

Supporting Statement for Submission Requirements for Section 202 Housing for the Elderly and Section 811 Housing for Persons with Disabilities

2502-0470

A. Justification:

1. This information collection is needed to assist HUD in determining if nonprofit organizations have the financial and administrative capability needed to develop a project, and whether the project design meets the needs of the residents. These factors are critical in meeting statutory requirements, assuring the continued marketability of the projects, and protecting the Department's financial interest in projects funded under the subject programs. This submission covers the collection of information for (1) the processing of all Sections 202 and 811 capital advance projects from Firm Commitment Application to final closing of the capital advance; (2) projects under the mixed-finance section of this program so that those owners who wish to partner with for-profit limited partners can participate in the development and management of supportive housing; and (3) the reporting requirements for owners who receive predevelopment grant funds.

The Section 202 Supportive Housing Program for the Elderly Program is authorized by Section 202 of the Housing Act of 1959, as amended, and provides capital advances to private nonprofit organizations to expand the supply of supportive housing for the elderly. The Section 811 Supportive Housing for Persons with Disabilities program is authorized by Section 811 of the Cranston-Gonzalez National Affordable Housing Act 1990, as amended, and provides capital advances to private nonprofit organizations to expand the supply of supportive housing for persons with disabilities. Regulations at 24 CFR Part 891 authorize the collection of information from applicants for the development of mixed-finance projects by for-profit limited partnerships in the Section 202 and Section 811 programs.

HUD estimates that in any given fiscal year, 260 projects are in the various processing stages subsequent to the fund reservation stage. The processing of some projects in all programs may be terminated due to complex problems beyond the Owner's control or, for Section 811 projects, the Owner's inability to obtain site control within a year of the fund reservation, which pursuant to the Section 811 statute requires cancellation of the fund reservation.

The American Homeownership and Economic Opportunity Act of 2000, Public Law 106-569, 114 Statute 2944 (AHEO Act), amended both the Section 202 Supportive Housing Program for the Elderly and the Section 811 Supportive Housing Program for Persons with Disabilities. These amendments allow the participation of for-profit limited partnerships and the use of mixed financing as a development method. The statutory requirements for the nonprofit organization include a nonprofit organizational structure with a board that includes the representation of the views of the community and is responsible for operating the development, and HUD approval as to its financial responsibility. (See 12 U.S.C. 1701q(k)(4) and 42 U.S.C. 8013(k)(6), as amended.) Under the program, capital advance funds may be used in combination with other non-Section 202 funding sources leveraged by a for-profit limited partnership to develop a mixed-finance project, including a mixed-finance project for additional units over and above the Section 202 units. In addition, the program is structured so that tax credits could be used to provide additional units as well as supplement capital advance funds for the Section 202 or Section 811 project. HUD estimates that of the 260 project covered by this submission, 15 will be proposing a mixed-finance deal.

The Demonstration Predevelopment Grant Program is authorized by the Consolidated Appropriations Resolution, 2003 (Pub. L. 108-7), approved February 20, 2003, and the Consolidated Appropriations Resolution, 2004 (Public Law 108-199), approved January 23, 2004. This program assists Sponsors of projects that receive Fund Reservation Awards by providing predevelopment grant funding for architectural and engineering work, site control, and other planning related expenses that are eligible for funding under the Section 202 Supportive Housing for the Elderly Program. Only those private nonprofit organizations and nonprofit consumer cooperatives that submitted an application for funding consideration under the Section 202 Supportive Housing for the Elderly Program NOFA are eligible to apply for funding under the Demonstration Predevelopment Grant Program. HUD estimates that there will be an average of 100 respondents.

Once selected for funding under the Section 202 Demonstration Predevelopment Grant Program, sponsors/grantees must submit annual narrative program performance report and quarterly financial status reports, SF-269 to their local HUD Office. The performance report will detail the progress of each eligible activity undertaken, a statement detailing the funds expended per activity, any problems encountered to date and how such problems may impact the grantee's

proposed predevelopment or development timeframe, and a narrative on the grantee's plan of corrective action to ensure that its project will be under construction within 18 months of grant approval or less. The grantee must also detail the professional firms contracted with, the dollar amounts contracted for and the services provided to date, a budget summary identifying funding expended to date for eligible activities versus the total grant awarded, and a certification on whether or not the proposed project continues to be viable as of the date of the report.

This collection succeeds OMB Numbers 2502-0267 and 2502-0462, which approved the Section 202 and Section 811 application packages for the fund reservation stage, respectively. Within 180 days from the date of the Notification of Selection letter, the Owner must submit a request for a firm commitment for capital advance financing on Form HUD-92013, along with other supporting documents.

2. Due to the competitive nature of the programs and considering that all applications for fund reservations will not be approved, the information collection requested in this submission is not requested at the initial grant application stage (i.e., the fund reservation stage). It is important to note that the selection of applications at the fund reservation stage is based on minimum information deemed necessary to evaluate the capability of the Sponsor as well as to minimize the initial cost and burden to the Sponsor. After Sponsors are selected for a fund reservation, each Sponsor will form a Single Purpose Ownership corporation. This same corporation will be the recipient of the capital advance and the legal Owner of the project.

After its selection for funding, a Sponsor/Owner must put together a development team, i.e., consultant (optional), design architect, professional to conduct the construction cost analysis, land appraiser, general contractor, attorney, management agent (if independent management is proposed), etc. The team is needed to assist with finalizing the development of the project. Some of the forms included in this submission are needed to permit HUD to evaluate the qualifications of the Sponsor's/Owner's development team members as well as determine the reasonableness of the fees, costs, or profits charged by these members.

The forms described below are necessary to assist HUD in assuring that the selected Sponsor and Owner have the ability, including financial capability, to proceed with the development of a housing project for the elderly or the disabled based on a more detailed description of the project, i.e., architectural plans and drawings along with a contractor's estimate to build the project and any required off-site work. This permits HUD to come up with a more realistic cost to develop the project, in lieu of the formula-based estimate used at the fund reservation stage.

