

**811 PROJECT RENTAL ASSISTANCE DEMONSTRATION (811 PRA) GUIDELINES
(11/24/15)
Washington State Department of Commerce**

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1. **OVERVIEW**

The Section 811 Project Rental Assistance Demonstration (811 PRA) grant awarded to Commerce by the Office of Housing and Urban Development (HUD) of \$5.6 million will provide project-based rental assistance to approximately 215 units targeted to extremely low-income, non-elderly disabled households for a period of five years (with annual renewals thereafter based upon Congressional appropriations). The program's mission is consistent with the guiding principles of the Americans with Disabilities Act and with the 1999 U.S. Supreme Court ruling in *Olmstead v. L.C.*, which requires state and local governments to provide services to individuals with disabilities in the most integrated setting appropriate to their needs. The Department of Social and Health Services is partnering with Commerce in the provision and coordination of services.

Grantees will submit applications to Commerce to apply for funding. Applications will be accepted until all funds are awarded.

2. **PURPOSE**

The purpose of the Section 811 PRA program, as authorized under the Frank Melville Supportive Housing Investment Act of 2010, is to provide extremely low income persons with disabilities with decent, safe and sanitary rental housing through the use of rental assistance payments to owners. The Section 811 Project Rental Assistance program guidelines are applicable only to the assisted units.

3. **ELIGIBILITY**

a. **Multifamily Property Eligibility:**

An eligible multifamily property can be any new or existing property funded with Washington State Housing Trust Fund, HOME, Washington State Low Income Housing Tax Credits, and/or USDA – Rural Development with at least 5 housing units. No more than 25 percent of the total units in an eligible multifamily property can: 1) be provided Section 811 PRA funds; 2) be used for supportive housing for persons with disabilities; or 3) have any occupancy preference for persons with disabilities. The objective of HUD is to expand the inventory of units available to persons with disabilities and not just add subsidy to existing units with these preferences.

Units must meet the program criteria for unit integration and accessibility and accessibility to transportation and services:

- (i) **Unit Integration and Accessibility:** 811 PRA Demo units must be dispersed throughout the property so that disabled tenants are seamlessly integrated into the project site. Units must not have substantially different attributes than units available to general households. Projects that are ultimately awarded funds will be expected to evidence a high level of commitment to integrating disabled residents

into the existing community through thoughtful choice in the distribution and location of 811 PRA Demo units.

- (ii) **Accessibility to Transportation and Services:** Projects must emphasize affirmatively furthering fair housing goals by focusing on factors that integrate residents into the community fabric. Projects must be located in close proximity to civic and community facilities, services, and retail shops, and/or are located near accessible public transit options.
- (iii) The Housing Trust Fund (HTF) and Washington State Housing Finance Commission (WSHFC) Low-Income Housing Tax Credit (LIHTC) programs will be the dedicated financing programs for creating 811 PRA units. Projects currently in portfolio and new projects seeking funding through HTF or WSHFC may be eligible. HOME Investment Partnership projects and bond projects may also be eligible, along with USDA – Rural Development projects.
- (iv) Units with **existing** use restrictions for persons with disabilities are not eligible, unless such 811 PRA funds are being used to support other units in the building without such restrictions. Existing units receiving any form of long-term operating housing subsidy within a six-month period prior to receiving 811 PRA funds, such as assistance under Section 8, are ineligible to receive this assistance. In addition, units with use agreements requiring housing for persons 62 or older would not be eligible to receive 811 PRA funds.

b. Tenant Eligibility:

At the time of admission, at least one person in a household considered for a unit receiving 811 PRA rental subsidies must be non-elderly (18-61 years of age), disabled, and receiving or be eligible to receive Medicaid and services and supports provided through DSHS Aging and Disabilities Services Administration (ADSA). Individuals must have extremely low incomes at or below 30% AMI, and be in the ADSA caseload. This shall include:

- Individuals served through the Roads to Community Living (MFP) Project
- Individuals with developmental disabilities served through the Developmental Disabilities Division
- Individuals with functional disabilities served through the Home and Community Services Division
- Individuals with mental illnesses served through the Division of Behavioral Health and Recovery

An extremely low-income household has an annual income that does not exceed 30 percent of the median income for the area, with adjustments for smaller and larger families. Both “annual income” and “extremely low-income family” are defined in 24 CFR 5.603. Federally mandated income exclusions defined by 24 CFR 5.609 must be

applied in determining income eligibility at the time of admission and in calculating the household income during the interim/annual recertification stages.

