



in conjunction with the  
**Maine Department of Health & Human Services**



**Section 811 PRA Demonstration Program**  
**Owner/Property Manager Guide**

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## **TABLE OF CONTENTS**

### **CHAPTER 1**

INTRODUCTION TO THE MAINE SECTION 811 PRA PROJECT RENTAL ASSISTANCE PROGRAM _____	3
ABOUT THE SECTION 811 PRA PROJECT RENTAL ASSISTANCE PROGRAM _____	3
PROGRAM OVERVIEW _____	3
USE OF THIS GUIDE _____	4
PROPERTIES ELIGIBLE TO APPLY FOR SECTION 811 PRA PROGRAM UNITS _____	4
WHO WILL LIVE IN THE SECTION 811 PRA UNITS? _____	5
WHAT ARE MY RESPONSIBILITIES UNDER THIS NEW PROGRAM? _____	6
HOW DO TENANTS ACCESS SUPPORT SERVICES? _____	12
WHAT HAPPENS IF THERE ARE ISSUES WITH A SPECIFIC TENANT? _____	12

### **CHAPTER 2:**

CONTRACTS & AGREEMENTS _____	13
MH SECTION 811 PRAPARTICIPATION AGREEMENT _____	13
RENTAL ASSISTANCE CONTRACT _____	13
USE AGREEMENT _____	15

### **CHAPTER 3:**

PROPERTY MANAGEMENT RESPONSIBILITIES & PROCESSES _____	16
AFFIRMATIVE FAIR HOUSING MARKETING PLAN _____	16
REFERRAL TO PROPERTY _____	16
TENANT SELECTION & ADMISSION _____	16
TABLE 3: MANDATORY SCREENING PROHIBITIONS _____	18
DENIAL OF ADMISSION _____	19
INCOME ELIGIBILITY DETERMINATIONS & DOCUMENTATION _____	19
INITIAL CALCULATION OF TENANT RENT SHARE _____	21
ANNUAL AND INTERIM REEXAMINATIONS _____	22
LEASING REQUIREMENTS _____	23
INITIAL CONTRACT RENT & RENT INCREASES _____	25
UTILITY ALLOWANCES _____	25
INSPECTIONS _____	25
MEETING OTHER FEDERAL REQUIREMENTS _____	26
LIMITED ENGLISH PROFICIENCY (LEP) _____	28
FAIR HOUSING POSTER _____	28
OCCUPANCY ISSUES _____	28
TENANT ISSUES, TERMINATIONS & DISPUTE RESOLUTION _____	32
REASONABLE ACCOMMODATIONS _____	35

### **CHAPTER 4:**

COMPLIANCE & MONITORING _____	39
COMPLIANCE REVIEWS _____	39
RECORD KEEPING & DOCUMENTATION _____	39

## INTRODUCTION TO THE MAINE 811 PRA DEMONSTRATION PROGRAM

### ABOUT THE SECTION 811 PRA PROGRAMPROJECT RENTAL ASSISTANCE PROGRAM

The Section 811 Project Rental Assistance (PRA) Program, hereafter referred to as Section 811 PRA Program, authorized by the Frank Melville Supportive Housing Investment Act of 2010, is a U.S. Department of Housing and Urban Development (HUD) program designed to expand the supply of permanent supportive housing for extremely low-income people with disabilities.

#### PROGRAM OVERVIEW

Section 811 PRA Program is a partnership program that simultaneously makes available integrated affordable housing and support services for persons with disabilities. In Maine, the partnership is between MaineHousing (MH) and the Maine Department of Health and Human Services Office of Aging and Disability Services (OADS). MH provides rental assistance to properties on behalf of qualified extremely low-income households, and OADS makes available support services that tenants may access on a voluntary basis. This partnership is formalized in the Inter-Agency Partnership Agreement between agencies which may be updated from time to time.

MH anticipates that it will be able to provide rental assistance for approximately 60 housing units. Units that will participate in the program must be set aside in multifamily housing properties whose development costs are or have been funded through Eligible Multifamily Properties, as defined in the Cooperative Agreement, Request for Applications, Qualified Allocation Plan, Notices of Funding Availability, etc. and may include MH-administered affordable housing programs, such as the Low-Income Housing Tax Credit (LIHTC) Program. In order to ensure the Section 811 PRA Program units provide integrated housing for persons with disabilities (i.e., an opportunity for persons with disabilities to live alongside households that do not have disabilities), the program has capped the percentage of Section 811 PRA Program units and units set aside for individuals with disabilities that may be in any single multifamily property. Information about the specific unit integration limits can be found in **Table 4: Unit Integration Requirements**.

***PRA funds can only be used to fund project-based rental assistance and allowable administrative costs related to the administration of the Section 811 PRA Program, but cannot be used to fund any development costs.***

While the Section 811 PRA Program is a project-based program, MH is implementing the program in a manner that maximizes a tenant's opportunity to choose which property they would like to live in. Although Owners and Property Managers may commit to MH that they will provide a certain number of units for the Section 811 PRA Program, properties will only be eligible to receive assistance on a unit if an eligible tenant chooses to reside there. "Eligible tenants" are defined in **Exhibit 1** of the cooperative agreement between HUD and MH. Eligible tenants are applicants who

are being referred through OADS Caseworkers/Referral Agents to a digital waitlist managed by MH through to available assisted units in accordance with the inter-agency partnership agreement and for whom community-based long-term care support is made available by the service partners (not by the property). Services are available at time of referral. Such services are voluntary; neither referral nor tenancy shall be based on an Eligible Tenant's willingness to accept or not accept such services.

***“Owner” means the nonprofit, public or for-profit entity which owns the participating property and has committed to the property’s participation in the 811 Program. It is possible that the Owner may not be the same company that is managing the property.***

## USE OF THIS GUIDE

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This Guide provides program information to help Owners/Property Managers understand the process of applying for Section 811 PRA Program funds (if available), contracting for funds, screening and leasing units to eligible applicants, accessing payments, applicable property standards, and other considerations helpful to operating the Section 811 PRA Program.

This reference Guide is intended to educate and prepare Owners/Property Managers on the requirements for units assisted with MH Section 811 PRA Program funds. Some sections of this Guide may only be applicable to Owners, while others may be more applicable to Property Managers depending on the agreement in place between the parties. Owners/Property Managers managing units assisted by the Section 811 PRA Program are expected to follow the procedures described in this Guide and the forms and documents provided, and to use this information in conjunction with any other requirements that may be placed on the property associated with other funding sources to which a property may be subject.

This Guide is designed to supplement the Section 811 PRA Program Participation Agreement between MH and the Owner and is not a substitute for or an amendment to that document. MH encourages Owners to share the Participation Agreement and other relevant documents with their Property Manager so that they are fully aware of the contractual obligations being committed for the property.

## WHICH PROPERTIES ARE ELIGIBLE TO APPLY FOR SECTION 811 PRA PROGRAM UNITS?

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While those using this Guide may have properties that have already been committed by the Property Owner to participate in the program, below is a short background on property eligibility that applies to all participating Eligible Multifamily Properties.

Multifamily projects with five or more units funded by MH's multifamily development Programs or other eligible programs as identified in a program Notice of Funding Availability or Request for Applications is eligible to participate in and/or compete for Section 811 PRA Program.

Eligible MH Multifamily Programs include: Low-Income Housing Tax Credit Program, Multifamily HOME Program, Multifamily Tax-Exempt Bond financing, TCAP, TCEP, NSP funds, or other sources previously used for multifamily activities.

***Properties not eligible are those designated for elderly or set-aside for persons with disabilities and properties currently receiving multifamily subsidy through Section 8/202.***

In consideration of available service delivery capacity, MH and OADS elected to focus the program in four geographic areas which are representative of the State's geographic, ethnic, and socio-economic diversity.

- CUMBERLAND COUNTY
- ANDROSCOGGIN COUNTY
- KENNEBEC COUNTY
- PENOBSCOT COUNTY

Section 811 PRA Program assistance cannot be provided in units already receiving any form of long-term (longer than 6 months) project-based operating subsidy, such as Section 8 assistance, or within 6 months of receiving such assistance. This does not limit the property from participation as long as the Section 811 PRA Program is associated with units that are not those with the alternate project-based subsidy. In addition, properties designated for persons who are elderly and some supportive housing properties are not eligible to receive Section 811 PRA Program assistance.

Other program requirements that impact whether or not a development can receive Section 811 PRA Program units are discussed under the Property Selection Process section of this Guide. This is only germane in the use of this Guide in the case that a Property has not yet been determined to be a participating Property.