A. Firm Commitment is the stage, which now immediately follows the fund reservation stage and includes the final working drawings and specifications. The following forms and supporting information are required to be submitted at the firm commitment stage.

- Form HUD-92013, Application for Multifamily Housing Project;
- Form HUD-92013-SUPP, on the Sponsor entity, Owner corporation, operating officers of the Owner, and the general contractor;
- Land Appraisal Report from a Certified general Appraiser;
- Evidence of Formation of Owner Corporation, Form HUD-91732A-CA as a guide, including Incumbency Certificate of all officers and directors;
- Owner-Architect Agreement - AIA Document B181 with HUD Amendment (Form HUD-90169-CA);
- Design Architect's Certification, (including evidence of liability insurance coverage);
- Final working drawings and specifications;
- Construction Contract (Lump Sum), Form HUD-92442-CA or Construction Contract (Cost Plus), Form HUD-92442A-CA;
- Contractor's and/or Mortgagor (Owner's) Cost Breakdown, Form HUD-2328;
- Construction cost analysis;
- Owner's Topographic survey;
- Soil test borings;
- Surveyor's Report, Form HUD-2457;
- Form HUD-51994, Comparative Analysis of Utility Costs (if most efficient utility type not previously determined);
- Form HUD-2530, Previous Participation Certificate on the Sponsor, Owner, general contractor, management agent, and consultant;
- Resume on Consultant, if not previously provided;

- Current resume and financial statements on the general contractor;
- Evidence that the Owner has been capitalized, Form HUD-92004F, Verification of Deposit;
- Evidence of exemption or abatement of real property taxes;
- Updated evidence of site control;
- Evidence of permissive zoning, if not previously provided;
- Amendments to Relocation Plan, if property involves displacement of occupants;
- Conflict of Interest and Identity of Interest and Disclosures Certifications;
- Owner's Consolidated Certifications;
- Updated SF-LLL, Owner Certification/Disclosure of Lobbying Activities;
- Updated HUD-2880, Applicant/Recipient Disclosure/Update Report;
- Listing of intended use of the developer's fee;
- For Section 811 Projects, evidence of supportive services funding;
- Schedule of capital expenditures;
- List of proposed property operating expenses;
- List of utilities and equipment;
- Form HUD-935.2, Affirmative Fair Housing Marketing Plan;
- Management Entity Profile, using Form HUD-9832;
- Project Owner's and Management's Certification, using either Form HUD-9839A, HUD-9839B, or HUD-9839C;
- Resident manager's resume and certification that project is feasible;
- Statement by Owner regarding management services;
- Model form of lease;
- If acquisition, with or without rehabilitation, additional documents included:
 - ~ Authorization to inspect property;
 - ~ Narrative description of any rehabilitation or repair work, as applicable;
 - ~ Survey/Site Plan, as built;
 - ~ Lead-Based Paint Certification (811 only);
 - ~ If acquisition, drawings and specifications of existing facilities, if obtainable.
- If Mixed-Financing development for additional units is involved, additional documents will include:
 - ~ Form HUD-2453.1-CA, Firm Commitment for capital Advance Financing Upon Project Completion.

After the Housing Director reviews the underwriting and program conclusions reached by technical staff, and, if necessary, amends or modifies the program determinations, HUD staff prepares the Firm Commitment. For Section 811 Group Homes, HUD staff makes a checklist review of the related land appraisals on Form HUD-90179-CA, Land Appraisal Checklist for Group Homes under the Section 811 Capital Advance Program.

Based on the findings made by each Field Office, HUD technical discipline staff prepares the Firm Commitment for Capital Advance Financing. After approval of the Firm Commitment Application, the Field Counsel prepares the Agreement to Enter into the PRACs, Form HUD-90172A-CA and HUD-90172B-CA, and Form HUD-90167-CA, the Capital Advance Agreement. These documents are transmitted to the Owner for execution with the Firm Commitment. A Sponsor has the right to appeal any decision with respect to the issuance of the firm commitment. In the event that a Sponsors wishes to appeal, a request to appeal would have to be submitted to Headquarters explaining the reasons for such appeal and provide documents supporting their position.

B. After issuance of the Firm Commitment and before initial closing and initial disbursement of capital advance proceeds, the Owner is provided copies of Form HUD-92403-CA, Requisition for Disbursement of Capital Advance Funds, together with copies of SF-1199A, Direct Deposit Sign-Up Form, HUD-27054 LOCCS/VRS Access Authorization Form and Form HUD-90164-CA, Property Insurance Requirements, with instructions for completion and submission to the HUD Hub/Program center Director.

HUD Mortgage Credit staff reviews SF-1199A and Form HUD-92403-CA and prepares the financial requirements for closing, in accordance with Handbook requirements. The Field Office Counsel reviews and approves the draft initial closing documents for legal sufficiency and acceptability (see paragraph C below for a description of the closing documents).

The construction contract is entered into between the Owner and the general contractor. Owners are permitted to use Form HUD-92442-CA (Construction Contract - Lump Sum) regardless of the type of award of construction contract,

i.e., whether by competitive bid or negotiation. The use of the Lump Sum Construction Contract provides paperwork relief to the general contractor and Owner because the general contractor is not required to cost certify under that contract. Understandably, most Owners and general contractors elect to use the Lump Sum Contract. However, the Field Office can require the Owner to use Form HUD-92442-A-CA, (Construction Contract – Cost Plus), if the Field Office determines that the general contractor has little HUD experience. The use of the Cost Plus Construction Contract would require the general contractor to certify to its costs. Form HUD-2328, the Contractor’s and/or Mortgagor’s Cost Breakdown, is completed by the Architect and include quantities of materials for each phase of work, cost of materials, and cost of labor separated into the 16 divisions of the Uniform System for Specifications.

Assurance of completion of the project is required of the general contractor and may be in the form of either a 100 percent Performance/Payment Bond Form HUD-92452-CA (or a separate Performance Bond and Payment Bond, Forms HUD-92452 and HUD-92452-A, each for 100 percent) or a cash escrow (25 percent), using Form HUD-92450-CA, Completion Assurance Agreement.

