

Texas Section 811 Project Rental Assistance Program Frequently Asked Questions

General Program Questions

- 1) **Question:** Can Section 811 PRA Units be placed in a Development that already contains project-based units or long term operating assistance?

Answer: Yes, as long as the Section 811 PRA Units are not placed on the units within the Property that are already receiving a project-based or long-term operating subsidy or on units that have received this assistance in the 6 months prior to the unit receiving Section 811 PRA assistance.

- 2) **Question:** If an Owner designated an existing property to receive an 811 unit and a participant moved in to that unit, would Davis Bacon apply to that existing Development if they made major repairs in the future?

Answer: Davis Bacon will not apply if the future repairs are part of the building maintenance standards operations. Davis Bacon is only triggered by Section 811 if at the time of award the Development has 12 or more 811-assisted units under one construction contract.

- 3) **Question:** How will students be treated in 811?

Answer: The student rule as outlined in HUD Handbook 4350.3 REV-1 under Department administered programs will apply along with any different student rule that applies to the Development because of its sources of financing. Under current the Housing Tax Credit (“HTC”) and Tax Exempt Bond program regulations, a student previously in foster care is eligible for an exception to the full-time student rules.

- 4) **Question:** Will property management staff be required to obtain training on the best practices of interacting with people with disabilities?

Answer: No, but TDHCA or its Health and Human Services partners will provide training to participating property management staff and will develop training materials that are designed to increase the cultural competency of property management staff as it relates to people with disabilities.

- 5) **Question:** Can a release be created for a tenant to sign that allows the property manager to have direct communication with one or more points of contact (e.g. Section 811

Service Coordinator, Referral Agent, State Department of Disability Services “DADS” Conflict Management Point of Contact, etc)?

Answer: A Property can have such a release, but no 811 tenant can be denied tenancy for choosing not to sign. The document should indicate that this is optional information.

- 6) **Question:** Is an Applicant required to have one bedroom units in its Development to qualify?

Answer: No.

- 7) **Question:** Can Section 811 PRA Units be placed on single room occupancy/studio units?

Answer: Yes, but TDHCA will decide what bedroom sizes should be used for the 811 Program, and included in the Rental Assistance Contract.

- 8) **Question:** What if the Property that is hosting the 811 units is no longer able to operate?

Answer: As with any other Department-held LURA on the property, TDHCA will hold the Owner to all obligations made under the Use Agreement, LURA, and associated contracts. If a Property is in active coordination with the Department’s Asset management Division or the Owner is no longer able to adhere to its obligations of the program, this will be handled on a case by case basis.

- 9) **Question:** Because Properties will be required to use the Enterprise Income Verification (EIV) System, will property management staff be required to keep two separate tenant files?

Answer: EIV information cannot be considered for purposes of Section 42 compliance, but TDHCA does not dictate how that information is kept separately by the Property. The Property will be responsible for documenting all sources of income for Section 42 purposes, and maintaining it separately from the EIV verification.

- 10) **Question:** What tools will be available to a Property for program administration, and training for staff turnover? For example, will the Department provide assistance to property management staff that joins the Property after the September 2015 training?

Answer: TDHCA is developing tools that will be available online. These tools include the Owner/Property Manager Manual, webinars, forms with instructions and FAQs.

- 11) **Question:** If a Property is exempt from TDHCA’s Integrated Housing Rule, is the Property exempt from Section 811’s Integrated Housing Requirements.

Answer: No; HUD does not allow any exceptions to the Section 811 Integration Requirements. HUD requires that no more than twenty five percent (25%) of the total units in Eligible Multifamily Properties can: (1) be provided Section 811 Project Rental Assistance Payments; (2) be restricted to supportive housing for persons with disabilities; or (3) have any occupancy preference for Persons with Disabilities.

12) Question: Where can I find more information about the environmental requirements for the program such as site contamination policies, noise abatement and control and historic preservation?

Answer: TDHCA has created a Section 811 PRA webpage that contains information about the program. Information on the environmental requirements for participating properties may be found in the Program Guidelines available under the Resource Documents section of the Section 811 PRA webpage:

<http://www.tdhca.state.tx.us/section-811-pra/resource-documents.htm>

13) Question: Will my Property be obligated to participate in the Section 811 PRA Program if I sign a Property Agreement with TDHCA?

Answer: A Property might be required to participate in the Section 811 program if requested by TDHCA once they have signed a Property Agreement with TDHCA. TDHCA anticipates that there may be more units obligated in Property Agreements than funds available to occupy all of those units. It is therefore possible that a Property will enter into a Property Agreement with TDHCA and never subsequently be asked to serve an 811 tenant.

