

# **HACCP ADMISSION AND CONTINUED OCCUPANCY POLICY (ACOP)**

## CHAPTER 15: PROGRAM INTEGRITY

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### **Introduction**

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

This chapter covers HUD and HACCP 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 HACCP policies related to preventing, detecting, and investigating errors and program abuse.

### **Part II: Corrective Measures and Penalties.**

This part describes the corrective measures the HACCP must and may take when errors or program abuses are found.

## Part I: Preventing, Detecting, and Investigating Errors and Program Abuse

### **15-I.A. Preventing Errors and Program Abuse**

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

- Provide applicants and residents with form HUD-52675, “Debts Owed to PHAs and Terminations”

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- 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

### **HACCP Policy**

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

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

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

The HACCP will provide each applicant and resident with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19. In addition, the HACCP will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

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

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

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

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

The HACCP will provide each HACCP employee with the necessary training on program rules and the organization's standards of conduct and ethics. At every regular reexamination the HACCP staff will explain any changes in HUD regulations or HACCP policy that affect residents.

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

### **15-I.B. Detecting Errors and Program Abuse**

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

#### **Quality Control and Analysis of Data**

##### **HACCP Policy**

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

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

At each annual/triennial 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 HACCP will compare family-reported income and expenditures to detect possible unreported income.

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### **Independent Audits and HUD Monitoring**

OMB Circular A-133 requires all HACCPs 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 HACCP activities and notifies the HACCP of errors and potential cases of program abuse.

### **HACCP Policy**

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

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

#### **HACCP Policy**

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

## **15-I.C. Investigating Errors and Program Abuse**

### **When the HACCP Will Investigate**

#### **HACCP Policy**

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

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

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### **Consent to Release of Information [24 CFR 960.259]**

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

### **Analysis and Findings**

#### **HACCP Policy**

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

*The preponderance of the evidence* is defined as evidence that 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. The preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation, the HACCP will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the HACCP, 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 HACCP will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

#### **HACCP Policy**

In the case of family-caused errors or program abuse, the HACCP will take into consideration

- (1) the seriousness of the offense and the extent of participation or culpability of individual family members,
- (2) any special circumstances surrounding the case,

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(3) any mitigating circumstances related to the disability of a family member,

(4) the effects of a particular remedy on family members who were not involved in the offense.

### **Notice and Appeals**

#### **HACCP Policy**

The HACCP will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include

- (1) a description of the error or program abuse,
- (2) the basis on which the HACCP determined the error or program abuses,
- (3) the remedies to be employed, and
- (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

## **Part II: Corrective Measures and Penalties**

### **15-II.A. Under Or Overpayment**

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

#### **Corrections**

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

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### **HACCP Policy**

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

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

### **Reimbursement**

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

### **15-II.B. Family-Caused Errors and Program Abuse**

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members. An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

#### **Family Reimbursement to HACCP**

##### **HACCP Policy**

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

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### **HACCP Reimbursement to Family**

#### **HACCP Policy**

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

#### **Prohibited Actions**

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

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

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

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

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

Use of a false name or the use of falsified, forged, or altered documents  
Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)  
Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

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



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### **Penalties for Program Abuse**

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

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

### **15-II.C. PHA-Caused Errors or Program Abuse**

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

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

### **Repayment to the HACCP**

The family is not required to repay an underpayment of rent if the error or program abuse is caused by HACCP staff.

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### **HACCP Reimbursement to Family**

#### **HACCP Policy**

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

#### **Prohibited Activities**

#### **HACCP Policy**

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

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

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

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

Disclosing confidential or proprietary information to outside parties gaining profit as a result of insider knowledge of HACCP activities, policies, or practices.

Misappropriating or misusing public housing funds.

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

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

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### **15-II.D. Criminal Prosecution**

#### **HACCP Policy**

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

### **15-II.E. Fraud and Program Abuse Recoveries**

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

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

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