Persons with disabilities must meet the definition provided in Section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(k)(2)) and shall also include the following, as found in 24 CFR § 891.305:

A person who has a developmental disability, as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5)), i.e., if he or she has a severe chronic disability which:

- Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- Is manifested before the person attains age twenty-two;
- Is likely to continue indefinitely;
- Results in substantial functional limitation in three or more of the following areas of major life activity:
 - Self-care;
 - Receptive and expressive language;
 - Learning;
 - Mobility;
 - Self-direction;
 - Capacity for independent living;
 - Economic self-sufficiency; and
 - Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

A person with a chronic mental illness, i.e., a severe and persistent mental or emotional impairment that seriously limits his or her ability to live independently, and which impairment could be improved by more suitable housing conditions.

A person infected with the human acquired immunodeficiency virus (HIV) and a person who suffers from alcoholism or drug addiction, provided they meet the definition of "person with disabilities" in Section 811 (42 U.S.C. 8013(k)(2)). A person whose sole impairment is a diagnosis of HIV positive or alcoholism or drug addiction (i.e., does not meet the qualifying criteria in section 811 (42 U.S.C. 8013(k)(2)) will not be eligible for occupancy in a Section 811 PRA project.

Documentation of tenant eligibility will include:

- Written verification from DSHS Aging and Disabilities Services Administration (ADSA) that tenant is non-elderly and receiving or is eligible to receive Medicaid and services and supports provided through ADSA.

- Initial income verification is done by DSHS through their verification process. Annual recertification will be done by the property manager through the Enterprise Income Verification (EIV) System. Income must be recertified annually.
- DSHS verification of Social Security numbers for all family members.
- DSHS verification of citizenship through the submission of evidence of citizenship or eligible immigration status per 24 CFR 5.508.

4. **PROGRAM REQUIREMENTS**

a. **Rental Assistance Contracts (RAC):**

Commerce will enter into a RAC with each Owner of an eligible property. The initial term of the RAC will be a minimum of 20 years with initial funding for a period of 5 years. Funding beyond the first 5 years is subject to additional HUD funding.

If Congress fails to appropriate funds adequate to meet the future financial needs, HUD will permit Commerce to terminate or continue the RAC at its discretion.

The RAC rent levels will be the higher of 50 percent of AMI or FMR, with the 811 PRA payments being the difference between that and the tenant payment minus utility allowances, if any. Where applicable, the owner will pay a utility reimbursement in accordance with 24 CFR 5.632. Allowable rents are listed on your Rental Assistance Contract and attached Rent Schedule.

The RAC will provide rental assistance payments to the Owner for eligible tenants in eligible units. The RAC will identify the project, number of contract units by bedroom size and accessibility, and the terms and conditions for receiving the project rental assistance payments. The RAC will also provide for annual certification to Commerce that 811 PRA assisted units are occupied by eligible tenants and that regular physical inspection of those units confirms that they meet the uniform national standards established by HUD for housing that is decent, safe, and sanitary and in good repair.

b. **Vacancy Payments During Rent Up:**

For each assisted unit that is not leased as of the effective date of the RAC, the Owner may receive vacancy payments that may not exceed 80 percent of the contract rent for up to 60 days of vacancy, provided that the Owner:

- (i) Commences and performs appropriate feasible actions to fill the vacancy, consistent with the Commerce's PRA program and its marketing plan to eligible families; and
- (ii) Has not rejected any eligible applicant, except for good cause acceptable to Commerce.

c. Vacancy Payments after Rent Up:

