

SIoux FALLS HOUSING & REDEVELOPMENT COMMISSION

SECTION 8 HOUSING CHOICE VOUCHER LANDLORD HANDBOOK

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Dear Owner/Manager:

Thank-you for your interest in the Section 8 Housing Choice Voucher (Voucher) program. The Voucher program provides rental assistance to low-income households who select their own rental unit in the private market. Landlords participating in the Voucher program maintain the same relationship as they have in the unassisted market. The Sioux Falls Housing & Redevelopment Commission (SFHRC) pays a monthly subsidy (rental assistance) on the household's behalf with the household paying the difference between that amount and the contract rent for the unit.

Funding to provide rental assistance under the Voucher program is appropriated by the United States Congress. The United States Department of Housing and Urban Development (HUD) allocates the funding to Public Housing Authorities (PHA), such as SFHRC. SFHRC is not a part of HUD, the state of South Dakota or the City of Sioux Falls. It is established under South Dakota state law as a separate public body.

The Voucher program is not an entitlement program, i.e., it cannot provide rental assistance to all eligible households at the time they make application. SFHRC can only assist a certain number of households each month, depending on the funding allocated by HUD. Households interested in receiving rental assistance must complete an application to have their name placed on SFHRC's waiting list. As funding becomes available to provide rental assistance, either through SFHRC receiving additional funding from HUD or an assisted household going off the program, SFHRC can contact the next applicant on the waiting list. The Voucher holder selects their own rental unit in the private market which must be within the city of Sioux Falls and Minnehaha County, South Dakota.

Under the Voucher program SFHRC does not assist the unit; it assists the household who rents a specific rental unit that meets HUD established criteria. Landlords and program participants maintain the same relationship as they would in the unassisted market. Landlords must sign a Lease Agreement with the Voucher recipient and enter into a Housing Assistance Payments Contract with SFHRC. The landlord agrees to provide a safe and healthy housing, as confirmed by the regular inspections by SFHRC. The principle benefit to the landlord for participating in the program is that the federal government guarantees a portion of the rent.

This Landlord Handbook was written to provide general information on the Voucher program. If, after reviewing this Handbook, you have any questions regarding the program please contact SFHRC's Housing Program Coordinator at (605)332.0704 voice or (605)332.0256 TDD.

Sincerely,

Shireen Ranschau

Shireen Ranschau
Executive Director

I. ROLES AND RESPONSIBILITIES

There are five distinct entities that have a unique role in the Voucher program which are:

CONGRESS: Appropriates funding and passes statutes for all housing programs.

HUD: Allocates money to local PHAs, interprets housing legislation and develops regulations and other guidance for program administration.

PHA: Determines household's eligibility, conducts annual recertifications of households' composition, income and assets, evaluates unit to determine compliance with HUD's Housing Quality Standards, determines the amount of rental assistance to be paid on behalf of the household each month, secure signatures on program documents, monitor program performance and compliance with HUD regulations. SFHRC's role is program administrator, not an advocate for the program participants or the landlord.

Landlord: Performs property management functions including tenant selection, collection of fees, deposits and rent, maintain property in compliance with HUD's Housing Quality Standards, abiding by and enforcing the terms of the Lease Agreement and abiding by the terms of the Housing Assistance Payments Contract. Landlords participating in the program operate the same way as a landlord in the private market.

Tenant: Accurately report household composition, income and assets, locate housing unit that meets the household's needs and program requirements, pay any fees, deposits and household share of the rent, abide by the terms of the Lease Agreement, maintain unit in compliance with HUD's Housing Quality Standards, cooperate with annual recertifications and evaluation of the unit.

II. RELATIONSHIPS

There are separate and distinct relationships between the above referenced parties. SFHRC has contractual relationship with HUD to administer the Voucher program in compliance with HUD regulations. The terms and conditions of administering the program are specified in the Annual Contributions Contract (ACC).

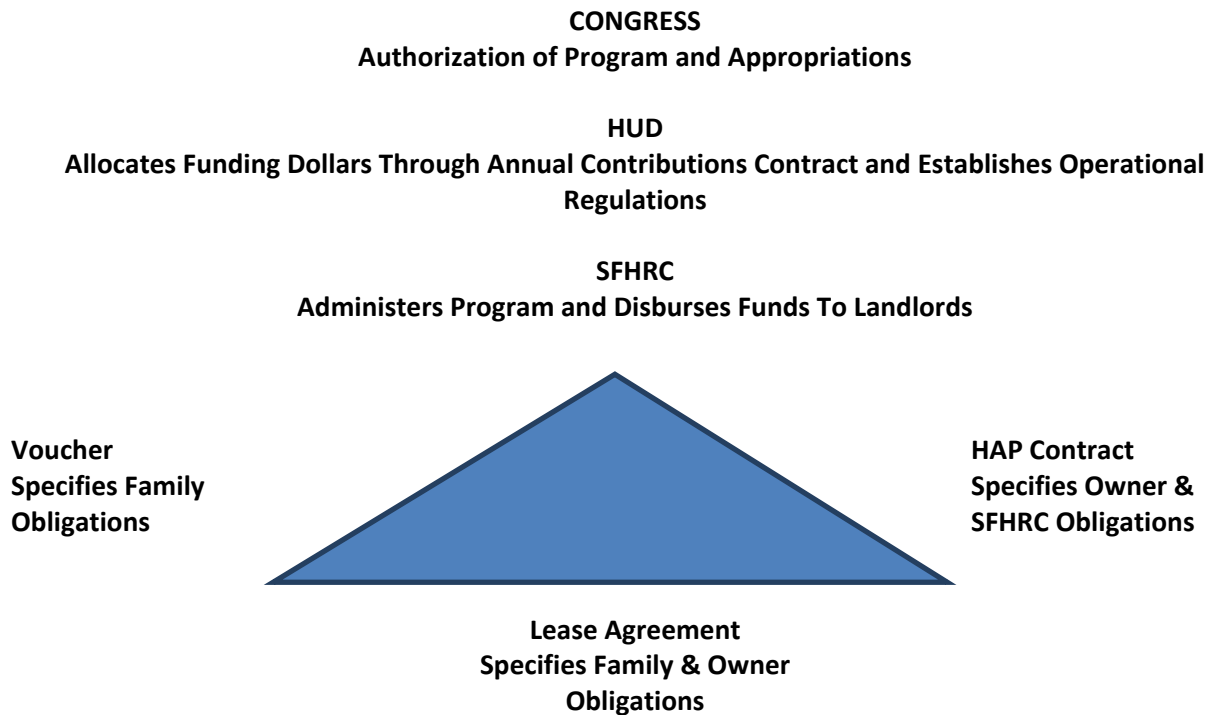
SFHRC establishes a contractual relationship with the household through the issuance of a "Section 8 Housing Choice Voucher". This document states the Family Obligations for participation in the program, verifies that a household meets HUD's eligibility criteria and that SFHRC has funding available to assist the household with their rent. Households are issued Vouchers at the time they initially go on the program and at any time they wish to relocate to a different unit. Landlords should ask to review a household's voucher in order to verify they have been issued one.