Included with the construction contract is Form HUD-2554, Supplementary Conditions of the Contract for Construction, which sets forth the obligations of the contractor or subcontractor performing under a covered contract, and a statement of the sanctions that may be applied in the event of non-compliance.

C. The Multifamily Housing Director notifies all parties, and arranges the date and place for the initial closing. All closing documents are submitted to the Multifamily Housing Director and the Field Counsel for review and approval prior to the closing date. A handbook includes a list of all documents required at initial closing. Form HUD-92466.1-CA - Regulatory Agreement, Form HUD-90163-CA - Use Agreement, Mortgage or Deed of Trust (using Form HUD-90165 as a guide), and either Form HUD-92442A-CA - Construction Contract (Cost Plus), with a fixed upset price, or Form HUD-92442-CA - Construction Contract (Lump Sum), are executed. Form HUD-92443-CA - Construction Contract Incentive Payment (optional), is executed to provide an additional sum to the contractor as an incentive for completing the project earlier than the completion date specified in the contract, or the date to which the contract completion may be extended.

Form HUD-92403.1, Mortgagor’s and Architect’s certificate, is required with the first request for capital advance disbursement (Form HUD-92403-CA), which includes an amount for payment to the design architect.

When off-site improvements are required, the Owner executes Form HUD-90177-CA - Off-Site Bond, or Form HUD-90170-CA - Escrow Agreement for Off-Site Facilities. HUD Mortgage Credit staff, based on Form HUD-92464, Request for Approval of Advance of Escrow Funds, may approve disbursements from this escrow deposit.

Property insurance is required at initial closing; the Multifamily Housing Director verifies the information by reviewing Form HUD-92329 - Property Insurance Schedule (as prepared by HUD Cost staff) and Form HUD-90164-CA - Property Insurance Requirements (as submitted by the Owner) that the required coverage has been obtained based on HUD's processing of the Form HUD-92264 – Multifamily Summary Appraisal Report. The Field Counsel confirms with the surety firm as to the authority of the surety company’s agent as well as the validity of the required fidelity bond.

Prior to initial closing the Field Counsel reviews all initial closing documents, including the Owner’s Attorney’s Closing Opinion (HUD-90166-CA), Guide for Opinion of Owner’s Counsel (Form-90166-A-CA), Owner’s Certificate (HUD-92433-CA), Agreement and Certification (HUD-93566-CA). The documents submitted and approved at the Firm Commitment stage are to ensure that all initial closing documents are current and meet HUD requirements. At the initial closing, the Owner and HUD execute the Mortgage Note (Form HUD-93432-CA), Mortgage or Deed of Trust (HUD-90165-CA), Use Agreement (HUD-90163-CA), General Depository Agreement (HUD-90178-CA), and the Regulatory Agreement (HUD-92466-CA). These documents are then recorded.

Form-90166-A-CA, Guide for Opinion of Owner’s Counsel is designed to provide HUD and the owner with the assurance that the owner entity has been validly formed, lawfully exists and that the property and the construction thereupon comply with appropriate local laws such as building codes, zoning, etc. It is imperative that HUD knows the precise legal status of the owner entity and of the realty. Inasmuch as the transaction is largely coordinated by the counsel to the owner, HUD has looked to such counsel for an opinion which provides comfort to the mortgage note “capital advance” and HUD regarding virtually all legal aspects of the transaction. Only counsel for the owner is in a

position to render the necessary opinion. HUD does not have access to the owner entity in a fashion that would provide HUD counsel with all of the data and knowledge available to the owner's counsel.

Form HUD-90178-CA, is the General Depository Agreement between the owner and the depository over the control of capital advance funds. This agreement also acknowledges HUD's right to serve as a third party beneficiary thus exercise some control over the withdrawal of these funds.

A minimum capital investment of one-half of one percent of the total HUD-approved capital advance, not to exceed \$25,000 for national Section 202 Sponsors or \$10,000 for Section 811 and non-national Section 202 Sponsors, is required to be escrowed with a depository at initial closing. The minimum capital investment is held during the construction period and for a 3-year period beginning at initial occupancy. The date of initial occupancy is defined as the date the Multifamily Housing Director signs the Form HUD-92485, Permission to Occupy. Form HUD-92476-A or Form HUD-92476A-CA, Escrow Agreement - Additional Contributions by Sponsors, may be executed by the Owner if HUD determines that the Owner has to provide additional funds to cover initial operating deficits (over and above the minimum capital investment amount), based on a review of Form HUD-92264. It is anticipated that this will be necessary in few, if any, cases.

D. When the initial closing is completed, HUD makes the first payment from the capital advance proceeds which reimburses the Owner for pre-construction expenses incurred, including the cost for land. Subsequent disbursements are released to the Owner primarily to pay the general contractor for the appropriate amount of construction work completed and to pay a consultant, if used. Disbursements are made to Owners to pay bills, which are due and payable, including the contractor, covering work completed and materials delivered. Applications requesting disbursement of proceeds are submitted on Form HUD-92403-CA, Requisition for Disbursement of Capital Advance Funds. To cover construction costs, the Form HUD-92403-CA must be accompanied by the Contractor's Requisition, Form HUD-92448, which must be signed by the architect and the construction inspector.

When construction changes are necessary, Form HUD-92437, Request for Construction Changes - Project Mortgages, must be submitted to obtain HUD approval. It is emphasized in the pre-construction conference that while changes in plans or specifications during construction may involve increased costs, such costs that result in betterment changes will not be paid with Section 202 or Section 811 capital advance funds. However, requests for increases in the capital advance amount for necessary items may be considered, but preferably after completion of cost certification (see below).

At 120 days prior to completion of the first units for occupancy, the HUD Management staff conducts a pre-occupancy conference at which time the following forms are reviewed as well as several other documents:

- Monthly Accounting Reports of Income and Expenses:
 - HUD-93479 - Monthly Report for Establishing Net Income - Schedule A;
 - HUD-93480 - Schedule of Disbursements - Schedule B;
 - HUD-93481 - Schedule of Accounts Payable - Schedule C; and
 - HUD-92458 - Rent Schedule - Low Rent Housing.

