

Affirmative Marketing Guidance
and
Instructions for Section 811 Project Rental Assistance (PRA) Program

I. Background & Guidance

A. Definition of Affirmative Marketing

It is the policy of the Department to administer its housing programs affirmatively, as to achieve a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, national origin, religion, sex, disability, or familial status.¹ Each Section 811 PRA program grantee shall pursue affirmative fair housing marketing policies in soliciting applicants, in determining their eligibility, and in conducting rental transactions.

For the Section 811 PRA program, the development and implementation of the Affirmative Fair Housing Marketing Plan is the responsibility of the grantee (i.e., the state, regional, or local housing agency or agencies; or a partnership or collaboration of state housing agencies and/or state and local/regional housing agencies). If the grantee delegates its marketing activities to another entity(s), the grantee is responsible for ensuring that the entity(s) complies with the Affirmative Fair Housing Marketing Plan.

Affirmative marketing activities include, but are not limited to, methods of advertising and community outreach, that are designed to reach persons who are least likely to apply for the program. Grantees must take appropriate steps to effective communication with applicants, beneficiaries, and members of the public, which includes conducting marketing in formats that are accessible for persons with disabilities. Grantees must also take reasonable steps to ensure program access for persons with Limited English Proficiency (LEP), which may include conducting marketing in languages other than English in accordance with HUD's LEP Guidance, 72 Fed. Reg. 2731 (2017).

Since the Section 811 PRA program is a state program, each grantee must market and make available housing opportunities funded by this program to all eligible individuals in the target population in the state and housing market area, not just individuals who currently reside in the target area(s), or who currently receive housing assistance from the grantee or services from an agency or organization that serves the target population. Section 811 PRA grantees must conduct affirmative marketing activities throughout the state in order to attract eligible persons who are least likely to apply for the program.

B. Identifying Persons who are "Least Likely to Apply" for the Program

¹ The term "familial status" means one or more individuals under the age of 18 being domiciled with (1) a parent or another person having legal custody of such individual or individuals; or (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections against discrimination on the basis of familial status also apply to any person who is pregnant or is in the process of securing legal custody of any individual under the age of 18.

"Least likely to apply" means that there is an identifiable presence of a specific demographic group (i.e., race, color, national origin, religion, sex, disability, or familial status) in the state, but members of that group are not likely to apply for the housing in the absence of special outreach efforts.

Grantees must determine which demographic groups are least likely to apply for the program. To make this determination, grantees should consider the demographic characteristics of the target population within the state, any target area(s), and the clients of the agencies or organizations who will provide supportive services to the tenants of the Section 811 PRA program units. Grantees must rely on Census data and other generally accepted data sources when conducting this analysis. Grantees must include in their plans the sources of data that they used to determine the groups that are least likely to apply.

C. Marketing Activities

Affirmative Fair Housing Marketing Plan. Grantees should examine their methods for outreach and referral, as set forth in their Inter-Agency Partnership Agreements and their Implementation Plans, to determine whether it can reasonably expect that these activities will reach the demographic groups within the target population that it has identified as least likely to apply for the program. In the Affirmative Fair Housing Marketing Plans, grantees will identify the methods of advertising and community outreach that they will use to reach demographic groups who are least likely to apply for the program. The specific activities used to market the program are up to each grantee. Grantees must make their Affirmative Fair Housing Marketing Plans available for public inspection and must indicate in their plans where the AFHMP will be available.

Methods of Advertising. For each demographic group identified as least likely to apply, grantees shall use at least one method of advertising to reach that group. Methods of advertising include, but are not limited to, placing advertisements in television programs, radio programs, newspapers, and websites. All advertisements shall include either the equal housing opportunity logo or slogan or statement. The advertisements should be in the appropriate language or format for the group that the grantee is trying to reach.

