

Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

The Omaha Housing Authority is intent on maintaining its credibility with applicants and participant families, owners, HUD, and the larger community by enforcing program requirements. When families, owners, or OHA employees fail to adhere to or violate program requirements, the OHA will take appropriate action. The action that is appropriate depends on the particular case of circumstances. OHA will address program errors, omissions, fraud, or abuse through prevention, detection and collections.

The Omaha Housing Authority is committed to ensuring that subsidy funds made available to the OHA are spent in accordance with applicable OHA, state, HUD and other federal requirements.

This chapter covers HUD and OHA policies and procedures 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.

Preventive measures will be the primary focus to deter widespread program irregularities. It is important to know and understand the differences between program errors and omissions and fraud and abuse and various ways OHA can prevent and detect errors and abuses, and employ corrective action methods.

Part I: Preventing and Detecting Program Abuse.

Part II: Handling and Investigating Claims of Program Abuse

Part III: Corrective Measures and Penalties

Part IV: Family Caused Errors or Program Abuse

Part V: Owner Caused Error or Program Abuse

Part VI: PHA-Caused Errors or Program Abuse

Part VII: Distinguishing Between Errors or Omissions and Fraud and Abuse

Part VIII: Recovery of Program Funds

Part IX: Program Integrity Addendum

PART I: PREVENTING, DETECTING, AND INVESTIGATING 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 in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and participants 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.

OHA Policy:

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

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

14 I-A. Preventing Errors and Program Abuse

At a minimum, OHA will employ the following techniques or approaches to preventing program errors, omissions, fraud and abuse.

- The OHA will discuss program compliance, fraud and integrity issues during the voucher briefing sessions described in Chapter 5.
- The OHA will provide each applicant and participant *a copy of “Is Fraud Worth it? (form HUD 1141-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.
- The PHA will provide each applicant and participant 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 2010-19. 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 OHA will place a warning statement about the penalties for fraud (as described in, 18 U.S.C. 1001 and 1010) on key OHA forms and form letters that request information from a family or owner.
- OHA staff will be required to review and explain the contents of all HUD- and OHA-required forms prior to requesting family member signatures.
- The OHA will provide each OHA employee with the necessary training on program rules and the organization’s standards of conduct and ethics.

- Applicants and participants will sign a certificate of orientation acknowledging having received a briefing on “Family Obligations” and “Things You Should Know”.
- The Program Integrity Manager or his/her representative will brief landlords on trends and updates relating to program integrity during the landlord meetings held by OHA.
- The Program Integrity Department shall establish and keep current, policies and procedures as a means for deterrence and detection of fraud and abuse by families, landlords and employees.
- OHA will independently verify all factors affecting a family’s eligibility and payment including the use of, but not limited to Enterprise Income Verification (EIV) (See Chapter 7)

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.

14 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

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

In addition to the SEMAP quality control requirements, the OHA will employ a variety of methods to detect errors and program abuse.

- The OHA routinely will use available sources of Enterprise Income Verification, including HUD’s (EIV) system to compare with family-provided information.
- 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 OHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend \$500,000 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.

The OHA 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 OHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

The OHA will encourage staff, program participants, and the public to report possible program abuse.

The Office of the Fraud Specialist will accommodate fraud and abuse referrals, complaints or tips by mail, telephone or in person.

PART II. HANDLING AND INVESTIGATING CLAIMS OF PROGRAM ABUSE

All cases referred to the Program Integrity Department will be governed in accordance with the provisions in this policy. Cases submitted to the PID will receive due process prior to any consideration of termination of families Section 8 assistance.

The OHA will encourage staff, program participants, and the public to report possible program abuse. The office of Program Integrity will accommodate fraud and abuse referrals, complaints or tips by mail, telephone or in person. Claims may be called into the Program Integrity Department at (402) 444-6900.

14 II-A. When the OHA Will Investigate

The PID will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. All allegations, complaints and tips will be carefully evaluated to determine whether they warrant follow-up. Only allegations that contain one or more independently verifiable facts will be investigated.

The PID will not follow up on allegations that are vague or otherwise nonspecific. Cases may be referred to the appropriate housing specialist for follow-up and follow through. The PID shall investigate allegations of fraud when there is a monetary or property loss, or risk of loss, of any amount to the Omaha Housing Authority.