The Owner may request permission to occupy the project prior to completion, if so, Form HUD-92485, Permission to Occupy -- Project Mortgages must be submitted. The Multifamily Housing Director may grant permission for occupancy by executing Form HUD-92485. The PRACs (Forms HUD-90173-A-CA and 90173B-CA) are executed to permit the owner to receive subsidy funds. The PRAC amendment, form HUD-90173-C-CA is used in about 15 percent of cases.

E. Approximately 30 days after completion of construction and cost certification, the final closing is scheduled.

Prior to final closing, the contractor certifies to actual construction cost on Form HUD-92330A if a Cost Plus Construction Contract was used, otherwise, if a Lump Sum Construction Contract was used, the contractor is not required to cost certify. However, the Owner must cost certify - and does so using HUD-92330. The HUD Cost Analyst reviews these forms and reports his/her findings on Form HUD-92331, Summary of Cost Certification Review. Upon completion of the review of certificates of actual cost and acceptance, the Multifamily Housing Director notifies the Owner of the final capital advance amount by issuing Form HUD-92580-CA, Maximum Capital Advance Mortgage (as prepared by the Mortgage Credit Analyst).

To obtain final disbursement, the Owner is required to submit the following documents:

- Form HUD-92403-CA - Request for Disbursement of Capital Advance Funds;
- Form HUD-92448 - Contractor's Requisition;
- Final Survey;
- Form HUD-90175-CA - Request for Final Closing;
- Form HUD-90171-CA - Escrow Agreement for Unpaid Construction Costs (if necessary); and
- Form HUD-90176-CA - Escrow Deposit Agreement.

Form HUD-90175 will be checked against previously approved Form HUD-92403-CA to determine that disbursements are correct and that there are no outstanding liens on the project. The approved Form HUD-92403-CA is then transmitted to HUD's Fort Worth Accounting Center for processing and disbursement of funds. If there are any items of delayed completion identified, an amount of at least one and one-half (1-1/2) times the estimated cost of completion must be escrowed by the Owner at the time of final closing using Form HUD-90176-CA, Escrow Deposit Agreement. Occasionally, after initial closing, additional funding is required for the payment of unpaid construction costs, such as costs resulting from Owner-general contractor disputes or litigation. In such a case, the final closing may be held provided that the Owner escrows the required funds to cover the unpaid construction cost. Form HUD-90171-CA is used for this purpose.

F. Mixed-Finance Program

Under the Mixed-Finance Program, there will be a mixed-finance proposal addressing the total mixed-finance project, including non-202 or 811 units and any commercial space, submitted at the time of the application for the firm commitment of capital advance funds under § 891.820. The mixed-finance proposal must include a description of the proposed project; financing documents, and a statement of sources and uses of funds; site information; construction cost estimates; a systems life cycle analysis; any relocation plan, if the development will cause displacement; the relationship among participating parties; a demonstration of the operating feasibility of the project for the entire 40-year period of the very-low income restriction on the assisted units; a market analysis; a summary of the proposed management and occupancy policies; a statement regarding existing facilities; any additional environmental information HUD deems necessary in completing its environmental review; and required certifications and assurances.

The Mixed-Finance Development for Supportive Housing for the Elderly or Persons with Disabilities Program proposal submission requirements are necessary to assist HUD in determining whether the project is financially feasible; that supportive housing funds provided are used in an appropriate manner; the Mixed-Finance and regulatory requirements pertaining to the program are in fact met by the project as proposed in the firm commitment application/mixed-finance proposal. A thorough evaluation of an Owner's qualifications and capabilities is critical in protecting the Federal Government's financial interest and to mitigate any possibility of fraud, waste, or mismanagement of public funds.

The procedures for information collection require the Owner to submit its Mixed-Finance proposal to the appropriate local HUD Office by the nationally established deadline date (180 days after Section 202 and Section 811 funding). Local HUD Offices evaluate proposal based on established criteria (identified in the NOFA). HUD will review the firm commitment application and mixed-finance proposal as follows:

(a) Initial screening. HUD shall perform an initial screening of the firm commitment application/mixed finance proposal to determine that all required documentation and evidentiary materials have been submitted. Evidentiary materials consist of any updates or amendments to materials submitted at firm commitment as well as actual documents that support the written narrative statements and certifications in the firm commitment application/mixed-finance proposal. HUD will advise the Owner of any technical deficiencies in the application and proposal and indicate a date certain in which the remaining information must be submitted.

(b) Technical processing and approval. Upon determining that the firm commitment and proposal are complete, HUD will process the firm commitment application and mixed-finance proposal. The firm commitment application will be reviewed in accordance with applicable firm commitment and technical review guidelines. Upon determining that a proposal is acceptable for technical processing, HUD will evaluate the proposal in accordance to the Mixed-Finance Development for Supportive Housing for the Elderly or Persons with Disabilities Rule.

To ensure that only feasible proposals for mixed-financing will be developed, HUD is collecting information to assist the agency in determining whether the Owner has the financial and administrative capacity needed to develop and manage a mixed-finance project, all funding commitments are in place, the proposed site and supportive services are suitable for the intended residents, the project design meets the physical needs of the residents, and the estimated income can support the operation and maintenance of the project. A Firm Commitment Application is to be submitted by both the mixed-finance owner and the nonprofit organization. Although, the documents required for submission with the Firm Commitment Application have not changed from what is required under the regular Section 202 and Section 811 programs, mixed-finance owners must also submit the following documents:

- Form HUD-90179-CA, Land Appraisal Checklist for Group Homes under the Section 811 Capital Advance Program
- Form HUD-2453.1-CA, Firm Commitment for Capital Advance Financing Upon Project Completion -
- Form HUD-90169.1-CA, Design Architect's Certification
- Form 90163.1-CA, Capital Advance Mixed-Finance Program Use Agreement
- Form HUD-90175.1-CA, Request for Closing on Completion, Certificate of Construction Lender, Mixed-Finance Owner and General Contractor
- Form HUD-92434-CA, Owner Certifications, Section 811 Program
- Form HUD-92435-CA, Owner Certifications, Section 202 Program
- Form HUD-92466.1-CA, Capital Advance Mixed Finance Program Regulatory Agreement
- Form HUD-93566.1-CA, Mixed-Finance Capital Advance Program

In the absence of collecting the above information, the Department would not be able to assess the worthiness of applications, determine whether the projects and services meet statutory and regulatory requirements, or make sound judgments regarding the potential risk to the Government.