## **WHO WILL LIVE IN THE SECTION 811 PRA PROGRAM UNITS?**

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Applicants eligible for Section 811 PRA Program include households which:

- ❖ Income at or below HUD's posted Extremely Low Income limit (30% of Area Median Income)
- ❖ Age between 18 and 61
- ❖ Disabled as defined by the HUD Section 811 PRA Program
- ❖ Not on a lifetime sex offender registry
- ❖ Not convicted of methamphetamine production on federally assisted property
- ❖ Illegal use of any Scheduled Drug, including recreational and medical marijuana
- ❖ Eligible for long-term care services

## TARGET POPULATIONS SUMMARY

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MH and OADS have designated the following subpopulations as the specific Target Populations eligible for Section 811 PRA Program units:

- ✓ **MaineCare Section 18:**  
Home and Community Based Services for Adults with Brain Injury
- ✓ **MaineCare Section 19:**  
Home and Community Benefits (HCB) for the Elderly and for Adults with Disabilities
- ✓ **MaineCare Section 20:**  
Home and Community Based Services for Adults with Other Related Conditions
- ✓ **MaineCare Section 21:**  
Home and Community Benefits for Members with Intellectual Disabilities or Autistic Disorder
- ✓ **MaineCare Section 29:**  
Support Services for Adults with Intellectual Disabilities or Autistic Disorder
- ✓ The following group will have priority status: Persons with disabilities living in institutions eligible for **Homeward Bound MFP**

Owners/Property Managers should refer to the Tenant Selection & Admission section of this Guide for more specific information on selection of eligible applicants for units; however it should be noted that tenants will be referred to Properties by MH and Properties will not be selecting eligible applicants for units independent of MH's process.

## WHAT ARE MY RESPONSIBILITIES UNDER THIS NEW PROGRAM?

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Because several requirements must be completed prior to tenant occupancy at the property, it is important that Owners familiarize themselves with HUD Handbook 4350.3 REV-1, current HUD Notices (including HUD Notice H 2013-24), and regulations concurrent to signing their Rental Assistance Contract (RAC).

Under this Section 811 PRA Program partnership, Owners are responsible for the following steps. These are reflected roughly in the order they will take place, with variances based on unique situations.

### 1) EXECUTING DOCUMENTS

The Rental Assistance Contract (RAC) is executed between the owner and Grantee no later than the time that MaineHousing is notified of rental units ready to be leased by Section 811 PRA Program tenants. For properties that have newly constructed/rehabilitated units coming onto the market, owners are expected to sign the RAC at least 120 days prior to the beginning of lease up. The RAC

sets up a 20-year contract between the owner and Grantee with the owner agreeing to provide the rental units and the Grantee agreeing to provide the rental assistance.

## **2) SUBMITTING THE TENANT SELECTION PLAN AND MARKETING MATERIALS TO MH FOR APPROVAL**

Owners must submit their Tenant Selection Plan to the MH Point of Contact (POC), currently Alison Dyer, before a RAC can be signed. The Tenant Selection Plan is the plan that identifies how a Property selects and screens all of its applicants. Owners must also submit marketing materials and property information requested by MH.

## **3) NOTIFYING MH WHEN A SECTION 811 PRA PROGRAM UNIT BECOMES AVAILABLE**

The MH POC and local Referral Agents assist Eligible Applicants identify and select properties that they are interested in. MH will be notified via the MH 811 PRA Applicant Registry as units become available. Therefore, the MH Section 811 PRA Applicant Registry coordinator, SocialServe, must be notified by a Property that a unit is available – either for initial occupancy or at turnover as soon as a vacancy is known, but no later than seven (7) days after the vacancy becomes known to the Owner/Property Manager. Owner/Property Managers are required to answer quick polls each month regarding the availability of their Section 811 PRA Program units. Outreach Specialists, from SocialServe use poll responses to keep the unit availability up-to-date, capture manager turnover and update on-site manager contact information, track new construction properties and make sure unit availability is posted in a timely fashion. When a unit is marked as available in the system, it will show as needing a referral in the waitlist.

Based on the preferences noted by the tenants, the MH POC will then use that information to identify an eligible household interested in that Property and notify them of the availability of the unit. Generally, MH expects to have households on waiting lists for each property, ready to proceed with tenancy when units become available.

## **4) SCREENING ELIGIBLE APPLICANTS**

After notification of an available unit, the MH POC will refer the identified eligible applicant(s) to the Owner/Property Manager. Applicants will have 10 calendar days to contact the property, request and submit a completed application.

In order to ensure units are occupied within MH's 60-day window, applicants will be referred to properties in groups of up to three. The Owner/Property Manager can screen all applicants simultaneously, but properties are required to house them in order of application as provided by MH. The Owner/Property Manager can screen referred applicants as provided under their tenant selection plan. Owner/Property Managers are expected to screen Section 811 PRA Program applicants in the same manner as applicants to non-Section 811 PRA Program units in the development as affirmed in the Property's Tenant Selection Plan; Owner/Property Managers must

also complete additional screening criteria based on Section 811 PRA Program requirements, such as those required by HUD Handbook 4350.3 as discussed in **Table 3**.

#### 5) DETERMINING HOUSEHOLD INCOME ELIGIBILITY

Owner/Property Managers must collect and verify Social Security numbers and the income, asset and expense information of all household members in order to determine household income eligibility. Owners/Property Managers should consult HUD Handbook 4350.3 for complete information on how to determine household income in accordance with 24 CFR, Part 5. The use of the Enterprise Income Verification (EIV) system will be required per the HUD 4350.3

***Refer to Handbook 4350.3 REV-1: Chapters 3-3, B. and C., 3-9, and 3-11, and 3-31 for further guidance on Social Security Numbers of Eligible Family Members; as well as Federal Register /Vol. 81, No. 45 /Tuesday, March 8, 2016.***

#### 6) DETERMINING AND COLLECTING THE SECTION 811 PRA PROGRAM TENANT'S SHARE OF THE RENT

Under the program, tenants in Section 811 PRA Program units will generally pay no more than 30% of their monthly income for rent (including the cost of utilities). After move-in, the Owner/Property Manager will collect this amount each month directly from the tenant. The difference between the amount being paid directly to the Property and the contract rent for the unit will be the amount of Section 811 PRA Program paid to the Owner/Property Manager by MH.

#### 7) INITIAL WALK-THROUGH INSPECTION AND LEASE EXECUTION

Once the Owner/Property Manager has determined that the tenant is income eligible and has satisfied the tenant screening criteria, the Owner/Property Manager will execute a lease between the property and tenant. The lease required for use in Section 811 PRA Program is HUD Form 92236-PRA, which can be accessed at the Participating Owner/Agent webpage: <http://www.mainehousing.org/811pra>.

As part of the leasing process, the tenant must be present during the move-in inspection. The tenant may bring another party to assist them with this unit inspection if needed.

#### 8) SET UP PROPERTY TO RECEIVE SECTION 811 PRA PROGRAM PORTION OF THE RENT

Prior to receiving PRA, the property must be set up in HUD Secure Systems including:

- ✓ Tenant Rental Assistance Certification System (TRACS), an automated system of record used by HUD in coordinating tenant tracking and rental payments. TRACS is designed to process subsidy contracts, tenant rental assistance information, and owner requests for payment (vouchers). TRACS collects tenant data and voucher data for project-based programs and authorizes payment for subsidy programs.



- ✓ Integrated Real Estate Management Systems (iREMS): iREMS is the official HUD source of data on multifamily housing's portfolio of insured and assisted properties. iREMS provides automated support to collect and maintain accurate data on HUD funded properties. Files sent to HUD are logged, processed, and submitted to TRACS for payment processing by iREMS.
- ✓ Enterprise Income Verification (EIV) is a web-based computer system containing employment and income information.

MH will be able to assist in this process either directly or through a third party procured via MH or the Owner. To the extent necessary, the Owner/Property Manager must maintain accurate and updated tenant and property information to ensure that no challenges occur in the property's receipt of payment.

#### 9) MAINTAINING, INSPECTING, AND REPAIRING SECTION 811 PRA PROGRAM UNITS AS NEEDED IN ACCORDANCE WITH THE RENTAL ASSISTANCE CONTRACT AND OTHER PROGRAM GUIDANCE

The Owner/Property Manager is responsible for ensuring the unit and related facilities conform to Uniform Physical Conditions Standards (UPCS). Chapter 4 provides more specific information about required inspections.

#### 10) ENSURING COMPLIANCE WITH REQUIREMENTS OF SECTION 811 PRA PROGRAM

The Owner/Property Manager is responsible for developing policies and procedures to ensure compliance with MH's and HUD's rules for the program, including records retention schedules, tenant certification procedures, inspection schedules, compliance with fair housing regulations, staff training procedures, etc.

In addition to the Owner/Property Manager, there are three other parties with specific responsibilities under this program: MH, Department of Health and Human Services Office of Aging and Disability Services (DHHS/OADS), Referral Agents/Case Managers. **Table 1** outlines the responsibilities of these parties.