HUD requires that the landlord and the household enter into a Lease Agreement for a unit. The lease may be for an initial term of six months, one year or two years. The landlord may use the same lease they use in the private market. At a minimum the lease must include the following information:

- Effective date;
- Length of term;
- HUD required lease addendum and which party is responsible for appliances and utilities.

If the landlord does not use a written lease for their rental property SFHRC does have a generic lease available that may be used. Under no circumstances is SFHRC a party to the lease under the Voucher program.

The relationship between the landlord and SFHRC is established through the Housing Assistance Payments (HAP) Contract. The HAP Contract is a legally binding document that specifies the household to be assisted, the unit the household will receive assistance in, the contract rent for the unit and the amount of rental assistance that will be paid each month. In addition, the HAP Contract details the responsibilities of the landlord and SFHRC in regards to the Voucher program. An illustration of the participating relationships is:



III. PROGRAM BENEFITS

Over the years many landlords have come to appreciate the advantages of having contracted monthly assistance payments, as well as the minimum inspection standards. Keeping the property well maintained helps insure its resale value and also makes it easier to lease-up at turn-over.

The Voucher program has also introduced many novice landlords to key property management principles in the area of tenant selection and lease enforcement, while it has helped others with maintenance skills.

Other program benefits include:

Timely Payments: The subsidy portion of the rent is mailed directly to the landlord the first working day of the month, unless monies from the U.S. Treasury are delayed.

Flexibility and Stability: If the household's income unexpectedly drops SFHRC can increase the amount of rental assistance. This flexibility assists voucher-assisted households with missing fewer payments and maintaining stable residents.

Free Advertising for Vacant Units: SFHRC cannot refer voucher holders to specific landlords but, SFHRC does assist voucher holders with finding housing by maintaining lists of available units in the Sioux Falls area. Landlords may list as many units as they like, free of charge.

Free Evaluation of Properties: SFHRC performs a unit evaluation prior to placing the unit under a HAP Contract and at least annually while rental assistance is provided. The landlord will be notified of any issues noted during the evaluation.

PARTICIPANT BENEFITS AND ADVANTAGES

The Voucher program has been successful because it provides the household with the opportunity to choose the type of rental unit and neighborhood that will meet their household's needs. Unlike project-based assisted housing (where the family must move into a specific unit in order to receive rental assistance) households may take their housing assistance with them when they move.

Flexibility: Enables many participants to pursue employment and educational opportunities, reunite with friends and family, move out of unsafe situations and into safer neighborhoods. Landlord participation is essential in making these opportunities a reality.

Affordability: Allows the household to rent safe and healthy housing they can afford.

Stability: Allows households to remain in place, if they have a decrease in income.

IV. TENANT SELECTION

SFHRC screens applicant household for program eligibility by verifying household income, composition and citizenship/immigration status. It conducts registered sex offender searches and may deny a voucher to a household who has a member who has engaged in certain violent or drug-related criminal activity, if disclosed to SFHRC.

SFHRC does not screen applicant households for suitability of tenancy. Landlords are permitted and encouraged to screen prospective tenants on the basis of their tenancy histories. A landlord may consider a household's background with respect to such factors as:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of others to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the life and safety or property of others; and
- Compliance with essential conditions of tenancy.

To assist with this process SFHRC will provide a prospective landlord with the following information:

- The applicant's current address, as shown in SFHRC's records; and
- The household's current and prior landlord's name and address (if known to SFHRC).

Remember, this will be your tenant--not SFHRC's tenant. Screen him/her as you would non-subsidized applicants.

V. ILLEGAL DISCRIMINATION

The Fair Housing Act prohibits discrimination in housing because of a household's race, color, national origin, religion, sex, familial status (households with children under the age of 18 with their parent or legal guardian; pregnant women and people securing custody of children under the age of 18) and disability.

The Fair Housing Act covers most housing. In some circumstances, the Act exempts owner-occupied buildings with no more than four (4) units, single-family housing sold or rented without the use of a broker and housing operated by organizations and private clubs that limit occupancy to members.

