



Feedback on the Fiscal Year 2010 Section 202 NOFAs

July 22, 2011

Thank you for the invitation to submit comments on the FY 2010 Section 202 NOFA process. We welcome these changes, particularly as they will tend to improve the likelihood of sustainable properties being completed by strong sponsors. Please consider these responses to your questions about the NOFA, offered in the spirit of continuing to work with HUD to improve and strengthen the Section 202 program.

1. Do rating factors encourage applicants with capacity to execute projects?

- **We strongly support the NOFA's focus on evaluating the capacity of an applicant with respect to both housing development and the provision of supportive services, rather than one or the other as in past NOFAs.**
- **While we support the effort to assess sponsor capacity, we believe that placing too much emphasis on the number of delayed projects or capital advance amendments could unfairly penalize applicants with extensive development experience.** An experienced sponsor will have a large number of completed projects, but will also tend to have had more delayed projects. Delays on one project do not necessarily correlate with delays on another and are not an accurate reflection of sponsor capacity. Often such delays are the result of local conditions and circumstances, such as public permitting processes, application processing or allocation of capital advances. We suggest that HUD consider the percentage of the deals a sponsor has successfully completed versus not completed as a better way to distinguish sponsors that are more likely to perform successfully. We also suggest that delays beyond the sponsors' control not be considered and that criteria be developed for field offices so that the definition of delays outside of the control of the sponsor is consistent from office to office.

2. Do rating factors encourage applicants that deliver aging-in-place services?

- **We deeply appreciate the focus on supportive services** that is detailed in the Section 202 NOFA. We also believe that the NOFA is headed in the right direction by providing the highest points for applicants who demonstrate experience in both housing development and service delivery and whose applications propose strong supportive services programs for the elderly who will be served.

- **We note and support that the ratings and rankings appropriately are not skewed to proposals that will target frail elders, but will serve a range of seniors so they can age in place.** The 202 program is intended to support all residents' ability to age safely in the community by making available a range of services to meet their evolving needs and to prevent the premature need for higher levels of care. The NOFA accurately reflects this program purpose.
- **We are concerned that there is no defined way for the field office to rate the services capacity or programming.** We would recommend that the NOFA have more specific ratings and rankings associated with the services plan and the collaborations that will be necessary to implement a services plan. The NOFA could provide a point system that awards points:

 - for sponsors who submit a letter from a state or local human services agency describing the applicant's previous experience or future plans to advance aging in place goals;
 - for projects that have specific services to meet the needs of the applicant's target population (similar to the way that the NOFA awarded points for proximity to services); and
 - for specific collaborations with area agencies on aging, state Medicaid agencies, local service providers, and others.
- **Obtaining MOUs at the stage of application is unrealistic and probably impossible in most cases.** Health related supportive services such as those provided by Medicaid waivers or PACE programs are only available to eligible residents (who will not be identified at the time of the application) and if slots are available. The best that can be achieved at the application stage are letters of interest and support or soft commitments that affirm that if the project is funded and if slots are available, the service provider will provide services to eligible residents. The population of section 202 properties typically involves a range of levels of frailty and vulnerability to frailty. It is not feasible or advisable to presume in advance the future mix of residents, their eligibility or need for such services, or the availability of such services.
- **Proposing a robust services plan will have cost implications for the capital advance related to design elements such as commercial kitchens, specific spaces for delivery of health screenings or wellness programs, or two bedroom units for caregivers.** In addition, building a service component into a property will impact initial PRAC amounts because the ancillary costs such as staffing patterns and certain maintenance and insurance costs will have ongoing operating expense implications and must be built into the initial operating expenses of a capital advance request. The NOFA rating and rankings should explicitly recognize the costs of such approaches and balance them with the relative need for such elements.

3. Does the NOFA encourage developments in communities with the greatest need?

- **We strongly support the requirement to complete a professional market study since it will help ensure that developments only proceed in communities where there is a documented need.** The real need for senior housing that exists in most communities must be evaluated in conjunction with the quality of the application, the ability of the proposed housing and services to meet the documented needs of the elderly, and the capacity of the applicant.