If an eligible family vacates an assisted unit, and that unit is not immediately filled, the Owner may receive vacancy payments that may not exceed 80 percent of the contract rent for up to 60 days if the Owner:

- (i) Certifies that it did not cause the vacancy by violating the lease, the Contract or any applicable law;
- (ii) Notified Commerce and Department of Social and Health Services (DSHS) of the vacancy or prospective vacancy and the reasons for it immediately upon learning of the vacancy or prospective vacancy;
- (iii) Has fulfilled and continues to fulfill the requirements under the Contract; and
 - Commences and performs appropriate feasible actions to fill the vacancy, consistent with the Commerce's PRA program and its marketing plan to eligible families; and
 - Has not rejected any eligible applicant, except for good cause acceptable to Commerce.
- (iv) Certifies that any eviction of an eligible family resulting in a vacancy was carried out in compliance with the lease, all applicable HUD regulations and other requirements in effect at the time of the termination, and any state and local law.
- (v) If the owner collects any tenant rent or other amount for this period which, when added to this vacancy payment, exceeds the contract rent, the excess must be repaid as HUD directs.

If appropriate referrals are not available for a unit after the 60-day period, DSHS will document efforts to minimize the vacancy and meet with Commerce and property Owners to further address the issue.

d. Leasing to Eligible Tenants:

During the term of the RAC, the owner shall make available for occupancy by eligible tenants in the target population the total number of assisted units committed under the RAC. Making units available for occupancy by eligible tenants means that the owner:

- (i) Has leased or is making good faith efforts to lease the units to eligible tenants in the target population including informing the DSHS of a vacancy and holding the unit open for a reasonable period of time; and
- (ii) Has not rejected any such applicant except for the reasons permitted under the RAC, the 811 PRA Guidelines or the approved tenant selection plan for the PRA units. Failure of the owner to comply with this requirement is a violation of the RAC and grounds for all available legal remedies, including specific performance of the RAC, suspension or debarment from HUD programs, and reduction of the number of assisted units under the RAC.

NOTE: A live-in aide must not be included on the lease and does not qualify as a remaining family member. See HUD handbook 4350.3 Chapter 3-6 (E)(3)(a) or the

Glossary for a definition of a live-in aide. The live-in aide must vacate the unit when the qualifying person vacates the unit or upon the death of the person for whom they were providing care. HUD will pay subsidy for up to 14 days when the qualifying member dies. No subsidy is available if the qualifying member vacates the unit for any reason other than death.

e. Reduction in Number of Assisted Units:

Commerce may reduce the number of assisted units covered by the RAC if:

- (i) the owner fails to comply with the requirements, or
- (ii) Commerce and DSHS determine that the inability to lease assisted units to eligible tenants is not a temporary problem.

f. Increase in Number of Assisted Units:

Commerce may increase the number of assisted units covered by the RAC if:

- (i) the program funding amount with the increased number of assisted units does not exceed the maximum amount of grant funds awarded; and
- (ii) the owner complies with the limitations on assisted units.

g. Rent Calculation and Recertification:

The RAC rent levels will be the higher of 50 percent of AMI or FMR, with the 811 PRA payments being the difference between that and the tenant payment minus utility allowances, if any. Where applicable, the owner will pay a utility reimbursement in accordance with 24 CFR 5.632.

The eligible tenant's rent contribution shall be no more than 30 percent of the family's adjusted monthly income. Income must be recertified annually. Tenant data must be entered into HUD's Tenant Rental Assistance Certification System (TRACS) and Enterprise Income Verification (EIV) must be used to verify income.

h. Housing Inspections:

- (i) Prior to occupancy of any Assisted Unit by an Eligible Family, the Eligible Family must be given the opportunity to be present for the move-in unit inspection. The inspection of the Assisted Unit would be completed by both the Owner and the Eligible Family and both shall certify, on a form prescribed or approved by the Grantee that they have inspected the Assisted Unit and have determined it to be Decent, Safe, and Sanitary condition in accordance with the criteria provided in the form. The Owner shall keep a copy of this inspection and make part of the lease as an attachment to the lease. If the Eligible Family waives