3. Presently, there are no procedures in place that permits the electronic submission of this information. All documents however, are accessible and may be downloaded on the Internet. Also all forms will be formatted as PDF documents with fillable fields, allowing the forms to be completed electronically. Currently, the Department is looking at several methods for automating the "back-end" stage of its grant programs. One method that has been successfully implemented is the automation of the Capital Advance payments. Starting with fiscal year 2009, Section 202 and 811 fund reservations recipients will now be able to request and received their funds electronically via the Department's Line of Credit Control System/Voice Response System (LOCCS/VRS). Recipients will complete and submit Form 50080-CAH, LOCCS Section 202 or Section 811 Capital Advance Program Payment Voucher. The automation of this process ensures greater efficiency for both Department and its grantees.
4. No duplication exists, as there are no other forms used for the purposes specified above.
5. This information collection will not have a significant economic impact on small entities. Due to the highly competitive nature of the Section 202 and Section 811 Program, this information collection was designed to minimize the front-end cost to the nonprofit applicant and only require the minimum amount of information needed in HUD's evaluation.

HUD recognizes that some Owners, who are sincerely interested in providing housing, may lack the staff and other facilities to develop such a project. Therefore, in order to minimize the burden to small entities, HUD allows the Owners to use the services of professional housing consultants and permits the fee for the consultant's services to be included in the Owner's Developer's Fee which is an eligible item for inclusion in the capital advance. The consultant assists the Owner through the final development of the project. Also, after the award of the fund reservation, Field Office staff, which includes the technical disciplines involved in the review of the firm commitment application, holds a Project Planning Conference with each Sponsor/Owner. These conferences, which are very beneficial to small Owners, are conducted before the submission of the firm commitment application to discuss HUD requirements and expectations.

6. The information collection activities occur throughout the development of the project, from acceptance of the firm commitment application to final closing. Due to the different stages of processing for each project, this information could not be collected less frequently.

7. Under this program, respondents are required to report information to the Agency more often than quarterly. Once initial closing occurs and construction starts, the Owner submits to HUD its requisition for disbursement of capital advance proceeds (Form HUD-92403-CA) - generally on a monthly basis - so funds may be available to pay the contractor for the appropriate amount of construction work completed. It should be noted that under the construction contract entered into between the Owner and contractor, the contractor is entitled to receive its payment on a monthly basis as construction progresses. This procedure strikes a balance of paying for work completed, but with payments made often enough to not create a financial burden on the contractor, it also limits budget outlays based on actual expenditures. The contractor submits its requisition (Form HUD-92448) to the Owner each month.
8. In accordance with 5 CFR 1320.8(d), the agency's notice soliciting public comments for the currently approved collection was published in the *Federal Register* on Monday, March 1, 2010 (Volume 75, Number 39, Pages 9245-9246). No comments were received.

This OMB request is the result of on-going telephone conversations, meetings, and workshops held since 1991 with Section 202/Section 811 nonprofit Sponsors, housing consultants, elderly residents, residents with disabilities, and other interested HUD program staff. The Department consults with various housing professionals representing the types of Sponsors that generally participate in the Section 202 and Section 811 program, i.e., minority organizations, small organizations, and non-minority organizations prior to 1995, and has continued to consult with program participants during each annual funding cycle.

Mixed-Finance Developments' Contact:

The Department consulted with various housing professionals representing - the types of Sponsors that generally participate in the Mixed-Finance Development - and will continued to consult with such parties during each annual funding cycle.

9. Under this program, there are no decisions to provide any payment or gift to respondents, other than re-enumeration of contractors or grantees.
10. HUD does not assure confidentiality.
11. The information collections do not contain any sensitive questions.
12. Estimates of the number of respondents, frequency of response, and annual hour burden:

Table 1 – Tabulation of Annual Reporting Burden

(This chart is sequentially ordered based on the submission requirements during the various stages of the development process for which this collection of information covers)

Description of Information Collection	Number of Respondents	Frequency of Response	Total Annual Responses	Hours Per Response	Total Hours
Narrative Program Performance Report (<i>Section 202 Demonstration Predevelopment Grant Program</i>)	100	1	100	2.00	200
SF-269, Financial Status Report (<i>Section 202 Demonstration Predevelopment Grant Program</i>)	100	1	100	0.50	50
Form HUD-92013, Application for Multifamily Housing Project (2502-0029)	260	1	260	0.00	0
Form HUD-92013-SUPP, on the Sponsor entity, Owner corporation, operating officers of the Owner, and the general contractor (2502-0029)	260	1	260	0.00	0
A201-1987, General Conditions of the Contract for Construction	260	1	260	0.00	0
AIA Document A310, Bid Bond	260	1	260	0.00	0
AIA Document A701, Instructions to Bidders	260	1	260	0.00	0
AIA Document G710, Architect's Supplemental Instruction	260	1	260	0.00	0