Community Outreach. For each demographic group identified as least likely to apply, grantees shall partner with at least one community contact or organization to facilitate outreach to that group. Community contacts or organizations include, but are not limited to, social service agencies, religious groups, advocacy groups, and community centers.

Fair Housing Poster. The fair housing poster (form HUD 928.1) must be prominently displayed in all offices in which rental activity takes place. Grantees must prominently display the fair housing poster in all locations where individuals will apply for the program and project owners must display the poster at their projects with Section 811 PRA units. The AFHMP must indicate all locations where the grantee will display the poster and how the grantee will ensure that project owners display the poster at their projects.

Recordkeeping and Evaluation. Grantees must maintain copies of their Affirmative Fair Housing Marketing Plans and keep records of their actions to affirmatively market the program. Grantees also must evaluate the success of their affirmative marketing activities annually. This evaluation should also include whether there have been any demographic changes in the state that would change the populations who are least likely to apply for the program.

In general, if the demographic characteristics of the participants in the program and the applicants on the waiting list reflect the demographics of the target population in the state, the grantee may determine that it does not need to revise the AFHMP. In this case, the grantee should maintain a file of its evaluation and how it determined that it did not need to make changes to the AFHMP.

However, grantees may need to make changes to their marketing activities and procedures if an evaluation of their program shows that there is an underrepresentation of demographic groups that were identified as least likely to apply for the program and who were targeted for affirmative marketing activities. In this case, grantees should consider whether they need to modify or expand the methods of advertising and community outreach outlined in their AFHMP.

Additionally, grantees are required to cooperate with HUD, the U.S. Department of Health and Human Services (HHS), and the Centers for Medicare and Medicaid Services (CMS), or any contractors affiliated with HUD, HHS, or CMS, in the evaluation of this program. As a result, Section 811 PRA grantees may be asked to provide information related to their affirmative marketing activities as part of an evaluation of this program.

D. Consistency of Other Programmatic Policies with Affirmative Fair Housing Marketing Plan

Tenant Selection Policies: Tenant selection policies must be consistent with civil rights laws and the goals of the grantee's Affirmative Fair Housing Marketing Plan, see 24 CFR 5.105(a). A project owner must obtain approval from the grantee if it wishes to adopt tenant selection policies, such as residency preferences or other preferences, for its Section 811 PRA program units. Residency preferences must be approved by HUD and must comply with 24 CFR 5.655(c)(1). [OGC-Concurrence: We recommend including this information from Form 935.2A]*** A project owner must obtain approval for its tenant selection policies even if it is already applying, or has been approved to apply, these policies to the other units at the project (i.e., units that are not funded by the Section 811 PRA program).

Waiting List Policies: Grantees may choose to manage the waiting list centrally or to administer separate waiting lists locally or at the project level. Grantees that choose to administer separate waiting lists locally or at the project level must adopt a process for providing full disclosure to each applicant of all options available to the applicant in the selection of project in which to reside, including basic information about available sites (e.g., location, number and size of accessible units, access to transportation and commercial facilities) and an estimate of the period of time the applicant would likely have to wait to be admitted to units of different sizes and types at each site.

E. Resources

- "Implementing Affirmative Fair Housing Marketing Requirements," HUD Handbook 8025.1
- Form HUD 935.2A
- 24 C.F.R. 200.600-640.

II. Instructions to Grantees

Grantees must provide HUD with the following pieces of information, constituting its Affirmative Fair Housing Marketing Plan (AFHMP) for the FY 2012 Section 811 PRA Program. Grantees may refer to Form 935.2A for additional instructions on completing an AFHMP. [OGC-Concurrence: While Form 935.2A is listed above, we also suggest listing it here.]***

