

be used for rehabilitating both occupied and vacant units, the grantee shall assure that priority is given to the selection of projects containing units that do not meet the rehabilitation standards adopted under § 511.10(e) and which are occupied by very low income families before rehabilitation.

(2) *Units that are accessible to the handicapped.* As stated in 24 CFR 8.30, the grantee shall, subject to the priority in § 511.10(g)(1) and in accordance with other requirements in this part, give priority to the selection of projects that will result in dwelling units being made readily accessible to and usable by individuals with handicaps.

(Approved by the Office of Management and Budget under control numbers 2506-0110, 2506-0078, 2506-0080)

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#### § 511.11 Project requirements.

(a) *Rehabilitation.* To receive assistance under this part, a project must require rehabilitation, measured by whether the project before the assisted rehabilitation does not meet the rehabilitation standards under § 511.10(e). If a project is terminated before completion of rehabilitation (as defined in § 511.2), whether voluntarily by the grantee or otherwise, amounts equal to the rental rehabilitation grant amounts already dispersed for the project under the C/MI System are not eligible project costs, whether or not the grantee has already expended such grant amounts to pay for project costs. If such amount is not repaid, the grantee may be subject to corrective and remedial actions under § 511.82.

(b) *Primarily residential rental use.* Rental rehabilitation grants shall only be used to rehabilitate projects to be used for “primarily residential rental” use. For purposes of this part, a project is used for primarily residential rental purposes if at least 51 percent of the rentable floor space of the project is used for residential rental purposes after rehabilitation, except that in the case of a two-unit building, at least 50 percent of the rentable floor space after rehabilitation must be used for residential rental purposes after reha-

bilitation. “Primarily residential rental” use also includes cooperative or mutual housing that has a resale structure that enables the cooperative to maintain rents affordable to low-income families.

(c) *Privately owned real property—(1) General.* Rental rehabilitation grant amounts shall only be used for eligible costs of projects that are in private ownership at the time the commitment is made to a specific local project, as defined in § 511.2, or projects that are publicly owned at commitment which meet the requirements in § 511.11(c)(2).

(2) *Publicly owned project at the time of commitment.* Rental rehabilitation grant amounts may be used to assist publicly owned projects under the following conditions:

(i)(A) For a publicly owned project where the commitment to a specific local project occurs on or after December 22, 1989, the grantee or State recipient—taking into consideration: the size of the project; the complexity of the rehabilitation; the anticipated time necessary to identify, and transfer to, an eligible private owner; and other relevant factors—must determine that it will commence rehabilitation within 90 days of commitment under the C/MI System, and that rehabilitation will be completed and the project transferred to an eligible private owner within the two years and 90 days from the date of commitment in the C/MI system or the time remaining under § 511.33(c) for expenditure of the rental rehabilitation grant amounts committed to the project, whichever is shorter. The Project Completion Report under the C/MI system identifying the private entity to which ownership has been transferred shall be submitted within 90 days of the final draw, but not later than two years and 90 days after the date of commitment.

(B) For a publicly owned project where the commitment to a specific local project occurred before December 22, 1989, the grantee or State recipient—taking into consideration: the size of the project; the complexity of the rehabilitation; the anticipated time necessary to identify, and transfer to, an eligible private owner; and other relevant factors—must determine that the rehabilitation will be completed

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and the project transferred to an eligible private owner within the time remaining for expenditure of the rental rehabilitation fiscal year grant amounts proposed to be used for the project in accordance with §511.33(c) before drawing down rental rehabilitation grant amounts for the project. The Project Completion Report identifying the private entity to which ownership has been transferred shall be submitted within 90 days of the final draw.

(ii) If the grants or State recipient fails to complete the rehabilitation, transfer the property to an eligible private owner (which includes obtaining the agreements from the new owner required by this part, including §511.11(d)), and submit the Project Completion Report within the allowable period, then HUD will suspend the grantee's and/or the State recipient's authority to set up any new projects in the C/MI System and may require the grantee to repay to its grant account in the C/MI System all rental rehabilitation grant amounts drawn down with respect to the project. If payment is not received, HUD may proceed to deobligate up to the full amount of the grantee's remaining uncommitted rental rehabilitation grant amounts, whether or not such grant amounts otherwise are available for deobligation under §511.33(c). A suspension of set-up authority shall terminate when the grantee or State recipient has transferred the project to private ownership, as required by this part, and has submitted a Project Completion Report under the C/MI System identifying the private owner, or repays its grant account as required by this paragraph, or HUD lifts the suspension at its discretion.