Landlords may not take any of the following actions based on race, color, religion, sex, national origin, familial status or disability:

- Refuse to rent or sell housing;
- Refuse to negotiate for housing;
- Make housing available;
- Deny a dwelling;
- Set different terms, conditions or privileges for sale or rental of a dwelling;
- Provide different housing services or facilities;
- Falsely deny that housing is available for inspection, sale or rental;
- For profit, persuade owners to sell or rent (blockbusting); or
- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.

In addition, it is illegal for an owner to:

- Threaten to coerce, intimidate or interfere with anyone exercising a fair housing right or assisting others who exercise the right;
- Advertise or make any statement that indicates a limitation or preference based on race, color, religion, national origin, sex, familial status or disability.

The prohibition against discriminatory advertising applies to single-family and owner occupied housing that is otherwise exempt from the Fair Housing Act.

For additional information concerning the Fair Housing Act, landlords may contact the following:

Sioux Falls Human Relations Commission
224 West 9th Street
Sioux Falls SD 57102
(605)367.8745 voice
(605)367.7039 TDD

Office of Fair Housing & Equal Opportunity
United States Department of Housing & Urban Development
1670 Broadway
Denver CO 80202
(303)672.5437 voice
(303)672.5248 TDD
1-800-877-7353 Toll-free

VI. BECOMING A PARTICIPANT LANDLORD

HOW TO LOCATE A VOUCHER HOLDER

A prospective tenant may become aware of a landlord's available unit from the local newspaper, a tenant locator service or from SFHRC's list of available units in the community.

SFHRC cannot guarantee that a voucher holder will rent units listed with SFHRC as HUD regulations prohibit SFHRC from targeting or "tying" vouchers to specific properties. This is a referral service only. SFHRC's available "unit listing" is updated monthly. If a landlord wishes to list the unit for more than 30 days they must call and request that the unit be re-listed.

In order to verify that a prospective tenant has a voucher the landlord should request the household to provide a copy of the "Section 8 Housing Choice Voucher". All voucher holders are issued a voucher at a Briefing or at the time they notify SFHRC of their intent to move and transfer their rental assistance.

WHAT HAPPENS NEXT?

After the landlord has completed the household screening and has selected the household to rent their unit the landlord and the household must complete the "Request For Tenancy Approval" form which the household has received as part of their Briefing packet. The completed Request For Tenancy Approval form is an indication of the landlord-household's intent to enter into a Lease Agreement; however, it is not binding. Submittal is a pre-requisite to SFHRC scheduling a time to evaluate the unit.

This form must be completed carefully and to the best of the landlord's knowledge as this is the information SFHRC uses to determine if the unit may qualify for the program. SFHRC must determine if the "rent burden test" is met. The rent burden test prohibits a household from paying more than 40% of their adjusted monthly income as their share of the rent and tenant-paid utilities when it enters into an initial lease.

If the rent burden test is met, SFHRC will contact the landlord to schedule an appointment to evaluate the unit to determine if it meets HUD's Housing Quality Standards (minimum health and safety standards established by HUD). If any deficiencies are found during this evaluation, the landlord will be provided written notification of the deficiencies. The landlord must determine if s/he is willing to correct the deficiencies or not. If the landlord is unwilling to correct the deficiencies, SFHRC will be unable to provide rental assistance to the household in that unit. The household will be notified that they must continue their search of paying the full rent themselves.

LEASE AGREEMENT

HUD regulations require that the effective date of the lease and the effective date of the HAP Contract coincide. During the initial term of the lease the landlord may not increase the rent.

Landlords and households may execute separate agreements for services, appliances (other than stove and refrigerator), storage sheds that are not included in the Lease Agreement, if the agreement is in writing and approved by SFHRC.

Landlords, voucher holders and program participants will be advised of the prohibition of illegal "side" payments for additional rent or for items normally included in the rent of unassisted households or for items not shown on the approved Lease Agreement.

HOUSING ASSISTANCE PAYMENTS CONTRACT

If the unit meets the program requirements, SFHRC will enter into a Housing Assistance Payments (HAP) Contract with the landlord. The HAP Contract authorizes SFHRC to pay the monthly rental assistance, i.e., the Housing Assistance Payment (HAP), to the landlord, on behalf of a specific household renting a specific unit and sets forth other terms and conditions for the landlord's participation in the program.

The HAP Contract is a legally binding document for both the landlord and SFHRC. Breach of the terms and conditions may result in the termination of the HAP Contract, recapture of HAP paid or debarment from future participation in any federal government program.

The amount of rental assistance paid by SFHRC may change during the term of the household's participation in the program. The landlord and household will be notified, in writing, of any changes.

CHANGES IN LEASE TERMS OR CONTRACT RENT

The landlord and household must agree, in writing, to any proposed changes in the lease. The landlord must immediately notify SFHRC, in writing, of proposed changes including the request for a household receiving rental assistance to sign a "new" lease. The lease, including any changes, must be in accordance with SFHRC's Section 8 Administrative Plan. The Administrative Plan is available for review at SFHRC's office during normal business hours and on SFHRC's website.

Landlords must notify the household and SFHRC, in writing, of any changes in the amount s/he will be charging for the unit at least sixty (60) days prior to the effective date of the rent change. Any increase rent is subject to SFHRC's rent reasonableness test.

Rental assistance will be terminated unless SFHRC has approved the revised tenancy in accordance with program requirements and has executed a new HAP Contract with the landlord if any of the following changes:

- Requirements governing household or landlord responsibilities for utilities or appliances;
- The lease term-reducing the length of the lease;
- The household moves to another unit, even if the unit is in the same building or complex.