<b>TABLE 1</b>		
<b>Task/Process</b>	<b>Responsible Entity</b>	<b>Activities</b>
<b>Outreach to Potential Tenants</b>	Referral Agent (employees of the Department: OADS, SAMHS, OFI) Case Managers/Care Coordinators (Community-based organization staff) Persons exiting NFs/Hospitals –Long Term Care Ombudsman Program (LTCOP)	<ul style="list-style-type: none"> <li>• Conduct outreach to potential tenants</li> <li>• Pre-screen potential tenants for 811 PRA eligibility</li> <li>• Assist applicants in the application process</li> <li>• Ensure access to services</li> </ul>
<b>Waiting List Management &amp; Referral to PRA Units</b>	<b>MaineHousing SPOC</b>	<ul style="list-style-type: none"> <li>• Communicate with properties regarding vacancies</li> <li>• Notify applicants &amp; Referral Agents of vacancies</li> </ul>
<b>Coordination of Long-Term, Community-Based Services</b>	<b>Referral Agent (DHHS/OADS based staff) Case Managers/Care Coordinators</b> (Community-based organization staff)	<ul style="list-style-type: none"> <li>• Conduct assessment of service needs</li> <li>• Develop/implement/monitor service plan/plan of care/personal recovery plan</li> <li>• Provide/coordinate services &amp; ongoing tenancy supports</li> <li>• Main service Point of Contact for PRA tenants</li> <li>• Follow-up to address owner/property manager concerns relayed via OADS SPOC</li> </ul>
<b>Coordination of Long-Term, Community-Based Services</b>	<b>DHHS/OADS Agency Service Liaisons</b> (state agency staff) Assigned by all DHHS agencies ( OADS, SAMHS, OFI)	<ul style="list-style-type: none"> <li>• Monitors the work of Referral Agents</li> </ul>

<b>TABLE 1</b>		
<b>Task/Process</b>	<b>Responsible Entity</b>	<b>Activities</b>
<b>Conflict Management/ Communication</b>	<b>MaineHousing Point of Contact, OADS Point of Contact (LTCOP, Alpha 1, RSCs)</b>	<ul style="list-style-type: none"> <li>• Responsible for conflict management related to Section 811 PRA Program tenancy</li> <li>• Receives calls from property managers regarding irresolvable tenancy issues</li> <li>• Contacts appropriate Referral Agent/ Care Coordinator to resolve issues/maintain tenancy</li> </ul>
<b>Housing Management</b>	<b>Owners/Property Managers</b>	<ul style="list-style-type: none"> <li>• Execute documents (RAC, etc.)</li> <li>• Set-up use of TRACS and iREMS for Section 811 PRA Program payment</li> <li>• Notify MH 811 Applicant Registry software regarding vacant Section 811 PRA Program units</li> <li>• Screen eligible applicants for units within properties</li> <li>• Determine household income</li> <li>• Conduct initial unit inspection</li> <li>• Collect tenant portion of rent and process subsidy requests and vacancy claims</li> <li>• Maintain decent, safe and sanitary housing units</li> <li>• Ensure program compliance</li> </ul>

## HOW DO TENANTS ACCESS SUPPORT SERVICES?

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Support services are funded thru DHHS/OADS and are provided by OADS and community-based organization staff.

When a person with a disability in one of the Target Populations is interested in applying for a Section 811 PRA Program unit, they will be assisted by an OADS Caseworker/ Referral Agent (RA). RAs are responsible for pre-screening applicants for eligibility and generating formal referrals for the Section 811 PRA Program to the MH Section 811 Program Applicant Registry.

Once an eligible applicant is accepted by a property and is ready to become a Section 811 PRA Program Tenant, the Referral Agent/Case Manager will coordinate the individual services needed for their client within the service area. Services needed may include:

- housing-related skills development, including performing common daily living activities such as cooking, cleaning, managing medications, and/or self-care, etc.

## WHAT HAPPENS IF THERE ARE ISSUES WITH A SPECIFIC TENANT?

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Owners/Property Managers who have units occupied by a Section 811 PRA Program tenant may contact the tenant's case managers if a release of information is in place. Occasionally, disputes between a tenant and an Owner/Property Manager may need to be handled with assistance other than that of the Case Manager. A Transition Team comprised of OADS staff and LTCOP will be available as a resource to facilitate the Dispute Resolution process.

Some examples of when it may be appropriate to initiate the conflict management process include:

- Late or non-payment of rent
- Problems with landlord or neighbors
- Frequent repair requests
- Suspected criminal activity
- Frequent visits/people moving in
- Problems maintaining one's apartment

An open dialogue between Owners/Property Managers, the tenant and Case Managers will increase the likelihood that the participating tenant will have a successful housing outcome and that the property will have a long-lasting compliant tenant resulting in reduced turn-over and fewer vacancies. For information on best practices to keep in mind when interacting with persons with disabilities, use the following link: <http://www.OADS>.

## CHAPTER 2: CONTRACTS & AGREEMENTS

Once an Owner has been approved to participate as a Section 811 PRA Program property, there are three documents that must be signed in order to take part in the program and receive rental assistance payments. One document is required by MH and two documents are required by HUD. The MH document is the Participation Agreement (PA) which must be executed in all cases. The Owner may also be required to execute a RAC and Use Agreement if and when there is demand for a property. The documents are outlined below:

- 1) MH-Required Section 811 PRA Program Agreement to enter into Rental Assistance Contract (ARAC)
- 2) HUD-Required Rental Assistance Contract (RAC)
- 3) HUD-Required Use Agreement

### MH SECTION 811 PRA PROGRAM PARTICIPATION AGREEMENT

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The MH Section 811 PRA Program ARAC is a MH document that commits the Owner to participate in the program and to make available a certain number of units in a property to the Section 811 PRA Program. The ARAC does not commit to the development that those units will be occupied by a Section 811 PRA Program tenant or that PRA is assured. The ARAC includes:

- The number of Section 811 PRA Program units that the property will commit to make available to Section 811 PRA Program tenants;
- Contract term will be for 30 years, or if the property executes a Use Agreement, the ARAC will coincide with the expiration of the Use Agreement, a 30-year obligation;
- Obligation to enter into a RAC if required by MH;
- Provisions to release the Owner from their Section 811 PRA Program obligations if funding is unavailable from HUD or if there is evidence showing a lack of demand;
- Obligation to share with MH marketing materials for the property;
- Obligation to share with MH the tenant selection plan (policy); and
- Obligation to meet HUD requirements outlined in the Cooperative Agreement, including Environmental, Davis-Bacon, and compliance with the HUD Handbook 4350.3.
- Requirement that once a RAC is signed, the Owner/Property Manager must notify MH of the vacancy of any unit as soon as possible.

### RENTAL ASSISTANCE CONTRACT

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The RAC is the executed agreement between MH and each Owner outlining all terms and conditions required of both MH and the Owner in the operation of the Section 811 PRA Program units.

The RAC is a HUD document. Not all properties with a ARAC will have a RAC at any given time, but when notified by MH, (based on the ARAC requirements) the property must enter into a RAC and begin serving Section 811 PRA Program tenants. MH cannot disburse any Rental Assistance Payments to Owners/Property Managers until a RAC is executed with the property. The RAC, among other things, indicates the unit and bedroom size information associated with one or more Section 811 PRA Program units. The RAC is executed once there is an eligible tenant to move into the property.

Depending on demand for the property, MH may require that the Owner execute the RAC for more units than are associated with an eligible tenant(s) at that time. For instance, a RAC may be executed for five units initially, with two of those units being associated with actual tenants preparing to move into units, and the other three awaiting referrals (note that these are floating units, so those three units awaiting referrals are not units left vacant). Also note that once the RAC is signed, vacancy payments may be made to the Property for 60 days for those units that are ready to be occupied. As additional eligible tenants are identified for the property, the RAC could be amended one or more times to reflect a greater number of units and different bedroom sizes of the Section 811 PRA Program households living in the property.

Likewise, if no additional tenants are referred to the property, the RAC may be amended after a period of time to reduce the number of units. Owners who have an executed RAC must continue to notify MH of any vacancies for units not under a RAC if additional units were committed under the PA. For instance, if the Owner has committed 10 units under the PA and only has a RAC for five units, the Owner must continue to notify MH of vacancies until there is a RAC for 10. **Table 2** below demonstrates this scenario.

<b>TABLE 2</b>				
<b>Contract</b>	<b>Units Under Contract</b>	<b>Occupied Units</b>	<b>Units Under Payment</b>	<b>Notification Requirements</b>
<b>ARAC</b>	10	N/A	N/A	None
<b>RAC</b>	5	2	2	Must notify MH 811 Applicant Registry of any vacancy at the property. RAC will be amended as needed (up to 10 units)
<b>Maximum Rental Assistance Contract</b>	10	10	10	Must notify MH 811 Applicant Registry if assisted unit is vacated.

The RAC has a term of 20 years with an initial funding cycle of five years. After five years, the contract will continue, but funding will be subject to annual federal appropriations. The RAC is structured into two parts outlined below.

***Part I of the RAC is form HUD-92235-PRA and Part II of the RAC is form HUD-02237-PRA.***

**Part I includes:**

- ✓ Number of Section 811 PRA Program Units;
- ✓ Bedroom Sizes (may be estimated for unoccupied units);
- ✓ Maximum Annual RAC (may be estimated for unoccupied units);
- ✓ A description of Contract Term, including provisions articulating that if Congress fails to appropriate funds adequate to meet the financial needs of the Assisted Units, HUD will not require MH to enforce the Use Agreement covered under a RAC; and
- ✓ Contract Rent, Utility Allowances, and Gross Rent.

