

DISTRICT OF COLUMBIA HEIRS PROPERTY ASSISTANCE PROGRAM

NOTICE OF REQUEST FOR INFORMATION (RFI)

October 21, 2022 - October 30, 2022

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NOTICE OF REQUEST FOR INFORMATION (RFI)

The District of Columbia Department of Housing and Community Development (DHCD) is requesting input on the design and approach to implementing “Heirs’ Property Legal Assistance Act of 2022” which is enacted as part of the “Fiscal Year 2023 Budget Support Act of 2022”, A24-0492.

The Heirs’ Property Legal Assistance Act of 2022 allows the Mayor to issue grants to assist low-income individuals to pay for legal services necessary to obtain clear legal title to property the individual inherited either testate or intestate from a member of the individual’s family. The grants may be issued directly to an individual eligible for assistance, to a legal services organization providing the legal services, or to a third-party grant-managing entity for the purpose of making subgrants to such individuals or organizations on behalf of the Mayor.

This document is a RFI only. It is not being posted as a statement of work (SOW) at this time, nor does it constitute a Request for Proposal (RFP) or Request for Application (RFA) or a promise to issue any related solicitation in the future.

Respondents are advised that DHCD will not pay for any information or administrative costs incurred in response to this RFI. All costs associated with responding to this RFI will be solely at the interested party’s expense. Not responding to this RFI does not preclude participation in any future solicitation.

PURPOSE OF THE RFI

The purpose of this RFI is to solicit input from District of Columbia residents, professionals active in the areas of estates and probate, and others with expertise or interest in assisting low-income individuals to obtain clear legal title to real estate inherited from a member of their family. This real estate is referred to here as “heirs property.”

Respondents to this RFI are asked to provide recommendations (including proposed draft language for a future solicitation) regarding the best approach for the design and implementation of a “District of Columbia Heirs Property Assistance Program.” Respondents need not describe a complete program but should provide informed responses and feedback regarding the project overview below and describe any benefits, changes, limitations, unintended consequences, and potential economic gains or losses that may result from the decisions DHCD may make in implementing this program.

We encourage responses from organizations or individuals representing a range of interests including, but not limited to, the following:

- District of Columbia residents who have experience with heirs property,
- condominium and cooperative associations,
- affordable housing advocates,
- probate and real-estate attorneys, and those who have experience with heirs property,
- real estate agents,
- academic or research institutions,

- non-profit and for-profit real estate developers and investors,
- title and title insurance companies, and
- residential technical assistance providers and counselors, social workers, mediators, and leaders and counselors in the faith community that confront these matters in the populations they serve.

INTRODUCTION AND BACKGROUND

When a resident of the District of Columbia dies, the Probate Division of the District of Columbia Superior Court oversees the transfer of that person's real estate and other property to their heirs or other beneficiaries. The estate includes all the decedent's property, whether real (land and buildings) or personal (cars, jewelry, furniture, bank accounts, and stocks). Probate is the legal process of determining if there is a valid will, identifying a deceased person's property, paying the decedent's outstanding debts and taxes, and distributing the property per the will or otherwise according to the law of the District of Columbia. Probate can be a long and complicated process, often taking up to three years to resolve. Even the simplest cases may involve several necessary court filings and the payment of legal and other fees. For some estates, particularly where the heirs are low-income, the process proves too complicated and expensive to complete. In some cases, residents continue to live in a home and use a decedent's property unaware that probate is required.

The situation is often made worse when the decedent has multiple heirs, when the heirs live in different states, or when the heirs do not get along. In such cases, it may be difficult or impossible for the heirs to communicate and work together to resolve the issue. Whether the process is active but drawn-out by such complications, or simply uninitiated or abandoned, many residential properties do not have "clear title" as a result of having never completed probate in the District of Columbia. In some cases, this means the property stands vacant and neglected. In all cases, without clear title to the property the heirs will likely be unable to sell the property, borrow against it, or prove the property is theirs in legal disputes and government documents. This can be important, for example, when applying for government assistance. Thus, even where heirs can remain in the home without dispute, heirs property can have detrimental impacts on those residents as well as on their properties and the neighborhoods and communities in which they are located.

For this reason, Mayor Bowser proposed the "District of Columbia Heirs Property Assistance Program" in her Fiscal Year 22 Budget, which was passed by the Council and signed by the Mayor as part of the Fiscal Year 2023 Budget Support Act of 2022, A24-0492. According to the Act, the mayor may issue grants to assist low-income individuals to pay for legal services necessary to obtain clear legal title to property that the individual inherited from a member of the individual's family. These acts further stipulate that grants may be issued by the District of Columbia directly to an individual eligible for assistance, to a legal services organization providing the legal services, or to a third-party grant-managing entity for the purpose of making subgrants to individuals or organizations on the District of Columbia's behalf. The proposed budget and financial plan include recurring funding of \$1 million for the Department of Housing and Community Development to support the subtitle's authorized activities.

