

A User's Guide for Preparing the Tenant Selection Plan

The following Guide is intended to help owners/management agents write a “**property specific**” Tenant Selection Plan (TSP) by using the HUD Handbook 4350.3 Rev. 1, **Change 2** (*herein known as The Handbook*). While some elements of the TSP may apply to all Section 8 properties (such as the income targeting requirement), most elements differ to some degree. Some properties are assisted under multiple programs and are subject to multiple sets of requirements. Due to this fact, management must be aware of the types of programs attached to their Section 8 property. Applicability can vary by:

- Type of Program
- Type of Section 8 Assistance (for example, Loan Management Set Aside versus New Construction)
- Date that subsidy contracts took effect or were executed
- Date a tenant moved in or first received subsidy; and
- Date a tenant was converted to Section 8 assistance.

In order to write your property's Tenant Selection Plan (TSP) you must have knowledge of the program names and type (*also known as Section of the Act*). For a list of Programs subject to HUD Handbook 4350.3, Rev. 1, **Change 2**, refer to Figure 1-1 on page 1-2. If you are unable to locate these documents or unclear on the information contained therein, feel free to contact Georgia HAP Administrators, Inc. (GHA) **or** the U.S. Department of Housing and Urban Development (HUD), Atlanta Hub for clarification and assistance.

Once property and loan type has been determined you are ready to begin writing your property specific TSP. This Guide to writing your Plan is based upon the HUD required topics:

(1) Figure 4-2: “Written Tenant Selection Plan Topics” (*located on page 4-4*).

AND

(2) Restrictions on Eligibility of Students for Section 8 Assistance

(24 CFR 5.612) Restrictions on assistance to students enrolled at an institution of higher education. Per the Federal Register Final Rule dated December 30, 2005. The new rule and guidance is aimed at students (full or part-time) under the age of 24 and enrolled in an institution of higher education (*located on pages 3-35 thru 3-38*).

A User's Guide for Preparing the Tenant Selection Plan

Required Topics

1. Project Eligibility Requirements

- **Project-specific Requirements:**

1. Describe whether this property is designed for a specific population. (For example, families, elderly, or disabled).
2. Describe the property type (*known as Section of the Act*) **attached** to your Section 8 subsidy. (For example, Section 202 or Section 515-Rural Housing or Section 236 or 221 (d)(3) BMIR, etc.)

- **Section 214: Restriction on Assistance to Non Citizen:**

Compliance with these rules can be found on pages 3-19 thru 3-34 for the specific citizenship/non citizenship requirements. For copies of sample citizenship letters and forms see Exhibit 3-3 thru Exhibit 3-14 located on pages 3-84 thru 3-108.

- **Social Security Number Requirements:** Recommended language is as follows:

Applicants must provide social security numbers (SSNs) for all members of the household who are 6 years of age or older, or, if no SSN has been assigned, the member must complete a certification that no SSN has been assigned. Documentation necessary to verify a social security number is a valid SSN card issued by the Social Security Administration or one of the HUD approved documents located in Appendix 3: Acceptable Forms of Verifications. Additional information concerning requirements for social security numbers is located on page 3-17 and page 3-72.

2. Income Limits

The Handbook describes several different income limits and how to determine which limit is used at your particular property. In order to determine your limit you must know the effective date of your original HAP contract. This date determines what "universe" your property is in, whether pre-universe or post-universe. Section 8 HAP Contracts initially effective on or after October 1, 1981 are called Post Universe Properties and can admit applicants that are at or below the **Very-Low Income Limit** published by HUD. Contracts initially effective prior to October 1, 1981 are called Pre-Universe Properties and can admit applicants that are at or below the **Low-Income Limit** published by HUD. The **Extremely Low-Income** limit is used for income targeting and not eligibility as is discussed in the next section under "Preferences".

A User's Guide for Preparing the Tenant Selection Plan

Income limits established and published for each county or Metropolitan Statistical Area (MSA) in the country is subject to adjustment by HUD on an annual basis. The current income limits must be displayed in the leasing office. The income limits can be obtained on-line at www.hudclips.org. Owners and management agents are encouraged to check this website frequently for HUD's most recent updates. Additional details regarding income limits can be obtained beginning on page 3-4.

3. Procedures for Accepting Applications and Selecting from the Waiting List

- **Procedures for accepting applications and pre-applications:** Management should review the HUD guidelines for establishing the property's policies for accepting applications. Refer to Section 3: Waiting List Management (page 4-30) for ideas and guidelines for establishing your policy. **Per Change 2,** **In addition to providing applicants the opportunity to complete applications at the project site, owners may also send out and receive applications by mail. Owners shall accommodate persons with disabilities who, as a result of their disabilities, cannot utilize the owner's preferred application process by providing alternative methods of taking applications.**
- **Procedures for applying preferences:** This topic is covered in detail on pages 4-9 thru 4-14. Below are some things to remember and include:
 - **Note:** The 40% Income Targeting is required of all Section 8 subsidized properties. There are many different methods for implementing and monitoring income targeting and the method selected by owner should be explained in your TSP.
 - Owners implementing state local or residency preferences must have prior HUD approval
 - Preferences must be prioritized in the following order: Statutory, HUD Regulatory, State and Local, and Owner Adopted Preferences. Additional information is explained in detail beginning on page 4-10.
- **Applicant screening criteria**
 - I. **Required Drug-Related Criminal Activity Criteria-** Owners must include the following language in the Tenant Selection Plan and must prohibit admission of any applicant or household member who has:

