 17 of each submission to assure that the Sponsor and the application comply with all statutory, regulatory and other legal requirements.
- 3-41. Review Criteria. The Counsel reviews to determine that:
 - A. Sponsor is an eligible private nonprofit entity, and is not a public body or an instrumentality of a public body.
 - B. No part of Sponsor's net earnings inures to the benefit of any private party and Sponsor is not controlled by or under the direction of persons seeking to derive profit or gain therefrom.
 - C. Sponsor has the legal authority to sponsor the project, to assist the Owner, and to apply for the capital advance, based on a review of the Sponsor's articles of incorporation.
 - D. Sponsor has an IRS tax exemption ruling OR a group exemption evidenced by a copy of the exemption letter for the national/parent organization AND a copy of the group listing page which includes the Sponsor, OR a letter from the parent body's responsible individual to the IRS indicating that the Sponsor has been included under the national/parent organization's group exemption.
 - E. Sponsor has submitted documentary evidence of site

control (executed by the deadline date for submitting applications) containing no unacceptable restrictive covenants or reverter clauses which cannot be acceptably corrected.

- F. Sponsor's board has adopted a resolution certifying that no officer or director of the Sponsor's board or the Owner, when formed, has or will be permitted to have any financial interest in any contractor or in any firm or corporation that has a contract with the Owner in connection with the construction or operation of the project, procurement of the site or other matters whatsoever and listing all duly qualified and sitting officers and directors of the Sponsor and the beginning and ending date of each one's term.

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NOTE: This prohibition, as to the Sponsor's officers and directors, does not apply to any management or supportive services contract entered into by the Owner with the Sponsor or its nonprofit affiliate.

3-42. Reasons for Rejection. Some of the reasons for rejection by the Counsel include:

- o Sponsor is profit-motivated or a public body or instrumentality thereof.
- o Sponsor's corporate purposes are not sufficiently broad to include sponsorship of housing for the elderly.
- o Sponsor does not have an IRS tax exemption ruling or action has not been taken by the parent to include the Sponsor under its group exemption.
- o Sponsor does not have effective site control or action was taken after application deadline date.

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SECTION X - MULTIFAMILY HOUSING REPRESENTATIVE'S REVIEW

- 3-43. General. The MHR shall review the application to determine:
- o Whether the application is consistent with all program policies and requirements set forth in Chapters 1 and 2 of this Handbook.
 - o Scope, extent and quality of the Sponsor's experience in providing housing or related services to the elderly population proposed to be served.
 - o Extent of local community support.
 - o Extent Sponsor has demonstrated the identified services will be provided on a consistent, long-term basis.
 - o Extent to which the proposed services meet the identified needs of the project residents.
 - o Whether HUD has complied with the regulatory requirements for the intergovernmental review.
 - o Whether the Sponsor has submitted the Board Resolution committing the Minimum Capital Investment.
- 3-44. Review Factors. The MHR shall review the:
- A. Housing/Service Experience. Sponsor's experience must be as an organization. The experience of board members will not be considered in lieu of organizational experience.
1. Housing Experience. Consider:
- o Number of units in management in relation to number of units requested.
 - o Turnover and vacancies in project(s).
 - o Waiting list(s) for project(s).
 - o Variety of services offered to project or community residents.
 - o Types of persons served.

-
- o Length of experience.
2. Supportive Services Experience. Consider the Sponsor's experience in providing services and operating facilities (meals-on-wheels, community clinic, neighborhood facility, referral service, senior center, etc.) by reviewing:
- o Length and type of experience (direct provision, coordination, referral).
 - o Number and types of persons being served.
 - o Amount and stability of funding for programs.
- B. Ability to Enlist Local Volunteers and Local Funds for its Efforts. Consider:
1. Sponsor's ability to elicit community support, provide services through volunteer programs, or obtain services through community service agencies, etc., the extent of its activities, period of involvement and the size of the client group.
2. Whether Sponsor has served the area where the project is to be located, the length of its experience, the type of experience and its ability to obtain support from this community (e.g., donations, successful fund drives, a wide variety of service activities in the community).
- C. Extent to Which Proposed Supportive Services Meet Identified Needs of the Residents. Consider:
1. Whether the Sponsor sufficiently describes the needs of the proposed residents.
2. How well the services to be offered meet those needs.
- D. Extent to Which Services Will be Provided on a Consistent, Long-Term Basis. Consider:
1. Whether the funding source(s) identified are stable, acceptable, and subject to future appropriations.

2. Whether the service provider(s)' experience in and capability of providing supportive services are acceptable.

3-45. Compliance with Intergovernmental Review Requirements.

