

(1) That has tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*);

(2) No part of the net earnings of which inures to the benefit of any private shareholder, member, founder, contributor or individual;

(3) That is not controlled by or under the direction of persons or firms seeking to derive profit or gain therefrom;

(4) That has a governing board the membership of which is selected in a manner to assure that there is significant representation of the views of persons with disabilities; and

(5) That is approved by HUD as to administrative and financial capacity and responsibility.

§ 891.310 Special project standards.

In addition to the applicable project standards in § 891.120, the following special standards apply to the Section 811 Program and to projects funded under §§ 891.655 through 891.790:

(a) *Minimum group home standards.* Each group home must provide a minimum of 290 square feet of prorated space for each resident, including a minimum area of 80 square feet for each resident in a shared bedroom (with no more than two residents occupying a shared bedroom) and a minimum area of 100 square feet for a single occupant bedroom; at least one full bathroom for every four residents; space for recreation at indoor and outdoor locations on the project site; and sufficient storage for each resident in the bedroom and other storage space necessary for the operation of the home. If the project involves acquisition (with or without rehabilitation), the structure must at least be in compliance with applicable State requirements. In the absence of such requirements, the above standards shall apply.

(b) *Additional accessibility requirements.* In addition to the accessibility requirements in § 891.120(b), the following requirements apply to the Section 811 Program and to projects funded under §§ 891.655 through 891.790:

(1) All entrances, common areas, units to be occupied by resident staff, and amenities must be readily accessible to and usable by persons with disabilities.

(2) In projects for chronically mentally ill individuals, a minimum of 10 percent of all dwelling units in an independent living facility (or 10 percent of all bedrooms and bathrooms in a group home, but at least one of each such space), must be designed to be accessible or adaptable for persons with disabilities.

(3) In projects for developmentally disabled or physically disabled persons, all dwelling units in an independent living facility (or all bedrooms and bathrooms in a group home) must be designed to be accessible or adaptable for persons with physical disabilities. A project involving acquisition and/or rehabilitation may provide a lesser number if:

(i) The cost of providing full accessibility makes the project financially infeasible;

(ii) Fewer than one-half of the intended occupants have mobility impairments; and

(iii) The project complies with the requirements of 24 CFR 8.23.

(4) For the purposes of paragraph (b) of this section, the following definitions apply:

(i) *Accessible* describes a site, building, facility, or portion thereof that complies with the Uniform Federal Accessibility Standards and that can be approached, entered, and used by physically disabled people;

(ii) *Adaptability* means the ability of certain building spaces and elements, such as kitchen counters, sinks, and grab bars, to be added or altered so as to accommodate the needs of either disabled or nondisabled persons, or to accommodate the needs of either disabled or nondisabled persons, or to accommodate the needs of persons with different types or degrees of disability.

§ 891.315 Prohibited facilities.

This section shall apply to capital advances under the Section 811 Program, as well as loans financed under subpart E of this part. Project facilities may not include infirmaries, nursing stations, spaces dedicated to the delivery of medical treatment or physical therapy, padded rooms, or space for respite care or sheltered workshops, even if paid for from sources other than

the HUD capital advance or loan. Except for office space used by the Owner (or Borrower, if applicable) exclusively for the administration of the project, project facilities may not include office space.

§ 891.320 Site and neighborhood standards.

In addition to the requirements in §§ 891.125 and § 891.680, if applicable, the following site and neighborhood requirements apply to the Section 811 Program:

(a) Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for very low-income workers (or low-income workers, as applicable), must not be excessive.

(b) Projects should be located in neighborhoods where other family housing is located. Projects should not be located adjacent to the following facilities, or in areas where such facilities are concentrated: schools or day-care centers for persons with disabilities, workshops, medical facilities, or other housing primarily serving persons with disabilities. Not more than one group home may be located on any one site and no such home may be located on a site contiguous to another site containing such a home.

§ 891.325 Lead-based paint requirements.

In addition to the other Federal requirements described in § 891.155, the following lead-based paint requirements apply to the Section 811 Program and to projects funded under §§ 891.655 through 891.790:

(a) The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) and implementing regulations at 24 CFR part 35 (except as superseded in paragraph (b) of this section) apply to the dwellings (except zero-bedroom dwelling units or units that are certified by a qualified inspector to be free of lead-based paint or the lead-based paint hazards have been eliminated) in housing assisted under this subpart and to projects funded under §§ 891.655 through 891.790 that:

(1) Were constructed before 1978; and

(2) In which any child under 6 years of age resides or is expected to reside.

(b)(1) This paragraph (b) implements the provisions of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821 et seq., by establishing procedures to eliminate, as far as practicable, the hazards of lead-based paint poisoning with respect to covered structures for which assistance is provided under the Section 811 Program and under §§ 891.655 through 891.790. This paragraph (b) is promulgated under 24 CFR 35.24(b)(4) and supersedes, with respect to these programs, the requirements prescribed in subpart C of 24 CFR part 35.

(2) The following definitions apply to this section:

Applicable surface means all intact and nonintact painted interior and exterior surfaces of a residential structure.

Chewable surface means all protruding painted surfaces up to five feet from the floor or ground, that are readily accessible to children under 6 years of age, e.g., protruding corners, windowsills and frames, doors and frames, and other protruding woodwork.

Defective paint surfaces means a surface on which the paint is cracking, scaling, chipping, peeling, or loose.

Elevated blood lead level or EBL means excessive absorption of lead: that is, a confirmed concentration of lead in whole blood of 20 ug/dl (micrograms of lead per deciliter) for a single test or of 15-19 ug/dl in two consecutive tests 3-4 months apart.

Lead-based paint means a paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 mg/cm² (milligram per square centimeter) or .5 percent by weight or 5000 parts per million (PPM).

(3) In the case of a structure constructed before 1978, the Sponsor must inspect the structure for defective paint surfaces before it submits site information. If defective paint surfaces are found, treatment in accordance with paragraph (a)(5) of this section is required. Correction of defective surfaces found during the initial inspection must be completed before initial occupancy of the project. Correction of defective paint conditions discovered