- the right to this inspection, a form prescribed or approved by the Grantee would be signed by the Eligible Family indicating they have waived this right.
- (ii) The Owner shall perform inspections on assisted units on at least an annual basis to ensure that appliances and equipment in the unit is functioning properly and to determine whether an appliance or equipment needs to be repaired or replaced. This will ensure the Owner is meeting its obligation to maintain the assisted units in decent, safe and sanitary condition.
 - (iii) In addition to annual Owner inspections described, after the effective date of the RAC, a physical inspection pursuant to Uniform Physical Condition Standards (UPCS) must also be performed of the Assisted Units and related facilities at a frequency that conforms to the property's other existing federal or state housing programs, but at least every 3 years, and at such other times as may be necessary. If multiple federal or state housing programs are layered at the property, the frequency of the physical inspection shall be determined by the most stringent UPCS standard, with a minimum of every 3 years.
 - (iv) As a project in the HTF Portfolio, each project will receive cyclical on-site inspections. Field Asset Managers will interview property management and maintenance staff with questions pertinent to Fair Housing and landlord-tenant requirements; specific HTF, HOME and LIHTC contract compliance requirements; existing residential policies; regular and preventative maintenance practices; work order practices; staffing issues; capital needs and improvements; lead based paint hazard issues. And will determine that all the fire safety systems, elevators and hot water systems are regularly inspected and have no findings.
 - (v) The physical inspection standards utilized by the HTF Field Monitoring staff include state and local building codes, the Uniform Federal Accessibility Standards (UFAS), HUD's Uniform Physical Conditions Standards (UPCS), and the HOME Program's enhanced monitoring practices.
 - (vi) Owners shall comply with the Physical Condition Standards and Inspection Requirements of 24 CFR part 5, Subpart G, including any changes in the regulation and related Directives. In addition, the Owner shall comply with HUD's Physical Condition Standards of Multifamily Properties of 24 CFR part 200, Subpart P, including any changes in the regulation and related Directives.

i. Housing Locator Requirements:

Eligible 811 units must be entered into the web-based housing locator system, HousingSearchNW.org. Project managers are responsible for entering their property's eligible units into the system within 48 hours of vacancy and identified as special needs housing.

5. OWNER REQUIREMENTS

a. Use Agreement:

- (i) Owners must agree to record a Use Agreement for not less than thirty years, in the form prescribed by HUD.
- (ii) During the Use Agreement period, Owners shall make Commerce's approved number of Assisted Units available for occupancy only by households that meet the eligibility requirements.

b. Responsibilities Of Owner*:

Owner responsibilities are explained in Part II of the Rental Assistance Contract. They include, but are not limited to, the following:

- (i) **Management and maintenance:** The Owner is responsible for all management functions, including screening of Eligible Tenants, reexamination and verification of family income and composition, determination of family rent (total tenant payment, tenant rent and utility reimbursement), collection of rent, termination of tenancy and eviction, and performance of all repair and maintenance functions (including ordinary and extraordinary maintenance), and replacement of capital items. All functions must be performed in accordance with applicable nondiscrimination and equal opportunity requirements. Owner has tenant selection responsibilities apart from screening only as provided in the Inter-Agency Agreement.
- (ii) **Contracting for services:** The Owner may contract with a private or public entity for performance of management and maintenance. However, such an arrangement does not relieve the Owner of responsibility for these services and duties.
- (iii) **Submission of financial and operating statements:** Commerce shall establish control measures with the Owner to meet Commerce's financial requirements of submitting audited annual financial statements that comply with the requirements of OMB Circular A-133 and 24 CFR, Part 5, Subpart H.

c. Selection And Admission Of Eligible Tenants:

- (i) **Outreach and Referrals:** Outreach will be coordinated by DSHS Roads to Community Living (RCL) Housing Specialists in the region the PRA properties are located in. It will be conducted by local Home and Community Services field staff working in nursing facilities and residential facilities.

