

Chapter 15

PROGRAM INTEGRITY

INTRODUCTION

The PHA is committed to ensuring that funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents PHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the PHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. PHAs are required to use the EIV system at annual reexamination in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and residents with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

PHA Policy

The PHA anticipates that the vast majority of families and PHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the PHA’s program is administered effectively and according to the highest ethical and legal standards, the PHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The PHA will provide each applicant and resident with a copy of “Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

The PHA will provide each applicant and resident with a copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, the PHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

The PHA will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The PHA will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

The PHA will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

PHA staff will be required to review and explain the contents of all HUD- and PHA-required forms prior to requesting family member signatures.

The PHA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key PHA forms and form letters that request information from a family member.

The PHA will provide each PHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

At every regular reexamination the PHA staff will explain any changes in HUD regulations or PHA policy that affect residents.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

PHA Policy

The PHA will employ a variety of methods to detect errors and program abuse, including:

The PHA routinely will use EIV and other non-HUD sources of up-front income verification. This includes the Work Number and any other private or public databases available to the PHA.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The PHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

Notice PIH 2015-16 requires all PHAs that expend \$750,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

PHA Policy

The PHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the PHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

PHA Policy

The PHA will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the PHA Will Investigate

PHA Policy

The PHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the PHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The PHA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require families to sign consent forms for the release of additional information.

Analysis and Findings

PHA Policy

The PHA will base its evaluation on a preponderance of the evidence collected during its investigation.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation the PHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the PHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

PHA Policy

In the case of family-caused errors or program abuse, the PHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

PHA Policy

The PHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the PHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER OR OVERPAYMENT

An under or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, the PHA must promptly correct the tenant rent and any utility reimbursement prospectively.

PHA Policy

Increases in the tenant rent will be implemented on the first of the month following a written 30-day notice.

Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse the PHA or the PHA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

PHA Policy

FRAUD AND PROGRAM VIOLATIONS

This policy shall apply to all housing programs administered by the Housing Authority, unless specifically noted.

It is the policy of the Housing Authority to identify and aggressively pursue applicant and resident program violations and fraud with the goal of minimizing program violations and eliminating fraud; and ensuring the correct amount of Assistance is provided to eligible families. HAC shall work cooperatively with other federal, state and local government agencies, in the pursuit of applicant, resident, and landlord fraud cases and continue to develop partnerships to improve communication of information among government agencies that provide benefits or services to HAC residents. Departments responsible for implementing this policy shall diligently investigate and resolve any program violations or fraud.

A. A program violation or fraud occurs whenever a resident or applicant receives a benefit for which he or she is not eligible, or when a resident or applicant receives a benefit more than the amount for which he or she is eligible. Fraud is the intentional deception resulting in injury to another including the false and material misrepresentation made by one who either knows it is falsity or is ignorant of truth, the maker's intent that that representation be relied on by the person and in a manner reasonably contemplated, the person's ignorance of the falsity of the representation, the person's rightful or justified reliance and proximate injury to the person.

B. Applicant and resident program violations and fraud take many forms including, but not limited to: under reported and unreported income and assets, false identities, and unauthorized boarders and lodgers. Applicant and resident program violations and fraud are discovered primarily through HUD's enterprise Income Verification system and other data matching reporting, the personal observations of HAC staff, reports received from residents and others, and through the annual and interim recertification process. HAC staff shall remain constantly aware of the possibility of program violations and fraud and shall be vigilant in observing circumstances that may indicate potential program violations or fraud. This includes, but is not limited to, residents and applicants with possessions or a lifestyle that cannot be supported on their reported income; residents who say they are unemployed who have

departure and arrival patterns consistent with employment; and the arrival and departure patterns of guests.

C. Grievances. If an adverse action is to be taken against a resident who has committed a program violation or fraud the resident may request a grievance hearing in accordance with HAC grievance policy. Any applicant denied admission as a result of a program violation or fraud may request a review in accordance with HAC admissions policy.

D. Penalties for Program Violations and Fraud. Any applicant who has committed a program violation or fraud shall be denied admission in accordance with HAC Admission and Occupancy policies. Any resident who has committed a program violation or fraud shall reimburse the Housing Authority for housing benefits for which they were not entitled or eligible for. Calculations of benefits for which the resident was not entitled or eligible for shall be from the point in time the program violation or fraud first occurred. HAC shall offer no waivers or reductions to the amount of reimbursement due the Housing Authority. HAC may terminate the residents housing assistance and bring legal action to recover any amount for which they were not entitled or eligible for. In addition, any resident found guilty of fraud may be prosecuted in municipal, state or federal court. The Housing Authority, at its discretion, may pursue all applicable remedies in cases of fraud, including, but not limited to, denial of application for housing assistance, cancellation from housing program wait lists, termination of housing assistance, eviction, civil proceedings to recover overpaid housing assistance and investigation and legal costs or referral to other government agencies for criminal prosecution. All fraud cases totaling more than \$2500, will result in lease termination and court proceedings for fraud.

E. Reimbursement. HAC may enter into a repayment agreement for the amount to be reimbursed for housing benefits for which the resident was not entitled or eligible for in accordance with HAC policy on repayment agreements.