4. Does the readiness component encourage applicants that can complete projects sooner?

- **We support the increased emphasis on project readiness, but this concept and its interpretation by some HUD offices could discourage potential applicants because the financial burden of preparing a competitive application is too high in relation to the limited size, number, and timeliness of potential awards.** We urge HUD to focus on realistic advance commitments from partners that indicate readiness to proceed rather than elements that will incur high up-front costs. Examples of unrealistic requirements include:
 - Detailed building and/or engineering plans require professional services and incur significant expense to produce.
 - Site control or other development rights on a property incur significant expenses even if the property does not receive an award.
 - Site review by planning staff can be considered a discretionary process, and can be either very expensive and/or very time intensive in some municipalities.
 - Obtaining zoning permits.

Each of these additional steps make the turnaround time on the application very tight since they can take weeks or even months to conclude in some jurisdictions.

5. Does the NOFA encourage the incorporation of a recognized green standard?

- **We support the inclusion of criteria that encourages developers to build to a nationally recognized green standard, but are concerned that in some cases this could increase development costs without creating access to additional sources of needed financing.** Green standards may result in life-cycle savings that exceed their initial cost, but financing these up-front costs can still be difficult, especially in a cost-constrained project such as a 202 development. Ultimately it is HUD that would gain the biggest long-term financial savings from enhanced energy efficiency. We suggest that to the extent HUD elects to encourage these features, it should be prepared to award additional Capital Advance funds and/or rating points to offset any additional development costs.

6. Does the NOFA encourage effective leverage?

- **The unpredictability of the NOFA release and the extended HUD review period place a significant burden on sponsors.** Delays in the issuance of the NOFA and the release of awards complicate the ability of project sponsors to obtain financing and other participation commitments and increase project costs. For example, due to the late timing of the FY 2010 NOFA and the extended HUD review period, some sponsors had to spend additional money to extend property purchase options indefinitely until the NOFA was released. The cost imposed upon applicants by this uncertainty is exacerbated by the emphasis on readiness to proceed. We urge that HUD seek to make the NOFA and funding awards on a predictable basis, and to provide potential applicants with the earliest possible notice of scheduling changes.
- **Leverage points are difficult to achieve in advance of a 202 award.** For instance, having tax credits committed in advance of application submissions can be problematic because the tax credit allocating agencies want to have the 202 award in place before committing the tax credits. With regard to 4% bonds, there is a short window of time in which to start construction after the bonds are committed, which means that a sponsor may not be able to wait for a 202 grant to be awarded once the tax credits are committed. We urge that HUD staff become more aware of the timing constraints associated with tax credits and other financing sources. This will make it easier for sponsors to meet the needs of other financing partners and improve project leverage.
- **Applicants report that different hub offices interpret “commitment” differently** with respect to the NOFA. We suggest that HUD define the term specifically to address what conditions are acceptable. We also recommend that HUD inform the HUBs that firm financing commitments are not a realistic expectation at the time of application. Instead, a letter that conditionally commits financing if the Section 202 capital advance is awarded should be sufficient.

7. Does the NOFA provide flexibility to incorporate best practices?

- **Some HUD Hub office staff provide inconsistent interpretations of program regulations.** For instance, sponsors report that at least one hub office initially interpreted the project readiness criteria to mean that applicants had to have a building permit in hand in order to qualify—which would be an unreasonably costly requirement given the early stage of the project and the uncertainty of project award. Evaluations that are consistent, realistic, and sensitive to local development constraints will encourage developers to focus on effective program delivery rather than on meeting evaluation criteria that may be unclear or may compromise project feasibility.
- **Some HUD Hub office staff have insufficient understanding of local factors affecting development.** For instance, different municipalities have different standard turnaround times for things like zoning, permitting, and other approval processes. Staff should have

a better understanding of differing local requirements and timelines before they award or subtract points on an application. In general, better understanding of approval and financing challenges faced by applicants will lead to evaluations that encourage best practices.

Thank you for your consideration of these comments. We look forward to our continued work to strengthen the effectiveness and efficiency of the Section 202 program.