The PHA may confront the family, owner or employee with any information it has and discuss the facts. It may also interview and obtain any additional information from other parties involved. Other parties may include PHA staff, representatives from another local agency (police, welfare agency), and other third parties, such as the person reporting the abuse, landlord, tenant, or employer. If the investigation leads to a formal, informal or judicial hearing, a representative fully knowledgeable of the case in question must be present from the PID.

A summary of OHA's actions will contain a minimum of the following:

- Name and address of the subject(s)
- Synopsis of the alleged abuse or fraudulent activity which specifies the sources;
- Name and address of known witnesses or persons having knowledge of the allegations;
- Known or suspected period during which the alleged offense occurred;
- Known or suspected monetary loss;
- Determination, based on the evidence, as to whether the subject is abusing or has abused the program and is receiving or received a benefit to which he or she is not entitled;
- Corrective action to be taken to remedy the situation.

If OHA has reason to believe (preponderance of evidence) that the participant's or owner's abuse of the program was willful or intentional; the OHA may refer the cases to the appropriate HUD Special Agent In Charge (SAC) for investigation and possible criminal prosecution. The PHA may also pursue remedies under state or local law, with an information copy to the appropriate Regional Inspector General for Investigations. Cases sent to RIGI for investigation should contain, at a minimum, the following information:

- Name and address of subject(s);
- Synopsis of alleged abuse, violation, intentional misrepresentation, or fraudulent activity, including the source of the information;
- Identity and address of known witnesses or persons having knowledge of the allegation(s);
- Known or suspected period during which alleged offense(s) occurred;
- Known or suspected monetary loss;
- Findings of the OHA or any corrective or administrative actions or sanctions taken by the OHA; and
- Indication of whether the matter has been referred to or considered by local prosecution or law enforcement agencies.

If the Justice Department or appropriate local or state agency declines prosecution, the OHA may pursue remedies through civil court. The OHA must obtain HUD approval before initiating litigation in which it is requesting HUD assistance or participation.

14 II-B. Tenant Conference for Serious Violations and Misrepresentations

At the discretion of the PID, a tenant conference may be scheduled when it has been determined that material misrepresentation(s) may have occurred. A representative from PID and any OHA staff who may be knowledgeable about the circumstances of the case should be present.

This conference will take place prior to any proposed action by the OHA. The purpose of such conference is to review the information and evidence obtained by the OHA with the tenant, and to provide the tenant an opportunity to explain any document findings which conflict with representations in the tenant file. Any documents or mitigating circumstances presented by the tenant will be taken into consideration by the OHA. The tenant will be given **5** days to furnish any mitigating or refutable evidence.

A secondary purpose of the Tenant Conference is to assist the OHA in determining the course of action most appropriate for the case. Prior to the final determination of the proposed action, the PHA will consider:

The duration of the violation.

The tenant's ability to understand the rules.

The tenant's willingness to cooperate, and to accept responsibility for his/her actions

The amount of money involved.

The tenant's past history

Whether or not criminal intent has been established.

The number of false statements.

Dispositions of Cases Involving Misrepresentations

In all cases of misrepresentations involving efforts to recover monies owed, the OHA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

Criminal Prosecution: If the OHA has established criminal intent, and the case meets the criteria for prosecution, the OHA may:

Refer the case to the local State or District Attorney, notify HUD's RIGI, and terminate rental assistance.

Refer the case to HUD's RIGI, and terminate rental assistance.

Administrative Remedies: The PHA may:

Recommend termination of assistance and demand payment of restitution in full.

Recommend termination of assistance and pursue restitution through civil litigation.

Recommend continued assistance and execute an administrative repayment agreement in accordance with the OHA's repayment policy.

Notification to Tenant of Proposed Action

The OHA will notify the tenant of the proposed action no later than **ten** days after the tenant conference by mail.

14 II-C. Consent to Release of Information

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

Analysis and Findings

The OHA 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 OHA will at a minimum, determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the OHA, and (3) what corrective measures or penalties will be assessed.

Part III: CORRECTIVE MEASURES AND PENALTIES:

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.