The MHR must determine that HUD has complied with the process identified in 24 CFR Part 52, Intergovernmental Review Regulations. No application may be recommended to Headquarters for approval until the 60-day comment period has ended, if applicable.

- A. Favorable Comments. If favorable comments are received and the application is rejected during technical processing or the application is on the "approvable but unfunded" list, the "nonaccommodation" procedures described in C.2. below shall apply.
- B. Adverse Comments. If there are adverse comments on applications on either the selection or "approvable but unfunded" lists, the "nonaccommodation" procedures described in C.2. below also shall apply.
- C. Submissions to Headquarters.
 1. Field and Regional Offices must state "adverse or favorable comments received" in the "Comments" section of the appropriate list and attach a copy of the comments.
 2. Such applications will not be funded unless Headquarters notifies the State Point of Contact (SPOC) of the "nonaccommodation" prior to the announcement of fund reservation selections.

3-46. CPD Review. If CPD accepts with comments or rejects the displacement/acquisition project information, the Notification Letter (Appendix 12) shall be conformed indicating the additional data that must be provided by the Sponsor.

3-47. Coordination of Reviews. The MHR should oversee the coordination of the reviews by EMAS, Valuation and Housing Management to avoid the funding of additional projects in areas identified as having current market problems in existing assisted housing for the elderly, unless such problems are determined to be of a short-term, i.e., 12 months, or project specific nature.

- 3-48. Reasons for Rejection. Some of the reasons for rejection by the MHR include:
- o Sponsor application was submitted for more units than permitted in a single application.
 - o Sponsor had no experience in developing and/or operating housing, medical or other facilities and/or services to elderly persons.
-

SECTION XI - COMMUNITY PLANNING AND DEVELOPMENT
RELOCATION REVIEW

- 3-49. CPD Review of Relocation and Real Property Acquisition. Exhibits 7 and 8 shall be forwarded to CPD. CPD will review the data to determine whether:
- A. It is responsive.
 - B. The cost estimates appear reasonable.
 - C. When funds for all or part of the relocation costs are to be provided from sources other than the Section 202 funds, the Sponsor has a firm commitment of funds to meet such expenses.
 - D. The Sponsor has provided an appropriate certification of compliance with the URA, the government wide rule at 49 CFR Part 24 and 24 CFR Part 889.265(e).
 - E. An appropriate organization has been identified to administer relocation.
 - F. Technical assistance/training needs to be provided to the applicant.
 - G. The material is complete. (If CPD indicates that the Sponsor has not met any of the above requirements, the conditions for approval must be identified on the CPD technical review form and

sent to the MHR. These conditions will be included in the Notification Letter if the project is approved.)

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SECTION XII - SELECTION OF APPLICATIONS

3-50. Activities at Conclusion of Technical Processing.

- A. PC&R Responsibility. PC&R shall forward to the MHR all Technical Review and Findings Memoranda.
- B. MHR Responsibility. The MHR must:
 - 1. Reconcile any conflicting review comments by obtaining agreements from affected offices or by referring the matter to the Housing Development Director for a decision.

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

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

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

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

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

- 5. Prepare technical rejection letters based upon the reviews of each technical discipline. The letters shall enumerate all reasons for rejection, shall advise the Sponsor that any appeal must be received by

the Field Office within 14 calendar days (or such less period as may be set for a particular fiscal year) from the date of the notification letters with a copy to the

Office of Elderly and Assisted Housing, Room 6112, 451-7th Street, SW, Washington, DC 20410. ALL TECHNICAL REJECTION LETTERS SHALL BE SENT BY CERTIFIED MAIL, WITH A COPY TO HEADQUARTERS, ATTENTION: OFFICE OF ELDERLY AND ASSISTED HOUSING (ROOM 6130).

6. If appeals are received, the Field Office must determine within five (5) working days whether any applications should be reinstated.
 - a. If an application is reinstated, the Field Office shall:
 - (1) Send the Sponsor a letter advising that the application has been reinstated.
 - (2) Complete technical processing of all such applications.
 - b. If a Sponsor submits information after the deadline for accepting appeals or the application is not reinstated, the Sponsor shall be notified immediately that the application remains a technical reject.

Copies of all reinstatement and confirmation of rejection letters shall be sent to the Office of Elderly and Assisted Housing (HMEE), Room 6130.
7. Calculate the amount of the capital advance fund reservation using the formula and procedures prescribed below and in accordance with outstanding Section 202 cost limits. The fund reservation may not exceed the current cost limits.
 - a. Multiply the appropriate Section 202 cost limits by the number of units

(including any nonrevenue unit) for each bedroom type and for elevator or nonelevator structures as requested in Exhibit 1 of each application.