As background, it is important to note the problem of heirs property is not specific to the District of Columbia nor is the idea of government sponsored action geared to assist low-income heirs in this situation. For example, the City of Philadelphia is part of a “Tangled Title Fund” and at the federal level the United States Department of Agriculture (USDA) launched an Heirs’ Property Relending Program (HPRP) in 2021. South Carolina has also established an heirs property study committee to examine current and prospective methods to address heirs property issues in South Carolina. The District of Columbia is researching programs to establish clear title and assist families faced with heirs property and is learning from those experiences. Comments and recommendations in response to this RFI from those with experience with these efforts outside the District of Columbia are particularly welcomed.

PROGRAM OBJECTIVES

- To assist low-income individuals or households in the District of Columbia to obtain clear legal title to real estate inherited either with or without a will from a member of their family.
- To develop a program infrastructure to document and learn about the scale and the scope of heirs property issues in the District of Columbia to be able to develop useful measures of program success and provide guidance on how to improve programs to better assist low-income households to obtain clear legal title to real estate the individual inherited either testate or intestate from a member of the individual’s family.

PROPOSED PROGRAM APPROACH

The approach to implementing the District of Columbia Heirs Property Assistance Program being proposed by DHCD is to solicit for one or more legal services or housing counseling organizations to implement the program on behalf of the Mayor. This is as opposed to utilizing a third-party grant-managing entity or directly providing grants to individuals as would also be allowed under the program statute.

To be eligible, individuals or households would need to have:

- 1) Incomes at or below 80% of the HUD Median Family Income (HAMFI)¹ and:
- 2) Have a potential legal claim to residential real estate in the District of Columbia that is already in probate or otherwise does not have a clear legal title as the result of the death of a former owner.

The individuals or households served would need to be current District of Columbia residents or make a formal commitment and plan submitted as part of the program to reside in residential real property that is part of the estate in the District of Columbia after probate is completed or to use the proceeds of the sale of the assets for the benefit of District of Columbia residents.

¹ This amounts to roughly \$113,850 for a family of four. See <https://dhcd.dc.gov/publication/2022-housing-production-trust-fund-annual-income-and-maximum-monthly-rent-limits>.

The District of Columbia foresees that the tasks and services provided by the entity or entities carrying out this program will include the following general requirements:

- 1) conduct public presentations on the probate process in Washington, DC to be provided to potential clients and populations of District residents that are likely to contain members in need of the program's services;
- 2) conduct public presentations on how District residents can maintain clear title to residential property;
- 3) develop and distribute marketing materials to increase public awareness of the probate process and the services offered by the program;
- 4) develop and distribute marketing and educational materials specific to potential clients dealing with heir's property as it relates to a condominium or cooperative unit or homeowner association;
- 5) provide program application assistance and intake to prospective beneficiaries; and
- 6) complete all required administrative reporting, recording keeping, and grant administration required by the District of Columbia.

In addition, the entity or entities carrying out this program will provide the following to applicants accepted to the program:

- 1) legal assistance completing standard probate forms including to become a Personal Representative for the decedent;
- 2) Legal assistance in administering the decedent's deed or share certificate;
- 3) legal assistance in submitting wills, required forms, reports and court filings;
- 4) technical assistance in determining what claims, bills, taxes and other expenses of administration need to be paid by the estate, including HOA, coop, and condo-assessment liability and compliance;
- 5) technical assistance in preparing required tax returns;
- 6) technical assistance on home repairs and home repair programs;
- 7) legal and technical assistance in distributing the estate to heirs or other beneficiaries;
- 8) legal and technical assistance in closing estates;
- 9) legal and technical assistance with determining expected post-inheritance tax liability and compliance; and
- 10) grants to pay filing fees and other associated court costs.

The entity or entities providing these services will have one or more physical locations in the District of Columbia that clients can visit to receive information and meet with representatives of the organization as well as the capacity to provide documents, meetings and public presentations virtually using common internet applications.

Given, that the standard probate process is three years, the program utilizing the currently available funding will be structured as a three-year grant with an optional fourth year if funds are not exhausted. Remaining funds, at the end of the fourth year will be returned to the District of Columbia.

The District of Columbia will ask the successful entity to show existing non-District of Columbia support or a strong capacity to raise support for these activities going forward.

QUESTIONS FOR RESPONDENTS

Comments and recommendations related to any of elements of the project objectives and project description proposed above are welcome. Specific areas of interest are below. Respondents to the questions below need not address all questions.

1. Client Eligibility Criteria

- a. Are the eligibility criteria for heirs applying to the program described appropriate and sufficient to run an effective program or should the District of Columbia consider additional criteria?
- b. Are the eligibility criteria described appropriate and sufficient to address a commitment towards advancing racial equity in the District?
- c. Should the program limit eligibility to applications that are likely to result in the applicants becoming owner-occupants of the residential property in the estate in the District of Columbia?
- d. Should the eligibility criteria change depending on whether a client is receiving specific services?
 - i. For example, should there be a distinction in income eligibility with a higher income threshold for technical assistance with probate questions and a lower income threshold for the provision of legal assistance and grants?
- e. Would the eligibility criteria described encourage or hinder applications involving condominium, cooperative, or HOA property and are there additional considerations for this population that should be reflected in the eligibility criteria?
- f. What documents should be included or referenced in an initial application to determine eligibility for the program?
- g. For housing related programs, the District typically defines “low-income” as a household earning 80% of HAMFI:
 - i. Is this too high or too low?
 - ii. How should income limits be applied in cases where there are multiple heirs in separate households?
- h. How should the program handle eligibility in cases where there are multiple heirs seeking the program’s assistance, but one or more does not elect or cannot elect to fulfill the District of Columbia residency requirements?
- i. Should the District consider the value of decedent’s estate in determining eligibility and if so, how?
- j. Should the program only assist those who can demonstrate that completing probate without assistance will cause significant financial stress?
 - i. And if so, what information should be required to establish this?