14 III-A. Consideration of Remedies

OHA will make a prudent effort to obtain full repayment of excess rental assistance through repayment agreements, civil judgments and garnishments. The Program Integrity Department of OHA will initiate administrative or legal actions to resolve income discrepancies and recapture any excess rental assistance assisted families may have received. Families will be required to pay back rent portions that the OHA overpaid to landlords on their behalf.

OHA has the discretion to consider all of the circumstances in each case when determining whether or not to deny or terminate assistance because of action or failure to act by members of the family. Before taking action against a family for any perceived abuse related to the amount of assistance paid, the OHA will carefully review documentation and calculations in the file and ensure there are no file errors that may later complicate the OHA's charge of abuse.

14 III-B. Documenting and Collecting Overpayments and Underpayments

Money owed to the PHA by the family because of overpayments on its behalf may be collected by requiring a lump-sum payment of the entire amount or by entering into a repayment agreement. The agreement specifies how the amount owed is to be repaid, including the specific time period(s) when payment is due. The PHA, at its discretion, may offer a family the opportunity to enter into a repayment agreement to pay amounts owed to the PHA, and may prescribe the terms of the agreement. Although the PHA always has the option of requiring payment of the entire amount due, if the PHA offers a repayment agreement, the terms may not require prohibitive payments that would force the family to leave the program. The PHA must maintain full and complete documentation of all debt. OHAs approach for determining and documenting overpayments and underpayments follows:

- Record the data used and steps taken to calculate the incorrect payment;
- Record the real data that should have been used and recalculate the payment;
- Conduct third party verification of new data;
- Compare the recalculated/correct payment to the actual benefits paid;
- Record action taken

14 III-C. Repayment Procedures [24 CFR 982.552 (c) (1) (vii)] [24 CFR 982.163] [24 CFR 982.552] [CFR 982.551] [24 CFR 982.555] (a)(i)] [24 CFR 982.555 (c) (1)] [25 CFR 982.555 (e)(2)(i)]

Before a debt is assessed against a family the file must contain documentation to support the OHA's claim that the debt is owed. The file must contain written documentation of the calculation method in a clear format for review by the family or other interested parties. The family must be given the opportunity for a hearing to contest the debt. Tenants having debts less than \$5,000 may be allowed to keep their assistance and be required to pay back all their debt to OHA. If the amount is more than \$5,000, the debt will be calculated and the tenant will be terminated and offered a hearing. The calculations will be forwarded to the Program Integrity Department for data entry and historical monitoring.

If the OHA paid too much subsidy on the family's behalf because of discrepancies in information furnished or not furnished by the family and if the OHA has sufficient evidence that the family intentionally misrepresented its circumstances, or violated reporting criteria, the OHA will pursue debt collection and may terminate assistance. If the family executes but then breaches an agreement with the OHA to pay amounts owed, the PHA will terminate assistance for the family.

Circumstances in which OHA may not enter into a repayment agreement with a family are, but not limited to:

1. OHA determines that the tenant committed fraud.
2. OHA determines the nature of the fraud warrants criminal prosecution
3. If the fraudulent amount meets or exceeds five thousand dollars (\$5,000.)
4. OHA considers the amount so large that the family cannot repay the amount within a reasonable amount of time.
5. The family refuses to enter into a repayment agreement.
6. The family has no earned or unearned income. (If the tenant has no source of income and cannot enter into an agreement, the tenant's assistance must be terminated)
7. The family has a current repayment agreement.
8. The family has settled a repayment agreement within the last 12 months.

If a tenant is unable to enter into a repayment agreement the tenant will be terminated in accordance with 24 CFR 982.552 (c), (1), (v).

Circumstances in which OHA may enter into a repayment agreement with a family are, but not limited to:

1. Violation of the ten day income reporting period
2. Debt incurred as a result of owing money to any Public Housing Authority

14 III-D. Terms of the Repayment Agreement 24CFR982.163]

Cases referred to the PID regardless of monetary amount will be governed by the procedures outlined in this section. The repayment agreement will not exceed 36 months unless approved by the Program Integrity Manager. Only head of households will be allowed to enter into a repayment agreement. The repayment agreement starts the day of the scheduled appointment.

The appointment will only be rescheduled upon written or telephonic request by the participant. If the PID agrees to reschedule the appointment upon request by the participant, the agreement will start on the new appointment date.