TAX IDENTIFICATION NUMBER

The landlord must provide SFHRC their federal tax identification number as SFHRC is required to submit an Internal Revenue Service (IRS) 1099-MISC form to the IRS at the end of each calendar year. SFHRC will not enter into a HAP contract unless, and until, the landlord's tax ID number is provided to SFHRC on an IRS W-9 form.

CHANGES IN OWNERSHIP

SFHRC will require written notification, from the property owner who executed the HAP Contract, of change in ownership of the property under a HAP Contract.

SFHRC will process a change of ownership using the same criteria for determining if new landlords are eligible to participate in the program.

SFHRC will require the former and new property owners to sign an "Assignment of Lease and Housing Assistance Payment Contract" form and a completed IRS W-9.

FORECLOSURE OF PROPERTY UNDER A HAP CONTRACT

The federal government has provided additional rights to tenants of residential housing going through foreclosure proceedings. On May 20, 2009 President Obama signed Protecting Tenants at Foreclosure Act of 2009 into law. This legislation provides that a lease survives foreclosure-meaning if there is a lease on a property that is foreclosed on; the tenant is allowed to stay in the home until the lease expires, unless the new owner is planning to use the home as his or her primary residence. In that case, the tenant must be given at least 90 days' notice before being required to move. The tenant must also be given 90 days' notice to vacate if the tenant is renting the dwelling unit month-to-month.

COMPLIANCE WITH ASSIGNMENT OF RENTS AND COURT ORDERS

SFHRC will comply with a financial institution's Assignment of Rents and Court Orders regarding changes in who the HAP should be sent to. In these cases, SFHRC will not require the landlord and the party that assumes responsibility for rent collection to sign an Assignment of Lease and HAP Contract form. This HAP will be continued to be reported to the IRS under the original landlord's tax ID number until SFHRC receives a W-9 for the new landlord.

"CASH FOR KEYS" OFFER

Some banks, mortgage servicing companies or new owners may offer incentives for tenants to vacate a property that is in foreclosure before the expiration of the lease or 90 day timeline. Incentives can include an offer of cash, payment of moving expenses, etc. This is usually referred to as "cash for keys".

In the event SFHRC learns about a “cash for keys” offer it will counsel the tenant on how to make an informed decision about moving under this scenario.

VII. HOUSING ASSISTANCE PAYMENTS CHECKS

SFHRC mails the checks for the household’s rental assistance payment (HAP check) the first working day of the month, provided the U.S. Treasury has deposited money in SFHRC’s account to cover these checks and the necessary paperwork complete and submitted to SFHRC.

In general, SFHRC processes HAP checks the 5th working day (cut-off) prior to the last day of the month. All documents must be signed and returned to SFHRC’s office prior to 12:00 noon the day prior to cut-off in order for the HAP to be included on the next month’s check.

Internal accounting controls requires SFHRC to limit the number of HAP checks which are requested to be issued manually, i.e., checks that are not printed as part of the first of the month check run. Approved manual checks will only be processed and mailed out the 7th and 17th of each month or the following business day if these dates fall on a weekend or holiday. Manual checks will only be issued for amounts of \$100 or more.

SFHRC will make adjustments to HAP check, as necessary, in the following month.

VIII. DISAPPROVAL OF LANDLORDS

SFHRC will not enter into a HAP Contract with a landlord if SFHRC has been informed by HUD (or otherwise) that the landlord is debarred, suspended, or subject to a limited participation in any government program. Also, when directed by HUD, SFHRC will not enter into a HAP Contract if:

- The federal government has instituted an administrative or judicial action against the landlord or property owner for violation of the Fair Housing Act or other federal equal opportunity requirements and the action is pending; or
- A court or administrative agency has determined that the landlord or property owner violated the Fair Housing Act or other federal equal opportunity requirements; or
- If the landlord or property owner is engaging in drug-trafficking or violent criminal activity; or
- The landlord or property owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing programs; or
- If the property owner is a parent, child, grandparent, grandchild, sister, or brother (including “step”) of the voucher holder. Exception, SFHRC may enter into HAP Contract if the owner is a parent, child, grandparent, grandchild, sister or brother (including “step”) if doing so would provide a reasonable accommodation to a qualified individual with disabilities; or
- Conflict of interest exists under Federal, State or local law; or
- The landlord or property owner has violated any obligations under a Section 8 HAP Contract.

HUD’s definition of an owner includes a principle or other interested party, not merely the nominal party that holds legal title to the property. It also covers other persons with an actual interest in the property. SFHRC may deny approval to provide rental assistance to a household renting from a partnership where a limited partner has committed fraud in connection with a federal housing program. SFHRC may require prospective landlords and owners to disclose ownership interest.

IX. ANTI-FRAUD POLICY

SFHRC is fully committed to combating fraud in its Voucher program. SFHRC defines fraud as a single act or pattern of actions that include false statements, the omission of information or the concealment of a substantive fact made with the intention to deceive or mislead SFHRC. Fraud results in the inappropriate expenditure of public funds/or a violation of Voucher program requirements. "Fraud" involves taking a legal action to pursue a remedy of the situation, such as termination of rental assistance.

Elements of potential fraud under the Voucher program include:

- Person knew actions were wrong;
- Person failed to take action;
- Person willfully violated the law;
- Person falsified, forged or altered documents;
- Person knew and omitted facts;
- Person admitted illegal actions or omission to others.

Generally, fraud under the Voucher program will include one of the following:

- Applicant/Participant fraud;
- Landlord fraud;
- SFHRC employee fraud; or
- HUD Office of Inspector General's Fugitive Felon Initiative.

