



Project-Based Section 8 Basics

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Resident Academy

Basics of the Project-Based Section 8 Program

- **Number of Units:**
 - Approximately 1.3 million units remaining

- **How Program Works: Subsidy Mechanism:**
 - Section 8 Housing Assistance Payments (HAP) contract provides for money to cover the difference between HUD-approved rents and tenant share of rent.

- **Ownership:**
 - Mostly private, for-profit; some nonprofits and a few publically owned

- **Who's Involved?**
 - HUD is a party to the Section 8 Housing Assistance Payments (HAP) contract, but for many properties HUD has contracted out role of "Contract Administrator."
 - For a list of the list of contacts for the Local HUD offices, go to <http://portal.hud.gov/hudportal/HUD?src=/localoffices>
 - For a list of HUD staff responsible for the contract administrators, go to <http://portal.hud.gov/hudportal/documents/huddoc?id=caomlist.pdf>

- **Key Regulatory Features:**
 - HAP Contract;
 - 24 CFR Parts 880 to 886; 24 CFR Part 5
 - HUD Handbook 4350.3 REV-1, CHG-3 (June 2009);
 - HUD Model Lease (Hbk 4350.3, App. 4 Form HUD-90105a, Dec. 2007)

- **Finding Out Where this Housing Is Located in Your Community and What Types of Families it Serves by Bedroom Size or Types of Applicants (Elderly or Disabled only):**
 - Find HUD Project-Based Section 8 in your State, City or County at National Housing Trust's web site (Excel or PDF): http://www.nhtinc.org/housing_data.php
 - Project-Based Section 8: HUD data at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/mfdata
 - (To get information "Google" "Find Affordable Housing" or "Find HUD Section 8 Housing")

- **Tips for Determining What Kind of Housing Is Involved:**
 - Look up the property on the lists mentioned above; is the lease a HUD lease? see above; Other facts that may help decide what kind of housing it is, rent level; owner type; age of housing.
 - Ask Manager, HUD or others in the community.

Major Applicant and Tenant Issues:

- **Admissions:**
 - **Waiting list:**
 - Most Owners maintain a waiting list. Ask if the list is open or how an applicant may get on the list. 24 C.F.R. §880.603; HUD Handbook 4350.3 REV-1, CHG-3, ¶¶ 4-13 to 4-25.
 - **Eligibility:**
 - Income: In general, applicants must have income less than 50% of Area Median Income (AMI), but some exceptions are allowed for families with income up to 80% of AMI. 42 U.S.C. §1437f(a) and (c)(4); 24 C.F.R. §5.653, HUD Handbook 4350.3 REV-1, CHG-3, Ch.3
 - Targeting: at least 40% of units becoming available for rent in any year must be leased to tenants with incomes below 30% of AMI, 75% or 85% of units becoming available must be leased to tenants with incomes below 50% of AMI, and “skipping” over lower-income applicants to reach higher income is prohibited. 42 U.S.C. §1437n(c); 24 C.F.R. §5.653
 - Immigration status: Family must have one member of the household who is a citizen or who has eligible immigration status under one of the categories set forth in 42 U.S.C. §1436a(a) If any members of the household are not citizens or lack eligible immigration status, the family may have to pay a higher rent. 24 C.F.R. §5.500–5.528.
- **Preferences:**
 - Some properties have a preference for elderly families; others may have a preference for working families or may use Public Housing Agency(PHA)-established local preferences.
- **Screening:**
 - Owners often screen new applicants for
 - Criminal activity—Owners must screen for certain types of criminal activity
 - Poor tenant history
 - Poor rent paying history or bad credit
- **Procedural Protections:**
 - Written tenant selection plan and information regarding preferences must be available
 - Owner required to provide written rejection notice, offering 14-day response, meeting, and written decision within 5 days. HUD Handbook 4350.3 REV-1, CHG-3, ¶ 4-4 (plan) and ¶ 4-9 (procedures).
- **Rents:**
 - **Income-based rents:**
 - Most residents pay 30% of adjusted income for rent
 - **Annual Income and Exclusions:**
 - Annual income means all amounts that go to any family member.
 - From this amount certain income is excluded including

- Payments for the care of foster children
 - Earned income of minors or full time students, who are not head of household or spouse
 - Lump sum payments for delayed start of Social Security payments, personal injury, and other lump sum payments
 - One-time income such as gifts
- 24 C.F.R. § 5.609
- **Adjusted Income after Deductions:**
 - Typical Deductions:
 - \$480 per dependent;
 - \$400 for elderly or disabled family;
 - Unreimbursed medical expenses for elderly or disabled family and unreimbursed attendant care or apparatus expenses to enable disabled family member to be employed that exceeds 3% of annual income
 - Child care expenses necessary for employment or education, 24 C.F.R. § 5.611
 - Other locally adopted deductions

 - **Recertification:**
 - Recertification at least annually
 - Interim recertification on tenant request
 - Tenant must report changes in family composition increases in income of \$200 or more and if unemployed member becomes employed.
 - 30 day notice of rent increase

24 C.F.R. §§ 5.657 & 5.659, HUD Handbook 4350.3 REV-1, Ch. 7.

 - **Minimum Rent and hardship exemptions:**
 - Minimum rent is \$25 and tenant may request an exemption from minimum rent because of a hardship

24 C.F.R. § 5.630:

 - **Utility Allowance:**
 - For tenant-paid utilities, owner sets “reasonable” amount as the allowance , which is credit against 30% of income tenant share

 - **Ability to challenge rent level:**
 - Tenant requests a meeting with owner or manager

 - **Grievance Procedures:**
 - Generally just informal meeting with management prior to final rejection at admission, to contest a rent increase or in response to an eviction or termination notice, HUD Handbook 4350.3 REV-1, CHG-3, ¶ 4-9 (admission) and Ch. 8 (terminations).

- **Evictions and Terminations:**
 - **Eviction:**
 - Good cause always required, including at end of lease term: 24 C.F.R. Part 247; HUD Handbook 4350.3 REV-1, ¶¶ 8-11 to 8-16; Model Lease (Appendix 4 to Handbook 4350.3).
 - **Notice:**
 - Length (state law, or 30 days for “other good cause”)
 - Content (good cause and relevant facts, warnings & opportunity to cure for other good cause, right to meeting and to judicial defense)
HUD Handbook 4350.3 REV-1, ¶¶ 8-11 to 8-16, Model Lease, state law; and service, HUD Handbook 4350.3, ¶ 4-22.
 - **Required proof by landlord:**
 - Preponderance of evidence that breach of the lease occurred; for drug-related and criminal activity, arrest or conviction not required
 - **Pre-judicial administrative review:**
 - Tenant has 10 days to request meeting with landlord
HUD Handbook 4350.3 REV-1, CHG-3, ¶ 8-13, & Model Lease (Appendix 4 to the Handbook).
 - **State law procedural protections not pre-empted:**
HUD Handbook 4350.3 REV-1, ¶ 8-12B.
- **Termination of assistance:**
 - Based only on a change in the tenant’s eligibility for assistance or a tenant’s failure to fulfill specific responsibilities under program requirements.
 - Right to meeting with owner or manager to discuss

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