The Family will have five working days (from the date of the appointment) for his/her legal counsel review the repayment agreement prior to signing. This period may be extended three additional days upon written request by the participant. The initial payment date will not change. If the repayment agreement is not returned within five working days and no extension has been granted, the participant will be processed for termination.

The initial payment of ten percent (10%) but not less than fifty dollars (\$50.00), of the total debt will be due 30 calendar days from the date of the participants scheduled appointment. Monthly installments will be made the first of the month after the subsequent month of the initial payment. Minimum payments will not be less than fifty dollars (\$50.00) unless approved by the Program Integrity Manager. Tenants must have earned or unearned income in order to enter into a repayment agreement. Payments under the repayment agreement are to be paid in addition to tenant monthly rent portion.

OHA reserves the right to pursue civil litigation on all repayment agreements deemed in default. Once the decision is made to litigate, the participant will be notified of OHA's proposed action to litigate by the Office of Program Integrity. The Section 8 department will be notified to start the termination process.

The monthly durations may be adjusted according to the participant's financial situation at the discretion of the Program Integrity Manager. The minimum amount of a repayment agreement will be two hundred dollars (\$200.00)

Amounts between \$200.00 and \$499 require payment within 10 months.

Amounts between \$500 and \$999 require a minimum 10% deposit and repaid within 20 months.

Amounts between \$1,000 and \$1,499 require a minimum 10% deposit and repaid within 30 months.

Amounts between \$1,500 and 2,499 require a minimum 10% deposit and repaid within 36 months.

Amounts between \$2,500 and 4,999 require a minimum 10% deposit and repaid within 36 months

NOTE! 37 months or more requires approval by the Program Integrity Manager If a tenant is unable to enter into a repayment agreement the tenant will be terminated in accordance with 24 CFR 982.552 (c), (1), (v).

14 III-E. Default of Repayment Agreement

In the event of a default of the repayment agreement, the remaining balance at the time of the default will become due and payable immediately. If the resident is still living in subsidized housing, the PID will send a notice to the resident of OHA's proposed action to terminate assistance and collect the debt through civil litigation. A copy of the notice will be forwarded to the Housing Specialist to process the resident for termination for violating 24 CFR 982.551 (b)(4), 24 CFR 982.551 (k), 24 CFR 982.552 (c)(i)(iv) (v).

If the resident vacates the property without completing the repayment agreement, the resident's account will be charged the full remaining balance and be added to an 0-ineligible account. The OHA will pursue civil means for restitution.

14 III-F. Late Payments

In the event a tenant should miss his/her payment when due, a "1st notice" will be sent to the tenant demanding payment by a specific date. The notice will at minimum explain the actions OHA will take if the payment is not made. If the tenant calls, for and is granted an extension, the extension will not exceed the current month unless otherwise approved by the Program Integrity Manager.

PART IV: Family Caused Errors or Program Abuse

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with error and program abuse by family members.

An incorrect subsidy 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 OHA to use incorrect information provided by a third party.

14 IV-A: Family Reimbursement to OHA

In the case of family-caused errors or program abuse, the family will be required to repay and excess subsidy received within 30 days or within 30 days enter into a repayment agreement. The OHA may, but is not required to, offer the family a repayment agreement in accordance with this chapter. If the family fails to, or is unable to repay the excess subsidy, the OHA will terminate the family's assistance.

14 IV-B: OHA Reimbursement to Family

The OHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

14 IV-C. Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the OHA either written or oral. [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

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

- Payment to the owner in excess of amounts authorized by the OHA for rent, security deposit, and additional services
- Offering bribes or illegal gratuities to the OHA Board of Commissioners, employees, contractors, or other OHA representatives
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the OHA 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. income, 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 OHA may determine other actions to be program abuse based upon a preponderance of the evidence.

