

**TAC Guidance on HCV Administrative Plan Addendum
on Affirmatively Furthering Fair Housing**

For FY2010 NOFA: *Rental Assistance for Non-Elderly Persons with Disabilities*

On April 7, 2010 the U.S. Department of Housing and Urban Development (HUD) announced the availability of \$40 million in funding for approximately 5,300 Section 8 Housing Choice Vouchers (HCV) for non-elderly disabled households. Applications are due to HUD by **July 7, 2010**.

PHAs currently administering an HCV program are the only eligible applicants for this funding. In addition, the NOFA requires that, to be eligible to apply for funding, PHAs must also meet seven threshold criteria.

One of the seven threshold requirements for the NOFA requires that, prior to the application due date, each PHA applicant must submit to the Public Housing Director in the PHA's local HUD Field Office, an addendum to the PHA's HCV Administrative Plan that outlines reasonable steps the PHA will take to affirmatively further fair housing in regard to the vouchers awarded under this NOFA. Since the vouchers available through this NOFA are all targeted to non-elderly disabled persons, it is critical that PHAs ensure that the HCV program allows for equal access and participation by people with disabilities and includes policies that affirmatively further fair housing.

HUD does not provide a template for this addendum; the only official HUD guidance is in the NOFA, which we strongly encourage all PHAs to review thoroughly. This guidance has been developed by the Technical Assistance Collaborative (TAC) – a non-profit agency that is not a part of HUD – in response to the multiple requests from PHAs for assistance in complying with this requirement. TAC offers this guidance on what a PHA may want to consider in designing an addendum that reflects a PHA's own unique HCV policies and activities. The activities provided below are merely suggestions. PHAs are encouraged to consider not only these recommended activities but also any other activity that would lead to equal participation in the HCV program by people with disabilities.

What Does the NOFA Require?

The NOFA states that there are two areas the PHA is **required** to address in the HCV Administrative Plan and a number of other areas that the PHA is **encouraged** to address.

A. Required Areas

The NOFA indicates that the HCV Administrative Plan Addendum **must** include reasonable steps to affirmatively further fair housing including informing affected applicants on how to file a fair housing complaint including the provision of the toll free number for the Housing Discrimination Hotline: 1-800-669-9777 and the Federal Information Relay Service at (800) 887-8339.

The NOFA also indicates that the applicant PHA **must** comply with the affirmatively furthering fair housing requirements of 24CFR Part 903.7(o) – the PHA Plan Rule –by:

- Examining its programs or proposed programs;
- Identifying any impediments to fair housing choice within those programs;
- Addressing those impediments in a reasonable fashion in view of the resources available;
- Working with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement; and

Maintaining records reflecting these analyses and actions.

B. Encouraged Areas

Applicant PHAs are also **encouraged** (*but not required*) to take the following proactive steps in addressing accessibility issues for persons with disabilities:

- Where requested by an individual, assist program applicants and participants gain access to supportive services available within the community, but not require eligible applicants or participants to accept supportive services as a condition of continued participation in the program;
- Identify public and private funding sources to assist participants with disabilities in covering the costs of structural alterations and other accessibility features that are needed as accommodations for their disabilities;
- Not deny persons who qualify for a HCV under this program other housing opportunities, or otherwise restrict access to PHA programs to eligible applicants who choose not to participate;
- Provide housing search assistance;
- In accordance with rent reasonableness requirements, approve higher rents to owners that provide accessible units with structural modifications for persons with disabilities; and
- Provide technical assistance, through referrals to local fair housing and equal opportunity offices, to owners interested in making reasonable accommodations or units accessible to persons with disabilities.

Some Ideas for PHAs to Meet NOFA Requirements

The following provides some examples of ways in which PHAs might consider complying with the requirements described above. These examples are only some of the ways in which a PHA might consider affirmatively furthering fair housing for families with disabilities participating in the HCV Program. Each PHA must implement those policies and procedures that best meet the needs of the PHA and its community. These policies and procedures should be described in the HCV Administrative Plan Addendum that must be submitted to the HUD Field Office prior to the application due date.

A. Examples of ways in which a PHA might consider meeting the requirement to assist in filing complaints of discrimination

- The PHA's briefing package includes information on the fair housing rights of HCV participants, such as the "Are You a Victim of Discrimination?" brochure from HUD.
- The PHA's briefing package includes information on where a discrimination complaint may be filed, including the office address, telephone number, and TTY number of the state or local fair housing agency, or HUD's Office of Fair Housing and Equal Opportunity. The briefing material must include the toll free number for the national Fair Housing Complaint Hotline, (800) 669-9777, which may be accessed via TTY by calling the Federal Information Relay Service at (800) 887-8339.
- The PHA's briefing package includes a form for filing a discrimination complaint with the state or local fair housing agency, or with HUD.
- The PHA's policies for individual oral briefing of people with disabilities admitted to the HCV program includes a review of the fair housing material in the briefing package.
- The PHA has written fair housing material available in alternative formats for participants with disabilities.

- The HCV Administrative Plan includes a written policy of providing assistance with completion and filing of fair housing complaints for victims of discrimination.

B. Examples of ways in which a PHA might consider meeting requirement to comply with the affirmatively furthering fair housing requirements of 24CFR Part 903.7(o) – the PHA Plan Rule

As described above, the PHA plan rule at 24 CFR Part 903.7(o) requires a PHA to: (a) examine its programs or proposed programs; (b) identify any impediments to fair housing choice within those programs; (c) address those impediments in a reasonable fashion in view of the resources available; (d) work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement; and (e) maintain records reflecting these analyses and actions.