Clients currently on the caseloads residing in institutional settings as well as those in home and community-based residential settings will be identified and screened for interest in relocating to community-based housing units that receive assistance through the 811 PRA program. DSHS staff will work with owners of properties to stay informed of vacancies and ensure that supportive services are being provided to clients. Project owners and other organizations will not be able to directly refer their clients to 811 PRA assisted units.

The Owner must accept tenancy referrals from DSHS case managers. Owner must accept applications from potentially eligible tenants consistent with the requirements of the NOFA, the RAC, and all other HUD requirements. The Owner (or Owner's designee) and the applicant must complete and sign the application. Upon request of the Grantee or HUD, the Owner must furnish copies of all applications to HUD and/or the Grantee.

- (ii) If the Owner determines that an applicant is ineligible on the basis of income or family composition, or because of failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 5), or because of failure by an applicant to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR parts 5), or that the Owner is not selecting the applicant for other reasons, the Owner will promptly notify the applicant in writing of the determination and its reasons, and that the applicant has the right to meet with the Owner (or Owner's designee) and has the right to request a reasonable accommodation. The applicant may also exercise other rights if the applicant believes that he or she is being discriminated against on the basis of race, color, national origin, religion, sex, disability or familial status. Records on applicants and approved Eligible Families, which provide racial, ethnic, gender and place of previous residency data required by HUD, must be maintained and retained for three years. Owner shall refer to Handbook 4350.3 REV-1, chapter 4-9 for further guidance on rejecting applicants and denial of rental assistance.

d. Overcrowded And Under Occupied Units:

If the Owner determines that because of change in family size, an Assisted Unit is smaller than appropriate for the eligible family to which it is leased, or that the unit is larger than appropriate, the Owner shall contact DSHS and Commerce for further guidance. If the eligible family must be transferred to an appropriate sized unit, rental assistance payments with respect to the assisted unit will not be reduced or terminated until the eligible family has been transferred.

e. Barrier Free/Accessibility Requirements For Units, Buildings, And Facilities, Including Public And Common Use Areas

The Section 811 PRA program must meet accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8 and as

applicable, Titles II and III of the Americans with Disabilities Act and implementing regulations at 28 CFR parts 35 and 36, respectively. Eligible Multifamily Properties must also meet the design and construction requirements of the Fair Housing Act. 24 CFR part 100. However, assisted units can consist of a mix of accessible units for those persons with physical disabilities and non-accessible units for those persons without physical disabilities.

f. Compliance with Fair Housing and Civil Rights Laws

Owners must comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a), including, but not limited to, the Fair Housing Act; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Title III of the Americans with Disabilities Act; and Section 109 of the Housing and Community Development Act of 1974. Owners must also comply with HUD's Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity requirements. See HUD's Equal Access rules at 24 C.F.R. §§ 5.100, 5.105(a)(2), 5.403 and HUD's final rule published in the *Federal Register* at 77 Fed. Reg. 5662, "Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity."

Owner must also comply with all Washington State fair housing laws and the laws of localities in which the programs or activities are conducted.

g. Tenant Organization Rights

Owner shall not impede the reasonable efforts of tenants of the assisted units to organize pursuant to 24 CFR part 245, or any successor regulations of 24 CFR part 245, or unreasonably withhold the use of any community room or other available space appropriate for meetings which is part of the mortgaged property when requested by: (i) a resident tenant organization in connection with the representational purposes of the organization; or (ii) tenants seeking to organize or to consider collectively any matter pertaining to the operation of the mortgaged property.

h. Effective Communications

Owners must ensure that all communications are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 and, as applicable, the Americans with Disabilities Act.

i. Executive Order 13166

Improving Access to Services for Persons with Limited English Proficiency (LEP), seeks to improve access to federally assisted programs and activities for individuals who, as a result of national origin, are limited in their English proficiency. Owners obtaining federal financial assistance from HUD shall take reasonable steps to ensure meaningful access to their programs and activities to LEP individuals.

j. Affirmatively Furthering Fair Housing

Owners will also be required to adopt actions and procedures to ensure that the assisted units are dispersed and integrated within the property.