14 IV-D. Penalties for Program Abuse

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

- Require the family to repay excess subsidy amounts paid by the OHA.
- 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 12 (for participants).
- Deny or terminate the family's assistance following the policies set forth in this chapter, Chapter 3 and Chapter 12 respectively.
- Refer the family for state or federal criminal prosecution

PART V: OWNER-CAUSED ERROR OR PROGRAM ABUSE

14 V-A. Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

14 V-B. Un-exhaustive list of Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the OHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

Any of the following will be considered evidence of owner or principle or interested party program abuse:

- Charging the family rent above or below the amount specified by the OHA.
- Charging a security deposit other than that specified in the family's lease.
- Charging the family for services that are provided to unassisted tenants at no extra charge.
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit..
- Knowingly accepting incorrect or excess housing assistance payments
- Offering bribes or illegal gratuities to the OHA Board of Commissioners, employees, contractors, or other OHA representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the OHA
- Residing in the unit with an assisted family for any length of time
- Knowingly allowing tenants to sublet or house unauthorized tenants in their rental units.
- Exceed rents charged by the owner for rental of comparable unassisted units in the premises.
- Knowingly renting to his/her parent, child, grandparent, grandchild, sister, or brother or any member of his/her family, without official OHA approval. (Official approval means a written request by the owner and a written response by an authorized OHA official)
- Any other violation of the Housing Assistance Payments (HAP) contract

14 V-C. OHA Access to Premises and Owner's Records

The PHA may investigate possible instances of error or abuse using all available OHA and public records. If necessary, the OHA will require owners to:

Provide any information pertinent to the HAP contract that the OHA may reasonably require during the course of an investigation.

Provide full and free access to the contract unit and the premises, and to all accounts and other records of the owner that are relevant to the HAP contract, including the right to examine or audit the records and to make copies.

Grant access to computerized or other electronic records, and to any computers, equipment or facilities containing such records, and must provide any information or assistance needed to access the records.

14 V-D. Owner Debts and Reimbursement to the OHA

Owners, landlords, or other interested parties owing debts to the Omaha Housing Authority will be required to pay within 10 working days upon notification of the debt.

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the OHA any excess subsidy received. The OHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the OHA may allow the owner to pay in installments over a period of time through an administrative repayment agreement [HCV GB p. 22-13]. OHA reserves the right to pursue civil litigation on all repayment agreements deemed in default. Once the decision is made to litigate, the participant will be notified of OHA's proposed action to litigate by the Office of Program Integrity

14 V-E. Remedies and Penalties

Remedies for Fraud

If it is determined that an owner, landlord, or other interested party has committed fraud or any breach of the HAP contract, OHA may exercise any of its rights and remedies under the HAP contract Part B § 10. If it is determined that an owner, landlord, or other interested party has committed fraud, the property or premises where the fraud was committed will be suspended from participating in the housing choice voucher program for a minimum of three years. If the fraud or program abuse involves a monetary penalty, the suspension will commence one day after full payment of what ever debt is owed as a result of the fraud. If the debt is not satisfied, within three years of notification, the suspension will become permanent and removed only on the authority of the Executive Director. If the Landlord/Owner has other property the OHA may, at its discretion, suspend/hold housing assistance payments on the remaining contracts or properties. Even if the family continues to live in the contract unit, the PHA may exercise any rights and remedies for owner breach of the HAP contract. OHA reserves the right to refer any case at any time to the Office of Inspector general for investigation and prosecution.

When the PHA determines that the owner has committed fraud or program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any PHA programs.
- Refer the case to Regional Inspector General for Investigations (RIGI) for criminal prosecution.
- Refer the case to the appropriate HUD Special Agent In Charge (SAC) for investigation and possible criminal prosecution.
- Pursue remedies under state or local law.

Remedies for Noncompliance

Owners, landlords, or other interested parties who are determined to be noncompliant with their housing assistance payment contracts by reason of anything other than fraud will be subject to the following:

- Rectification of noncompliant action or inaction within a specified time or lose the right to remain a participant.
- Be subject to suspension if noncompliant action or inaction is not corrected within a specific time determined by OHA
- Comply fully with stated policy request as delineated in a notice mailed by OHA.
- All remedies afforded by the housing assistance payment contract. (HAP)

If the owner commits a violation affecting the tenant whereby the tenant suffers a monetary loss; OHA will require the owner to immediately cease the action and reimburse the family through the OHA of the full amount illegally collected. Moreover the OHA will cancel the unit (i.e.) apartment complex, building, or house where the violation occurred for a period not less than three years. OHA shall also collect any money paid to the landlord from the point of the violation forward.

The OHA may, at its discretion, terminate the affected HAP contract immediately, even if the owner has repaid amounts due the family; but it must cancel the HAP contract if the owner fails to repay the family.