(iii) After the grantee has repaid the grant amounts to its grant account as provided in §511.11(c)(2)(ii), the grant amounts may be committed and expended by the grantee for new projects within the periods originally allowed for these grant amounts, or deobligated by HUD under §511.33 or §511.82 to the same extent as any other grant amounts subject to this part.

(3) *Private, non-profit organizations.* Non-profit organizations that are privately controlled are eligible to receive rental rehabilitation grant amounts

under the same terms and conditions as any other private project owner under this part. For purposes of this requirement, non-profit organizations must have governing bodies which are controlled 51 percent or more by private individuals who are acting in a private capacity. For purposes of this provision, an individual is deemed to be acting in a private capacity if he or she is not legally bound to act on behalf of a public body (including the grantee), and is not being paid by a public body (including the grantee) while performing functions in connection with the non-profit organization.

(4) *Manufactured housing units.* Notwithstanding whether they are classified as real or personal property under applicable State law, manufactured housing units may be assisted under this part under the following conditions:

(i) The unit is on a permanent foundation;

(ii) The utility hook-ups are permanent;

(iii) The unit is designed for use as a permanent residence;

(iv) The unit also meets the Section 8 Housing Quality Standards for Manufactured Homes set forth in 24 CFR 882.109(o).

(5) *Religious organizations.* Rental Rehabilitation grant amounts may be used to assist the rehabilitation of properties formerly owned by religious organizations, such as churches, provided that both of the following conditions are met:

(i) Title to the property to be rehabilitated must be transferred to a wholly secular entity prior to commitment, and this entity shall comply with all obligations of a project owner under this part. The entity may be an existing or newly established entity (which may be an entity established, but not controlled, by the religious organization); and

(ii) The completed project must be used exclusively by the owner entity for secular purposes, available to all persons regardless of religion, for the period and subject to the obligations described in §511.11(d). In particular, there must be no religious or membership criteria for tenants of the property.

(d) *Long-term owner obligations.* (1) Each project assisted under this part is subject to the following specific obligations for a period of at least ten years after completion of the rehabilitation:

(i) The project shall remain in private ownership and in primarily residential rental use for the required period, unless the project is sold to another private owner who agrees to continue to manage the property in accordance with Rental Rehabilitation Program requirements for the remainder of the required period, or a hardship exception is approved by the grantee for reasons that occur after completion of the rehabilitation.

(ii) The owner shall not convert the units in the project to condominium ownership or any form of cooperative ownership not eligible for assistance under this part for the required period.

(iii) The owner shall not discriminate against prospective tenants on the basis of their receipt of, or eligibility for, housing assistance under any Federal, State or local housing assistance program or, except for a housing project for elderly persons, on the basis that the tenants have a minor child or children who will be residing with them, for the required period.

(iv) The owner shall comply with the nondiscrimination and equal opportunity requirements and with the affirmative marketing requirements and procedures adopted under § 511.13, for the required period.

(2)(i) With respect to projects which are privately owned when the commitment to a specific local project is made, the obligations required under § 511.10 (d)(1) and (d)(3) shall be included in the written, legally binding commitment or project agreement between the owner and the grantee or State recipient which is executed on or before the date the project is committed.

(ii) With respect to projects which are publicly owned when the commitment is made, these obligations shall be included in a written agreement between the grantee or State recipient and the private owner, executed on or before completion of rehabilitation.

(iii) By drawing down rental rehabilitation grant amounts for a project which is publicly owned when the commitment is made, the public owner

itself accepts the obligations of this part, including § 511.11(d)(1)(i) (except for private ownership before completion of rehabilitation), (d)(1)(ii), (d)(1)(iii) and (d)(1)(iv) and agrees to include these obligations in the agreement with the private owner required by § 511.11(d)(2)(ii).