Part I also incorporates, through reference, the Affirmative Fair Housing Marketing Plan, the Use Agreement, the Model Lease, and the Program Guidelines.

**PART II INCLUDES:**

- ✓ Owners/Property Managers' Responsibilities;
- ✓ Rental Assistance Payments;
- ✓ Vacancy Payments;
- ✓ Rent Adjustments; and
- ✓ Termination of Tenancy.

Part I and Part II of the RAC can be accessed here: <http://www.mainehousing.org/811pra>.

**USE AGREEMENT**

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Owners that participate in the Section 811 PRA Program are required to sign and record the 30-year Use Agreement, agreeing to make available the approved number of Section 811 PRA Program units for such period of time. The Use Agreement must be recorded consistent with local law.

If appropriate funds are not adequate to meet the future financial needs of the RAC, MH may choose to release the Owner from some or all of these obligations if other funding is not available..

## CHAPTER 3: PROPERTY MANAGEMENT RESPONSIBILITIES & PROCESSES

### AFFIRMATIVE FAIR HOUSING MARKETING PLAN

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MH has an Affirmative Fair Housing Marketing Plan which establishes the process of outreaching to and receiving referrals from eligible households across the state. Although Owners/Property Managers will not be responsible for conducting any specific outreach under MH's Section 811 PRA Program, it is important that the Owner/Property Manager is aware that MH and OADS will conduct these activities.

### REFERRAL TO PROPERTY

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MH and OADS have worked with SocialServe to develop the MH 811 PRA Applicant Registry. This system will allow Referral Agents/Case Managers to assist their Section 811 PRA Program eligible clients to apply to the Section 811 PRA Program waitlist. The MH POC will be able to utilize the Registry to match eligible clients with vacant units.

Once a RAC is executed with a property, at initial occupancy or unit turnover, the Owner/Property Manager must notify SocialServe as soon as they are aware that any unit(s) is available, but at a minimum of ten calendar days of learning about the vacancy. This notification is not required if all Section 811 PRA Program units obligated in accordance with the ARAC are filled and the vacancy is not for a Section 811 PRA Program unit. Owner/Property Managers are required to answer quick polls each month regarding the availability of their Section 811 PRA Program units. Outreach Specialists, from SocialServe, use poll responses to keep the unit availability up-to-date, capture manager turnover and update on-site manager contact information, track new construction properties and make sure unit availability is posted in a timely fashion. When a unit is marked as available in the system, it will show as needing a referral in the waitlist.

When notified of an available unit, the MH POC works with a Referral Agent(s) to identify one or more eligible Section 811 PRA Program applicants from the waiting list for the property. The eligible applicants will be notified that a unit is available. The applicant will have 10 calendar days to contact the property, request and submit a completed application. To ensure the unit is leased in a timely manner, the MH POC will only refer Section 811 PRA Program applicants that have been verified by MH to have all of their necessary backup documentation and are ready to fill out an application at the property. The Owner/Property Manager is required to take the applicants in the order in which they are referred to the Property by MH.

### TENANT SELECTION & ADMISSION

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The Owner/Property Manager will screen referred Section 811 PRA Program applicants as provided under their Project's tenant selection plan. Tenant selection plans must comply with all local, state and federal fair housing and anti-discrimination laws. Owners/Property Managers must also comply



with HUD's Equal Access to Housing in HUD Programs regardless of Sexual Orientation or Gender Identity requirements.

The Owner/Property Manager is required to follow the screening criteria required by HUD Handbook 4350.3 REV-1, Change 4, Housing Notices, regulations, and statutes. Applicable HUD Notices relating to Owner occupancy requirements include but are not limited to:

- H-2015-04 Methodology for Completing a Multifamily Utility Analysis
- H 2013-24 Section 811 PRA Program Project Rental Assistance (PRA) Occupancy Interim Notice
- H 2013-06 Enterprise Income Verification (EIV) System
- H 2012-26 Extension of Housing Notice 2011-25, Enterprise Income Verification (EIV) & You Brochure – Requirements for Distribution and Use
- H 2012-22 Further Encouragement for O/As to Adopt Optional Smoke-Free Housing Policies
- H 2012-11 State Registered Lifetime Sex Offenders in Federally Assisted Housing
- H 2012-09 Supplemental Information to Application for Assistance Regarding Identification of Family Member, Friend or Other Persons or Organization Supportive of a Tenant for Occupancy in HUD Assisted Housing

Depending on the existing tenancy of the property, these criteria may already be in use. As indicated in Chapter 4, Section 1 of the Handbook, the owner must have screening standards in place prohibiting admission of those who have engaged in drug-related or criminal activity. The mandatory prohibitions are outlined in **Table 3** below.

TABLE 3	
Must Prohibit Admission of:	Owner Allowable Exceptions:
<p><b>Any household containing a member(s) who was evicted in the last three years from federally assisted housing for drug-related criminal activity.</b></p>	<ul style="list-style-type: none"> <li>✓ The evicted household member has successfully completed an approved, supervised drug rehabilitation program; or</li> <li>✓ The circumstances leading to the eviction no longer exist (e.g., the household member no longer resides with the applicant household).</li> </ul>
<p><b>A household in which any member is currently engaged in illegal use of drugs or for which the owner has reasonable cause to believe that a member’s illegal use or pattern of illegal use of a drug may interfere with the health, safety, and right to peaceful enjoyment.</b></p>	<p>None, but may choose to exclude prohibited household member and/or, must consider whether such household member is participating in or has successfully completed a supervised drug rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, you may require the applicant or tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug rehabilitation program or evidence of otherwise having been rehabilitated successfully.</p>
<p><b>Any household member who is subject to a state sex offender lifetime registration requirement.</b></p>	<p>None, but may choose to exclude prohibited household member.</p>
<p><b>Any household member if there is reasonable cause to believe that member’s behavior, from abuse or pattern of abuse of alcohol, may interfere with the health, safety, and right to peaceful enjoyment by other residents. The screening standards must be based on behavior, not the condition of alcoholism or alcohol abuse.</b></p>	<p>None, but may choose to exclude prohibited household member and/or, must consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, you may require the applicant or tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.</p>

Once the Owner/Property Manager selects an eligible applicant for a Section 811 PRA Program unit, confirms the household's income eligibility, and the applicant agrees to lease the unit, the Owner/Property Manager can move forward with signing the HUD PRA lease (HUD-92236-PRA) directly with the Section 811 PRA Program applicant. The Owner/Property Manager must notify the MH POC when the lease is signed which will help MH prepare for initiating system requirements for rental payments.

## **DENIAL OF ADMISSION**

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The Owner/Property Manager may deny admission to Section 811 PRA Program applicants that do not meet the requirements of their tenant selection plan. In these instances, the Owner/Property Manager must notify the applicant and MH in writing of the determination and include the following:

- ✓ Reasons for the denial of admission;
- ✓ Notice of applicant's right to respond to the denial in writing or meet with the Owner to dispute the rejection; and
- ✓ Notice of applicant's right to request a Reasonable Accommodation to participate in the informal hearing process (See the Reasonable Accommodation Section for more information).

The Section 811 PRA Program 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.

In accordance with the Violence Against Women Reauthorization Act (VAWA) of 2013, Owners/Property Managers must not deny admission on the basis that the applicant has been a victim of domestic violence, dating violence, sexual assault, or stalking.

According to Handbook 4350.3, Chapter 4, Section 2, applicants must have a right to dispute the denial to live in a unit. This right must be clearly communicated to the applicant. The results of the dispute must be communicated both to the applicant and MH in writing.

Owners/Property Managers should refer to Handbook 4350.3 REV-1, chapter 4-9 for further guidance on denying applicants admission.

## **INCOME ELIGIBILITY DETERMINATIONS & DOCUMENTATION**

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As part of the Section 811 PRA Program tenant selection process, the Owner/Property Manager is responsible for all Income Eligibility Determinations to ensure the combined annual income of all members of the applicant's household, at the time of admission into the HUD Section 811 PRA

Program, does not exceed the extremely low-income limit as defined by HUD. Income limits are published annually and are available from the local HUD office or on-line at:  
<http://www.huduser.org/portal/datasets/il.html>.

***The household is defined as those who will live in the Section 811 PRA Program unit, not necessarily those with whom the applicant is living at the time of application.***

In order to determine eligibility, the Owner/Property Manager must obtain and verify information related to household income and composition. Adult members of a family must sign consent forms and, as necessary, verification documents so that the owner can verify sources of family income and family size.