Description of Information Collection	Number of Respondents	Frequency of Response	Total Annual Responses	Hours Per Response	Total Hours
Form HUD-90169-CA, Amendment to AIA Document B181, Standard Form of Agreement Between Owner and Architect for Housing Services	260	1	260	0.08	21
Land Appraisal Report from a Certified general Appraiser	260	1	260	0.00	0
Evidence of Formation of Owner Corporation, Form HUD-91732A-CA as a guide, including Incumbency Certificate of all officers and directors	260	1	260	1.00	260
Form HUD-90169.1-CA, Design Architect's Certification (including evidence of liability insurance coverage)	260	1	260	0.50	130
Final working drawings and specifications	260	1	260	0.00	0
Construction Contract (Lump Sum), Form HUD-92442-CA or Construction Contract (Cost Plus), Form HUD-92442A-CA (2502-0011)	260	1	260	0.00	0
Contractor's and/or Mortgagor (Owner's) Cost Breakdown, Form HUD-2328 (2502-0044)	260	1	260	0.00	0
Construction cost analysis	260	1	260	0.00	0
Owner's Topographic survey	260	1	260	0.00	0
Soil test borings	260	1	260	0.00	0
Surveyor's Report, Form HUD-92457 (2502-0010)	260	1	260	0.00	0
Form HUD-51994, Comparative Analysis of Utility Costs (if most efficient utility type not previously determined) (2577-0024)	260	1	260	0.00	0
Form HUD-2530, Previous Participation Certificate on the Sponsor, Owner, general contractor, management agent, and consultant (2502-0118)	260	1	260	0.00	0
Resume on Consultant, if not previously provided	260	1	260	0.00	0
Current resume and financial statements on the general contractor	260	1	260	0.00	0
Evidence that the Owner has been capitalized, Form FM-1006, Verification of Deposit	260	1	260	0.00	0
Evidence of exemption or abatement of real property taxes	260	1	260	0.00	0
Updated evidence of site control	260	1	260	0.00	0
Evidence of permissive zoning, if not previously provided	260	1	260	0.00	0
Amendments to Relocation Plan, if property involves displacement of occupants;	260	1	260	0.00	0
Conflict of Interest and Identity of Interest and Disclosures Certifications	260	1	260	0.00	0
Form HUD-92434-CA, Owner Certifications – Section 811 Program or Form HUD-92435-CA, Owner Certifications – Section 202 Program	260	1	260	0.50	130
Updated SF-LLL, Owner Certification/Disclosure of Lobbying Activities;	260	1	260	0.16	42
Updated HUD-2880, Applicant/Recipient Disclosure/Update Report (2510-0011)	260	1	260	0.00	0
Listing of intended use of the developer's fee	260	1	260	0.00	0
For Section 811 Projects, evidence of supportive services funding	260	1	260	0.00	0
Schedule of capital expenditures	260	1	260	0.00	0
List of proposed property operating expenses	260	1	260	0.00	0

Description of Information Collection	Number of Respondents	Frequency of Response	Total Annual Responses	Hours Per Response	Total Hours
List of utilities and equipment	260	1	260	0.00	0
Form HUD-935.2, Affirmative Fair Housing Marketing Plan (2529-0013)	260	1	260	0.00	0
Management Entity Profile, using Form HUD-9832 (2502-0305)	260	1	260	0.00	0
Project Owner's and Management's Certification, using either Form HUD-9839A, HUD-9839B, or HUD-9839C (2502-0305)	260	1	260	0.00	0
Resident manager's resume and certification that project is feasible	260	1	260	0.00	0
Statement by Owner regarding management services	260	1	260	0.00	0
Model form of lease	260	1	260	0.00	0
If acquisition, with or without rehabilitation, additional documents included					
~ Authorization to inspect property	260	Varies	39	0.00	0
~ Narrative description of any rehabilitation or repair work, as applicable	260	Varies	39	0.00	0
~ Survey/Site Plan, as built	260	Varies	39	0.00	0
~ Lead-Based Paint Certification (811 only)	260	Varies	39	0.00	0
~ If acquisition, drawings and specifications of existing facilities, if obtainable	260	Varies	39	0.00	0
Form HUD-90179-CA, Land Appraisal Checklist for Group Homes Under the Section 811 Capital Advance Program	260	1	260	0.50	130
Agreement to Enter into the PRACs, Form HUD-90172A-CA and HUD-90172B-CA	260	1	260	0.00	0
Form HUD-90167-CA, the Capital Advance Agreement	260	1	260	2.00	520
Form HUD-92403-CA, Requisition for Disbursement of Capital Advance Funds (2502-0187)	260	4	260	0.00	0
SF-1199, Direct Deposit Sign-Up Form	260	1	260	0.16	42
Form HUD-27054, LOCCS/VRS Access Authorization (2535-0102)	260	1	260	0	0
Form HUD-50080-CAH, LOCCS/VRS Section 202 or Section 811 Capital Advance Program Payment Voucher	260	4	260	.50	520
Form HUD-90164-CA, Property Insurance Requirements	260	1	260	1.00	260
Form HUD-92452, Performance Bond-Dual Obligee (2502-0029)	250	1	250	0.00	0
Form HUD-92452-A, Payment Bond	250	1	250	0.08	20
Form HUD-92452-CA, Performance/Payment Bond (Dual Obligee)	250	1	250	0.08	20
Form HUD-92450-CA, Completion Assurance Agreement	10	1	10	1.00	10
Form HUD-2554, Supplementary Conditions of the Contract for Construction	260	1	260	0.50	130
Form HUD-90163-CA, Use Agreement	260	1	260	1.00	260
Form HUD-90165-CA, Instruction for Preparation of Mortgage Deed of Trust or Security Deed	260	1	260	6.00	1,560
Form HUD-92443-CA - Construction Contract Incentive Payment (optional)	260	1	260	0.50	130
Form HUD-92403.1, Mortgagor's and Architect's certificate	260	1	260	0.00	0
Form HUD-90177-CA - Off-Site Bond	260	1	260	0.50	130