14) Question: How will the state ensure each of the seven MSAs are awarded Section 811 PRA Units under the 2015 Qualified Allocation Plan?

Answer: Due to the design of TDHCA's Section 811 PRA Program, more properties than funds might be obligated into the program through a Property Agreement, than will necessarily serve Section 811 tenants. TDHCA anticipates continually evaluating the Properties that have an existing Property Agreement and determining where to place Section 811 PRA units based client referrals and distribution of units geographically.

15) Question: Does TDHCA or HUD have to approve addendums to the HUD Model Lease that are required for this program?

Answer: With the exception of the Violence Against Women and Justice Department Reauthorization Act of 2005 (VAWA) Lease Addendum, Owners are required to send lease addendums to the HUD Model Lease to TDHCA. TDHCA will consider lease

addendums on a case by case basis and may decide to send to HUD for approval. Owners may only modify the lease terms with a tenant at the end of the initial term or a successive term by serving an appropriate notice to the tenant, together with the provision of a revised agreement or addendum.

16) Question: Can I be reimbursed for damages to my unit by an 811 tenant?

Answer: Properties may collect from the tenant any charge for unit damage by the family allowed by state and federal law, but the Section 811 PRA Program does not allow the program to reimburse the Property for damages. In addition, when the 811 tenant moves out, the Owner, subject to State and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit or other amounts which the family owes under the lease. The Owner must give the family a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used as reimbursement to the Owner, the Owner must promptly refund the full amount of the balance to the family.

17) Question: Will the Conflict Management process be available to my Property Management staff for crisis situations? What about situations occurring after business hours?

Answer: The Conflict Management process is not designed to respond during crisis situations or to be available after business hours. A contact, either a phone number or email at the DADS, will be provided to the Property Manager. DADS will work with the local service coordinator to help resolve the issue. The Department is working with our Health and Human Service Agency partners to identify other potential crisis resources may be available for the Property.

18) Question: How will TDHCA monitor EIV screening done by Properties?

Answer: TDHCA will monitor properties for compliance with Section 811 EIV duties, but they cannot be used for purposes of compliance with Section 42 and must be kept separately. TDHCA will review EIV documentation to ensure all required reports were reviewed and all discrepancies resolved for all eligible household members. TDHCA will also review the property's EIV Policies as well as the property's EIV procedures.

19) Question: What is the turnaround time for getting payment on a monthly basis?

Answer: Requisitions of funds must be made using the Tenant Rental Assistance Certification System ("TRACS"). TRACS is a HUD computer system developed to help improve financial controls over assisted housing programs by automating manual

procedures and incorporating automated controls. Owners will enter electronic submissions into TRACS using HUD form 50059 for each 811 assisted household and HUD form 52670. Requisition requests are processed monthly and must be submitted into TRACS by the 10th day of each month in order to secure payment for the following month.

20) Question: What if my 2015 9% HTC Property is in the 500 year flood plain?

Answer: The 500 year flood plain regulations were included in the 811 program because the program qualifies as “critical actions.” Applicable Program Guidelines are PRA.215 (a)(6).

No new construction activities or projects shall be located in the mapped 500-year floodplain or in the 100-year floodplain according to FEMA’s Flood Insurance Rate Maps (FIRM). Existing structures may be assisted in these areas, except for sites located in coastal high hazard areas (V Zones) or regulatory floodways, but must meet the following requirements:

- (a) The existing structures must be flood-proofed or must have the lowest habitable floor and utilities elevated above both the 500-year floodplain and the 100-year floodplain.
- (b) The project must have an early warning system and evacuation plan that includes evacuation routing to areas outside of the applicable floodplains.
- (c) Project structures in the 100-year floodplain must obtain flood insurance under the National Flood Insurance Program. No activities or projects located within the 100-year floodplain may be assisted in a community that is not participating in or has been suspended from the National Flood Insurance Program

Thus, if an 2015 9% HTC Applicant is proposing new construction in the 500-year or 100-year floodplain or the property in coastal high hazard areas (V zones) or regulatory floodways, the Applicant cannot claim points under Texas Administrative Code §11.9 (c) (7)(A), but may claim points under §11.9 (c) (7)(B), but should explain in the Application under the other category why the Development is not eligible for Section 811 PRA Program.

21) Question: Will the Department provide additional meetings or trainings?

Answer: Yes. TDHCA anticipates providing training in September 2015 after HTC have been awarded for Developments participating in the program. TDHCA anticipates facilitating meetings between service providers and property managers in each MSA as well.

