

OWNERS INFORMATION PACKET



The Housing Authority of the City of Fort Myers
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Please Review

OFFICE PROCEDURES

- Effective October 1, 1999, **HUD Regulations now require owners to prepare their own lease agreement**, and provide an executed copy to the HACFM. However, Owners will continue to sign a HAP Contract with the HACFM for the subject property.

Lease Requirements

- The lease must comply with State and local laws.
- The lease must apply to unassisted tenants in same or different property.
- The lease must have all the following items specified with in:
 1. Name of owner and tenant
 2. Address of unit rented (including apartment #)
 3. The term of the lease (initial and any provisions for renewal)
 4. Amount of monthly rent to owner
 5. Lease must spell out which utilities and appliances are supplied by owner and which are to be supplied by the tenant

Owners keep in mind; your lease agreement cannot be dated earlier than our agency is prepared to implement our Section 8 Assistance. (The lease cannot be dated prior to the unit passing inspection.) Please check with the Housing Counselor for your tenant, to ensure your lease agreement date coincided with the start date of our agency assisting this tenant in you rental property.

- Effective May 8, 1998, **HUD Regulations prevent participants renting from relatives.** Section 982.306 (d) HA disapproval of owner. The HA must not approve a unit if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family...
- The Housing Authority of the City of Fort Myers has adopted, in its Administration Plan, to not accept single family homes with pools.

Thank you for you cooperation in these matters. As always, if you should have any questions, feel free to contact our agency.

ROLES AND RESPONSIBILITIES OF KEY PROGRAM PLAYERS

OVERVIEW

To administer the rental assistance program the housing authority enters into contractual agreements with three parties: HUD, the Owner and the Family. The roles and responsibilities of each party are defined in the Federal Regulations and in the legal documents, which the parties execute in order to participate.

THE ROLE OF HUD

HUD has four major responsibilities:

- * Develop policy, regulations, and guidance which interpret housing legislation
- * Allocate housing assistance funds
- * Provide technical assistance
- * Monitor HA compliance with program requirements and production goals.

THE ROLE OF THE OWNER

The owner functions as he or she does in the private rental market, except that the owner must adhere to HUD regulations and required contractual documents, to include the Housing Assistance Payments Contract and the lease with the required HUD Lease Addendum.

THE ROLE OF THE FAMILY

The family provides income and family information needed to permit the HA to verify and certify eligibility and calculate rent.

- * Searches for housing.
- * Pays tenant portion of the rent and adheres to lease requirements.
- * Cooperates with the HA in annual inspections and reexamination.
- * Family obligations are defined in the Housing Choice Voucher, in the lease, and in the regulations.

THE ROLE OF THE HOUSING AUTHORITY (HA)

The HA has four broad areas of responsibility:

- * Certifies and recertifies tenants
- * Approves units and leases
- * Pays Housing Assistance to Owner
- * Monitors program performance and compliance with Federal and local rules.

The HA **does not act as a landlord**, as it does in the Public Housing Program (e.g., the HA is not responsible for tenant selection or screening). HA responsibilities are defined in the Annual Contributions Contract (ACC), the Housing Assistance Payments (HAP) Contract and 24 Code of Federal Regulations, Parts 812, 813, 882, 887, and 982.

HA must give the owner:

- * Families current address
- * Family's current and prior landlord records (new regulations)

HA **must** inform the tenant family of policy on providing information to owners.

KEY PROGRAM DOCUMENTS

HOUSING CHOICE VOUCHER

- * Authorizes the family to look for a unit.
- * Is executed by the HA and family
- * Has a 60 calendar day term with extension(s) possible for an additional 60 days.
- * Specifies HA and family rights and responsibilities of during the period of the family's participation.

THE HOUSING ASSISTANCE PAYMENTS CONTRACT

- * Is executed between the HA and the owner
- * Contract specifies rights and responsibilities of the owner and HA
- * The HA agrees to pay Housing Assistance Payments to the owner in return for owner compliance with program rules.
- * The HAP Contract term is the same as the lease.
- * The HAP contract must be in the form required by HUD

THE TENANCY ADDENDUM

- * Contains HUD-required lease language
 - Required provisions are the special federal rules related to the Section 8 Program.
 - Prohibited provisions are generally practices which have been determined illegal by the courts.
- * Must be used as an attachment to an owner's lease (superseding any conflicting lease provisions) or incorporated into a HA model lease.
- * If there are conflicts between the lease addendum and the lease, the HUD provisions prevail.