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

EXAMPLE: Assume a 100-unit elevator building with 10/0-bedrooms and 90/1-bedrooms. The calculation is as follows:

Bedroom Type	202 Cost Limits	HCP	Number of Units	Loan Amount
0-BR	29,500	x 150	x 10	\$ 442,500
1-DR	33,816	x 150	x 90	4,565,160
				<u>5,007,660</u>

- c. The MHR will round down the capital advance authority to the nearest one hundred dollars for each approvable application.

EXAMPLE: \$5,007,660 is to be rounded down to \$5,007,600.

- 8. Calculate (rounding up to the nearest one hundred dollars) the PRAC annual assistance funds, using the operating cost standard in effect. Do not include any nonrevenue unit in this calculation.
- 9. Provide a list to the Rating Panel with the number of units and amount of capital advance authority allocated to each metropolitan and nonmetropolitan area and include a summary of the applications received from each allocation area with the project number, number of units, amount of required capital advance authority and whether funds are for metropolitan or nonmetropolitan areas.

- A. Applications Found Unapprovable. No application rejected during technical processing can be rated or considered by the Field Office rating panel unless, based on the Sponsor's appeal, the application was reinstated.
- B. SPOC Comments. The selection process cannot take place until after receipt of comments from the State Single Point of Contact or upon expiration of the comment period, whichever occurs first.

- C. Nonaccommodation. The rating panel should be alerted to any applications with State comments (EO 12372) not to be accommodated.
- D. Environmental Assessment. Form 4128 or 4128.1, as appropriate, must be completed, all compliance findings made, including any Finding of No Significant Impact, and properly executed by the Chief of Valuation before technical processing can be completed. For projects that required the NRC 8-Step procedure (Floodplain - Wetlands), the Form 4128 or 4128.1 should indicate that Steps 1 thru 6 have been completed, documentation attached. Also, the applicable determination under Historic Preservation procedures must be made and documented. After completion of technical processing, the Form 4128 or 4128.1 must be executed by the Director of Housing Development and attached to the Valuation Review and Findings Memorandum.
- E. Eight-Step Process. Field Office should have initiated the eight-step process for sites located in the 100-year floodplain prior to submission to the Rating Panel. The first six steps must be completed prior to submission to the Regional Office.
- F. Headquarters Approvals. Any applicant requests that require Headquarters approval, must be submitted in sufficient time to permit a response prior to convening the Field Office rating panel.

3-52. Determining Approvable Applications.

- A. Convening Rating Panel. The Housing Development Division Director (HDD) will convene a rating panel to:

1. Assure each application is approvable; and
 2. Rate the approvable applications.
- B. Composition of Panel. The Field Office selection panel will include the MHR and staff from:
- o Valuation
 - o Architectural and Engineering
 - o Economic and Market Analysis
 - o Fair Housing and Equal Opportunity
 - o Housing Management

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3-53. Field Office Rating Procedures.

- A. Evaluation by Panel. All approvable applications will be evaluated based on their merits relative to those of other approvable applications.
- B. Area of Competition. All metropolitan area applications will compete against each other and all nonmetropolitan area applications for the Field Office jurisdiction, except where more than one State is covered by the Field Office and it has established separate metropolitan/nonmetropolitan allocations for each State.
- C. Recommended Scores. Based on the findings from the Technical Processing Review and Findings Memoranda, the panel will assign recommended points for each of the rating criteria set forth in subparagraph D. of this section. (See Appendix 13 for the Standard Rating Criteria Form.) Up to 100 points may be assigned under the three rating criteria.

NOTE: Indicate the scores in the field office score boxes on the rating format.

D. Assignment of Numerical Ratings.

Assign numerical ratings to each application, as follows:

FACTORS	MAXIMUM POINTS
_____	_____

1. Sponsor's capacity to

	develop and operate the proposed housing on a long-term basis.	50
2.	Need for supportive housing for the elderly in the area to be served and the suitability of the site	25
3.	Adequacy of the provision of supportive services and of the proposed facility	25
	Maximum	<u>100</u>

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E. Rating Guidelines. Apply the guidelines set forth below to determine the numerical rating for each criterion listed above.

- Factor 1: When assigning points for the provision of housing assistance from a civil rights perspective, more favorable consideration should be given to projects which propose to alleviate the problem of low occupancy rate by elderly low-income minority persons.

In assigning numerical ratings to this factor, consideration must be given to evidence provided by the Sponsor that it has organizational continuity and will be able to continue its support to the project.

