

## Chapter 14

### PROGRAM INTEGRITY

#### INTRODUCTION

The PHA is committed to ensuring that subsidy 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**

### **14-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 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

#### TCHAO Policy

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

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

The TCHAO will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The TCHAO will provide each applicant and participant 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 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 TCHAO will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key TCHAO forms and form letters that request information from a family or owner.

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

The TCHAO will require all first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

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

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).

##### TCHAO Policy

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

The TCHAO routinely will use available sources of up-front 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 TCHAO 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.

##### TCHAO Policy

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

##### **Individual Reporting of Possible Errors and Program Abuse**

##### TCHAO Policy

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

## **14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE**

### **When the PHA Will Investigate**

#### TCHAO Policy

The TCHAO will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals (whether anonymous or not), to determine if they warrant investigation. The TCHAO will investigate inconsistent information related to the family that is identified through file reviews, verification process, EIV, The Work Number, etc.

TCHAO can conduct an investigation to the subsidized residence during reasonable hours 8AM – 5PM which includes weekends without prior notice.

The TCHAO prohibits all program participants from allowing non-authorized occupants of the unit from using the participant's address for any reason whatsoever, without TCHAO approval in advance. In such case TCHAO presumes the person to be living in the unit and in violation of TCHAO policy. Violation may result in immediate termination at the discretion of TCHAO and based upon the results of the TCHAO investigation.

The TCHAO will perform a criminal background check through local, state and/or federal law enforcement for any adult household member, at its discretion, during the course of a family's tenancy, if information is received by TCHAO that warrants such action.

If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, the PHA will request a fingerprint card and will request information from the National Crime Information center (NCIC).

If the PHA proposes to terminate assistance based on a criminal record or on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the participant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination of assistance. [24 CFR 5.903(f) and 5.905(d)]

### **Consent to Release of Information [24 CFR 982.516]**

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

### **Analysis and Findings**

#### TCHAO Policy

The TCHAO 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 TCHAO will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the TCHAO, 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.

#### TCHAO Policy

In the case of family-caused errors or program abuse, TCHAO may issue a Notice of Violation as a warning to allow the family a second chance. Such action is at the discretion of TCHAO and may vary depending upon the past record of the family and/or degree, repetition or seriousness of the violation.

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

In the case of owner-caused errors or program abuse, the TCHAO will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

### **Notice and Appeals**

#### TCHAO Policy

The TCHAO will inform the relevant party in writing of its findings and remedies within 10 calendar 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 TCHAO determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

## **PART II: CORRECTIVE MEASURES AND PENALTIES**

### **14-II.A. SUBSIDY UNDER OR OVERPAYMENTS**

A subsidy under or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

#### **Corrections**

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

##### TCHAO Policy

Increases in the family share will be implemented only after the family has received 30 day notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

#### **Reimbursement**

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

### **14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors 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 PHA to use incorrect information provided by a third party.

#### **Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]**

##### TCHAO Policy

In the case of family-caused errors or program abuse, the family will be required to repay the full amount owed for excess subsidy received. The TCHAO may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16-IV.B..

If the family fails to repay the full amount, the TCHAO will terminate the family's assistance in accordance with the policies in Chapter 12.

## **PHA Reimbursement to Family [HCV GB p. 22-12]**

### TCHAO Policy

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

### **Prohibited Actions**

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

- Make a false statement to the PHA [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)].

### TCHAO Policy

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

Payment to the owner in excess of amounts authorized by the TCHAO for rent, security deposit, and additional services

Offering bribes or illegal gratuities to the TCHAO Board of Commissioners, employees, contractors, or other TCHAO 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 TCHAO on the family's behalf

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

Intentional misreporting or failure to report 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 TCHAO 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 TCHAO may, at its discretion, impose any of the following remedies.

- The TCHAO may require the family to repay excess subsidy amounts paid by the TCHAO, as described earlier in this section.
- The TCHAO 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 12 (for participants).
- The TCHAO may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.

- The TCHAO may refer the family for state or federal criminal prosecution as described in section 14-II.E.

### **14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE**

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.

#### **Owner Reimbursement to the PHA**

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

#### TCHAO Policy

In cases where the owner has received excess subsidy, the TCHAO will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

#### **Prohibited Owner Actions**

An owner participating in the HCV program must not:

- Make any false statement to the PHA [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:

#### TCHAO Policy

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

- Charging the family rent above or below the amount specified by the TCHAO,
- 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 TCHAO Board of Commissioners, employees, contractors, or other TCHAO representatives,



Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the TCHAO,  
Residing in the unit with an assisted family,

### **Remedies and Penalties**

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

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any TCHAO programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

### **14-II.D. PHA-CAUSED ERRORS OR PROGRAM ABUSE**

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

PHA-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.

#### **Repayment to the PHA**

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].

#### **PHA Reimbursement to Family or Owner**

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 owner program abuse. Funds for this reimbursement must come from the PHA's administrative fee reserves [HCV GB p. 22-12].

#### **Prohibited Activities and Cause for Termination of Employment**

##### TCHAO Policy

Any of the following will be considered evidence of program abuse by TCHAO staff and cause for termination of employment, if in the PHAs discretion an employee of TCHAO:

Fails to comply with any HCV program requirements for personal gain,

Fails to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner,

Seeks or accepts anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the TCHAO,

Discloses confidential or proprietary information to outside parties,

Gains profit as a result of insider knowledge of TCHAO activities, policies, or practices,

Misappropriates or misuses HCV funds,

Destroys, conceals, removes, or inappropriately uses any records related to the HCV program,

Commits serious, continuous and/or excessive program errors, (e.g., more than 3 verified tenant or landlord complaints in a single month and/or multiple months involving miscalculations, non-responsiveness, untimely responses, failure to document case status notes, and failure to complete tasks timely, etc.),

Commits any other erroneous, corrupt or criminal act in connection with any federal or TCHAO housing program or policy, and/or in violation of Tarrant County Civil Service Rules.

#### **14-II.E. CRIMINAL PROSECUTION**

##### TCHAO Policy

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

#### **14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES**

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

The TCHAO must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the TCHAO to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the TCHAO incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the TCHAO related to the collection, these costs must be deducted from the amount retained by the TCHAO.