



BOSTON HOUSING AUTHORITY
52 Chauncy Street
Boston, Massachusetts 02111

Phone: 617-988-4000
TDD: 800-545-1833 x420
www.BostonHousing.org

April 12, 2012

Mr. Robert Cwieka
Acting Director
U.S. Department of Housing and Urban Development
Office of Public Housing
Boston Hub
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street
Boston MA 02222-1092

Dear Mr. Cwieka,

This is in response to your letter dated February 24, 2012 regarding the Boston Housing Authority's (BHA's) submission on December 13, 2011 of Amendment #1 to its 2011 Public Housing Agency (PHA) Plan. The BHA has made a number of changes to its Admissions and Occupancy Policy (ACOP) and the Leased Housing Division Administrative Plan for Section 8 Programs. These policies are supporting documents to the Statement of the BHA's Policies that Govern Eligibility, Selection and Admissions which are a required component of the PHA Plan.

Your letter states that the Department of Housing and Urban Development (HUD) has reviewed the BHA's Amendment and has found that the Plan is technically deficient in meeting statutory requirements and therefore has been disapproved.

Although the BHA disagrees with your office's assessment and fails to see where the ACOP or the Administrative Plan is technically deficient in meeting statutory requirements, the BHA has responded to each of HUD's comments below.

Admissions and Continued Occupancy Policy (ACOP)

HUD Comment:

1. Section 1.3.4 English Language Ability. This section of the ACOP explains that the BHA will make an effort to have written materials translated into those languages frequently spoken by applicants and to provide oral interpretation, upon request, in accordance with its Limited English Proficiency Program. Please clarify

2011 Plan Amendment #1
Response to HUD
April 12, 2012

whether the BHA has developed a form which explains the availability of translation services that are accessible to applicants and residents at no cost. Please also identify what forms the BHA expects to have translated and made available for applicants and residents/program participants.

BHA Response:

1. The BHA adopted its Limited English Proficiency Policy (LEPP) on November 24, 2009. A copy of this Plan, which has been listed as a Policy Document in all of the BHA's Annual Plan submissions since 2010, is attached for your records. It is also available on the BHA's website at www.bostonhousing.org. In addition, the BHA has submitted the results of its annual Four Factor Analysis with our Annual Plan submissions in 2011 and 2012. The BHA has made no change to its LEPP since 2009 nor has it changed the language in its ACOP in Section 1.3.4 English Language Ability with this Annual Plan Amendment.

In 2010, the BHA also developed a Language Assistance Services Implementation Plan and Procedures (LASIPP). A copy of the LASIPP is also attached for your reference. Section II B., Provision of Interpreter Services (Oral Language Services), provides more detail of the protocols and procedures the BHA uses to assist LEP Persons including the following LEP Forms; Language Identification Tool, Notification of Right to Free Interpretation, Request for Interpreter Form and Language Advisory Form. A copy of each of these forms is attached.

Both the BHA's LEPP and LASIPP identify the types of documents that the BHA may identify as Vital Documents. These include: Consent and Complaint Forms; Intake and Eligibility Forms; Applications for Housing; Notices of Eviction; Notices advising LEP persons of free language assistance; Notices of Public Hearings; Leases and Tenant or Participant Rules. The BHA's policies and procedures further outline the use of translation summaries and advisories. In addition, the BHA states that it shall rely on HUD and DHCD to translate their own required documents and that our commitment to translate documents is subject to the availability of appropriated funds.

Administrative Plan

HUD Comment:

1. The BHA states in Chapter 3, Section 3.2.1 that it will maintain a single waiting list for the Housing Choice Voucher Program. The regulations at 24 CFR 982.204(f) state that "A PHA must use a single waiting list for admission to its

2011 Plan Amendment #1
Response to HUD
April 12, 2012

Section 8 tenant-based assistance program. The BHA describes its Priority Categories in Section 3.3.5 on pages 20-25 of the Administrative Plan. That section appears to place City of Boston Interagency Council on Housing and Homelessness (ICHH) Programs as a Priority Category. In the Memorandum of Agreement for the Leading the Way Program forwarded to this office under separate cover, the BHA makes reference to the Leading the Way Applicant List. Please confirm that the BHA utilizes one waiting list for the HCVP program as Section 3.2.1 of the plan states and the regulations require. If the applicant list refers to a referral list please clarify that term whenever used to prevent a misconception that more than one list may be used.