- Factor 2: Examples of adverse environmental conditions are soil instability, flooding, mudslides, harmful air pollution, excessive noise or fire hazards.

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

- Factor 3: Are the proposed residents independent, frail, etc.? Are the proposed services appropriate for the category(ies) of proposed residents?

Has the Sponsor identified the source(s) of funding? For what period is the commitment made?

- F. Standard Rating Criteria Form. This form shall be used without deviations (Appendix 13) to record the points assigned by each technical discipline.

3-54. Field Office Transmittal of Selection Recommendations to the Regional Office.

Field Offices must submit to the Regional Offices a two-part list, using the data diskette provided by Headquarters.

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- A. First List. This list will consist of all rated applications.
1. Include the original signed copies of the Standard Rating Criteria Form for each application.
 2. Also submit the original Technical Processing Review and Findings Memoranda. Include any subsequent review memoranda, the environmental review Forms 4128 or 4128.1 and supporting documentation.
- NOTE: Applications found technically unacceptable by each reviewer should not be forwarded to the Regional Office unless overridden by the Field Office Manager. The memorandum overriding the reviewer is to be submitted to the Regional Office.
3. Provide the name of the contact person for the Sponsor and the local telephone number (including the Area Code) for each approvable application.
- B. Second List. This list will consist of all applications still found to be technical rejections after all appeals were reviewed. For these applications, include the:
- o project number
 - o Sponsor name
 - o location

- o number of units
- o reason the application is technically unacceptable.

3-55. Regional Office Review and Point Assignments.

The Director, Office of Regional Housing, and appropriate staff will review Field Office findings and recommended ratings for all approvable applications.

- A. Final Rating. The Regional Office makes the final rating decisions giving consideration to Field Office recommendations.
- B. Modifying Recommended Scores. The Regional Office may change a Field Office's recommended scores only when a technical error has been made or when

a Field Office has been inconsistent in making its ratings compared to other Field Offices within the Region.

- 1. Indicate and document each type of change in the comment section of the rating form.
 - 2. For technical changes, cite consultation with Field Office staff, if appropriate, and reference the specific portion of the Field Office analysis in question.
 - 3. For consistency changes, document the standards of consistency being applied to the rating categories and the reason(s) why the Field Office was not consistent.
- C. Limit on Units to be Funded. The number of units stated in the NOFA and the Housing Notice controls. Therefore, the Regional Office may not select more units than allocated.
 - D. Violation of or Inconsistency with Instructions. If the Regional Office review reveals that a Field Office has violated or is inconsistent with any outstanding instructions, such items must be noted for Headquarters' review.

3-56. Regional Office Selection Panel and Recommendations.

The Regional Administrator or his/her designee shall

convene a selection panel comprised of appropriate Regional and/or Field Office staff. The selection panel will rank those applications in descending order which most reasonably approximate the number of units and capital advance funds available for each Field Office's metropolitan and nonmetropolitan area.

A. Initial Selection Recommendations.

1. Applications are to be selected for each Field Office's respective metropolitan and nonmetropolitan allocation area.
2. Only those approvable applications that scored at least 50 points can be placed on the initial selection list.
3. The selection panel should support the Department's Minority Business Enterprise goals in considering approvable applications

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for funding. These goals will be published annually.

4. The Regional Office will reallocate any excess capital advance funds in the following order of priority:
 - a. Combine the Field Office's unused metropolitan and nonmetropolitan funds in order to fund another project in either category within the same Field Office.
 - b. Excess funds (metropolitan and nonmetropolitan) which cannot be used within the original Field Office must then be reallocated to another Field Office within the same State (for those States that are served by more than one Field Office).
 - c. Any excess funds remaining available after following the procedures described in a. and b. above, can be reallocated to any other Field Office within the Region.
 - d. Any unused funds remaining after

following all of the above procedures must be returned to Headquarters with a notation in the memorandum transmitting the selection and backup materials to Headquarters.

D. Approvable but Unfunded.

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

3-57. Submission of Selection Recommendations to Headquarters.

- A. Regional Lists. Regional Offices are to submit to Headquarters three separate lists, based on the schedule stated in the annual Housing notice, using the data diskette provided by Headquarters. The lists include the following:

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1. Initial selections in rank order by Field Office and by metropolitan and nonmetropolitan allocation area.
 2. Approvable, but unfunded, applications in rank order by Field Office and by metropolitan and nonmetropolitan areas.
 3. All projects which failed to meet the threshold score of 50 points in rank order. List by metropolitan and nonmetropolitan areas.