A User's Guide for Preparing the Tenant Selection Plan

- a. Any household containing a member(s) that has been evicted from federally assisted housing for drug-related criminal activity, unless that person has successfully completed an approved, supervised drug rehabilitation program or the circumstances leading to the eviction no longer exist (household member has moved-out).
- b. A household in which any member is currently engaged in illegal use of drugs or for which the owner has reasonable cause to believe that a member's illegal use or pattern of illegal use of a drug may interfere with the health, safety, and right to peaceful enjoyment of the property by other residents;
- c. Any household member who is subject to a state sex offender registration requirement. As a reminder, in order to implement this federal screening requirement, management must request the head of household to list all states they have lived. The applicant/tenant file must contain written proof that this screening has been completed. There is a new website owners and management agents can use to search for registered sex offenders. Go to <http://www.nsopr.gov>.
- d. Any household member if there is reasonable cause to believe that member's behavior, from abuse or pattern of abuse of alcohol may interfere with the health, safety, and right to peaceful enjoyment of the property by other residents.

For more information refer to Screening for Drug Abuse and Other Criminal Activity beginning on page 4-15. See also the following reference: Screening and Eviction for Drug Abuse and other Criminal Activity- Final Rule, Federal Register dated May 24, 2001, and HUD Notice H2002-022 dated October 29, 2002.

- II. Other Allowable Screening Criteria:** The owner must also explain any additional screening used property in this area. Allowable screening criteria include credit, rental, and housekeeping habits. **Per Change 2**, if the applicant is a person with disabilities, the owner must consider extenuating circumstances where this would be required as a matter of reasonable accommodation, see page 4-21.
- **Procedures for rejecting ineligible applicants:** Include the following HUD required procedures in your plan.
 - Owners must promptly notify the Applicant in writing of the denial of admission or assistance.
 - The written rejection notice must specifically state the reason for the rejection.

A User's Guide for Preparing the Tenant Selection Plan

- Rejection notice must also state the applicant's right to respond to the owner in writing or request a meeting within 14 days to dispute the rejection. **Per Change 2**, Persons with disabilities have the right to request reasonable accommodations to participate in the informal hearing process. Additional guidance can be found 4-23 and 4-24.
- 4. Occupancy Standards:** Per **Change 2**, Occupancy Standards must be included in the Tenant Selection Plan. Owners must have written standards describing the project eligibility criteria. Owners have discretion in developing specific occupancy standards for a property, as long as the standards do not violate fair housing requirements or contain prohibited policies and comply with Federal, State, and local fair housing and civil rights laws; Tenant-landlord laws; Zoning restrictions; and HUD's Equal Opportunity and nondiscrimination requirements under HUD's administrative procedures. Owners should review the occupancy guidance on pages 3-63 through 3-69.
- 5. Unit transfer Policies:** Describe your policies to address the following:
- Transfer Waiting Lists
 - Acceptable reasons for transfers
 - Procedures for filling vacancies
 - Establishing priority for filling vacant units with either tenants awaiting transfers or applicants from the property waiting list.

Per Change 2, Section 3: Unit Transfers located on page 7-28 thru 7-30, Owners must develop additional unit transfer policies to address tenant transfer requests beyond those needed for change in family size, including transfers needed for medical reasons or to accommodate a person with a disability.

- 6. Policies to comply with Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act and other relevant civil rights laws and statutes.**

See Chapter 2: "Civil Rights and Non-Discrimination Requirements" for developing your property policies.

- 7. Policy for opening and closing the waiting lists for the property:** The owner must describe in the TSP the procedure addressing the following points:
- Must advise potential applicants that the waiting list is closed and refuse to take additional applications.
 - When closing or opening the owner must publish a notice to that effect in a publication likely to be read by potential applicants.

A User's Guide for Preparing the Tenant Selection Plan

- The advertisement must conform to marketing activities described in the Affirmative Fair Housing Marketing Plan.

See Section 3: Waiting List Management, pages 4-33 through 4-34 for additional guidance.

Other References

The references and page numbers include in this guide can be found in the **HUD Handbook 4350.3, Rev. 1, Change 2**. Other references to use, but are not limited to:

Websites such as

- www.hudclips.org - HUD Clips
- www.nsor.org - National Sex Offender Registry
- www.sahma.org – Southeastern Assisted Housing Management Association - Sample Tenant Selection Plan

Other Handbooks and HUD Notices:

- **Section 214** – Restriction on Assistance to Non Citizens
- **HUD Notice 2002-022** – Screening for Eviction for Drug Abuse and Other Criminal Activity – Final Rule
- **HUD Notice 00-18** – Admission and Occupancy Provisions of the Quality Housing and Work Responsibility Act of 1998 (QHWRA) for Multifamily Housing Programs (Issued September 7, 2000)
- **Restrictions on Eligibility of Students for Section 8 Assistance** - July 27, 2006, Act H.R. 5117, Section 1: Exemption of Persons with Disabilities from Section 8 Rental Assistance Prohibition, Subsection (a) of Section 327 of Public Law 109-115 (*119 Stat. 2466*) as amended. April 10, 2006, HUD published Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice that clarifies 24 CFR Part 5 880,883, et al. published 12/30/2005 entitled Eligibility of Students for Assisted Housing Under Section 8 of the U. S. Housing Act of 1937. Final Rule and Federal Register, Part II, Department of Housing and Urban Development.