The Owner/Property Manager must collect the following to verify income:

1. Social Security Numbers of Eligible Family Members. Refer to Handbook 4350.3 REV-1: Chapters 3-3, B. and C., 3-9, and 3-11, and 3-31 for further guidance; as well as Federal Register /Vol. 81, No. 45 /Tuesday, March 8, 2016
2. Income through the use of HUD's Enterprise Income Verification (EIV) system, pursuant to 24 C.F.R. 5.233(a) (2). Refer to Handbook 4350.3 REV-1, Chapter 3-30 for further guidance; and
3. Income information related to income eligibility. Refer to Handbook 4350.3 REV-1, Chapter 3-30 for further guidance.

Owners/Property Managers should consult Handbook 4350.3 for complete information on how to determine household income according to 24 CFR, Part 5. Exhibit 5-1 from Handbook 4350.3 outlines income inclusions and exclusions and can be accessed here:

[http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_35699.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35699.pdf)

Owners/Property Managers are required to verify all household members' information using methods that are acceptable to HUD. The Owner/Property Manager is responsible for determining if the verification documentation is adequate and credible. Acceptable methods of verification, in order of acceptability to HUD, are:

- ✓ Enterprise Income Verification (EIV);
- ✓ Third-party verification from source (written);
- ✓ Third-party verification from source (oral); and
- ✓ Family certification.

EIV is a web-based computer system containing employment and income information. The

information comes from the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS). This information is used to meet HUD's requirement to independently verify the applicant and tenant's employment and/or income. Owners/Property Managers are able to use the EIV system to determine if applicants use a false Social Security number, failed to report or under reported the income of a spouse or other household member, or receive rental assistance at another property. Instructions for accessing and using EIV are posted on the Multifamily EIV website at: <http://www.hud.gov/offices/hsg/mfh/rhiip/eiv/eivapps.cfm>

If third-party verification is not available, Owners/Property Managers must document in the Section 811 PRA Program tenant file why third-party verification was not available. Third-party verification is the process of getting an independent party to confirm a piece of information. Appendix 3 from Handbook 4350.3 outlining acceptable forms of verification can be accessed here: <http://portal.hud.gov/hudportal/documents/huddoc?id=43503a3HSGH.pdf>

## **INITIAL CALCULATION OF TENANT RENT SHARE**

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Owners/Property Managers are required to determine the Section 811 PRA Program applicant's income before the applicant is allowed to move in and at least annually thereafter. Once the applicant's income is verified, the Owner/Property Manager will use the information to determine the Rental Assistance Payment and the Tenant Rent. The Rental Assistance Payment is the amount of assistance paid to the Property on behalf of the tenant and is calculated using the tenant's annual income, less allowable deductions. HUD program regulations specify the types and amounts of income and deductions to be included in the calculation of annual and adjusted income.

The Total Tenant Payment (TTP) and Tenant Rent for rental assisted units must be calculated according to the requirements in HUD Handbook 4350.3 Chapters 5-25, 5-26, 5-27, and 5-30. TTP is the amount a tenant is expected to contribute for rent and utilities. TTP for Section 811 PRA Program is based on the family's income. Calculation of TTP is the greater of the following:

- 30% of monthly adjusted income;
- 10% of monthly gross income;
- Welfare rent (welfare recipients in as-paid localities only); or
- \$25 minimum rent.

Tenant rent is calculated by subtracting the MH allowed utility allowance (if any) from the TTP. Tenant rent is the portion of the TTP the tenant pays each month directly to the Owner/Property Manager for rent. If a property has a utility allowance, it is possible for the Tenant Rent to be \$0 if the utility allowance is greater than the TTP. A utility reimbursement to the tenant must be provided if the utility allowance is greater than the TTP. The owner must document in the tenant file the distribution of any utility allowance reimbursement provided to a tenant.

## ANNUAL AND INTERIM REEXAMINATIONS

### ANNUAL REEXAMINATIONS

Owners/Property Managers must conduct a recertification of family income and composition at least annually. Owners must then recalculate the tenants' rents and assistance payments, if applicable, based on the information gathered. Tenants must supply information requested by the Owner/Property Manager or HUD for use in a regularly scheduled recertification of family income and composition in accordance with HUD requirements. See Chapter 7 of Handbook 4350.3 for more information.

### INTERIM REEXAMINATIONS

Owners/Property Managers must conduct interim recertifications of family income and composition in accordance with HUD requirements when tenants notify the Owner/Property Manager that:

- ✓ A family member moves out of the unit;
- ✓ The family proposes to move a new member into the unit;

***Owners/Property Managers must notify the MH POC when a tenant provides notification of a family member moving out of the unit or when the family proposes to move a new member into the unit.***

- ✓ An adult member of the family who was reported as unemployed on the most recent certification or recertification obtains employment; or
- ✓ The family's income cumulatively increases by \$200 or more per month.

Tenants may request an interim recertification due to any changes occurring since the last recertification that may affect the TIP or tenant rent for the tenant. Reasons a tenant may request an interim recertification include:

- ✓ Decreases in income, including but not limited to: loss of employment, reduction in number of hours worked by an employed family member, and loss or reduction of welfare income;
- ✓ Increases in allowances, including but not limited to: increased medical expenses, and higher child care costs; and
- ✓ Other changes affecting the calculation of a family's annual or adjusted income, including but are not limited to: a family member turning 62 years old, becoming a full-time student, or becoming a person with a disability.

If the tenant's rent increases because of an interim adjustment, the owner must give the tenant 30 days advance notice of the increase. The effective date of the increase will be the first of the month commencing after the end of the 30-day period.

## LEASING REQUIREMENTS

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All Owners/Property Managers are required to use the HUD Section 811 PRA Program Model Lease, which can be accessed here: <http://www.mainehousing.org/811pra>. This lease is for a term of one year and automatically renewable for successive terms of one month.

The model lease outlines the tenant and owner responsibilities and covers the following:

- ✓ Total Rent (Contract Rent);
- ✓ Security Deposit Amount (may not exceed monthly tenant payment or \$50-whichever is greater);
- ✓ Utilities Provided;
- ✓ Utility Payment (if tenant responsible for any utilities);
- ✓ Rental Assistance Payment;
- ✓ Tenant Rent Share; and
- ✓ Termination & Required Notices.

The following documents must be attached to the model lease:

- ✓ HUD-50059
- ✓ House Rules
- ✓ VAWA Lease Addendum
- ✓ Move in inspection
- ✓ Lead-based paint disclosure form (if applicable)
- ✓ Pet rules (if applicable)
- ✓ Pet Addendum (if applicable, property must have received approval from MH for this addendum)
- Live-in Aide Addendum (if applicable, MH has created this document)

Any Security Deposit collected by the Owner must be used in accordance with HUD Security Deposit Requirements and is subject to State and local law.

The Owner must place the security deposits in a segregated, interest-bearing account. The balance of this account must at all times be equal to the total amount collected from the Eligible Family plus any accrued interest. The Owner must comply with any applicable State and local laws concerning interest payments on security deposits and return the security deposit to the family following the requirements in HUD Handbook 4350.3 REV-1, Paragraph 6-18.

## RENT PAYMENTS TO PROPERTIES

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Once a RAC has been executed and the Owner/Property Manager has signed a Section 811 PRA Program Model Lease with an Eligible Tenant, the Owner/Property Manager may begin submitting

monthly requisitions of funds to MH. Owners/Property Managers may submit requests for two types of payments outlined in **Table 4** below:

<b>TABLE 4</b>	
<b>Contract</b>	<b>Notification Requirements</b>
<b>Rental Assistance Payment</b>	Difference between the contract rent for the unit and the tenant rent (usually 30% of adjusted income).
<b>Vacancy Payment</b>	May not exceed 80% of the contract rent for up to 60 days of vacancy.

Prior to submitting the first voucher, the property completes an IRS W-9 vendor information form and 1199A Bank Account information form and submits them to the MH POC.

Requests for rental assistance payments must be submitted by the 10th day of each month to secure payment for the following month. Please ensure that the ‘Subsidy Type’ selected when preparing the voucher and tenant certification is “811PRA Demo”.

Requisitions of funds must be made using HUD Secure Systems. TRACS is a HUD computer system developed to help improve financial controls over assisted housing programs by automating Guide procedures and incorporating automated controls.

Owners will enter electronic submissions into iREMS to MH using HUD form 50059 for each Section 811 PRA Program assisted household and HUD form 52670 via their software, or through their service bureau. Both forms can be accessed here:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/forms/hud5](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/forms/hud5)

If an owner is having issues with their voucher submission, they should contact their software vendor and notify MH that they are having issues with processing.

For more information on the TRACS system, see HUD’s MAT User Guide (version 202D) or visit the following HUD webpage:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/mfh/trx/trxsum](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/trx/trxsum).



## INITIAL CONTRACT RENT & RENT INCREASES

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The initial contract rent will be calculated using the existing rent for the property. For LIHTC properties, the initial gross rent will be the 50% LIHTC rents currently charged if the LIHTC rent is less than or equal to the Fair Market Rent (FMR). In those areas where the 50% LIHTC rent is higher than FMR, MH will work with the properties that wish to use a rent that is higher than FMR to determine if the rents are attainable in accordance with requirements of MH and HUD.