BHA Response:

1. In accordance with 24 CFR 982.204(f) and as stated in Section 3.2.1 of the BHA's Administrative Plan For Section 8 Programs, "The BHA will maintain a single waiting list for its HCVP tenant-based assistance program. The BHA will also maintain separate, site-based waiting lists for each development in its Project-Based Voucher program." In the Memorandum of Agreement between the BHA and the Commonwealth of Massachusetts' Department of Housing and Community Development (DHCD) for the Leading the Way Home Program, the utilization of the term "Leading the Way Applicant List" only refers to homeless households identified by DHCD for referral to the BHA's (project-based voucher?) waiting list.

HUD Comment:

2. Chapter 3.3.5 Priority Categories (Page 31). Graduates of Project Based Units Who Have Fulfilled Supportive Service Goals. Does this section refer to project-based vouchers? If not, the BHA should make that clear, as HUD does not allow supportive services as a condition of receipt of housing assistance in the project-based voucher program.

BHA Response:

2. The BHA established this priority more than ten years ago and has made no change to this priority with this submission. To clarify, the use of the term "Project-Based Units" does not refer to participants in the BHA's HCVP PBV Program but rather as is stated in the Administrative Plan "a participant in a transitional housing program for Elderly or Disabled Persons.

HUD Comment:

2011 Plan Amendment #1
Response to HUD
April 12, 2012

3. Page 15 of the administrative plan provides that that an eligible participant who has completed one year in the PBV program shall be granted a tenant-based voucher before any applicant on a waiting list is granted a voucher. That being said, and along with the above comments on the 12 months being clarified, this category of families should be considered top priority. The regulations at 24 CFR 983.260(c) provide that before a family provides notice to terminate the lease, a family must contact the PHA to request comparable tenant based rental assistance if the family wishes to move with continued assistance. If a voucher or other comparable tenant-based rental assistance is not immediately available upon termination of the family's lease of a PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance. The Supplement to HUD form 50075 uploaded with this submission, on page 13, explains PBV with one year residency as top priority, above even the Super Priority Category, assigned 95 points. The BHA must make changes to corresponding sections of the administrative plan to clarify this. On page 20 of the administration where the definitions for priority categories begin, the first category is the Super Priority.

BHA Response:

3. As is noted by HUD's Comment, Section 3.2.6 of the BHA's Administrative Plan outlines the requirements of 24 CFR 983.260. The BHA has made no change to the language in this Section with this submission. The language in this Section is as follows: Upon completion of one year in the Project Based Voucher ("PBV") program, a Participant in good standing may choose to select a tenant-based Voucher. If a Voucher is not immediately available, an eligible PBV Participant will be placed on a waiting list by date and time of tenant-based Voucher request. As soon as a tenant-based Voucher becomes available, the BHA will grant the tenant-based Voucher to the eligible PBV Participant who has requested a tenant based Voucher by date and time of request. An eligible Participant who has completed one year in the PBV program shall be granted a tenant-based Voucher before any Applicant on a waiting list is granted a Voucher."

The BHA does not list these requirements under Section 3.3 of its Administrative Plan because this Section 3.3 lists the Priorities and Preferences the BHA has created for new admissions and not the statutory right of a PBV Participant under 24 CFR 983.260.

HUD Comment:

4. Chapter 9, Section 9.5.4 on Page 100 of the Administrative Plan. The Office of Fair Housing and Equal Opportunity recommends that BHA consider taking steps to ensure that its contracted owners comply with the Massachusetts Lead Law,

rather than simply responding to non-compliance with the law by terminating the Housing Assistance Payments Contract. The effect of the BHA policy is to allow landlords to violate the law and to force tenants with children under the age of six that have done nothing wrong to relocate. The BHA should be more proactive so as to eliminate the need for the termination of a contract and the hardships that a move may create for program participants. Such efforts could include obtaining an injunction or initiating a referral to the Massachusetts Department of Public Health's Childhood Lead Poisoning Prevention Program.

BHA Response:

4. The BHA added this specific language to Section 9.5.4 HAP Contract Termination Criteria as a result of court action. As is outlined in this Section, the BHA takes a number of steps with Owners and Participants before it terminates a HAP contract for any violation of HQS or state or federal law. Further, the BHA refers Owners on a regular basis to any known lead paint abatement programs in the cities and towns where their property is located.

HUD Comment:

5. Chapter 11, Section 11.3.2 Pending Adverse Action. The BHA may deny relocation with continued assistance where there are grounds for denial or termination of assistance. This section appears to be subjective in nature. It is recommended that the BHA be more specific about the types of adverse action or grounds for denial which could lead to a decision by the BHA to deny a move. This could be clarified by simply restating the regulations at 24 CFR 982.314, which defines moves with continued tenant-based assistance and 982.552, which cites criteria for PHA denial or termination of assistance for a family.