If the OHA determines that the owner, landlord or other interested party has committed a breach OHA will at a minimum do the following:

- Notify the owner of such determination, including a brief statement of the reasons for the determination.

- Require the owner to take corrective action, by a deadline prescribed time.
- Notify the owner of the repercussions for not complying with the notice.
- Obtain additional relief by judicial order or action, including specific performance, other injunctive relief or order for damages of the owner does not comply.

PART VI: PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of OHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of an OHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the OHA personnel policy.

OHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

14 VI-A. Repayment to the OHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by PHA staff [HCV GB. 22-12].

14 VI-B. OHA Reimbursement to Family

The PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or staff program abuse. Funds for this reimbursement must come from the PHA's administrative fee reserves [HCV GB p. 22-12].

14 VI-C. Un-exhaustive List of Prohibited Activities

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

- Failing to comply with any HCV program requirements for personal gain
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, 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 OHA activities, policies, or practices
- Misappropriating or misusing HCV funds

- Destroying, concealing, removing, or inappropriately using any records related to the HCV program
- Committing any other corrupt or criminal act in connection with any federal housing program
- Misappropriating or misusing OHA equipment, material and assets.

14 VI-D. Criminal Prosecution

When the OHA determines that program abuse by an owner, family, or OHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the OHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance 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 HCV program will be referred to the appropriate local, state, or federal entity.

PART VII: DISTINGUISHING BETWEEN ERRORS OR OMISSIONS AND FRAUD AND ABUSE

14 VII-A. Errors or Omissions

The terms “error” and “omission” is used to identify situations in which a family or owner does not comply with program requirements or staff members incorrectly apply program rules. An error or omission may be intentional or unintentional. Some will affect family payment and subsidy amounts; others will not. The unique circumstances of each case will determine how to best handle the situation.

Errors or omissions that affect the family’s payment, subsidy amount or the regular flow of housing assistance payments may receive a high priority.

14 VII-B. Fraud and Abuse

“Fraud” and “abuse” mean a single act or pattern of actions made with the intent to deceive or mislead, constituting a false statement, omission, or concealment of a substantive fact. Fraud and abuse result in the payment of housing choice voucher program funds or administering public housing assistance in violation of program requirements.

In cases of intentional misreporting, OHA will evaluate the special circumstances and seriousness of the case to determine whether it is a case of fraud. Cases of intentional misreporting, abuse, fraud or noncompliance will be governed by the policies and procedures in this chapter.

Examples of Errors & Omissions Vs Fraud & Abuse

| ERRORS/OMISSIONS | | FRAUD/ABUSE |
|---|----------------------|---|
| <p>Failure to report required information due to lack of understanding, such as omitting a particular asset or failing to report a source of income.</p> <p>Incorrect reporting, such as reporting the income source but incorrectly stating the amount of income.</p> <p>Failure to report changes as required, such as failure to notify the PHA of a change in family composition or income.</p> | By The Family | <p>Intentionally misrepresenting income, assets, and allowances.</p> <p>Intentionally misrepresenting family composition.</p> <p>Initiating and participating in bribes or other illegal activities.</p> |
| | | |
| <p>Collecting housing assistance payments for an unoccupied unit, when the owner is not aware that the assisted family has vacated.</p> <p>Errors in specifying responsibilities for utility payments.</p> | By The Owner | <p>Collecting extra or “side” payments in excess of the family share of rent or requiring the family to perform extraordinary services in lieu of payments.</p> <p>Charging families for utilities that are the owner’s responsibility.</p> <p>Collecting housing assistance payments for units not occupied by program participants.</p> <p>Bribing PHA employees to certify a substandard unit as passing HQS.</p> <p>Other HQS violations involving misrepresentation and deceit.</p> <p>Any violation of the Housing Assistance Payments Contract.</p> |
| | | |
| <p>Unintentionally miscalculating subsidy/rent.</p> <p>Unintentionally determining eligible families as ineligible and vice versa.</p> <p>Unintentionally approving rents that are not reasonable.</p> <p>Misinterpreting documentation or information provided by a third party.</p> <p>Forgetting to inform the participant of a reporting requirement or to collect all required information during an interview.</p> <p>Unknowingly failing to apply program rules and procedures properly.</p> <p>Late processing.</p> | By The PHA | <p>Willful passing of units not meeting HQS and/or local standards.</p> <p>Accepting kickbacks from owners, managers, or families to permit participation or to allow rents in excess of the rent reasonableness limitation.</p> <p>Intentionally calculating total tenant payment or housing assistance payments incorrectly.</p> <p>Intentionally making incorrect determinations of family eligibility, including certifying as eligible otherwise ineligible applicants, coaching applicants to falsify documents, or changing an applicant’s position on the waiting list.</p> |
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PART VIII: RECOVERY OF PROGRAM FUNDS

The OHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

**PART IX: THE OMAHA HOUSING AUTHORITY PROGRAM INTEGRITY
ADDENDUM**

A. APPLICABLE

This policy applies to all recoveries including those resulting from litigation brought by the OHA (including settlement of the lawsuit), or a court-ordered restitution pursuant to a civil proceeding and to all tenants, employees or vendor recoveries obtained through administrative repayment agreements.

B. INTAKE PROCEDURES FOR TENANT DEBT COLLECTION

1. Housing Specialist will mail a notice to inform the tenant of the debt amount, reason for the debt and his/her right to an informal hearing. Simultaneously, the housing Specialist will forward the notice and all pertinent documents to the PID
2. The PID will schedule an appointment with the tenant within three (3) calendar days after the expiration date of the informal hearing.
3. Tenants not requesting a hearing must sign a waiver if they wish to enter into a repayment agreement within the period of time given to request a hearing.
4. If the tenant requests a hearing, the PID will suspend the repayment process pending the results of the Hearing Officer.
5. Once it is determined that a violation or misrepresentation has occurred, the PID will schedule an appointment with the participant. The notice for the appointment will list at a minimum the reason, date, time and place for the appointment. The participant is responsible for rescheduling the appointment if s/he cannot attend. If the participant misses the appointment, OHA will assume the participant is unwilling to resolve the discrepancy. The family's file will be sent to the section 8 department for termination and the PID will pursue debt collection through litigation.
6. Tenants entering into a repayment agreement will be given a maximum of 30 days from the appointment date to pay the initial installment. The repayment agreement will be tracked by the PID from the initial to final installment. Copies of the repayment agreement will go to the tenant; accounting department and the tenant file (section 8). The original will be kept at the office of PID.
7. In the event of a default in the repayment agreement, a letter of propose action will be mailed to the tenant and forwarded to the housing specialist to begin the termination process.

C. CASE FILE Case file will contain the following documents when applicable:

1. Notice sent to the tenant addressing the debt and opportunity for a hearing.
2. Hearing results (if applicable)
3. Recalculation worksheet
4. Nan McKay worksheet
5. Third party income verification on all wages or income figured into the recalculation worksheet.
6. Enterprise Income Verification or Employment income verification (EIV)
7. Applicant/Tenant Certification, Applicant (s)/ Tenant Statement.
8. Things you should know form and certificate/orientation.
9. Affidavit of non-income
10. All application forms during the time in question.
11. All leases signed during the time in question (Public Housing only)
12. All Statement of Family Obligations signed during the time in question.
13. Any other evidence that may be relevant to the case.

D. APPOINTMENTS

Tenants being processed for retro rent recovery must be offered an informal hearing prior to receiving an appointment from the Program Integrity Department. Tenants have the option to waive their right to a hearing by signing a notarized "Waiver of Informal Hearing" form.

Appointments for retro rent recovery will not be scheduled until after the date which the hearing period expires. If the tenant misses the appointment without informing the office of Program Integrity, the tenant will be rescheduled seven days later. However, the thirty day period for the initial installment will start from the date of the first scheduled appointment.

If the tenant calls and reschedules the appointment, the thirty day initial installment will begin and the date of the second scheduled appointment date.

If the tenant misses the second appointment without notice, he/she will be recommended for termination.

E. EXTENSIONS

Any payment received after the first of each month is considered an extension. Extensions may be granted for tenants who call and request one prior to the due date. The extensions will not exceed the current month when the payment is due unless authorized by the Program Integrity Manager or his/her delegated authority.