Description of Information Collection	Number of Respondents	Frequency of Response	Total Annual Responses	Hours Per Response	Total Hours
Form HUD-90170-CA - Escrow Agreement for Off-Site Facilities	260	1	260	0.50	130
Form HUD-92464, Request for Approval of Advance of Escrow Funds (2502-0018)	260	1	260	0.00	0
Form HUD-92329 - Property Insurance Schedule (2502-0029)	260	1	260	0.00	0
Form HUD-90164-CA - Property Insurance Requirements	260	1	260	1.00	260
Form HUD-92264, Multifamily Summary Appraisal Report (2502-0029)	260	1	260	0.00	0
Form HUD-90166-CA, Owner's Attorney's Closing Opinion	260	1	260	1.00	260
Form HUD-90166A-CA, Guide for Opinion of Owner's Counsel	260	1	260	2.00	520
Form HUD-92433-CA, Owner's Certificate	260	1	260	0.50	130
Form HUD-93566-CA, Capital Advance Program Agreement & Certification	260	1	260	0.50	130
Form HUD-93432-CA, Capital Advance Program Mortgage Note	260	1	260	0.50	130
Form HUD-90178-CA, General Depository Agreement	260	1	260	0.50	130
Form HUD-92485, Permission to Occupy Project Mortgages (2502-0029)	260	1	260	0.00	0
Form HUD-92476-A or Form HUD-92476-A-CA, Escrow Agreement - Additional Contributions by Sponsors	260	1	260	0.50	130
Form HUD-92448, Contractor's Requisition Project Mortgages (2502-0028)	260	1	260	0.00	0
Form HUD-92437, Request for Construction Changes Project Mortgages (2502-0011)	260	1	260	0.00	0
HUD-93479 - Monthly Report for Establishing Net Income - Schedule A (2502-0108)	260	1	260	0.00	0
HUD-93480 - Schedule of Disbursements - Schedule B (2502-0108)	260	1	260	0.00	0
HUD-93481 - Schedule of Accounts Payable - Schedule C (2502-0108)	260	1	260	0.00	0
HUD-92458 - Rent Schedule - Low Rent Housing (2502-0012)	260	1	260	0.00	0
Form HUD-90173-A-CA, Part I of the Project Rental Assistance Contract	260	1	260	0.50	130
Form HUD-90173-B-CA, Part II of the Project Rental Assistance Contract	260	1	260	0.50	130
Form HUD-90173-C-CA, Project Rental Assistance Contract Amendment	260	Varies	39	0.50	20
Form HUD-92330A, Contractor's Certificate of Actual Cost (2502-0044)	260	1	260	0.00	0
Form HUD-92330, Mortgagor's Certificate of Actual Cost (2502-0112)	260	1	260	0.00	0
Form HUD-92331, Summary of Cost Certification Review (2502-0029)	260	1	260	0.00	0
Form HUD-92580-CA, Maximum Capital Advance Mortgage	260	1	260	0.00	0
Form HUD-90175-CA, Request for Final Closing	260	1	260	1.00	260
Form HUD-90171-CA, Escrow Agreement for Unpaid Construction Costs	260	1	260	0.50	130
Form HUD-90176-CA, Capital Advance Program, Escrow Deposit Agreement	260	1	260	0.50	130
Form HUD-92466-CA, Regulatory Agreement	260	1	260	1.00	260

Description of Information Collection	Number of Respondents	Frequency of Response	Total Annual Responses	Hours Per Response	Total Hours
Form HUD-93566-CA, Agreement and Certification (Section 202)	260	1	260	0.50	130
SUBTOTAL	260		8809		7575
Mixed-Finance Information Collection					
Narrative Description of Development	15	1	15	0.50	8
Narrative Description of Financing	15	1	15	1.00	15
Narrative Description of Sources and Uses of Financing	15	1	15	8.00	120
Narrative Description of Site Information	15	1	15	2.00	30
Narrative Description of Development Construction Cost Estimate	15	1	15	4.00	60
Narrative Description of Relocation Plan	15	1	15	2.00	30
Narrative Description of Statement of Activities and Relationship of Parties	15	1	15	1.00	15
Documents showing operating feasibility	15	1	15	4.00	60
Narrative Description of Market Analysis	15	1	15	2.00	30
Narrative Description of proposed management and occupancy policies	15	1	15	0.50	8
Statement addressing facilities and services	15	1	15	0.50	8
Environmental Information	15	1	15	4.00	60
<i>Form HUD-90163.1-CA, Capital Advance Mixed-Financed Program Use Agreement</i>	15	1	15	1.00	15
Form HUD-90175.1-CA, Request for Closing on Completion, Certificate of Construction Lender, Mixed-Finance Owner and General Contractor	15	1	15	1.00	15
Form HUD-92466.1-CA, Capital Advance Mixed Finance Program, Regulatory Agreement	15	1	15	0.50	8
Form HUD-93566.1-CA, Mixed-Finance Capital Advance Program	15	1	15	0.50	8
If Mixed-Financing development for additional units is involved, additional documents will include Form HUD-2453.1-CA, Firm Commitment for capital Advance Financing Upon Project Completion	15	1	15	0.50	8
Evidentiary Materials	15	1	15	60.00	900
SUBTOTAL	15		270		1398
TOTAL	260		9079		8973

It must be noted that the level of activity under this program is estimated at 260 projects, which takes into consideration recently funded projects and the existing pipeline projects. It is estimated that in any given fiscal year, 260 projects under Sections 202 and 811 are in various processing stages subsequent to the fund reservation stage - of that amount an estimated 15 will have Mixed-Financing proposals

The above table (entitled Table 1 – Tabulation of Annual Reporting Burden) provides a listing of only those forms that are completed by the applicant for the Firm Commitment through Final Closing stages. It also includes the burden hours that are applicable to the respective narrative requirements for the Mixed-Finance Proposals.

Many of the forms listed on the Table 1 are approved under other OMB numbers. The burden hours associated with these forms are not included in this submission.

The Owner submits most forms once. Forms, such as the requisitions of funds, are submitted monthly, due to the need for the Owner to pay the contractor as the construction work progresses. A few forms are submitted or prepared twice - once at initial closing and again at the final closing. The burden time (hours per response) was estimated as a result of consultation with housing consultants and HUD Field Office staff.