22) Question: Does the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 apply to the Section 811 PRA program?

Answer: Yes; more information on complying with the Act may be found on TDHCA's webpage: <http://www.tdhca.state.tx.us/program-services/ura/index.htm>

23) Question: Does Section 3 of the Housing and Urban Development Act of 1968 apply to the Section 811 PRA Program?

Answer: No

Questions related to Program Selection Guidelines for 2015 9% Housing Tax Credit Applications placing Section 811 Units Existing Developments

24) Question: What is an "Existing Development?"

Answer: An Existing Development is defined in the program criteria as a TDHCA-funded multifamily property where all of the units have been placed in service or are expected to be placed in service on or before December 31, 2016 and that are part of that Applicant's or an Affiliate's existing portfolio. Additional program requirements describe which Developments and units within existing Developments are eligible to provide Section 811 PRA Units in lieu of the Development submitted in the HTC application.

Program requirements for Developments that are eligible to provide Section 811 PRA Units in lieu of the Development submitted in the 2015 HTC application are found in the Program Selection Guidelines for 2015 Housing Tax Credit Applicants placing Section 811 Units in Existing Developments, available on TDHCA's Section 811 Webpage: <http://www.tdhca.state.tx.us/section-811-pra/index.htm>

Additional information may be found under section (7) Tenant Populations with Special Housing Needs (Title 10 of the Texas Administrative Code §11.9 (c) (7) (A)).

25) Question: What if the Developer submits more than one application for the 2015 QAP in the following scenario:

- Application for Development 1 – Selects points for Section 811, and has a qualifying Existing Property to place the Section 811 units associated with that Property. This application is not awarded Housing Tax Credits.

- Application for Development 2 – Selects points for Section 811, but has not selected an Existing Property to place the Section 811 units. This application is awarded Housing Tax Credits.

Could the Developer use the Existing Property from Development 1 for Development 2?

Answer: Yes, as long as the Existing Property has been approved by the Department.

26) Question: If a Developer submits more than one application for the 2015 QAP, can they place more than 10 units in one Existing Property?

Answer: Yes, a Developer can place as many Section 811 units into a Department approved Existing Property as they prefer, so long as they do not exceed the Unit Integration requirements in the Integrated Housing Rule (10TAC§1.15) and the HUD Cooperative Agreement.

27) Question: What if an Applicant structures their 2015 Competitive 9% Housing Tax Credit application in a way that they expect to place the Section 811 PRA Units on an Existing Property, but the property is rejected?

Answer: Applicants should structure their applications in a way that they assume that the Development they are applying for under the 2015 Competitive 9% HTC round will be receiving the Section 811 PRA Units. The Applicant will be expected to place the Section 811 PRA Units on the Development applying for the Housing Tax Credits, unless the Existing Property has been approved by the Department.

28) Question: If a Developer structures their application in a way that assumes they will be placing the units on the Property they are applying for and they end up placing the units on an Existing Property, will the Developer be viewed as overleveraged by TDHCA?

Answer: No; due to the uncertainty with respect to receipt of an award, the potential rent subsidy for a Development for Section 811 units will not be included in the underwriting of the application for the 2015 credits. However, any additional expenses related to construction or operating the Development in anticipation of an award can be included in the Application to be reviewed by underwriting.

29) Question: Do Existing Properties that are receiving units as part of the 2015 Competitive 9% Housing Tax Credit round have to be located in one of the seven MSAs?

Answer: Yes.

30) Question: If a 9% HTC Applicant wants to place their units in a qualified Existing Development, can they divide the units into multiple properties?

Answer: No, the units must all be placed into one property.

31) Question: If a property has gone through substantial rehabilitation, is it exempted from the pre-1978 exclusion?

Answer: Developments that are originally constructed prior to 1978 are not eligible for Section 811 in the 9% HTC 2015 QAP criteria. However, the program criteria for those 2015 Applicants placing their units in existing properties does not require that properties be originally constructed in 1978 or after. However, Applicants must comply with the Lead Based Paint requirements of the Section 811 Program as outlined in the Cooperative Agreement and PRA.217.

32) Question: Can Applicants use the same units in existing developments for multiple 2015 Competitive 9% Housing Tax Credit applications in a single round?

Answer: No. An Applicant who is submitting an application for multiple Developments under the 2015 Competitive 9% Housing Tax Credit funding round may not list the same units for multiple applications. Each Application must state that it will place Section 811 PRA Units in the Development that is applying for Housing Tax Credits or identify unique units in an Existing Development.