

## Chapter 15

### PROGRAM INTEGRITY

#### INTRODUCTION

The PHA is committed to ensuring that 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

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

#### City of Las Vegas Housing Authority Policy

The City of Las Vegas Housing Authority anticipates that the vast majority of families and City of Las Vegas Housing Authority employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

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

The City of Las Vegas Housing Authority will provide each applicant and resident with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

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

City of Las Vegas Housing Authority staff will be required to review and explain the contents of all HUD- and City of Las Vegas Housing Authority -required forms prior to requesting family member signatures.

The City of Las Vegas Housing Authority 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 City of Las Vegas Housing Authority forms and form letters that request information from a family member.

The City of Las Vegas Housing Authority will provide each City of Las Vegas Housing Authority 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.

## **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**

#### City of Las Vegas Housing Authority Policy

The City of Las Vegas Housing Authority will employ a variety of methods to detect errors and program abuse, including:

The City of Las Vegas Housing Authority routinely will use available sources of up-front income verification 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 City of Las Vegas Housing Authority 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.

#### City of Las Vegas Housing Authority Policy

The City of Las Vegas Housing Authority 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 City of Las Vegas Housing Authority's error detection and abuse prevention efforts.

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

#### City of Las Vegas Housing Authority Policy

The City of Las Vegas Housing Authority will encourage staff, residents, and the public to report possible program abuse.

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

### When the PHA Will Investigate

#### City of Las Vegas Housing Authority Policy

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

### Analysis and Findings

#### City of Las Vegas Housing Authority Policy

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

#### City of Las Vegas Housing Authority Policy

In the case of family-caused errors or program abuse, the City of Las Vegas Housing Authority 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**

#### City of Las Vegas Housing Authority Policy

The City of Las Vegas Housing Authority 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 City of Las Vegas Housing Authority 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.

#### City of Las Vegas Housing Authority Policy

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.

#### **Reimbursement**

Whether the family is required to reimburse the PHA or the PHA 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 PHA**

#### City of Las Vegas Housing Authority Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The City of Las Vegas Housing Authority 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 City of Las Vegas Housing Authority will terminate the family's lease in accordance with the policies in Chapter 13.

### **PHA Reimbursement to Family**

#### City of Las Vegas Housing Authority Policy

The City of Las Vegas Housing Authority 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 PHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the PHA [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)].

### City of Las Vegas Housing Authority Policy

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

Offering bribes or illegal gratuities to the City of Las Vegas Housing Authority Board of Commissioners, employees, contractors, or other PHA 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 City of Las Vegas Housing Authority 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 City of Las Vegas Housing Authority 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 PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to PHA).
- The PHA 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 PHA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- The PHA 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 PHA**

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

### **PHA Reimbursement to Family**

#### City of Las Vegas Housing Authority Policy

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

### **Prohibited Activities**

#### City of Las Vegas Housing Authority Policy

Any of the following will be considered evidence of program abuse by City of Las Vegas Housing Authority 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 City of Las Vegas Housing Authority Disclosing confidential or proprietary information to outside parties.

- Gaining profit as a result of insider knowledge of City of Las Vegas Housing Authority 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**

### City of Las Vegas Housing Authority Policy

When the City of Las Vegas Housing Authority determines that program abuse by a family or City of Las Vegas Housing Authority staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the City of Las Vegas Housing Authority 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 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 2005-7 (HA)].

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.