2. Service Provider Eligibility

- a. Should the District require a successful respondent to an eventual solicitation to provide evidence of non-District support for these services?
- b. Should the District only consider providers with a demonstrated commitment to advancing racial equity in the District, and if so, how should that be determined?
- c. Should the program only consider non-profit providers for eligibility?
- d. Should the District consider awarding funds to respondents that offer some but not all of the services expected to be provided by the program?
 - i. If the program is divided between independent entities that each administer distinct aspects of the program, how should these services be coordinated for the clients who need multiple services and what role if any would the District of Columbia government be expected to play to assure coordination?

3. Types of Assistance

- a. The statute states the program may pay “for legal services necessary to obtain clear legal title” therefore, with reference to the listing of proposed services and tasks in the previous section,
 - i. what additional activities or costs should the program consider assisting with to meet this objective?
 - ii. what, if any, court or other fees should the program be able to provide assistance in paying?
 - iii. are there any special services the program should provide when there is residential property within the estate within a condominium, cooperative, or homeowner association?
 - iv. Should family mediation be funded as a legal service?
 - v. are there any important activities or costs in the probate process that you believe cannot or should not be covered as “legal services” by this program?
- b. Are there special considerations in the services the program provides or how services are prioritized in the context of a condominium, cooperative, or homeowner association?
- c. Are there opportunities for the program to work with the *pro bono* bar in meeting its objectives?
 - i. If yes, please describe how the services of the pro bono bar might be utilized?
 - ii. If yes, please describe if you are aware of any similar programs that work with pro bono counsel on probate matters locally or nationwide?
 - iii. If no, please describe the limitations or considerations that might limit cooperation with the pro bono bar?
- d. Is there a role external to the direct service provision by the program for legal services or for-profit law firms to assist or complement the program and how might their services be utilized?
- e. How critical is it that service providers show legal expertise in condominiums, cooperatives, and homeowner associations to be a successful applicant for program funds?

4. Application Prioritization

- a. Should prioritization be given to those with decedent's whose property is within a condominium or cooperative unit or a part of a homeowner association?
- b. What other ways should the program consider prioritizing among otherwise eligible applicants should the need arise?

5. Funding

- a. Is it possible to fund a service provider implementing this program on a reimbursable basis for services provided, and if not, why not?
- b. Are there some other funding models the department could consider to implement this program?

6. Performance Metrics

- a. What should be the performance metrics for a provider for specific services provided?
- b. What should be the performance metrics for how well the program is being implemented as a whole?
- c. What types of performance metrics should be de-emphasized or not included in an evaluation of the program?
- d. What should the performance metrics be to evaluate its impact on the District community and historically disenfranchised communities within the District?

RESPONDENT INFORMATION REQUESTED

In addition to providing a written response to this RFI, all respondents should provide their name and contact information (email, phone, mailing address) and as appropriate, organization and title.

Respondents potentially interested in responding to a future solicitation should one become available should indicate this clearly and are welcome to include the following information about their potential to deliver the District of Columbia Heirs Property Assistance Program. This is not a prerequisite for responding for any future solicitation.

- **Team/Organization Contact:** company name(s), address(es), contact name(s), telephone and e-mail contact information
- **Potential Project Approach:** Describe how the team would approach the project and, if applicable, describe how and why the approach recommended differs from what is described above.
- **Project Cost:** Describe the likely types of costs associated with the approach the team is proposing and if possible, provide in dollars a specific estimate or range of estimates so that DHCD can understand the budget implications of decisions made in any future solicitation.
- **Team Capabilities:** Describe the history and structure of the organization(s), direct relevant experience on similar projects, key staff qualifications, and resources available to perform the work suggested in the project approach

- **Outside Roles:** Describe any important roles for the District Government and any other recommended project partners not part of the team or organization listed above that would be important to the success of your proposal.

KEY DATES

RFI Released	October 21, 2022
RFI Due	11:59 p.m. EST on October 30, 2022

HOW TO RESPOND

If, after reviewing the RFI, members of the public would like to provide information in response, they may submit them to DHCD via e-mail or by US Mail.

Information submitted by email should be addressed to dhcd@dc.gov.

Information submitted by US mail should be addressed to:

**DC Department of Housing and Community Development
Danilo Pelletiere, Preservation Officer
1800 Martin Luther King Jr., Avenue SE
Washington, DC 20020**

Information responding to the RFI must be submitted via e-mail or postmarked by 11:59pm Sunday, October 30, 2022 to be considered.