demonstrably changing the economic character of the area (a "revitalizing area"). An 
overriding housing need, however, may not serve as the basis for de-
termining that a site is acceptable if the only reason the need cannot other-
wise be feasibly met is that discrimina-
tion on the basis of race, color, creed, sex, or national origin renders sites 
outside areas of minority concentra-
tion unavailable, or if the use of this 
standard in recent years has had the ef-
fect of circumventing the obligation to 
provide housing choice.
(d) The neighborhood must not be 
one that is seriously detrimental to 
family life or in which substandard 
dwellings or other undesirable condi-
tions predominate, unless there is ac-
tively in progress a concerted program 
to remedy the undesirable conditions.
(e) The housing must be accessible to 
social, recreational, educational, com-
mercial, and health facilities and serv-
ices, and other municipal facilities and 
services that are at least equivalent to 
those typically found in neighborhoods 
consisting largely of unassisted, stand-
ard housing of similar market rents.
(f) For the Section 811 Program of 
Supportive Housing for Persons with 
Disabilities, the additional site and 
neighborhood requirements in § 891.320 
apply.
§ 891.130 Prohibited relationships.
This section shall apply to capital 
advances under the Section 202 Pro-
gram and the Section 811 Program, as 
well as to loans financed under 
§§ 891.655 through 891.790.
(a) Conflicts of interest. (1) Officers 
and Board members of either the Spon-
or or the Owner (or Borrower, as ap-
plicable) may not have any financial 
interest in any contract with the 
Owner or in any firm which has a con-
tract with 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.
(2) The following contracts between 
the Owner (or Borrower, as applicable) 
and the Sponsor or the Sponsor's non-
profit affiliate will not constitute a 
conflict of interest if no more than two 
persons salaried by the Sponsor or 
management affiliate serve as non-
voting directors on the Owner's board 
of directors:
(i) Management contracts (including 
associated management fees);
(ii) Supportive services contracts (in-
cluding service fees) under the Sup-
portive Housing for the Elderly Pro-
gram; and
(iii) Developer (consultant) con-
tracts.
(b) Identity of interest. An identity of 
interest between the Sponsor or Owner 
or Borrower, as applicable) and any 
development team member or between 
development team members is prohib-
ited until two years after final closing.
(c) Mixed-finance projects. Section 
891.322 of this part applies to mixed-fi-
nance projects for the elderly and for 
persons with disabilities.
[61 FR 11956, Mar. 22, 1996, as amended at 70 
FR 54209, Sept. 13, 2005]
§ 891.135 Amount and terms of capital 
advances.
(a) Amount of capital advances. The 
amount of capital advances approved 
shall be the amount stated in the noti-
fication of fund reservation, including 
any adjustment required by HUD be-
fore the final closing. The amount of 
the capital advance may not exceed the 
appropriate development cost limit.
(b) Estimated development cost. The 
amount of the capital advance may not 
exceed the total estimated develop-
ment cost of the project (as determined 
by HUD), less the incremental develop-
ment cost associated with excess amen-
ities and design features to be paid for 
by the Sponsor under § 891.120.
§ 891.140 Development cost limits.
(a) HUD shall use the development 
cost limits, established by Notice in 
the Federal Register and adjusted by 
locality, to calculate the fund reserva-
tion amount of the capital advance to 
be made available to individual Own-
ers. Owners that incur actual develop-
ment costs that are less than the 
amount of the initial fund reservation 
shall be entitled to retain 50 percent of 
the savings in a Replacement Reserve 
Account. Such percentage shall be in-
creased to 75 percent for Owners that 
add energy efficiency features.
(b) The Replacement Reserve Ac-
count established under paragraph (a)
§ 891.145 Owner deposit (Minimum Capital Investment).

As a Minimum Capital Investment, the Owner must deposit in a special escrow account one-half of one percent (0.5%) of the HUD-approved capital advance, not to exceed $10,000, to assure the Owner’s commitment to the housing. Under the Section 202 Program, if an Owner has a National Sponsor or a National Co-Sponsor, the Minimum Capital Investment shall be one-half of one percent (0.5%) of the HUD-approved capital advance, not to exceed $25,000.

§ 891.150 Operating cost standards.

HUD shall establish operating cost standards based on the average annual operating cost of comparable housing for the elderly or for persons with disabilities in each field office, and shall adjust the standard annually based on appropriate indices of increases in housing costs such as the Consumer Price Index. The operating cost standards shall be developed based on the number of units. However, under the Section 811 Program and for projects funded under §§ 891.655 through 891.790, the operating cost standard for group homes shall be based on the number of residents. HUD may adjust the operating cost standard applicable to an approved project to reflect such factors as differences in costs based on location within the field office jurisdiction. The operating cost standard will be used to determine the amount of the project assistance initially reserved for a project.

§ 891.155 Other Federal requirements.

In addition to the requirements set forth in 24 CFR part 5, the following requirements in this § 891.155 apply to the Section 202 and Section 811 Programs, as well as projects funded under §§ 891.655 through 891.790. Other requirements unique to a particular program are described in subparts B and C of this part, as applicable.

(a) Affirmative fair housing marketing. (1) The affirmative fair housing marketing requirements of 24 CFR part 200, subpart M and the implementing regulations at 24 CFR part 108; and

(2) The fair housing advertising and poster guidelines at 24 CFR parts 109 and 110.

(b) Environmental. The National Environmental Policy Act of 1969, HUD’s implementing regulations at 24 CFR part 50, including the related authorities described in 24 CFR 50.4. For the purposes of Executive Order No. 11988, Floodplain Management (42 FR 26951, 3 CFR, 1977 Comp., p. 117); as amended by Executive Order 12148 (44 FR 43239, 3 CFR, 1979 Comp., p. 412), and implementing regulations in 24 CFR part 55, all applications for intermediate care facilities for persons with developmental disabilities shall be treated as critical actions requiring consideration of the 500-year floodplain.


(d) Labor standards. (1) All laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) employed by contractors and subcontractors in the construction (including rehabilitation) of housing with 12 or more units assisted under this part shall be paid wages at rates not less than those prevailing in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a–276a–5). A group home for persons with disabilities is not covered by the labor standards.

(2) Contracts involving employment of laborers and mechanics shall be subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333).

(3) Sponsors, Owners, contractors, and subcontractors must comply with all related rules, regulations, and requirements.

(e) Displacement, relocation, and real property acquisition—(1) Minimizing displacement. Consistent with the other goals and objectives of this part, Sponsors and Owners (or Borrowers, if applicable) shall assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.