1. The name, address, phone number, and contact person for the entity(s) that will conduct the marketing, outreach, and referral. If the marketing is performed by any entity other than the grantee, explain how the grantee will monitor their activities to ensure compliance with the AFHMP.
2. ***Identify staff positions that will be/are responsible for affirmative marketing and describe training that will be provided to staff on the AFHMP and federal fair housing and civil rights laws, including the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, Title II of the Americans with Disabilities Act, the Age Discrimination Act, and applicable regulations and requirements. If marketing will be performed by any entity other than the state grantee, identify the staff positions that will be/are responsible for overseeing compliance with the AFHMP and describe training that will be provided to these entities on the AFHMP and the Fair Housing Act.
3. Dates to begin advertising and to begin accepting applications for the program.
4. State the target population(s), the target area(s) (if any), and describe the methods of outreach and referral for the program, as set forth in the Inter-Agency Partnership Agreement. Describe the staff and agency that will be managing the outreach, referrals, and waiting lists to successfully identify and refer prospective tenants to owners/management agents of the Section 811 PRA units. Describe how waiting lists will work for these units—managed centrally, locally, or at the property level.
5. A list of the agencies or organizations with whom your partner State Health and Human Services Agency/Medicaid Agency have an agreement to provide supportive services for the tenants of the Section 811 PRA program units. Please indicate whether these agreements include a mechanism for referring clients to the Section 811 PRA program. Additionally, please list any other agencies that provide services to the target population(s) in the state, but who may not have a formal relationship with the Section 811 PRA program.
6. The demographic characteristics of the target population in the state and the data sources used to obtain this information. For example, the demographic characteristics of the census tract, housing market area, expanded housing market area, and state; the demographics of any other relevant groups (for example the demographics of the population served by the grantee).
7. For grantees that have selected one or more target areas within the state, provide the demographic characteristics of the target population in each target area and the data sources used to obtain this information.

8. The number and demographic characteristics of persons served by the agencies or organizations who have agreed to provide supportive services for the tenants of the Section 811 PRA program units, and the data sources used to obtain this information.
9. Identify the demographic groups that are “least likely to apply” for the program, based on the demographic data provided in response to #6, 7, and 8 above.
10. ***If the owner is requesting a residency preference, list the geographic area of the preference, the reason for the preference, and how the owner will periodically evaluate the preference to ensure that it is in accordance with the non-discrimination and equal opportunity requirements in 24 CFR 5.105(a).
11. For each demographic group identified as “least likely to apply,” a description of how the program will be marketed to eligible individuals throughout the state, regardless of whether they currently reside in the target area(s), or currently receive housing assistance from the grantee or services from an agency or organization that serves the target population. This description must include the methods of advertising and community contacts that will be used to reach this population.
12. Indicate where the grantee will display the fair housing poster and how it will ensure that project owners display the fair housing poster.
13. Indicate how the grantee will make the AFHMP available for public inspection.
14. Explain the evaluation process that will be used to determine whether the marketing activities have been successful in attracting individuals least likely to apply and how the results of this evaluation will inform future marketing activities. Also explain the evaluation process that will be used to determine whether there have been any demographic changes in the state that would change the demographic groups who are least likely to apply.
15. The grantee’s signature with a certifying statement that the grantee will affirmatively market the housing opportunities made available through this program, and that the grantee will ensure that any other entities that conduct marketing will do so in accordance with this AFHMP.

The public reporting burden for this collection of information is estimated to average 1 hour, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to the Reports Management Officer, Paperwork Reduction Project, to the Office of Information Technology, US. Department of Housing and Urban Development, Washington, DC 20410-3600. When providing comments, please refer to OMB Approval No. 2502-0608. HUD may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. This collection of information is required, under Pub L. 111-374, to assist HUD in determining an applicant's eligibility and capacity to administer Project Rental Assistance Program funds to qualified multifamily rental owners for housing for persons with disabilities consistent with prescribed statutory and regulatory criteria for Direct Endorsement lenders to perform quality control reviews of loans originated by sponsored third party originators and to self-report findings of fraud, material misrepresentation, and other material findings to FHA. The information collected will be used to evaluate applications and make selection recommendations. No assurances of confidentiality are provided for this information collection.