

Chapter 15

PROGRAM INTEGRITY

INTRODUCTION:

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

This chapter describes the NBHA 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. *The NBHA is required to use the EIV System in its entirety in accordance with HUD's administrative guidance [24 CFR 5.233]*

The NBHA will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously. *The NBHA will also:*

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

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

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE:

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

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

The NBHA 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 NBHA 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 NBHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

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

It is the NBHA's policy to meet the informational needs of families, and to communicate the program rules in order to avoid family debts. Before a debt is assessed against a family, the file must contain documentation to support the NBHA's claim that the debt is owed. The file must

further contain written documentation of the method of calculation, in a clear format for review by the family or other interested parties.

The NBHA will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The NBHA 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 NBHA will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

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

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

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 NBHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data:

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

The NBHA 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 NBHA 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 NBHA activities and notifies the NBHA of errors and potential cases of program abuse.

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

Individual Reporting of Possible Errors and Program Abuse :

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

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE:

When the NBHA Will Investigate:

The NBHA 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 NBHA 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 NBHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]:

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

Analysis and Findings:

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

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

Notice and Appeals:

The NBHA will inform the relevant party in writing of its findings and remedies within 15 40 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 NBHA 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 NBHA must promptly correct the tenant rent and any utility reimbursement prospectively.

Increases in the tenant rent will be implemented only after the family has received 30 days notice.

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

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

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 NBHA to use incorrect information provided by a third party.

Family Debts Reimbursement to NBHA:

A payment agreement is a document entered into between the NBHA and a person who owes a debt to the NBHA. It contains details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the NBHA upon default of the agreement.

The maximum length of time the NBHA will enter into a payment agreement with a family is twelve (12) months.

The minimum monthly amount of monthly payment agreement is twenty-five dollars (\$25) unless ordered by the court *and/or the family can provide evidence satisfactory to the NBHA that the monthly payment amount of \$25.00 would impose an undue hardship, the NBHA may, at its discretion, require a lower monthly payment.*

NBHA Reimbursement to Family:

The NBHA 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 NBHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the NBHA [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(1)(2)(iii)(C)].

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

- Offering bribes or illegal gratuities to the NBHA Board of Commissioners, employees, contractors, or other NBHA 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 NBHA 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 NBHA 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 NBHA will at its discretion impose any of the following remedies.

- The NBHA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to NBHA).
- The NBHA 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 NBHA may deny admission or terminate the family’s lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- The NBHA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. NBHA-CAUSED ERRORS OR PROGRAM ABUSE:

This section specifically addresses actions of a NBHA staff member that are considered errors or program abuse related to the public housing program.

NBHA-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 NBHA:

The family is not required to repay an underpayment of rent if the error is caused by NBHA staff. Families who owe money to the NBHA due to program fraud will be required to repay the amount in full or according to the below payment guidelines..

Before executing a repayment agreement with a family, NBHA will generally require a down payment based upon the amount owed as reflected below:

| Amount Owed | % of Total Amount Owed |
|-------------|------------------------|
| 20% | \$0 - \$500_ |
| 15% | \$501 - \$1,000 |
| 10% | \$1001 - \$2,500 |
| 5% | \$2,501 - \$5,000 |

If the family can provide evidence satisfactory to NBHA that a down payment of 10% would impose an undue hardship, NBHA may, at its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds:

Notice PIH 2010-19 recommends that the total amount a family must pay each month-the family's share of rent plus the monthly debt repayment amount, should not exceed 40% or more of its' monthly adjusted income in rent. However, a family may already be paying 40 percent or more of its monthly adjusted income in rent, Moreover, Notice PIH 2010-19 acknowledges that PHA's have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552©(1)(vii)].

NBHA has establishes the following thresholds for repayment of debts:

Amounts from \$2,501 - \$5,000 must be repaid within 24 months

Amounts from \$1,001 - \$2,500 must be repaid within 18 months

Amounts from \$501 - \$1,000 must be repaid within 12 months

Amounts under \$500 must be repaid within 6 months

If a family owes an amount, which equals or exceeds \$5,000 as a result of program fraud, the case will be referred to the Office of the Inspector General. Where appropriate, the NBHA will refer the case for criminal prosecution.

PHA Reimbursement to Family

The NBHA will reimburse a family for any family overpayment of rent for any overpayment that was the result of staff-caused error.

Prohibited Activities

Any of the following will be considered evidence of program abuse by NBHA 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 NBHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of NBHA 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

15-II.D. CRIMINAL PROSECUTION:

When the NBHA determines that program abuse by a family or NBHA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the NBHA 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:

The NBHA will either enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family. [Notice PIH 2005-7 (HA)].

The family shall be afforded the opportunity for a hearing through the NBHA's grievance process.