NOTE: In no case may projects with technical deficiencies (such as unacceptable site, ineligible Sponsors lack of site control, etc.) be considered by Field or Regional Office panels, or included on any of the three lists described above.

- B. Other Required Documentation. In addition to the lists described above, the Regional Office must submit to Headquarters:
1. Original signed rating sheets for each listed application.

2. Original Technical Processing and Review Findings Memoranda for all cases listed on any of the three lists, including the environmental reviews with supporting documentation, and any memoranda overriding technical disciplines.
3. Any outstanding State comments (EO 12372) not to be accommodated and/or local adverse comments on any application on the initial selection or approvable, but unfunded, lists must be stated in the comment section of those lists.

NOTE: Include the contact person for the Sponsor and the local telephone number with area code for each application on the initial selection and approvable, but unfunded, lists.

- C. Send to Headquarters. Forward the above materials to the Office of Elderly and Assisted Housing (HMEE), Room 6116.

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- D. Transfers of Funds. As Regional Office selections may not completely match the metropolitan and nonmetropolitan distribution initially provided, Regional Office selection determinations may be made predicated on the assumption (subject to final Headquarters' review of all Section 202 selections) that the appropriate funds will be transferred as requested by the Regional Offices.
 1. Funds may be transferred to another Office within the Regional Office jurisdiction only when there are no approvable applications remaining to be funded in the original Field Office or if capital advance authority (or units) are insufficient to fund any remaining approvable applications.
 2. In reporting selections, Regional Offices should inform Headquarters of the metropolitan and/or nonmetropolitan switches which are necessary to cover the Field Office selections.
 - E. Recapitulation. Regional Offices must recap the Section 202 capital advance authority and

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3. Preparing memoranda to the Regional Offices with copies to the appropriate Field Offices identifying those applications, if any, for which additional capital advance authority will be provided.
 4. Preparing and issuing notifications to States Single Points of Contact (SPOC), explaining HUD's nonaccommodation actions to official State comments under EO 12372.
- D. Funding Control Division. This office will prepare and transmit Forms HUD-185 assigning to the Regional Offices the Section 202 capital advance authority and Project Rental Assistance authority necessary to fund those selected applications.
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SECTION XIII - PREPARATION AND NOTIFICATIONS OF
SELECTIONS AND NON-SELECTIONS

3-59. Preparation of Funding Documents and Approval Letters.

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

- A. Who is Responsible. The MHR will prepare the Letters of Notification of Selection for Section 202 Fund Reservation (see Appendix 12) and the Forms HUD-718, Funds Reservation and Contract Authority.
 1. Form HUD-718 shall be prepared in one original, one fully executed copy and three conformed copies as follows:

Block 1	A	Name and Address of Project Identification: (self explanatory)
	B	Project Contract, IAA or Purchase Order Number: Project Number (see paragraph 3-2).

- 2 Date of Preparation: (self explanatory)
- 3 Reservation Number: Number shall consist of program initials "EE", the fiscal year applicable and a sequential number beginning with "1" each fiscal year. EXAMPLE: -EE-91-1
- 4 Name and Title of Source Officer: MHR
- 5 A Appropriation of Fund Symbol: 86x4588(01)
- B N/A
- C N/A
- D Reservation Outstanding: Leave blank for initial reservation.

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- E Insert the amount of the initial reservation.
- F Insert initial reservation amount in column 5D.
- 6 Purpose of this Action: Check appropriate box(es).
- 7 A Description of Project: Provide a brief description of the project including the number of units.
- B Contract Conditions (if any): Identify if funds are to be used in metropolitan or nonmetropolitan area.
- 8 A&B Date and Signature of Source Officer: MHR
- 9 A Recommended: To be signed and dated by Housing Development Division Director.

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

C N/A

2. The MHR shall send the documents to PC&R for routing and obtaining proper signatures.

B. PC&R Function. PC&R staff will transmit to the Housing Development Division Director:

- o The Notification Letters for surname and
- o Forms HUD-718 for signature (Block 9A).

The Notification Letters and Form HUD-718 will then be transmitted to the Field Office Manager for signature (Block 9B).

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

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1. Prepare the Project Accounting Data, Forms HUD-52540 (PAD), in accordance with Paragraph 1-13 of Handbook 4050.2.
 2. Notify the MHR to prepare the nonselection letters (see Paragraph 3-63).
 3. Mail two copies each of the following to the Regional Accounting Division (RAD):
 - a. Conformed copy of Form HUD-718 and
 - b. Form HUD-52540 (PAD).