After the initial contract rent setting, contract rents may be adjusted annually. The calculation or methodology used for the annual adjustment amount will be outlined in the property's RAC. After the signing of the original RAC with MH, upon request from the Owner to the MH, Contract Rents will be adjusted on the anniversary date of the Contract. Owners/Property Managers can submit a written request for a rent increase or to change the contract anniversary date using Form HUD-92458 which can be accessed here:

<http://portal.hud.gov/hudportal/documents/huddoc?id=92458.pdf>. MH will review and approve each written request and ensure that the approved annual rent adjustment coincides with Part II of the RAC, section 2.7(b). MH will document the approved contract rent increase and utility allowance adjustment (if applicable) on a rent schedule (Form HUD-92458) and update the owner with the approved rent increase.

## UTILITY ALLOWANCES

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For Properties in which the tenant pays all or some utilities, Owner/Managers will utilize MH published utility allowances, which reflects an estimated average amount that tenants will pay for utilities assuming normal consumption, or the HUD Utility Consumption calculation methodology. Utility allowances are outlined in the RAC when there are tenant-paid utilities. Utility Allowances may be adjusted according to the schedule of the Property's existing MH funding.

## INSPECTIONS

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### MOVE-IN

Prior to occupancy of any Section 811 PRA Program unit by an eligible applicant, the eligible applicant must be given the opportunity to be present for the move-in unit inspection (see HUD 4350.3 Appendix 5 Sample Move-In/Move-Out Inspection Form). The inspection of the 811 unit must be completed by both the Owner and the eligible applicant and both must sign an Inspection Form, using either the template provided by the HUD 4350.3 Appendix 5 Sample Move-In/Move-Out Inspection Form or a MH approved form certifying they have inspected unit and have determined it to be Decent, Safe, and Sanitary in accordance with the criteria provided in the form. The Owner will keep a copy of this inspection form and include it as an attachment to the lease.

Referral Agents and/or Service Providers will be available to assist the applicant with the inspection of the unit which may include assistance with scheduling, transportation, or interpreter services.

## ANNUAL

The Owner must perform unit inspections of all Section 811 PRA Program units on at least an annual basis to determine whether the appliances and equipment in the unit are functioning properly and to assess whether a component needs to be repaired or replaced. This will ensure that the Owner is meeting its obligation to maintain the Section 811 PRA Program units in Decent, Safe, and Sanitary condition. The Owner should complete either the provided MH Inspection Form or a MH approved form for every annual inspection of an 811 unit. The Inspection Form must be kept in the Tenant File.

## UNIFORM PHYSICAL CONDITION STANDARDS (UPCS)

In addition to annual Owner inspections described above, after the effective date of the RAC, a Uniform Physical Condition Standards (UPCS) inspection of the 811 unit must be performed by MH. This inspection can be aligned with inspections that are scheduled for the property's other existing federal or state housing programs, if any, but must occur at least every three years. If multiple federal or state housing programs are layered at the property, the frequency of the physical inspection will be determined by the most stringent UPCS standard, with a minimum of every three years. UPCS requires that items in five categories (site, building exterior, building systems, dwelling units, and common areas) must be inspected in any physical inspection of the property. These requirements are more specifically described in 24 C.F.R § 5.703. A checklist outlining these standards is available here:

[HTTP://PORTAL.HUD.GOV/HUDPORTAL/DOCUMENTS/HUDDOC?ID=DOC\\_26481.PDF.](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_26481.pdf)

## MEETING OTHER FEDERAL REQUIREMENTS

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As described in Table 3, there are certain federal “cross-cutting” requirements, i.e., federal requirements that apply to all or many HUD programs including the Section 811 PRA Program. The requirements on Table 3 describe activities prior to property selection. The requirements reflected below in **Table 5** summarize federal requirements covering multifamily developments participating in the 811 Program throughout the duration of the program. Owners/Property Managers should review the Section 811 PRA Program Guidelines and implementing regulations to fully understand these requirements. The file monitoring schedule for the Section 811 PRA Program for MH is expected to be scheduled along with other program reviews.

<b>TABLE 5</b>				
<b>Federal Requirement</b>	<b>PRA Guideline</b>	<b>Requirement Summary</b>	<b>Implementing Regulation</b>	<b>Additional Guidance</b>
<b>Fair Housing and Civil Rights Laws</b>	PRA.408	Owners/Property Managers must comply with all applicable fair housing and civil rights requirements, including any related state or local laws.	4 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. HUD's Equal Access rules at 24 CFR. §§ 5.100, 5.105(a)(2), 5.403	<a href="http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FH_Laws">http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FH_Laws</a>
<b>Effective Communications</b>	PRA.410	Communications must be effective for persons with hearing, visual, and other communication-related disabilities.	Section 504 of the Rehabilitation Act of 1973(see 24 CFR § 8.6) and the Americans with Disabilities Act.	<a href="http://www.ada.gov/">http://www.ada.gov/</a>
<b>Tenant Organization Rights</b>	PRA.409	Owner may not impede the reasonable efforts of tenants of the Assisted Units to organize.	24 CFR Part 245 or any successor regulations of 24 CFR Part 245.	
<b>Barrier Free/Accessibility Requirements</b>	PRA.407	Owners/Property Managers must meet accessibility requirements of relevant laws and regulations. Assisted units may be a mix of accessible units for those persons with physical disabilities and non-accessible units for those persons without physical disabilities.	Section 504 of the Rehabilitation Act of 1973 (see 24 CFR part 8); Title III of the Americans with Disabilities Act (see 28 CFR part 36); Fair Housing Act (24 CFR Part 100); 10 TAC Chapter 1, Subchapter B.	<a href="http://www.justice.gov/crt/about/hce/documents/jointstatement_accessibility_4-30-13.pdf">http://www.justice.gov/crt/about/hce/documents/jointstatement_accessibility_4-30-13.pdf</a>

## LIMITED ENGLISH PROFICIENCY (LEP)

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Persons who, as a result of national origin, do not speak English as their primary language and who have a limited ability to speak, read, write, or understand English are considered persons with limited English proficiency (LEP). It is the policy of MH that language assistance will be made available for persons with LEP to ensure that they have meaningful access to the Section 811 PRA Program. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary.

Where possible, MH will assist Owners in meeting this requirement such as the provision of documents in different languages. Contact the MH POC for more information.

## FAIR HOUSING POSTER

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Owners are required to post HUD's fair housing poster at any leasing offices located at properties with Section 811 PRA Program units. This poster can be downloaded at the web link below:

<http://portal.hud.gov/hudportal/documents/huddoc?id=928.1.pdf>

## OCCUPANCY

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Below is HUD's policy relating to unit occupancy and the determination of whether a unit is overcrowded or under occupied. In general, the chart below reflects a baseline standard. However, the considerations noted below in the bullets may prompt other adjustments, including State or local occupancy codes, to derive an accurate number of persons for the specific household.

### OCCUPANCY ALLOTMENT TABLE:

Bedroom Size	Standard Number of Persons
0 (efficiency)	1
1	1-2
2	2-4
3	3-6
4	4-8

- Generally a two-persons-per-bedroom standard is acceptable. An owner may establish a different standard for assigning unit size based on specific characteristics of the property (e.g., some bedrooms are too small for two persons), however, if fewer than 2 persons (over the age of 6) per bedroom for each rental unit are required for reasons other than those directed by local building code or safety regulations, a written justification must be provided by the Owner.

- Owners are responsible for the final determination that households meet the occupancy standards of their Tenant Selection Plan, HUD Handbook 4350.3 and Exhibit 5 of the Cooperative Agreement, Part D §PRA.404.
- At initial occupancy, Owners may not place a lower number of tenants in a unit than allowed for occupancy by HUD Handbook 4350.3 Chapter 3-23 or another reasonable standard developed by the Grantee. A single person must not be permitted to occupy a unit with two or more bedrooms, except for the following persons:
  - A person with a disability who needs the larger unit as a reasonable accommodation.
  - A displaced person when no appropriately sized unit is available.
  - A remaining family member of a tenant family when no appropriately sized unit is Available.
- An appropriately sized unit must be available and offered to the Section 811 PRA Program household before the household can move. If the next household on the waiting list is not appropriate for the unit size available, the unit will be offered to the next available household that fits the unit size.
- A household may elect to live in a smaller unit than the unit size allocated, but the utility payment will be based on the occupied unit.
- A household may not elect to live in a larger unit than the allocated unit size.

#### OVERCROWDED/UNDER-OCCUPIED UNITS & TRANSFERS

If the Owner determines that, because of a change in household size, an assisted unit is smaller than appropriate for the eligible household to which it is leased or that the unit is larger than appropriate, the Owner shall refer to MH's written policies in the Participant Selection Plan regarding family size, unit transfers, and waitlist management. Rental Assistance Payments with respect to the assisted unit will not be reduced or terminated until the eligible household has been transferred to an appropriate size assisted unit. MH should be notified of any changes in family size once the Owner is made aware of changes.