- The self-evaluation required by HUD's Section 504 rules is a similar tool that is a useful source of information for barriers to equal access to a PHA's programs by people with disabilities. The results of the self-evaluation, including the steps the PHA takes to remove program barriers for people with disabilities, may be summarized in the Fair Housing Addendum.
- Assuring that people with disabilities have access to the PHA's programs and services that are not limited to disabled families through the use of selection preferences and similar mechanisms.
- Developing written procedures for notifying people with disabilities about the availability of HCV for disabled families, such as conducting outreach to independent living centers, veterans services offices, and state and local agencies that serve Medicaid consumers.
- Maintaining protocols for effective communication with people with disabilities in applications and recertification of eligibility, such as large print or computer versions of application forms, and procedures for accepting applications from individuals who are unable to come to the PHA's management office because of disability.
- Providing a participant with disabilities a list of accessible apartments that may be rented with HCV.
- Adopting procedures for extending or suspending housing search time for people with disabilities when necessary.
- Developing procedures for exceptions to HCV payment standards when needed by participants with disabilities, including advising disabled families of the availability of exception payment standards and the criteria used to evaluate requests for exception payment standards, and maintaining protocols for making requests to HUD for exception payment standards in excess of 110% and 120% of fair market rents.
- Developing procedures for exceptions to HCV utility allowances when needed by participants with disabilities, including advising disabled families of the availability of increased utility allowances and the criteria used to evaluate requests for increases.
- Adopting standards for adding additional bedrooms to the size of a HCV to accommodate disabled families who need additional space for medical equipment or assistive devices.
- Developing written procedures for adding additional bedrooms to the size of a HCV to accommodate people who require live-in aides.

- Adopting written procedures for addressing requests for reasonable accommodations for people with disabilities.
- Offering program participants the opportunity to complete the Supplement to the Application for Federally Assisted Housing (SAFAH), in which the participant can name a person for the PHA to contact in the event issues arise during program participation. The SAFAH form can be found in [PIH Notice 2009-36](#)
- Designating a Section 504 coordinator and adopting a Section 504 grievance procedure.
- Developing procedures for notifying people with disabilities of the availability of reasonable accommodations and other mechanisms that remove barriers to HCV participation.

C. Examples of other PHA activities that promote program access as encouraged by HUD

- Providing assistance to people with disabilities in gaining access to supportive services on a voluntary basis: Both Category 1 and Category 2 applications require that applicant PHAs describe the services that will be made available to non-elderly people with disabilities. Such assistance is most meaningful when a PHA establishes relationships with multiple supportive service providers in the community, and can provide accurate information about how to apply for and qualify for the services.
- Identifying sources of funding to make structural modifications to units rented by HCV participants with disabilities: Sources of such funds may include Community Development Block Grant and HOME program funds administered by states and local jurisdictions. Private sources of funds may include non-profit agencies that serve people with disabilities, and private foundations. When there is a local and/or state programs that provides funding specifically for such modifications, linkages with such programs could be established.
- Not denying persons who qualify for a HCV under this program other housing opportunities, or otherwise restricting access to PHA programs to eligible applicants who choose not to participate: PHAs should ensure that applicants and participants are aware of other PHA programs and their availability at the time of application.
- Providing housing search assistance: PHAs may authorize staff to directly assist disabled families with housing search. PHAs may also want to develop relationships with agencies in the community that already provide housing search (such as HPRP funded programs) and link program applicants with these programs.
- Approving higher rents to owners that provide accessible units with structural modifications for persons with disabilities: Should the PHA choose to provide higher rents to owners who make their units accessible to persons with disabilities, the PHA will want to develop a written policy and include such policy in the Administrative Plan.
- Provide technical assistance, through referrals to local fair housing and equal opportunity offices, to owners interested in making reasonable accommodations or units accessible to persons with disabilities: PHAs can offer training and technical support to landlords participating in the HCV program on matters such as reasonable accommodation and reasonable structural modifications. PHAs can also partner with a community agency that has expertise in this area such as a Center for Independent Living or other local organization.

Putting the Addendum in Place

It is important to note that many of the components of this addendum are likely **already part of many PHA HCV Administrative Plans**. The PHA can confirm whether these items are already part of official PHA policy through a review of the PHA Plan and HCV Administrative Plan.

Prior to submitting a HCV Administrative Plan Amendment, the PHA Board of Commissioners or other governing body must formally adopt the Administrative Plan and any revisions. In most cases, this will have to be done in a public meeting and may require a public posting of the changes, depending on the PHA requirements. If a public meeting or posting is required, the PHA will want to leave sufficient time to ensure the Board approval is in place in time for the Addendum to be submitted prior to the submission of the application. The revised Administrative Plan becomes the PHA's "official" policy when it is approved by the Board. HUD must receive a copy of the plan, and may require changes if the policies adopted are inconsistent with program regulation requirements.

Note that even if the NOFA required Affirmative Fair Housing policies are already in place at a PHA, the language in the NOFA seems to appear as if PHAs must nonetheless submit an addendum to the Field Office. Under these circumstances, however, the PHA can probably submit such an addendum without any Board approval because the policies are already in place. Although Administrative Plans are generally not submitted to HUD, submission to HUD of an Addendum that reflects the PHA's policies to affirmatively further fair housing is a requirement under this NOFA.

This guidance is provided by the Technical Assistance Collaborative, a private non-profit entity. HUD has not reviewed nor solicited this guidance. The ideas herein reflect only the suggestions of TAC. PHAs are strongly encouraged to review the NOFA and implement policies and procedures that best meet their local needs as well as the HUD requirements described in the NOFA.