C. Verification of Funds. The RAD shall verify, within 24 hours, to the Field Office Manager, Attention: Housing Development Division Director, the project number, the number of units and the amounts of Capital Advance Authority and Project Rental Assistance Contract and Budget Authority reserved for the project. (Refer to Handbook 7400.10, Sections 8-2 and 8-3 for additional guidance.)

3-60. Notification of Selection.

A. Congressional.

The Office of Congressional and Intergovernmental Relations will notify Congressional Offices of all approved Section 202 projects simultaneously.

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

B. Regional/Field Offices.

Headquarters will notify Regional/Field Offices:

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

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3-61. Issuance of Notification Letters.

After Congressional notifications have been completed, PC&R will date the Notification Letters in accordance with RAD's confirmation date and will distribute the Letters and Forms HUD-718 as follows:

- o Original and one copy of Notification Letter to the Sponsor by Certified Mail-Return Receipt Requested,
- o One copy of Notification Letter to the Field Office Docket, the Regional Office of Housing and the Office of Elderly and Assisted Housing, HMEE,
- o Original Form HUD-718 to the RAD and a copy of the Notification Letter and
- o One copy of the Form HUD-718 to the Field Office Docket and to the Regional Office of Housing.

3-62. Acceptance of Fund Reservation. Within 14 days from the date of the Notification Letter, the Sponsor shall

indicate its acceptance of the fund reservation by signing and returning two copies. The Sponsor shall also submit at the same time (if applicable) the consultant's resume, the contract and a Form HUD-2530 for the consultant.

3-63. Applications not Selected.

- A. Issuing Nonselection Letters. Upon notification from the Headquarters that the Notification Letters can be issued, the MHR will prepare for the HDD Director's surname and the Field Office Manager's signature, letters to Sponsors whose applications were not selected.
- B. Type of Letter. Letters to sponsors shall state that either the application was evaluated and found approvable, but was not selected because sufficient funds were not available or that the application did not meet the threshold score of 50 points.

3-64. Availability of Information about Ratings and Ranking.

- A. When Information Can Be Released. The release of such information is prohibited until official

announcement of funding is made. Field Offices may not release selection and nonselection letters until authorized to do so by Headquarters.

- B. What Can Be Released and to Whom. The Department operates an open selection system. Accordingly, the release of rating and ranking information to applicants or their authorized representatives is permitted after the release of selection and nonselection letters. If rating sheets or technical review sheets are requested, they also may be released. However, the reviewer's name may be deleted from the copy released to the applicant.

This information also may be released to any member of the public requesting such information under the Freedom of Information Act (FOIA). The handling of such requests shall be the same as for other FOIA requests.

3-65. Duration and Extension of Section 202 Fund Reservation.

The term of the fund reservation is 18 months from the date the Notification of Selection Letter is issued.

A. Owners/Sponsors. The Owner/Sponsor is responsible for assembling a development team that can expeditiously prepare conditional and firm commitment applications which meet program and technical requirements. (The Sponsor is responsible until the Owner is formed at the Conditional Commitment Stage.) Under normal circumstances, projects should be able to reach initial loan closing within 18 months. Many projects have done it in less, 12 months being not unusual. In order to achieve timely initial closings, Owners are expected to:

1. Meet with the Field Office within 30 days of receiving a fund reservation, with all members of the development team present, to discuss how they intend to develop the project, and to develop, with the Field Office, a mutually acceptable timetable for action;
2. Assure that there is full communication between development team members throughout the development process;

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3. Raise immediately with the Field Office any significant problems that arise;
4. Be accountable at all times for actions by development team members on their behalf; such as:
 - o making sure the architect is aware of and following the Department's design and cost standards;
 - o keeping the consultant to the agreed-to timetable;
5. Pursue the timetable for action with vigor.

B. Field Offices. The Field Office is responsible for assisting Owners in understanding the program policies and procedures, so that Owners can

develop conditional and firm commitment applications that are responsive and complete. To that end, Field Offices are expected to:

1. Request a meeting with each Owner within 30 days of the issuance of the fund reservation, and inform the Owner that an Application for Conditional Commitment will not be accepted until after the meeting takes place.
2. Develop, with the agreement of the Owner, a workable timetable to reach initial closing.
3. Monitor the progress of each fund reservation in accordance with the processing time schedules.
4. Advise Sponsors at least 30 days prior to expiration of the fund reservation that extensions must be requested prior to the expiration date.

C. Authorization to Issue Notices of Intent to Cancel. Subject to the approval of the Assistant Secretary, the Field Office:

1. May, at any time, issue a notice of intent to cancel the fund reservation if the Field Office determines that the Owner is not making satisfactory progress toward the start

of construction, rehabilitation or acquisition from the Resolution Trust Corporation.