PROCEDURES:

A. HAC Applicant Investigation.

1. If any program violation is suspected or discovered by Leasing staff, staff shall assess the information provided and investigate the allegations to the extent possible.
2. Following his or her initial investigation, staff shall refer their findings to the Leasing Manager.
3. The Leasing Manager shall assess the information provided to determine if there is sufficient evidence of a program violation by the applicant and the type of violation committed, if denial of their application is warranted in accordance with HAC Admission and Occupancy policies, or if further investigation is needed.
4. If the assigned staff is unable to conclude the investigation within the 45 days, the

case may be referred to the Legal or Fraud Investigator for further investigation.**B. HAC Resident Investigation**

1. If a program violation by a resident is discovered or suspected, the Property Manager, or specialist will assess the information, investigate through discussion with the resident, requesting 3rd party verification, credit report, tax return, etc. as necessary; and resolve to the extent possible.
2. If HAC finds, based on EIV, other data-matching programs, or other information gathered, that a resident has failed to disclose income or assets, or has misrepresented his or her income or assets and as a result has received benefits in excess of, or in violation of, program requirements, the finding shall be documented and reported to the Leasing Manager.
3. All documentation must be kept in the resident file.
4. Following his or her initial investigation, if a HAC staff member is not able to resolve the suspected program violation, they will discuss the case with his or her supervisor, either the Property Manager or Senior Housing Manager to determine next steps for the investigation or resolution.
5. The Leasing Manager or Senior Housing Manager will review the information gathered by the staff to determine:
 - * If there is sufficient evidence of a program violation;
 - * The type of violation;
 - * If the resident should continue to receive housing assistance;
 - * If a repayment agreement should be offered;
 - * If termination of housing assistance is warranted.
6. If further investigation is needed, the Leasing Manager may enlist the Covington Police Department for help with the investigation.
7. Any investigation that is not resolved will be discussed with the Deputy Director of HAC.
8. The Deputy Director of HAC shall determine next steps for the investigation or resolution. Legal can be consulted at any time for guidance.
9. If it is determined that no violation can be substantiated, staff shall document the file accordingly and close the investigation.
11. If a significant amount of money is involved and there is strong evidence of fraud, the Leasing Manager will then submit to Legal or the OIG for review.

B.

Calculating Reimbursement

1. Residents must reimburse HAC for housing benefits they were not entitled or eligible for.
2. If it is determined that the submission of information was a program violation, staff shall re-calculate the resident's rent and determine the amount of back rent due and provide the resident notice of the change in rent and amount of back rent due.**C.**

Reimbursement for Overpayment of Assistance

1. Once the reimbursement is determined and confirmed by the Leasing Manager or

designee, staff shall charge the full amount due to the residents account.

2. As an alternative, the Senior Housing Manager or designee may offer a repayment agreement in accordance with HAC policy.

3. Legal must be consulted if termination is recommended by the Senior Housing Manager

D. Repayment Agreements

1. The Property Manager or designee prepares the repayment agreement, in accordance with the Repayment Agreement policy.

2. A record of all repayment agreements and of the amounts recovered shall be kept through the tenant accounting. HUD regulations (24 CFR792.204) require housing authorities to retain records of all repayment agreements and of the amounts recovered pursuant to each repayment agreement.

3. For a resident who defaults on their repayment agreement, the full balance becomes due. Staff will cancel the payment agreement and enter a charge to the residents account for the remaining balance due. Staff shall issue a 14 day Notice for the full balance due.

E. HUD's EIV Debt Owing Module

1. When the resident vacates, all debt owing shall be entered into HUD's EIV Debt Owing module the Housing Specialist.

2. Staff must mark the appropriate termination status when closing out the account.

Family Reimbursement to PHA

PHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The PHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, the PHA will terminate the family's lease in accordance with the policies in Chapter 13.

PHA Reimbursement to Family

PHA Policy

The PHA will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the PHA [24 CFR 960.259(a)(4)].
- Commit fraud or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

PHA Policy

Any of the following will be considered evidence of family program abuse:

Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives

Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the PHA on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

The PHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to PHA).
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- The PHA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

PHA Policy

If the PHA makes a mistake in calculating a resident's rent contribution and overcharges the resident, the resident shall receive a refund for the amount of the mistake going back a maximum of 18 months. The refund shall be given to the resident as soon as practical or credited to the resident's account, whichever the resident desires unless the resident owes the PHA money, in which case the debt shall be offset to the degree possible before the resident chooses between the two refund methods.

The following policy is effective upon the PHA's HOTMA 102/104 compliance date:

De Minimis Errors [24 CFR 5.609(c)(4); Notice PIH 2023-27]

The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

PHA Policy

The PHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

Prohibited Activities

PHA Policy

Any of the following will be considered evidence of program abuse by PHA staff:

Failing to comply with any public housing program requirements for personal gain

Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident

Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to the PHA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of PHA activities, policies, or practices

Misappropriating or misusing public housing funds

Destroying, concealing, removing, or inappropriately using any records related to the public housing program

Committing any other corrupt or criminal act in connection with any federal housing program

Committing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo or hostile environment

Allowing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo or hostile environment, where the PHA knew or should have known such harassment was occurring

Retaliating against any applicant, resident, or staff reporting sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo or hostile environment

15-II.D. CRIMINAL PROSECUTION

PHA Policy

When the PHA determines that program abuse by a family or PHA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the PHA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

PHAs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that the PHA recovers [Notice PIH 2007-27 (HA)].

If the PHA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through the PHA's grievance process.