HOUSING AUTHORITY RESPONSIBILITIES

THE ANNUAL CONTRIBUTIONS CONTRACT

- * The ACC covers HA responsibilities for compliance with laws, regulations, and HUD-prescribed requirements.
 - Publish and provide information about availability of housing assistance programs Explain the program to families and owners
 - Seek expanded opportunities for assisted families to locate housing outside areas of poverty or racial concentration
 - Encourage owners to make units available for leasing in areas outside poverty or racial concentration locales
 - Affirmatively further fair housing goals and comply with equal opportunity requirements
 - Make efforts to help disabled persons find satisfactory housing
 - Receive applications from families
 - Determine family eligibility
 - Maintain waiting list
 - Select applicants
 - Issue Vouchers
 - Provide housing information to families
 - Determine who can live in the unit at admission and during participation
 - Obtain and verify evidence of citizenship and eligible immigration status
 - Review family's requests for approval of unit and lease
 - Inspect the unit before assisted occupancy and at least annually during the assisted tenancy
 - Determine the amount of HAP for families
 - Determine maximum rent to owner and if it is reasonable.
 - Make timely Housing Assistance payments to owners in accordance with HAP Contract
 - Examine family income, size, and composition at admission and during program participation, including verification of income and other family information
 - Establish and adjust HA utility allowance
 - Administer and enforce owner compliance with HAP Contract
 - Determine whether to terminate assistance to a participant family for violation of family obligations
 - Conduct hearing/review and process appeals
 - Provide sound financial management of the program(s) including engaging independent public accountants to conduct audits
 - Administer FSS program (if applicable)

OWNER RESPONSIBILITIES

- * The owner has the following major responsibilities:
 - Tenant selection and leasing
 1. HA must inform owner that HA had not screened the family's behavior or suitability for tenancy; it is the owner's responsibility
 2. Owners are permitted to screen based on a family's tenancy history
 3. Owner may consider a family's background regarding factors such as:
 - a. Payment of rent and utility bills
 - b. Caring for a unit
 - c. Respecting other's rights for peaceful enjoyment of their housing
 - d. Drug-related criminal activity or other criminal activity that is a threat to life, safety or property of others
 - e. Compliance with other essential conditions of tenancy
 - Compliance with the Housing Assistance Payments (HAP) Contract
 - Normal landlord functions during the lease term (e.g., maintenance, rent collection)
 - Compliance with program lease

- * Owner responsibilities are defined in the HAP Contract, the Lease, and HUD regulations
- * The owner must maintain the unit to Housing Quality Standards (HQS). If the owner fails to do so, the HA may terminate, suspend, or reduce housing assistance payments and terminate the HAP Contract.
- * The owner is not responsible for a breach of the HQS for which the family is responsible.
- * The owner must adhere to provisions on modifications to a dwelling unit occupied or to be occupied by a disabled person (982.452).

RESPONSIBILITIES OF THE FAMILY

Are specified in:

- The Federal Regulations
- The Housing Choice Voucher
- The Lease, executed between family and owner

WAITING LIST MANAGEMENT

INITIAL APPLICATION (Pre-application)

Applicant Status

- * An applicant does not have any "right or entitlement":
 - To be listed on the waiting list,
 - To any particular position on the waiting list, or
 - To be admitted to the program.

Opening the Waiting List

- * The notice must be published in newspapers of general circulation and in minority media.
- * The notice must state limitations on who may apply.
- * The notice must provide time and location of applications, and brief description of program.

Closing the Waiting List

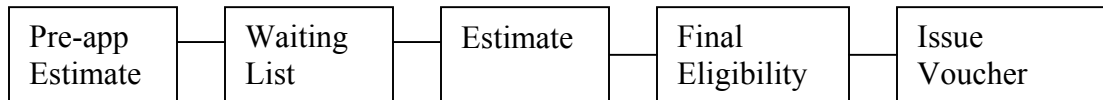
- * HA may stop accepting new applications when waiting list is adequate for program funding. HA does not have to accept applications when list is closed as long as there is adequate pool of applicants who are likely to qualify for a Federal preference.

Applicant Selection Process

- * Selection must be sequentially based on:
 - Date and time of application
 - Preferences for which the family is eligible
 - Verification that family is eligible for Program participation

OVERVIEW OF THE VOUCHER PROCESS

THE INTAKE PROCESS:



- a. Family submits pre-application if waiting list is open
- b. Pre-application has less information than full application, but enough to determine preliminary eligibility and placement on list, usually not verified.
- c. If family is eligible, sent letter:
 - * Preliminary eligibility
 - * Name on waiting list
 - * Approximate wait
- d. If family is ineligible, sent letter:
 - * Notify of ineligibility
 - * Reasons why
 - * Informal review/hearing

EVALUATING FINAL ELIGIBILITY

FULL APPLICATION STAGE

- * When family is close to top of the waiting list the HA conducts and in-depth interview with the family in order to determine if they are eligible for program participation.
- * The HA verifies and/or documents:
 - Type of family
 - Income/assets of all household members
 - Appropriate allowances and/or deductions
 - Federal Preference claims
 - Local preference claims
 - Documentation required by local HA policy
 - Social Security Numbers for all family members
 - Eligible immigration status

ELIGIBILITY FOR PARTICIPATION

Prohibited Admission Criteria

- * HA's select participants; Section 8 owners select tenants. HA's may deny Section 8 assistance because of drug-related criminal or violent criminal activity by family members, but not for their suitability as tenants.
- * Admission cannot be based on where the family lives before admission to the program
- * Admission cannot be based on where the family will live.