#### VACANCIES

If a Property has entered into a RAC, at Initial Rent-Up the Owner may be entitled to a vacancy payment for each Section 811 PRA Program unit for which a RAC is executed that is not leased as of the effective date of the RAC. Vacancy payments may not exceed 80 percent of the Contract Rent for up to 60 days of vacancy, provided that the Owner:

1. Performs appropriate feasible actions to fill the vacancy; and
2. Has not rejected any eligible applicants, except for good cause.

After Rent-Up, if a Section 811 PRA Program tenant vacates a Section 811 PRA Program unit, the Owner is entitled to Rental Assistance Payments of up to 80 percent of the Contract Rent for up to 60 days of vacancy once the unit is ready to be occupied. In these instances, the Owner must:

1. Certify that it did not cause the vacancy by violating the lease, the Contract, or any applicable law; and
2. Notify MH of the vacancy or prospective vacancy and the reasons for it immediately (but not later than 7 days) upon learning of the vacancy or prospective vacancy.

The Owner must lease 811 units under a RAC only to Eligible Tenants. When vacancies occur, the Owner must inform MH of the vacancy and hold the unit vacant for a period of 60 days. If no Eligible Tenants are identified within this time, the Owner may lease the unit to households who are not eligible for the Section 811 PRA Program; this household is not entitled to the benefit of the rental assistance. If the number of occupied Section 811 PRA Program units at the property falls below the total number of units listed in Exhibit 1 of Part I of the RAC, the Owner will designate the next available appropriate unit as a Section 811 PRA Program unit until the total number of occupied Section 811 PRA Program units meets the total number listed in Exhibit 1 of Part I of the RAC.

Except for vacancy payments as outlined above and absences from the Unit as outlined below, if an Eligible Tenant moves out of a Section 811 PRA Program unit, MH will not make any rental assistance payments to the Owner for any month after the month when the tenant moves out.

#### ABSENCES FROM THE UNIT

MH can continue to make Rental Assistance Payments to Owners while an eligible household member is absent from the unit under reasonable circumstances. For example, if the head of household is hospitalized, Rental Assistance Payments can continue as long as the household continues to pay their portion of the rent and the eligible household member is expected to return to live in the unit. This includes but is not limited to hospitalization in a medical facility, a psychiatric facility, a nursing facility, or other institution.

Note that it is possible that a household's income and corresponding tenant rent may change when an individual is in the hospital or an institution. In the event that the tenant's absence from the unit may be for an extended period of time, the tenant may request a Reasonable Accommodation to retain the unit. The approval of the Reasonable Accommodation will be up to the Owner, in consultation with the MH POC.

#### DETERMINING THE ELIGIBILITY OF A REMAINING MEMBER OF A TENANT HOUSEHOLD

As part of the referral process, MH will usually have screened for Target Population eligibility of the applicant household. The Owner must contact the MH POC as soon as possible, but within three business days, if there are any changes to household composition involving the eligible household member so that MH can help determine if the household can maintain their Section 811 PRA Program assistance.

If the eligible household member passes away, the remaining household members are eligible to remain in the unit and continue receiving Rental Assistance Payments based on income. If the eligible household member leaves the unit (other than temporary absences listed in previous Section) for any reason other than death, however, the remaining members are only eligible to continue receiving Rental Assistance Payments if at least one remaining household member meets the disability eligibility criteria. Once the MH POC is notified of this situation, the remaining household members will be provided eligibility information and collect eligibility verifications, which must be maintained in the household file.

If MH and/or the Owner/Property Manager determine that no remaining household members meet the eligibility criteria, the household can still remain in the unit, but the household will not receive any Section 811 PRA Program Project Rental Assistance and must pay market rent or the restricted rent of the unit, as applicable. See HUD Handbook 4350.3 Chapter 3-16 for further guidance. Owners must provide a 30 day notice before adjusting the tenant portion of rent.

### AMENDING THE RAC

Amendments to the RAC may take place if initiated by MH for the following reasons:

- ✓ Reduction or increase of the number of units currently occupied by tenants of the Section 811 Program, with a maximum number of units outlined in the MH Participation Agreement;
- ✓ Change in bedroom size based on transfers within a property by a household or change in tenancy;
- ✓ Change in utility allowance schedule, as allowed by MH;
- ✓ Change in Contract Rent;
- ✓ Change in Management Information; or
- ✓ Changing the Anniversary Date of the RAC.

If an Owner/Property Manager wants to initiate a change to the RAC, including requesting that units in excess of the Participation Agreement be included, they must submit the request in writing to the MH POC.

### EARLY TERMINATION OF RAC

MH may allow for early termination of a RAC or a reduction in the number of units placed on a RAC in specific situations. If units in a RAC are not occupied in a reasonable period of time, generally six to nine months, due to lack of demand for Section 811 PRA Program units from participants as they select waiting lists, or other reason determined by MH, then MH may choose to terminate the RAC. Exhibit 1, Part I, of the RAC must be amended to reflect the actual number of Section 811 PRA Program units MH intends to lease at a property. This does not remove the Owner's/Property Manager's obligations under the 811 Participation Agreement and MH may require the Property to again execute a RAC at some future time.

Additionally, MH may terminate the RAC for persistent lack of Owner/Property Manager compliance with inspection or occupancy-related issues or other breach of contract or program requirements.

## TENANT ISSUES & TERMINATIONS

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### DISPUTE RESOLUTION

If a property manager has an issue with a tenant that cannot be easily resolved, property managers may contact the Case Manager listed on the Release of Information form. The Section 811 PRA Program Case Managers must follow-up with tenants in the event an Owner/Property Manager contacts them with a concern and make sure that tenancy-related issues are quickly resolved so the tenant can stay housed and avoid eviction, transfer, or termination from the program.

Disputes between a tenant and an Owner/Property Manager may occasionally need to be handled with assistance other than that of the Case Manager. A Transition Team will be available as a resource to facilitate the Dispute Resolution process.

The Section 811 PRA Program Transition Team is responsible for managing the Dispute Resolution process. Typically, if a conflict arises, the Transition Team will schedule a meeting for all parties which will include the tenant, his or her Case Manager and a representative for the Owner/Property Manager. In some cases individual meetings may need to be held with each party. The Transition Team will hear each side and make suggestions to assist in the resolution process. The 811 PRA Program Transition Team can be contacted by emailing [811pra@mainehousing.org](mailto:811pra@mainehousing.org).

It is important to note that Transition Team will track information about the Dispute Resolution process and will report this information back to all of the participating state agencies.

The Owner of a Section 811 PRA Program unit may not terminate the tenancy or refuse to renew the lease of a Section 811 PRA Program tenant except for serious or repeated violations of the terms and conditions of the lease or other good cause (see Owner Termination of Lease below).

### TENANT TERMINATION OF LEASE

A tenant may terminate their lease at the end of the initial term or any successive term by giving 30 days written notice in advance to the Owner/Property Manager.

### OWNER TERMINATION OF LEASE

The Owner/Property Manager of a Section 811 PRA Program unit may not terminate the tenancy or refuse to renew the lease of a Section 811 PRA Program tenant except for serious or repeated violations of the terms and conditions of the lease or other good cause. In these instances, the



Owner must provide the tenant with no less than 30 days written notice of termination or refusal to renew specifying the grounds for such action.

HUD Regulation provides that the Owner/Property Manager may terminate the Lease only based upon either material noncompliance or other good cause.

Material noncompliance includes the following:

1. One or more substantial violations of the Lease;
2. Repeated minor violations of the Lease, which disrupt the livability of the project, adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related project facilities, interfere with the management of the project, or have an adverse financial effect on the project;
3. Failure of the tenant to timely supply all required information on the income and composition or eligibility factors of the tenant household (including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR Part 5, Subpart B or knowingly providing incomplete or inaccurate information); or
4. Nonpayment of rent or any other financial obligation due under this Agreement (including any portion thereof) beyond any grace period permitted under Maine law shall constitute a substantial violation. The payment of rent or any other financial obligation due under the Lease after the due date but within any grace period permitted under Maine law shall constitute a minor violation.

***The conduct of the tenant cannot be deemed “other good cause” unless the Owner/Property Manager has given the tenant prior written notice that the conduct constitutes a basis for termination.***

When the termination of the tenancy is based on “other good cause,” the termination notice must be effective at the end of the lease term, but in no case earlier than 30 days after receipt of the notice by the tenant. When terminating tenancy for material failure to carry out an obligation under a State and Local Landlord and Tenant Act, the time of service of the termination notice must be in accordance with the lease and state law.

The Owner’s/Property Manager’s written termination notice must be sent via first class mail to the tenant, and the MH POC. In addition, a copy of the notice must be served on any adult person answering the door at the leased dwelling unit or by placing the notice under or through the door, if possible, or by affixing the notice to the door. The notice must adhere to the following standards:

1. State that the lease is terminated and include a specific termination date;

2. State the reasons for the Owner's/Property Manager's action with enough specificity to allow the tenant to prepare a defense;
3. Advise the tenant that if he or she remains in the leased unit on the date specified for termination, the Owner/Property Manager may seek to enforce the termination only by bringing a judicial action at which time the tenant may present a defense; and
4. Advise that persons with disabilities they have the right to request Reasonable Accommodations to participate in the hearing process.