LANDLORD

Examples of landlord fraud under the Voucher include, but are not limited to:

- Accepting HAP for vacant units, substandard units and/or units with existing rental subsidies;
- Collecting more money from the household for rent than is listed in SFHRC's documents;
- Bribing SFHRC employees to certify substandard units;
- Certifying they have corrected Housing Quality Standards deficiencies when in fact deficiencies have not been corrected;
- Landlord residing in a unit receiving rental assistance;
- Charging more rent for a unit than s/he charges for a comparable unit on the open market.

If a fraudulent action by a landlord is discovered by SFHRC it shall take one or more of the actions listed below depending on what is appropriate and the circumstances:

- Require the landlord to reimburse the household for side payments they made to the landlord;
- Abatement of HAP;
- Termination of HAP Contract(s);
- Require the owner to reimburse SFHRC HAP they received but were not entitled to;
- Deduction of HAP landlord received but was not entitled to. This may be done by deducting the amount owed from other subsidized participants, including those receiving rental assistance under another rental assistance program administered by SFHRC;
- Disbarment from participation in rental assistance programs administered by SFHRC.

EMPLOYEES

Examples of potential fraud by SFHRC employees include, but are not limited to:

- Kickback and bribery schemes with landlords that may include: commissions for steering Voucher holders to a particular unit, paying HAP for units known to be vacant, approving rent increases which would not comply with rent reasonableness requirements, approving units with HQS violations;
- Reside “rent free” in Section 8 unit;
- Approval of ineligible applicants;
- Assisting an applicant to falsify documents;
- Intentionally making incorrect determinations of housing assistance payments and total tenant payment;
- Coaching applicants/participants to falsifying information provided to SFHRC;
- Changing an applicant’s position on the waiting list.

CASES REFERRED TO OIG

SFHRC will refer any evidence of potential program fraud involving “waste, fraud, abuse and mismanagement” to HUD’s Office of Inspector General (OIG).

Waste includes individuals, groups or businesses spending taxpayer’s monies in a manner which does not further HUD’s goals.

Fraud includes individuals, group or businesses embezzling taxpayer’s monies from HUD.

Abuse includes HUD officials or HUD-funded local officials whose actions exceed the authority granted them by HUD policies or regulations.

Serious mismanagement includes significant failure by a HUD Program Officer or a Program Office Entity due to managerial incompetence or inattention.

X. LANDLORD RESPONSIBILITIES

Landlords that place rental units under a HAP Contract have the following responsibilities:

- Screen prospective tenants for suitability/desirability. SFHRC only determines if the household meets HUD eligibility criteria for participation in the Voucher program. SFHRC can assist a landlord in the screening process by providing the current address and landlord name and phone number, if known to SFHRC and past address and landlord name, if known to SFHRC;
- Maintain premises in compliance with HUD’s Housing Quality Standards;
- Collect security deposits and rent;
- Enforce terms of Lease Agreement;
- Comply with Fair Housing Law;
- Pay utilities as stated in Lease Agreement;
- Notify SFHRC immediately if an unauthorized individual moves into the unit or if the tenant vacates the unit;
- Provide SFHRC a copy of eviction or lease termination notices;
- Notify SFHRC of any proposed changes to Lease Agreement;
- Comply with terms and conditions of HAP Contract.

NOTIFICATION REQUIREMENTS

The landlord is required by law to inform the household of the presence of any known lead-based paint on the premises and/or if they have knowledge that methamphetamine has been manufactured on the premises.

The landlord is required to provide SFHRC and the household 60 days advance written notice of any proposed increase in the contract rent.

XI. HOUSEHOLD RESPONSIBILITIES/OBLIGATIONS

Households that participate in the Voucher program are required to comply with certain “Family Obligations”. The obligations are established by HUD. Failure of the household to meet any one of these Family Obligations may result in the termination of the HAP Contract and rental assistance. If the household remains in the unit after the HAP Contract is terminated it would be responsible for paying the entire rent itself.

- Supply information necessary for determination of continued eligibility in the HCV program;
- Disclose and verify social security numbers and submit consent forms for obtaining information;
- Supply any information requested by SFHRC to verify that the household is living in the unit that SFHRC is providing rental assistance for or information related to household absence from the unit;
- Promptly notify SFHRC, in writing, before moving out of the unit or terminating the Lease Agreement;
- Allow SFHRC to inspect the unit at reasonable times and after reasonable notice;
- Notify SFHRC and the landlord, in writing, before moving out of the unit;
- Use the assisted unit for residence by the household. The unit must be the household’s only residence;
- Promptly notify SFHRC, in writing, of the birth, adoption, or court ordered custody of a child;
- Request SFHRC’s written approval to add any person as an occupant of the unit;
- Promptly notify SFHRC, in writing, if any household member moves out of the unit;
- Provide SFHRC with a copy of landlord eviction notice;
- Pay utility bills and provide/maintain any appliances that the landlord is not required to provide under the terms of the Lease Agreement;
- Provide accurate and complete information to SFHRC.

The household (including each household member) must not:

- Own or have any interest (other than in a cooperative, or the owner of a manufactured home leasing a manufactured home space);
- Commit any serious or repeated violation of the lease;
- Commit fraud, bribery or any other corrupt or criminal act in compliance with the Voucher program;
- Engage in drug-related or violent criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
- Sublet or let the unit or assign the lease or transfer the unit;
- Receive rental assistance under the Voucher program while receiving another housing subsidy, for the same unit or a different unit under any Federal, State or local housing assistance program.