Prohibited Eligibility Criteria

- * Applicants expected behavior

LEASE UP/MOVE PROCESS



- a. Briefing is held to explain program and issue Voucher.
- b. **Family searches** for unit.
- c. Request for Lease Approval (RFTA) submitted to HA.
- d. HA reviews security deposit amount, proposed rent and proposed lease.
- e. If all are approved, HQS inspection is conducted.
- f. HA gives owner specified time to make repairs (if applicable) and re-inspect is conducted.
- g. HA determines if rent is reasonable.
- h. If everything is approved, documents are executed.
- i. Owner and family execute lease.
- j. Owner and HA execute HAP contract.

Assisted tenancy begins on *effective* date stated in *Dwelling Lease Agreement* and *HAP Contract*.

FAMILY OBLIGATIONS

THE FAMILY MUST:

- * Supply any information that the HA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status.
- * Supply any information requested by the HA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
- * Disclose and verify social security numbers and must sign and submit consent forms for obtaining information.
- * Any information supplied by the family must be true and correct
- * Responsible for an HQS breach caused by family
- * Allow the HA to inspect the unit at reasonable times and after reasonable notice
- * Notify the HA and the owner before the family moves out of the unit, or terminates the lease on notice to the owner.
- * Promptly give the HA a copy of any owner eviction notice.
- * Use the Assisted unit for residence by the family. The unit must be the family's only residence.
- * Family composition must be approved by the HA
- * Promptly notify the HA of the birth, adoption or court-award custody of a child.
- * Request HA approval to add any other family member as an occupant of the unit.
- * Promptly notify HA if family member no longer resides in unit.
- * After HA has given approval, the family may have a foster child or live-in aide reside in the unit. The HA has the discretion to adopt reasonable policy concerning residence by a foster child or live-in aide, and defining when/if consent may be given or denied.
- * Members of the household may engage in legal profit making activities in unit, but only if such activities are incidental to primary use of the unit for residence by member of the family.
- * Supply any information or certification requested by the HA to verify that the family is living in the unit, or relating to family absence from the unit, including any HA requested information or certification on the purpose of family absence. The family must cooperate with the HA for this purpose. The family must promptly notify the HA of absence from the unit

FAMILY MUST NOT:

- * Commit any serious or repeated violation of the lease
- * Sublease or let the unit
- * Assign the lease or transfer the unit
- * Own or have any interest in unit

- * Commit fraud, bribery or any other corrupt or criminal act in connection with the programs
- * Engage in drug-related activity, or violent criminal activity
- * Assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative federal, State or local housing assistance program.

FURTHER EXPLANATION OF FAMILY OBLIGATIONS

- * The family obligation, which states the family, must not engage in any drug-related criminal activity or violent criminal activity, including criminal activity by any family member is further defined.
- * Drug-related criminal activity terminations:
 - The illegal use or possession for personal use, of a controlled substance, must have occurred with one year before the date the HA provides notice to the family of the HA's determination to deny admission or terminate assistance.
- * Drug-related criminal activity does not include this use or possession, if family member demonstrate that her or she:
 - Has an addiction to a controlled substance, has a record of such and impairment, or is regarded as having such and impairment, and
 - Has recovered from such addiction and does not currently use or possess controlled substances.
 - HA's may require submission of evidence of participation in, or successful completion of, a treatment program as a condition to being allowed to reside in the unit.

VIOLENT CRIMINAL ACTIVITY

- * Includes any felonious criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.
- * Are grounds for denial or termination of assistance and is a reason to provide a review or hearing.
- * HA'S are not obligated to ferret out information concerning a family's criminal activities as part of a HA's processing of and application for assistance.
- * Initial screening of applicants may be limited to routine inquiries to the family.
- * HA may deny if preponderance of evidence indicates that the family has engaged in drug-related criminal activity or violent criminal activity, regardless of whether family member has been arrested or convicted.