(3) The grantee or State recipient shall ensure that the written agreements with private owners required by § 511.11 (d)(1) and (d)(2) are legally enforceable, are recorded against the project in the local land records (or in the case of a manufactured housing unit, against the unit in the manner appropriate for such real or personal property under State and local law), and that the agreements contain remedies adequate to enforce their provisions. A remedy will be deemed adequate for purposes of this paragraph if it requires the entire amount of the rental rehabilitation grant assistance for the project to be a secondary lien secured by the property, repayable by the owner, or any subsequent transferee, upon a prohibited conversion, sale or use in an amount equal to the entire amount of such assistance, less 10 percent for each full year after completion of the project up to the time the prohibited conversion, sale or use occurs, except in the case of projects of 25 units or more. For projects of 25 units or more the entire amount of such assistance shall be repaid if the project is converted, sold or used in violation of this section during the 10-year period. Such lien may not be subordinate to a lien in favor of the grantee, State recipient or any person with whom the owner has business or family ties, except as may be necessary to secure federally tax exempt financing for the project.

(e) *Maximum rental rehabilitation grant amounts for projects.* (1) Rental rehabilitation grant amounts used for any project shall not exceed 50 percent of the total eligible project costs, as defined in § 511.10(f). However, where refinancing of existing indebtedness is involved, the grantee may approve a higher amount for a project where it determines, and documents in its records, that:

(i)(A) Rehabilitation of the project is important to the overall stability of

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the neighborhood (as defined at §511.10(c)(2)) and for the provision of housing at rents affordable to low-income families, or

(B) The project has special costs to facilitate use by the elderly or handicapped; and

(ii) The refinancing and the higher grant amount are necessary to make the project feasible.

This higher grant amount may not exceed the lesser of 75 percent of the eligible project costs or 50 percent of the sum of the eligible project costs and the amount necessary to refinance the existing indebtedness.

(2) *Per unit.* (i) Except as provided in paragraph (e)(2)(ii) of this section, the rental rehabilitation grant amounts used for any project may not exceed the sum of the following dollar amounts for dwelling units in the project:

(A) \$5,000 per unit for units with no bedrooms;

(B) \$6,500 per unit for units with one bedroom;

(C) \$7,500 per unit for units with two bedrooms; and

(D) \$8,500 per unit for units with three or more bedrooms.

(ii) HUD may approve higher rental rehabilitation grant amounts for projects in areas of high material and labor costs where the grantee demonstrates to HUD's satisfaction that a higher amount is necessary to conduct a rental rehabilitation program in the area and that it has taken every appropriate step to contain the amount of the rental rehabilitation grant within the dollar limits specified in paragraph (e)(2)(i) of this section. These higher amounts will be determined as follows:

(A) HUD may approve higher per unit amounts for a unit of general local government's entire rental rehabilitation program up to, but not to exceed, an amount derived by applying the HUD-approved High Cost Percentage for Base Cities for the area to the applicable per unit dollar limits;

(B) HUD may, on a project-by-project basis, increase the level permitted under §511.11(e)(2)(i) by multiplying the original limits by up to a maximum of 140 percent and then adding the product to the original limits. Therefore, the maximum high cost grant amount

per project that may be approved is 240 percent of the original per unit limits.

(f) *Rent or occupancy restrictions.* (1) A project rehabilitated with rental rehabilitation grant amounts under this part is not subject to State or local rent control unless the rent control requirements or agreements:

(i) Were entered into under a State law or local ordinance of general applicability that was enacted and in effect in the jurisdiction before November 30, 1983 and

(ii) Apply generally to projects not assisted under the Rental Rehabilitation Program.

(2) State and local rent controls expressly preempted by paragraph (f) of this section include, but are not limited to, rent laws or ordinances, rent regulating agreements, rent regulations, low income occupancy agreements extending beyond one year from the date of completion of rehabilitation of a project, financial penalties for failure to achieve certain low income occupancy or rent projections, or restrictions on return on investment or other similar policies that prevent an owner, whether for-profit or non-profit, from maximizing return or setting rent levels as the owner chooses. Grantees or State recipients shall not include any preempted rent or occupancy restrictions in any commitments or project agreements with the owners of Rental Rehabilitation projects.

(g) [Reserved]

(Information collection requirements contained in this section have been approved by the Office of Management and Budget under control numbers 2506-0080 and 2506-0110)

[55 FR 20050, May 14, 1990, as amended at 61 FR 7061, Feb. 23, 1996]

### §511.12 Conflicts of interest.

(a) No person who is an employee, agent, consultant, officer, or elected or appointed official of the grantee or State recipient (or of any public agency that performs administrative functions in the RRP) that receives rental rehabilitation grant amounts and who exercises or has exercised any functions or responsibilities with respect to assisted rehabilitation activities, or who is in a position to participate in a decision-making process or gain inside