- Damage the unit or premises (other than damage from normal wear and tear) or permit any guest to damage the unit or premises;
- Receive rental assistance under the Voucher program while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother (including step) of any member of the household, unless SFHRC has determined (and has notified the landlord and the household of such determination, prior to the start of rental assistance) that approving the unit would provide a reasonable accommodation for a qualified family member who is a qualified individual with disabilities;
- Engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.

XXII. SFHRC RESPONSIBILITIES

SFHRC will perform the following functions in the administration of the Voucher program:

- Inform eligible households of the availability of the Voucher rental assistance program;
- Encourage landlords to make their units available for lease by Voucher holders, including landlords of suitable units outside areas of poverty and/or racial concentration;
- Make efforts to help people with disabilities find satisfactory housing;
- Receive applications from applicants and determine their eligibility for participating in the program, maintain waiting list, select applicants, issue Housing Choice Voucher and brief Voucher holder;
- Establish and adjust a utility allowance for household paid utilities;
- Evaluate dwelling units to determine compliance with HUD's Housing Quality Standards (HQS);
- Determine maximum amount of housing assistance payments that can be paid on a household's behalf;
- Review leases submitted by landlords to determine if they can be approved for the program;
- Administer and enforce the terms of the HAP Contract, including taking appropriate action as determined by SFHRC, if the landlord defaults or breaches the terms;
- Determine whether to terminate rental assistance to a participant household for violations of the program's Family Obligations;
- Perform annual and periodic reexaminations of household composition, income and determination of subsidy amount;
- Determine whether the rent for a unit is reasonable in comparison to rent for other comparable unassisted units;
- Conduct Informal Reviews on certain decisions concerning applicants to the Voucher program;
- Conduct Informal Hearings on certain decisions concerning participant households of the Voucher program;
- Affirmatively further fair housing goals and comply with equal opportunity requirements;
- Administer a Family Self-Sufficiency program if HUD provides administrative dollars for the program.

SFHRC CANNOT:

- Provide legal advice to either landlords or program participants;
- Mediate disputes between landlords and program participants;
- Assume property management responsibilities such as evicting problem tenants, collection or rent or provide references;
- Target voucher to specific properties; or

- Disclose information covered under the Privacy Act of 1974 concerning to specific households to a 3rd party, including landlords.

XIII. RENT REASONABLENESS (COMPARABILITY)

HUD regulations require that prior to entering into a HAP Contract and during the term of a HAP Contract the landlord's rent must be "reasonable" in comparison with rent for units in the private unassisted market. The central purpose of comparability is to assure that federally subsidized rents do not exceed rental values in the private market. The Voucher program is designed to enable low-income households to pay a fair rent for decent housing, not to subsidize excessive rents or profits for property owners. Above market rents waste federal taxpayers' dollars. By requiring reasonable rents for voucher assisted households, HUD is attempting to maximize the benefits from use of available funds.

Reasonable rent can best be described as the price the landlord and household would negotiate in the "real world" without the effect of rental assistance. SFHRC is required to use rental information from real world rent transactions to estimate the value of a unit prior to entering into or renewing a HAP Contract, prior to authorizing an increase in rent or if there is a 5% decrease in the Fair Market Rent, which is used to establish the payment standards for the Voucher program. SFHRC cannot compensate landlords, by allowing higher rents, for accepting households that receive rental assistance.

Voucher payment standards have no bearing on determining whether the rent for a particular unit is reasonable or not. Payment standards are used to calculate the amount of rental assistance SFHRC can pay on a household's behalf.

By accepting SFHRC's monthly rental assistance, the landlord certifies that the rent for a unit assisted through the HCV program does not exceed rent charged by the landlord for comparable unassisted units on the premises.

To determine comparable rent SFHRC is required to consider the following factors:

- Locations, i.e., neighborhood;
- Size, i.e., number of bedrooms and square footage;
- Unit type and age, i.e., house, townhouse, apartment, duplex and year constructed;
- Amenities, housing services, maintenance and utilities to be provided by the landlord, i.e., dishwasher, garbage disposal, off-street parking, lawn care and snow removal;
- Quality of unit, i.e., condition of paint or other wall coverings, floor coverings, fixtures and appliances.

The landlord may submit information on rent comparability for the units they wish to place under a Housing Assistance Payments Contract. Federal regulations do not allow the inclusion of properties under the Low-Income Housing Tax Credit (LIHTC) program for rent comparability.

SFHRC retains the right to make final determination of a unit's rent comparability.

XV. CONTRACT RENT INCREASES

The landlord is allowed to increase the contract rent for units under a HAP Contract after the initial term of the Lease Agreement. SFHRC must certify that the proposed contract rent is reasonable in comparison to comparable unassisted units.

The landlord must provide the household and SFHRC sixty (60) days advance written notice of the proposed contract rent increase. The landlord must provide SFHRC with a copy of the notice they send to the household.

In most instances, the household will absorb any increase in the contract rent.

XV. HUD'S HOUSING QUALITY STANDARDS

HUD'S Housing Quality Standards (HQS) are a "basic floor" or minimum standards that apply across the country to units under a HAP Contract. The primary objective of these standards is to protect the household receiving rental assistance by guaranteeing that the unit meets what considers a basic level of acceptable housing. HUD's HQS addresses minimum criteria necessary for the health and safety of the occupants and to "decency and suitability" of a unit.

Each unit must be evaluated and determined to be in compliance with HUD's HQS before SFHRC can enter into a HAP Contract with the landlord and start assisting the household with their rent. Rental assistance can begin the latter of the date the unit passes the HQS inspection or when the household takes possession of the unit. If the household moves into a unit before the unit passes the inspection they are responsible for paying the entire rent themselves. SFHRC will not reimburse the household for the days they occupy a unit prior to SFHRC's determination that it meets HQS.