2. Shall issue a notice of intent to cancel the fund reservation if the construction, rehabilitation or acquisition of Resolution Trust Corporation properties of a project is not begun within 18 months after the notice of Section 202 fund reservation or, if applicable, within an extension of the 18-month period.

D. Extension by Field Office. Field Offices may extend fund reservations up to 24 months, if it determines that the Owner is making satisfactory progress toward the start of construction, rehabilitation or acquisition of Resolution Trust

Corporation properties.

- E. Extension by Regional Office. Regional Offices may grant additional extensions to up to 36 months, if:
1. The delay has been for reasons beyond the Owner's control;
 2. The Owner has done everything within its power to resolve the problems causing the delay;
 3. All major problems have been resolved, or there is good reason to expect prompt resolution; and
 4. There is good reason to expect the start of construction, rehabilitation or acquisition of Resolution Trust Corporation properties to begin within the extension period.
- F. Notification Procedures.
1. If HUD determines that a fund reservation must be canceled, the Field Office shall mail a notice of cancellation to the Owner by certified mail, return receipt requested. The notice of cancellation must:
 - a. Describe the reasons for the cancellation of the fund authority; and

- b. Advise the Owner that it may file an appeal of the cancellation with the Field Office within 30 days of the receipt of the cancellation notice, and that the failure to file an appeal will result in the cancellation of the fund reservation upon the expiration of the 30-day period.
2. If the Owner fails to file an appeal of the fund cancellation within 30 days from the date of the cancellation notice, the Field Office shall cancel the fund reservation and provide a written notice of the cancellation to the Owner.

3. If the Owner files an appeal within 30 days of the date of the cancellation notice, HUD Headquarters will review the appeal and will issue a decision on the appeal within 45 days of the receipt of the appeal. HUD will approve the appeal if the Owner demonstrates that it is making satisfactory progress toward the start of construction, rehabilitation or acquisition of Resolution Trust Corporation properties.
4. If Headquarters approves the appeal, the Field Office will provide written notification of the approval to the Owner. The notification shall indicate the duration of the extended fund reservation.
5. If Headquarters disapproves the appeal, the Field Office will notify the Owner in writing of the determination, and cancel the fund reservation.

SECTION XIV - ACTIVITIES PRIOR TO SUBMISSION OF
CONDITIONAL COMMITMENT APPLICATION

3-66. Formation of Owner Corporation.

The Sponsor must legally form the Owner corporation in accordance with Section 889.105 of the Regulations and Paragraph 1-4 of this Handbook prior to submitting the Application for Conditional Commitment and proof of such action must be submitted with the application.

- A. Single-Purpose Corporation. To give HUD sole claim over the assets of the Owner in case of default under the Regulatory Agreement, the Owner must be a single asset corporation.
 1. The Owner will not be permitted to:
 - a. Engage in any other business or activity, including the operation of any other rental project, or
 - b. Incur any liability or obligation not in connection with the proposed project.
 2. Because of its single purpose, the Owner must

be capitalized by the Sponsor in a sufficient amount to permit the Owner to meet its obligations in connection with the project.

- B. Incorporation. Only an Owner duly incorporated under State law can submit the Conditional Commitment Application.
1. Foreign Corporations. An Owner may be incorporated in a State other than the one where the project is to be located.
 - a. The Owner should contact the State Corporation Commission for the State in which the project is to be located to ascertain what is necessary to allow it to do business in that State,
 - b. If a special certificate is needed in order for a foreign corporation to do business in a different State, the required document must be included in the Application for Conditional

Commitment, along with the Articles of Incorporation, By-laws and an Incumbency Certificate (which includes the names and titles of all officers and directors and beginning and ending date of each one's term).

2. Articles of Incorporation. The Articles of Incorporation should be consistent with the Certificate of Incorporation (Form HUD-91732A-CA dated 3/91, Appendix 14). If the Owner is applying for IRS tax exemption under 501(c)(3), its Articles also must conform to the addendum provisions required by the Internal Revenue Service.
 - a. The Owner must be sufficiently empowered to have and borrow money, own stock, engage in real estate transactions, as well as construct and operate a housing project funded under the Section 202 program.
 - b. The Owner's purposes must include the promotion of the welfare of elderly

households residing in the project.

- c. No religious purposes may be included in the Articles of Incorporation, By-laws, etc.
- d. The dissolution clause must not provide for or permit distribution of the corporate assets to a body created for religious purposes upon dissolution of corporate assets.