F. REDUCTION IN PAYMENTS

Reduction in monthly payments may be authorized by the Program Integrity Manager. This reduction may only occur if the client has paid his/her initial deposit and at least two monthly payments in succession. Clients who are housing authority tenants can only apply for reductions once they have met the above criteria and have applied for, or are involved in, at least two self sufficiency programs. Self sufficiency programs include but are not limited to:

- a. Family Self Sufficiency (FSS)
- b. Home Ownership Program
- c. Resident Employment Program
- d. Individual Development Plan (IDP)

A reduction in monthly payment addendum will be constructed and the client must sign. The reduce payment will start the month directly after the month the addendum is signed.

G. TERMINATION AND EVICTIONS

Once a tenant has received a letter indicating that s/he is being terminated, the resident will still be obligated to pay the balance of any debt to OHA. The former participant may have his payments reduced provided s/he is current on payments.

H. ZERO INCOME FAMILIES

As a rule zero income families will not be allowed to enter into repayment agreements. However, if the zero renters have a verifiable consistent source of income he or she may be allowed to enter into a repayment. The income source "must" be reported to OHA and the person or representative of the source must accompany the zero renters during the repayment agreement appointment. The person or source representative must sign the agreement as a co-signer assuming responsibility for the debt should the tenant default.

I. HARDSHIP EXTENSIONS

Participants under a repayment agreement who experience financial hardships during the course of their agreement may have the payments suspended for a period not to exceed ninety (90) days; or upon receiving earned or unearned income, which ever comes first. Hardships must be verified through third party means when ever possible. A hardship will only be granted if a tenant loses all of his/her income. Hardship extensions will only be approved by the Program Integrity Manager. Losses of income due to sanctions, from any social service agency will not be allowed in determining a hardship. In the event that

the ninety day period expires and the tenant has not secured a source of income, the tenant will be processed for termination.

J. TENANTS WITH PAYEES.

Tenants with payees must attend all repayment agreement appointments with their payee. Payees must sign the repayment agreement along with the tenants. The payee, with approval from the tenant can assist in the repayment agreement negotiations.

K. SUSPENSION OF PRIVILEGES

Tenants pending repayment agreements or hearings will not be allowed to port or be issued a moving packet until resolution of their case. Resolution means; but not limited to, entering into an administrative repayment agreement or termination of assistance. Tenants owing a debt to a PHA cannot port until the debt is paid in full. Tenants under a repayment agreement may be allowed to transfer provided they are current and in good standing with their repayment agreement.

L. DEFINITIONS [24 CFR 792.103]

The following definitions apply for the purposes of this policy:

Fraud. Fraud is defined as an intentional single act or pattern of actions made with the intent to deceive or mislead, constituting a false statement, omission, or failure to disclose information which the person is required to disclose, or concealment of a substantive fact which when acted upon causes the entity acting on the misrepresentation to suffer a risk of loss.

Judgment. Judgment means a provision for recovery of Public Housing or public housing program funds obtained through fraud and abuse, by order of a court in litigation or by a settlement of a claim in litigation, whether or not stated in a court order.

Litigation. A lawsuit brought by a PHA to recover Public Housing or public housing program funds obtained as a result of fraud and abuse.

Repayment agreement. Repayment agreement means a formal document signed by a tenant or owner and provided to the OHA in which a tenant or owner acknowledges a debt, in a specific amount, and agrees to repay the amount due at specific time period(s).

Civil Lease Violation. Civil lease violation includes but is not limited to the following:

- Failing to submit verification requested by the Housing Authority
- Failing to appear for a scheduled appointment or to complete recertification
- Failing to report changes in income, assets, or household members in a timely manner

- Vacating unit without notifying the OHA

Criminal Lease Violation. Criminal lease violation includes but is not limited to the following:

- Knowingly omitting income or assets by self or household member
- Knowingly under-reporting income or assets by self or household member
- Transferring income or assets to obtain or retain eligibility
- Overstating deduction, allowances or expenses
- Knowingly providing false documentation of income
- Knowingly providing false identification
- Knowingly providing false Social Security Numbers
- Knowingly using false birth certificates, marriage licenses, property deeds

Confession of Judgments. Confession of judgment means the subject of the fraud investigation has admitted to the fraud and has agreed to enter into a repayment agreement and adhere to all the terms of a repayment agreement.