Estimates of annualized cost to respondents for the hour burdens for this collection of information:

In estimating the cost to the Owner, it should be noted that in order to complete the development of the project the Owner might retain the services of a housing consultant and management agent. The Owner must obtain the services of an architect; land appraiser, a professional to prepare the construction cost analysis, attorney, and general contractor. The Owner’s Developer’s Fee may be used to cover the cost associated with the use of a housing consultant, land appraisal and construction cost analysis. In addition to these costs, the Owner must obtain control over the land and pay for the cost of the land and any off-site improvements. The Owner must also put up a Minimum Capital Investment not to exceed \$25,000 for national Section 202 Sponsors or \$10,000 for Section 811 and non-national section 202 Sponsors. Based on an average size project (Section 202 - 70 units and Section 811 - 6 resident group homes), the following illustrates the estimated cost to the respondents in planning and constructing such projects. It is anticipated that the Section 202/811 Capital Advance Funds will cover all of the cost listed below.

Development Cost for Section 202 Projects

Developer’s Fee	\$291,618
Architect (Design)	90,684
Architect (During Construction)	51,396
Attorney	9,517
Land Cost	118,444
General Contractor	3,020,756
Bond Premiums	21,573
Taxes and Insurance	10,575
Title and Recording Fees	15,863
Audit Fees (Cost Certification)	<u>2,643</u>
Development Cost to Owner	\$3,633,069*
(Plus Minimum Capital Investment)	+\$18,165**

*This does not include an amount for off-site costs since such costs are not always applicable.
 ** Amount if a national Sponsor, if not, the minimum capital investment would be capped at \$10,000.

Development Cost for Section 811 Group Homes

Developer’s Fee	\$ 31,726
Architect (Design)	10,258
Architect (During Construction)	3,489
Attorney	4,230
Land Cost	21,150
General Contractor	207,277
Bond Premiums	3,701
Taxes and Insurance	3,384
Title and Recording Fees	3,172
Audit Fees (Cost Certification)	<u>2,643</u>
Development Cost to Owner	\$291,034*
(Plus Minimum Capital Investment)	+\$1,455

*This does not include an amount for off-site costs since such costs are not always applicable.

Total Cost to the Respondents: \$3,943,723.

Additional costs for those 202/811 Owners who participate in the Mixed-Finance Program:

Housing Consultant (16 hours @ \$48 per hour)	\$ 768
Financial Consultant (32 hours @ \$79 per hour)	\$2,528
Applicant (Sponsor)	Pro bono
Attorney	<u>550</u>
Total Additional Cost Per Respondent	\$3,846
Total Annual Number of Responses	<u>x15</u>

Estimated Annual Cost**\$57,690**

Other cost associated with the Mixed-Finance proposal is the fees charged by the syndicator. Syndicator fees are covered by the tax credit equity, therefore, the associated cost was not included in the above calculation. Under this program, Owners may now retain the services of a financial consultant.

13. There are no other costs to the respondents (other than the cost shown in item 12 above).

14. Estimate of Cost to Federal Government:

A substantial amount of the work is involved in reviewing documents and preparing forms at the HUD Field Office level. Therefore, a significant amount of the cost to the Federal Government relates to the time spent by HUD staff to review an Owner's application at the various processing stages along with the preparation of forms or other documents for use in recording their conclusions. The cost to the Federal Government is estimated as follows which is based on the processing of a single application, from Firm Commitment to Final Closing. The cost is based on an average hourly rate of \$32.73 at the GS-12 Step-5 level, except for the Field Counsel and Multifamily Housing Director, which is based on an average hourly rate of \$45.99 at the GS-14 Step-15 level.

TOTAL HOURS PER APPLICATION

HUD Staff	Firm	Initial	Const. Period	Final
Hsg. Project Manager.	32	16	16	24
Mortgage Credit	40	24	150	60
Architectural/Cost	60	16	432 1/	40
Valuation	60	—	16	4
Fair Hsg. and EO	24	16	—	24
Housing Management	24	16	8	24
CPD	16*	16*	—	—
Field Office Counsel	24	40	—	40
Housing Director	16	16	16	16
TOTALS	296	160	638	232

Total Hours for all HUD Staff: 1,326

* If relocation of displaced persons/families is involved.

1/ These estimates are based on inspections made by HUD staff as well as those inspections done by contractors for HUD.

Other estimates are based on consultation with HUD staff.

TOTAL COST PER APPLICATION

HUD Staff	Firm	Initial	Const. Period	Final
Hsg. Project Manager.	1047	\$524	\$524	\$786
Mortgage Credit	1309	786	4910	1964
Architectural/Cost	1964	524	14139	1309
Valuation	1964	—	524	131
Fair Hsg. and EO	786	524	—	786
Housing Management	786	524	262	786
CPD	524	524	—	—
Field Office Counsel	1104	1840	—	1840
Housing Director	736	736	736	736
TOTALS	\$10,218	\$5,979	\$21,094	\$8,336

Total cost to the Federal Government for Section 202/811 Development: \$45,627

Additional Cost Per Application:

Clerical (12 hrs @ \$12 per hr)	144
Printing (Periodic Reprinting of Forms)	100
Mailing (Includes overnight express mailing)	<u>150</u>
	\$394

Mixed-Finance Program

The cost to the Federal Government for the collection of proposals involving mixed finance is attributable to the time spent by HUD staff to review the information submitted by the Owner and in preparing the necessary internal documents for use in recording their conclusion. The above chart documents the additional burden hours and cost to the Federal Government to review the Mixed-Finance Proposals.

15. This is an extension of a currently approved collection. This submission updates all forms that are essential to the firm commitment and final closing stage of the Section 202 and Section 811 Capital Advance Program. The Department is moving towards automating the process to the greatest extent possible. Applicants now have access to PDF fillable forms, making the process more efficient. The automation of the fund disbursement process resulted in an increase to the burden hours despite the fact that it significant resulted in time savings from point of requesting funds to time of receipt in the recipient's bank account.
16. Results for this collection of information will not be published.
17. HUD is not seeking approval to avoid displaying the expiration date for OMB approval.
18. There are no exceptions to the certification statement identified in item 19 of the OMB 83-I.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ any statistical methods.