NOTE: If the dissolution clause provides for distribution to a nonprofit fund, foundation, or corporation which has established its tax exempt status under IRS Code 501(c)(3), the dissolution clause must be amended to add "other than a religious corporation".

- e. To avoid the appearance of being a public body or instrumentality of a public body, the dissolution clause may not provide for the transfer of the Owner's assets to a State or local government or any agency of a State or local government.

3. Evidence of Incorporation:

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

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

- 1. Proof of its tax exempt status in the form of:

- a. A dated copy of the application filed with IRS requesting a tax exemption ruling under IRS Code 501(c) (3) or (c) (4) or
 - b. A copy of such a ruling if available before the Owner submits its Application for Conditional Commitment or
 - c. A group exemption evidenced by a copy of the exemption letter for the national/parent organization AND a copy of the group listing page which includes the Sponsor OR a letter from the national/parent organization advising IRS to list the Owner under its group exemption.
2. For nonprofit consumer cooperatives:
- a. Evidence of the cooperative's nonprofit status under State law, and
 - b. Evidence that the cooperative has not been liable for the payment of Federal income taxes during its corporate existence.

NOTE: A covenant must be included in the Regulatory Agreement that project revenues would not be used to pay patronage dividends.

- 3. For Puerto Rican nonprofit organizations, evidence of a tax exemption under Puerto Rican law is required.
- 3-67. Transfers of Fund Reservations from Sponsors to Owners. When the newly-formed Owner corporations have been approved by the Field Office, the MHR will complete the Forms HUD-718 and PADs to affect the transfers of the Section 202 and Project Rental Assistance fund reservations from the Sponsors to the Owners and transmit these forms to the Regional Accounting Division. These are amendatory actions, not recaptures.
- 3-68. Individual Conflict of Interest and Disclosure Certifications.

- A. Officers and directors of both the Sponsor or Owner cannot have any financial interest in any contract with the Owner or in any firm which has a contract with the Owner. This includes the provision of services or products related to the construction or operation of the proposed project or holding a position as a board member in any such firm.
- B. These restrictions include, but are not limited to, serving as the attorney, land seller, architect, housing consultant, or contractor.
- C. Each officer and director of the Sponsor and the Owner of each approved project must certify on the Conflict of Interest and Disclosure Certification, provided in Appendix 2 of this Handbook, that, among other things, he or she will not:
 - 1. Receive any compensation from the Owner for his or her services,
 - 2. Have any financial interest in the land sale or in any agreement with the Owner in connection with the proposed project, EXCEPT:
 - a. An Owner may enter into a contract for a fee with the Sponsor or its nonprofit affiliate for management or supportive services; and

- b. The Sponsor may sell the project site to the Owner.

This restriction applies so long as the individual is serving on the board and for a period of three years following resignation or final closing, whichever occurs later.

- 3. These certifications must be submitted with the Application for Conditional Commitment together with current Incumbency Certificates.
- 4. The fund reservation is subject to cancellation if the Certifications are not provided for ALL officers and directors.

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

- 3-69. Certification Regarding Credit Availability From Private Sources. Pursuant to OMB Circular A-129, Managing Federal Credit Programs, the authorized officer of the Owner must submit with the Application for Conditional Commitment the certification in Appendix 15 stating that it has been unable to obtain funds from private financial sources upon terms and conditions equally as favorable as the terms and conditions available under Section 202 of the Housing Act of 1959, as amended.
- 3-70. Site Appraisals. The Field Office will conduct the site appraisal in accordance with HUD Handbook 4465.1 and notify the Owner of HUD's determination of the value of the site fully improved within 30 days from the date the Owner accepts the Section 202 fund reservation.
- 3-71. Submission of Forms HUD-2530s on the Sponsor's and Owner's Officers and directors.
- Forms HUD-2530 must be submitted for each officer and director of both the Sponsor and Owner with the Application for Conditional Commitment.
- 3-72. Conference with the Sponsor/Owner Regarding Project Design. Prior to submission of the Application for Conditional Commitment, the Design Representative

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designated at the Fund Reservation stage must work closely with the design architect to ensure compliance with HUD's design and cost standards.

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

- o Design Architect
- o HUD's designated Design Representative
- o Director of Housing Development
- o Multifamily Housing Representative

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

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

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

3-73. Affirmative Fair Housing Marketing Plan (AFHMP). Sponsors that have not already submitted an AFHMP must be reminded that one must be approved prior to the issuance of a Conditional Commitment. They also should be advised that FHEO staff is available to provide technical assistance in the completion of the HUD Form 935.2.