If the tenant does not vacate the premises on the effective date of the termination, the Owner/Property Manager may pursue all judicial remedies under State or local law for the eviction of the tenant. In such case the Owner/Property Manager must notify the MH POC. Additional information can be found in the Model Lease.

## REASONABLE ACCOMMODATIONS

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### What Is A Reasonable Accommodation?

A "Reasonable Accommodation" is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on a person with a disability than on other persons, treating a person with a disability exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling.

*Parts of this Section have been adapted from the US Department of Justice – Department of Housing and Urban Development Joint Statement on Reasonable Accommodations under the Fair Housing Act.*

With certain limited exceptions, all privately and publicly owned housing, including housing subsidized by the federal government or rented through the use of the Section 811 PRA Program, is required to provide Reasonable Accommodations.

Some examples of Reasonable Accommodations include:

**Example 1:** A housing provider has a policy of providing unassigned parking spaces to residents. A resident with mobility impairment, who is substantially limited in her ability to walk, requests an assigned accessible parking space close to the entrance to her unit as a Reasonable Accommodation. There are available parking spaces near the entrance to her unit that are accessible, but those spaces are available to all residents on a first come, first served basis. The provider must make an exception to its policy of not providing assigned parking spaces to accommodate this resident.

**Example 2:** A housing provider has a policy of requiring tenants to come to the rental office in person to pay their rent. A tenant has a mental disability that makes her afraid to leave her unit. Because of her disability, she requests that she be permitted to have a friend mail her rent payment to the rental office as a Reasonable Accommodation. The provider must make an exception to its payment policy to accommodate this tenant.

**Example 3:** A housing provider has a "no pets" policy. A tenant who is deaf requests that the provider allow him to keep a dog in his unit as a Reasonable Accommodation. The tenant explains that the dog is an assistance animal that will alert him to several sounds, including knocks at the door, sounding of the smoke detector, the telephone ringing, and cars coming into the driveway. The housing provider must make an exception to its "no pets" policy to accommodate this tenant.

### WHY DOES AN OWNER HAVE TO PROVIDE A REASONABLE ACCOMMODATION?

Several federal laws including the Fair Housing Act (FHA), Section 504 of the Rehabilitation Act of 1973 (504) and the Americans with Disabilities Act (ADA) Title II and III require Owners/Property Managers to provide Reasonable Accommodations. The Section 811 PRA Program Guidelines also require owners to comply with these laws and regulations.

### MUST AN OWNER ALWAYS PROVIDE THE REQUESTED ACCOMMODATION?

No. To show that a requested accommodation may be necessary, there must be an identifiable relationship or nexus between the requested accommodation and the individual's disability. Owners/Property Managers may deny an accommodation if there is no disability-related need for the accommodation.

In addition, a request may be denied if providing the accommodation is not reasonable - i.e., if it would impose an undue financial and administrative burden on the housing provider or it would fundamentally alter the nature of the provider's operations. The determination of undue financial and administrative burden must be made by the Owner on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the provider, the benefits that the accommodation would provide to the requester, and the availability of alternative accommodations that would effectively meet the requester's disability-related needs.

When an Owner/Property Manager refuses a requested accommodation because they believe it is not reasonable, they should discuss with the requester whether there is an alternative accommodation that would effectively address the requester's disability-related needs without a fundamental alteration to the provider's operations and without imposing an undue financial and administrative burden. If an alternative accommodation would effectively meet the requester's disability-related needs and is reasonable, the provider must grant it. An interactive process in which the housing provider and the requester discuss the requester's disability-related need for the requested accommodation and possible alternative accommodations is helpful to all concerned because it often results in an effective accommodation for the requester that does not pose an undue financial and administrative burden for the provider.

**Example:** As a result of a disability, a tenant is physically unable to open the dumpster placed in the parking lot by his housing provider for trash collection. The tenant requests that the housing provider send a maintenance staff person to his apartment on a daily basis to collect his trash and take it to the dumpster. Because the housing development is a small operation with limited financial resources and the maintenance staff are on site only twice per week, it may be an undue financial and administrative burden for the housing provider to grant the requested daily trash pick-up service. Accordingly, the requested accommodation may not be reasonable.

If the housing provider denies the requested accommodation as unreasonable, the housing provider should discuss with the tenant whether reasonable accommodations could be provided to meet the tenant's disability-related needs. For instance, placing an open trash collection can in a location that is readily accessible to the tenant so the tenant can dispose of his own trash and the provider's maintenance staff can then transfer the trash to the dumpster when they are on site. Such an accommodation would not involve a fundamental alteration of the provider's operations and would involve little financial and administrative burden for the provider while accommodating the tenant's disability-related needs.

### WHAT INQUIRIES MAY OWNERS MAKE?

It is usually unlawful for a housing provider to (1) ask if an applicant for a dwelling has a disability or if a person intending to reside in a dwelling or anyone associated with an applicant or resident has a disability, or (2) ask about the nature or severity of such persons' disabilities.

Owners/Property Managers may, however, make the following inquiries, provided these inquiries are made of all applicants, including those with and without disabilities:

- An inquiry into an applicant's ability to meet the requirements of tenancy; and
- An inquiry to determine if an applicant is a current illegal abuser or addict of a controlled substance.

When an applicant or tenant requests an accommodation, the Owner/Property Manager is entitled to obtain information that is necessary to evaluate if a requested Reasonable Accommodation may be necessary because of a disability. If a person's disability is obvious or otherwise known to the provider, and if the need for the requested accommodation is also readily apparent or known, then the provider may not request any additional information about the requester's disability or the disability-related need for the accommodation.

**Example 1:** An applicant with an obvious mobility impairment who regularly uses a walker to move around asks her housing provider to assign her a parking space near the entrance to the building instead of a space located in another part of the parking lot. Since the physical disability (e.g., difficulty walking) and the disability-related need for the requested accommodation are both readily apparent, the provider may not require the applicant to provide any additional information about her disability or the need for the requested accommodation.

**Example 2:** A rental applicant who uses a wheelchair advises a housing provider that he wishes to keep an assistance dog in his unit even though the provider has a "no pets" policy. The applicant's disability is readily apparent but the need for an assistance animal is not obvious to the provider. The housing provider may ask the applicant to provide information about the disability-related need for the dog.

**CAN A REASONABLE ACCOMMODATION BE REQUESTED TO SCREENING POLICIES?**

**Yes.** Some Section 811 PRA Program applicants will have criminal records, poor tenancy histories, and/or poor credit histories. Some Owners/Property Managers will screen out applicants with certain criminal background or tenancy histories. A reasonable accommodation of the policy may be requested if the applicant demonstrates that:

1. Their history is disability related; and
2. The situation/behavior is not likely to recur.

If these conditions have been satisfied, then a reasonable accommodation may be requested. It will be up to the Owner/Property Manager to determine whether they think the request is reasonable or not, and whether the applicant has provided a strong case that the behavior will not recur. An applicant may use the dispute resolution process if they think a reasonable accommodation should have been granted.

## CHAPTER 4: COMPLIANCE & MONITORING

### COMPLIANCE REVIEWS

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The MH Asset Management Department will oversee the continued compliance of multifamily properties that participate in the Section 811 PRA Program, including compliance with existing funding requirements and new requirements added by the Section 811 PRA Program.

Compliance reviews will occur at least every three years and may be conducted on-site or remotely through a desk review. If a property is under an existing monitoring schedule for another MH program, these reviews may be done in conjunction with those compliance reviews.

Advanced written notice of on-site reviews will be provided prior to a visit. For more information on compliance reviews, see the Compliance Monitoring Rule located here:  
[www.mainehousing.org/811pra](http://www.mainehousing.org/811pra)

### RECORD KEEPING & DOCUMENTATION

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Owners/Property Managers must retain records in accordance with HUD requirements . Additional records and documentation related to the Section 811 PRA Program must be made available to MH and HUD upon request and maintained for a period determined by HUD Handbook 4350.3, as well as the Participation Agreement and the Rental Assistance Contract.

Please note: the retention requirements differ for the 811 Program and Low-income Housing Tax Credit. For example, EIV requires documents must be destroyed at the term of tenancy plus three years and the Low-income Housing Tax Credit Program requires that documents are retained for at least 6 years after the due date (with extensions) for filing the federal income tax return for that year.

Exceptions to the record retention periods outlined in Subchapter F noted above include:

- (i) If any litigation claim, negotiation, inspection, or other action has started before the expiration of the required retention period, records must be retained until completion of the action and resolution of all issues which arise under it; and
- (ii) A date consistent with any other period required by federal or state law or regulation.

The full list of MH and HUD documents that are required for the program are maintained on the MH Section 811 PRA Program webpage: <http://www.mainehousing.org/811pra>