

Chapter 15 PROGRAM INTEGRITY

INTRODUCTION

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

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

Part II: Corrective Measures and Penalties. This part describes the corrective measures the GBHA 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

GBHA Policy

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

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

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

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

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

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

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

At every regular reexamination the GBHA staff will explain any changes in HUD regulations or GBHA 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.

15-1.B. DETECTING ERRORS AND PROGRAM ABUSE

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

Quality Control and Analysis of Data

GBHA Policy

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

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

At each annual re-examination, current information provided by the family will be compared to information provided at the last annual re-examination to identify inconsistencies and incomplete information.

The GBHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMG 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 GBHA of errors and potential cases of program abuse.

GBHA Policy

The GBHA will use the results reported in an IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the GBHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

GBHA PolicyThe GBHA will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the GBHA Will Investigate

GBHA Policy

The GBHA 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 GBHA 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 the unauthorized household member.

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

Consent to the Release of Information [24 CFR 960.259]

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

Analysis and Findings

GBHA Policy

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

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

GBHA Policy

In the case of family-caused errors or program abuse, the GBHA 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

GBHA Policy

The GBHA 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 GBHA 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 GBHA must promptly correct the tenant rent and any utility reimbursement prospectively.

GBHA 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 GBHA or the GBHA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was in 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 GBHA to use incorrect information provided by a third party.

Family Reimbursement to GBHA

GBHA Policy

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

GBHA Reimbursement to Family

GBHA Policy

The GBHA 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 GBHA [Title 18 U.S.C. Section 1001]
- Provide incomplete or false information to the GBHA [24 CFR 960.259(a)(4)]
- Commit fraud, or make false statements in connection with an application for assistance or with re-examination of income [24 CFR 966.4(1)(2)(iii)(C)].

GBHA Policy

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

- Offering bribes or illegal gratuities to the GBHA Board of Commissioners, employees, contractors, or other GBHA 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 GBHA 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 income)
- Admission of program abuse by an adult family member

The GBHA 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 GBHA may, at its discretion, impose any of the following remedies.

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

15-II.C. GBHA-CAUSED ERRORS OR PROGRAM ABUSE

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

GBHA-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 GBHA

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

GBHA Reimbursement to Family

GBHA Policy

The GBHA 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

GBHA Policy

Any of the following will be considered evidence of program abuse by GBHA 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 GBHA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of GBHA 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-IL.D. CRIMINAL PROSECUTION

GBHA Policy

When the GBHA determines that program abuse by a family or GBHA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the GBHA 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 Officer 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-IL.E. FRAUD AND PROGRAM ABUSE RECOVERIES

If the GBHA enters 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, they may retain 100 percent of program funds that is recovered [PIH Notice 2005-7 (HA)].

If the GBHA 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 GBHA's grievance process.