In addition, HUD regulations require that each unit under a HAP Contract must be re-evaluated at least annually to determine if it is still in compliance with HUD's HQS. If deficiencies are found during the annual evaluation the landlord will be notified of the HQS deficiencies in writing and be given 30 days to correct the deficiencies.

If the deficiencies are not corrected within 30 days of the date of the letter, or any extension granted by SFHRC, SFHRC will terminate the HAP Contract on its anniversary date. The household may transfer their rental assistance to another unit that meets HUD's standards. If the household remains in place after the HAP Contract has been terminated it will be responsible for paying the entire rent itself.

SFHRC reserves the right to refuse to conduct a unit evaluation if SFHRC's HQS Evaluator has reason to believe that they could be in jeopardy, i.e., a household member or guest appears to be "high", are exhibiting violent behavior, belligerent, comes to the door dressed inappropriately or very young children are home alone.

TYPES OF EVALUATIONS

There are several types of unit evaluations that SFHRC may conduct in order to determine compliance with HUD's Housing Quality Standards which are:

- Initial Evaluation: An evaluation to determine if the unit meets HUD's HQS that must take place prior to SFHRC entering into a HAP Contract with the landlord.
- Annual Evaluation: An evaluation conducted at least once every twelve (12) months to determine if the unit continues to comply with HUD's HQS.
- Complaint Evaluation: An evaluation conducted based on complaints from anyone.
- Special Evaluation: An evaluation conducted to meet demands of a 3rd party, i.e., HUD or HUD's Office of Inspector General.

- Emergency Evaluation: An evaluation conducted in the event of a perceived emergency. Emergency Evaluations take precedence over all other evaluations.
- Quality Control Evaluations: An evaluation conducted by SFHRC supervisory personnel to meet HUD requirements.

HQS RATINGS

HUD has established the following rating system to determine compliance with their HQS:

- Pass: All items listed on HUD's HQS evaluation form pass with no noticeable defect or problem.
- Pass With Comment: In SFHRC's HQS Evaluator's opinion conditions present are not serious enough to warrant a "fail" rating, i.e., minor to moderate defect of an item listed on HUD's HQS evaluation form.
- Fail: Item listed on HUD's HQS form does not meet the minimum requirement; if one item on the evaluation form is marked fail the entire unit fails.
- Inconclusive: SFHRC's HQS Evaluator is unable to determine if an item listed on HQS Evaluation form passes or fails. All inconclusive items must be resolved before a unit can pass.

TIMEFRAMES

SFHRC will conduct HQS evaluations within a reasonable time after the household and landlord submit a completed Request For Tenancy Approval. To the extent possible, SFHRC will conduct the evaluation within 15 business days after receiving a completed Request For Tenancy Approval. The 15 days is suspended during the time the unit is not available for evaluation.

SFHRC will conduct an annual evaluation of the unit 60-90 days prior to the anniversary date of the HAP Contract.

Requests for a special inspection will be scheduled based on the HQS Evaluator's schedule. If a deficiency is found that is determined to be "emergency" in nature, the deficiency must be abated within 24 hours. Emergency fail items include: no hot water and/or cold water, no electricity, inability to maintain adequate heat (68 degrees during the winter months), major plumbing leak, natural gas or propane leak, broken lock on doors and windows accessible from the ground, broken windows that allow weather elements into the unit, electrical outlet smoking or sparking, exposed electrical wires which could result in a shock or fire, unusable toilet when only one toilet is present in the unit, security risks such as broken door or windows that allow intrusion and other conditions that impose an immediate health risk to the household.

Failure of emergency situations to be corrected within 24 hours will result in the abatement of the housing assistance payments or termination of the HAP Contract, depending on the situation. If corrections are not made within 24 hours an abatement of HAP or termination of the HAP Contract will take effect on the 1st of the month following the expiration of the 24 hour correction period.

Deficiencies found during a complaint, special or quality control inspection must be corrected within 30 days of the date of the evaluation.

EXTENSIONS

At the sole discretion of SFHRC, extensions may be granted to complete repairs if the landlord has made a good faith effort to correct the deficiencies, i.e., parts needed for the repair are on back order, professional tradesman not immediately available, weather conditions prohibit exterior work from being performed such as exterior painting or pouring concrete.

ABATEMENT OF HOUSING ASSISTANCE PAYMENTS

The HAP for the dwelling unit will be abated as of the first day of the following month for units that fail an HQS evaluation and the landlord fails to correct the deficiencies within the required time frame. Abatement is a cessation, not a hold, of the rental assistance to the landlord. Abated monies are forfeited by the landlord while the remainder of the terms and conditions of the HAP Contract remain in place. If and when deficiencies are corrected SFHRC will end the abatement the day the unit passes SFHRC's evaluation and HAP will be included on the following month's check, provided the necessary paperwork was submitted to SFHRC prior to the cut-off for processing the HAP checks.

XVI. LEAD-BASED PAINT IN VOUCHER PROGRAM

On September 15, 1999 HUD issued a final rule: "Requirement for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance". The purpose of this rule is to ensure that housing receiving federal assistance and federally owned housing that is sold does not pose lead-based paint hazards to young children.

This rule requires SFHRC's HQS Evaluator to conduct a visual assessment of all painted surfaces and identify deteriorated paint during initial and subsequent unit evaluations. Surfaces to be included in the visual assessment include all surfaces in the dwelling unit; surfaces on the exterior of the structure regardless of the height from the ground and all common areas, i.e., all areas for use by occupants of more than one unit, outbuilding and garages.