BHA Response:

5. The BHA has added a reference to Chapters 6 and 13 of the Administrative Plan to this Section. Chapters 6 and 13 fully outline both Denial of a Voucher and Termination of Assistance.

HUD Comment:

6. Chapter 15.5.1(4) How Participants are Selected. BHA has added language that explains that an eligible applicant with the earliest approval date, Priority and/or Preference(s) will receive one offer of an apartment of appropriate size at a PBV site of choice. Failure to accept the first housing offer will result in the withdrawal from the particular site where the offer was made. The BHA then goes on to

explain that failure to accept the housing offer will result in the withdrawal from all PBV site based waiting lists. The applicant will lose any approved priority and/or preference. Furthermore, the Applicant will only be eligible to re-apply after one year from the date of the most recent apartment assignment rejection. This office refers the BHA to 24 CFR 983.251 of the regulations and the offer of PBV assistance. The regulations explain that if a family refuses the PHA's offer of PBV assistance, such refusal does not affect the family's position on the PHA waiting list for tenant-based assistance. Further, if a PBV owner rejects a family for admission to the owner's PBV units, such rejection by the owner does not affect the family's position on the PHA waiting list for tenant-based assistance. The PHA may not take any of the following actions against an applicant who has applied for, received, or refused an offer of PBV assistance: A PHA may not "(1) Refuse to list the applicant on the PHA waiting list for tenant-based assistance, (2) Deny any admission preference for which the applicant is currently qualified (3) Change the applicant's place on the waiting list based on preference, date and time of application, or other factors affecting selection under the PHA selection policy or (4) Remove the applicant from the waiting list for tenant-based voucher assistance".

BHA Response:

6. The BHA has added language to this Section clarifying that removal from any PBV waiting list will not impact a person's placement on the tenant based waiting list.

HUD Comment:

7. Page 245, Definition of Visitor/guest Policy. Participants are allowed to have guests and other temporary visitors. The definition provides that the leased premises may not be occupied for more than fourteen (14) cumulative days without prior written permission of the Owner and BHA. This will be difficult and administratively burdensome for the BHA to monitor.

BHA Response:

7. The BHA added this language in response to court action. The BHA has now specified what responsibility the Participant has to notify the BHA and Owner of a guest that will occupy the premises for more than fourteen days. The BHA feels that this language will be very helpful in cases involving unauthorized occupants.

2011 Plan Amendment #1
Response to HUD
April 12, 2012

Supplement Issues

HUD Comment:

1. Although the BHA's Note to Reviewers seem to suggest that the only changes submitted with this plan are revisions to the Administrative Plan and ACOP, the table in the supplement that reflects documents revised seems to indicate other items may have been changed. The BHA staff confirmed by email that this was the case. The HUD staff has only reviewed the template and revisions to those supporting documents.

BHA Response:

1. The BHA is confirming that the only changes submitted with this plan are revisions to the HCVP Administrative Plan and the ACOP which are also reflected in the Supplement to HUD Form 50075: Plan Elements section on Eligibility, Selection and Admissions Policies, including Deconcentration and Wait list Procedures. The BHA has revised the Table of Contents added to the Supplement to reflect that these are the only changes.

HUD Comment:

2. With the upload of this document there were several sections of the plan that presented the reviewers with only a portion of the page being visible. There must have been a problem with the upload. We were able to review the document as we had a hard copy. It was clear that revisions would have to be made, so we reviewed documents in hard copy format. When the plan is uploaded again we will review to ensure that the formatting is correct.

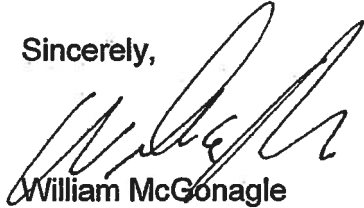
BHA Response:

2. The BHA had no indication that there were any technical issues with this upload from our end. In addition, if we had been requested to do so by HUD, we would have been happy to re-submit as soon as HUD identified that it had a problem with the upload. We request to be notified immediately of any future problems with uploads so that we may address them in a timely fashion.

If you have any further questions, please contact Barbara Sheerin at (617)988-4567. Thank you.

2011 Plan Amendment #1
Response to HUD
April 12, 2012

Sincerely,



William McGonagle
Administrator

Attachments:

Supplement to HUD Form 50075: Plan Elements in revision mode
Administrative and Continued Occupancy Policy in revision mode
LEP Policy, forms, and LASIPP
Leased Housing Administrative Plan amended Dec 2011 changes accepted and
further amended Apr 2012 in response to HUD comments with revisions displayed