FURTHER GUIDANCE: VIOLENT CRIMINAL ACTIVITY

- * Note that a person does not have to have been arrested or convicted in order to terminate assistance for this reason.
- * The purpose of the rule is not to punish families for past behavior, but rather to discourage the behavior by imposing a family obligation.
- * A family with a member who has been convicted of drug-related criminal activities may be able to show that the family member has been rehabilitated.
- * A HA must present sufficient evidence that the family member is engaging in a activity that meets the elements of the criminal statute relating to a drug-related violent criminal activity.
- * The HA must look at whether there is a preponderance of evidence. Check to see whether there is a civil standard for preponderance of evidence in you area.
- * HA's are given broad discretion to consider all of the circumstances in each case, including the seriousness of the offense, the extent of participation by family members, and the effects the denial or termination would have on family members not involved in the prescribed activity.
- * HA's may, in appropriate cases, permit family members not involved in the prescribed activities to continue receiving assistance on the condition that family members determine to have engaged in the prescribed activities will not reside in the unit.

CREDIBLE EVIDENCE

- * Examples include evidence provided by the police and the court system, such as drug raids, drugs found in the dwelling unit, evidence which is tied' to the activity, arrest warrant issued, etc.
- * HA's should combine testimony from neighbors with other credible evidence.

PREPONDERANCE OF EVIDENCE

- * HA's may use the preponderance of evidence definition in the Black's Law Dictionary which states:
 - "Preponderance of 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 which as a whole shows that the fact sought to be proved is more probable than not."

DENIAL OF ASSISTANCE

- * Denial of assistance for an applicant may include:
 - Denying listing on waiting list
 - Denying or withdrawing a Certificate or Voucher
 - Refusing to enter into a HAP contract or to approve a lease
 - Refusing to process or provide portability

REASONS FOR DENIAL OR TERMINATION OF ASSISTANCE

- * Family violates any family obligation under housing voucher.
- * Any member of the family has ever been evicted from public housing.
- * HA has ever terminated assistance under certificate or voucher program.
- * Family member commits drug related criminal activity or violent criminal activity.
- * Family member commits fraud, bribery, or another corrupt criminal act regarding any federal housing program.
- * Family currently owes rent or other amounts to the HA or to another HA in connection with Section 8 or Public Housing program.
- * Family has not reimbursed any HA for amounts paid to an owner under a HAP contract for rent, damages, or other amounts.
- * Family breaches an agreement with the HA to pay amounts owed to the HA, or amounts paid to an owner by the HA.
- * Family is a FSS participant and fails to comply with the FSS contract.
- * Family has engaged in or threatened abusive or violent behavior towards HA personnel.

HA DISCRETIONARY DENIAL OF OWNER PARTICIPATION

- * Nothing in the conforming rule is intended to give any owner the right to participate in the program {982.306(d)}
- * Violated obligations of any Section 8 HAP (housing assistance payment) contract.
- * Committed fraud, bribery or other criminal act
- * Manufactured, sold or distributed illegal drugs
- * History of non-compliance with hqs (housing quality standard) or similar standards
- * History of leasing units that fail state or local housing codes
- * Failure to pay state or local real estate taxes, fines or assessments

LEASE

- * Must have automatic renewal after initial term
- * Tenant or one family member has legal capacity to sign lease minors do not have legal capacity, with the exception of emancipated minors.
- * Lease addendum - required by HUD
- * Each new and/or revised lease requires new HAP contract

SECURITY DEPOSIT

- * Applies to HAP contracts executed after October 2, 1995
- * Lease amount determines security deposit
- * Must be consistent with private market practice/unassisted unit; generally equals one months rent
- * Housing office may prohibit excessive security deposit

- * Tenant damages are the responsibility of the family
- * Owner may not claim reimbursement from the community redevelopment agency for unpaid rent, damages, or amounts owed by a tenant under lease.

TENANT SCREENING

- * Owners must screen the potential tenant as they would screen any potential tenant.
- * The housing office does not screen tenants for suitability on any unit
- * Housing office can supply the potential tenant's (family) current address, prior and current owner's name and address, if known.

HACFM'S TOP TEN REASONS TO TERMINATE FAMILY'S ASSISTANCE PLUS TWO

1. Family violates any family obligation under certificate of family participation or housing voucher.
2. Any member of the family has ever been evicted from public housing.
3. HA has ever terminated assistance under voucher program.
4. Family member commits drug related criminal activity or violent criminal activity.
5. Family member commits fraud, bribery, or another corrupt criminal act regarding any federal housing program.
6. Family currently owes rent or other amounts to the HA or to another HA in connection with Section 8 or public housing program.
7. Family has not reimbursed any HA for amounts paid to an owner under a HAP contract for rent, damages, or other amounts.
8. Family breaches an agreement with the HA to pay amounts owed to the HA, or amounts paid to an owner by the HA.
9. Family is an FSS participant and fails to comply with the FSS contract.
10. Family has engaged in or threatened abusive or violent behavior towards HA personnel.
11. If the HA determines that any family member is illegally using a controlled substance.

If the HA determines that any family member's abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.