Deteriorated paint is defined as paint that is peeling, chipping, chalking or cracking or is damaged or separated from the substrate.

All deteriorated paint must be treated through "paint stabilization". This includes the removal of the defective paint, using specific acceptable methods of removal and clean-up or covering defective surfaces with durable materials with joints and edges sealed and caulked as needed to prevent the escape of dust. In addition, any physical defect in the substrate that is causing the deterioration must be repaired. Such defects include dry-rot, rust, moisture, crumbling plaster and missing siding components that are not securely fastened.

If paint stabilization occurs the unit must be "cleared" by a certified risk assessor or certified lead-based paint inspector. The landlord must provide a notice to the household describing the results of the clearance examination.

Noncompliance with the lead-based paint final rule is noncompliance with HUD's HQS so the administrative measures taken are the same as for any HQS noncompliance.

The lead-based paint rule may be downloaded in its entirety through HUD's website at <http://hudclips.org>. Click on "Library", on the second screen check *Federal Register* section; click on "1999 (from 4/1/90 to 3/31/00)". The reference number for this rule is "274".

HUD also provides information on visual assessment of painted surfaces at the following website: [http://www.hud.gov/lea/training/visual assessment.h00401.htm](http://www.hud.gov/lea/training/visual%20assessment.h00401.htm).

XVII. CALCULATION OF RENTAL ASSISTANCE

The calculation of the amount of rental assistance SFHRC will pay on a household's behalf is a formula process. The monthly rental assistance is the difference between the applicable payment standard, based on the household's size and composition, and 30 percent of the household's monthly adjusted income. In determining the initial rental assistance for the household SFHRC will use the payment standard in effect on the first day of the HAP Contract.

There are no rent limits under the Voucher program; however, the more expensive of a unit the household rents the more the household will have to pay out-of-pocket as their share of the rent; the amount of rental assistance remains constant. However, in accordance with federal regulations, households participating in the Voucher program may not pay more than 40 percent of their monthly adjusted income for rent during the initial term of the Lease.

CHANGES IN RENTAL ASSISTANCE

The amount of rental assistance SFHRC pays on a household's behalf may change depending on the household's income and increases in the contract rent. SFHRC will notify the landlord and household of any changes to the housing assistance payments and tenant rent.

XVIII. LANDLORD/TENANT DISPUTES

If the landlord and tenant are having problems SFHRC encourages both parties to review their Lease and any house rules. Most leases and house rules address problems that could arise during tenancy. SFHRC does not have an attorney on staff and is not allowed to give legal advice to either the landlord or the tenant.

The South Dakota Attorney General's Office has published a consumer handbook which includes a chapter on landlord-tenant disputes. This handbook is available on the internet at <http://www.state.sd.us/attorney.index.htm>. Click on "news and issues" link; on the dropdown box click on publications.

XIX. VIOLENCE AGAINST WOMEN ACT

The intent of the Violence Against Women's Act (VAWA) is to protect victims of domestic violence, dating violence, sexual assault and stalking from losing their rental assistance and housing as a result of being a victim of criminal activities.

VAWA states that an individual's status as a victim of domestic violence is not appropriate basis for denial of tenancy or program assistance by SFHRC, or a landlord, so long as that individual would otherwise qualify for assistance or the unit. VAWA further states that incidents of abuse are not good

cause for terminating a lease held by the victim, and that the abuser's criminal activity directly related to abuse shall not be grounds for eviction or termination of rental assistance. VAWA does allow SFHRC or the landlord to evict or terminate rental assistance to the abuser, i.e., bifurcate the lease.

XX. LEASE TERMINATION

The lease may be terminated by the household, the landlord or if SFHRC terminates the HAP Contract.

TERMINATION BY HOUSEHOLD

The lease dictates when the household may terminate the lease and vacate the unit. Some leases automatically renew on a month-to-month basis after its initial term; other leases have a specific end date. The household must abide by the notification requirements as specified in the lease and provide SFHRC with a notice of their intent to vacate.

TERMINATION BY LANDLORD

The landlord may terminate the lease by providing notice to the household in accordance with the terms of the lease and South Dakota Tenant/Landlord law.

The landlord may terminate the lease any time for:

- Serious or repeated violations of the lease;
- Violation of Federal, State or local law;
- Drug-related or criminal activity by household members or other persons under the household's control;
- Other good cause. However, during the initial term of the lease, the landlord may not terminate for "other good cause" unless it is based upon wrong doing or misconduct by the household.

XXI. TERMINATION OF RENTAL ASSISTANCE

SFHRC may terminate rental assistance to a household for any of the following reasons:

- If the household commits any fraud in connection with the program;
- If the household violates any of its "Family Obligations" under the program;
- If the household has breached a repayment agreement with SFHRC;
- If the unit does not meet HUD's Housing Quality Standards;
- If the unit size no longer complies with SFHRC's subsidy standards;
- If the household is absent from the unit for more than 30 days without SFHRC approval;
- If the household fails to provide utilities as stated in the lease;
- If the household allows an unauthorized individual to move into the unit;
- If the landlord breaches the terms of the Housing Assistance Payments Contract.

If the household remains in the unit after the termination date of the rental assistance, it will be responsible for paying the entire contract rent themselves.

XXII. FEES AND SECURITY DEPOSIT

The household is responsible for paying any application fees, key and security deposit. If the household vacates leaving damages to the unit beyond normal wear and tear or owing rent, the landlord must

pursue collection through the normal process. SFHRC does not reimburse landlords for unpaid rent or damages under the Voucher program.