

**TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY
CHAPTER 70. PERFORMANCE BASED CONTRACT ADMINISTRATION
PROGRAM**

SUBCHAPTER 1. GENERAL PROVISIONS

330:70-1-1. Purpose

OHFA, pursuant to an ACC between HUD and OHFA, administers HUD's Contract Administration Program within the State. The purpose of these Contract Administration Program Rules is to provide guidelines OHFA will utilize in administering the Contract Administration Program and monitoring assisted units and Owners participating in the Contract Administration Program.

330:70-1-2. [RESERVED]

330:70-1-3. Authority

OHFA is authorized by HUD to administer the Contract Administration Program in accordance with the ACC and any renewals thereof. Pursuant to the ACC, HUD has assigned to OHFA, HUD's contractual rights and responsibilities under individual HAP Contracts with Owners participating in the Contract Administration Program.

330:70-1-4. [RESERVED]

330:70-1-5. Definitions

The following words and terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise. Additional capitalized terms used in the Contract Administration Program are defined in the Federal Register, Volume 64, Number 96, 27357 (5/19/99), amendment no. 1 (8/2/99) and amendment no. 2 (11/15/99). When a conflict exists between the following definitions and the Federal Register, the Federal Register shall control.

“**ACC**” means the Annual Contributions Contract awarded to OHFA by HUD.

“**Administrative Fees**” refer to the fees paid to OHFA by HUD under the ACC.

“**Contract Administration Program**” means the federal (HUD) Performance Based Contract Administration Program administered by OHFA pursuant to the ACC.

“**Covered individual or entity**” means an individual or entity that is a member of any of the following classes:

- (1) a member, officer or director of OHFA, or other OHFA official with administrative functions or responsibility concerning contract administration under the ACC.
- (2) an employee of OHFA.
- (3) an OHFA contractor, subcontractor or agent with administrative functions or responsibility concerning contract administration under the ACC, or any principal or other interested party of such contractor, subcontractor or agent.
- (4) an individual who has administrative functions or responsibility concerning contract administration under the ACC, including an employee of an OHFA contractor, subcontractor or agent.

(5) a public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities concerning contract administration under the ACC.

“**Covered Units**” means the Section 8 assisted units under HAP contracts assigned to OHFA for contract administration under the ACC during the ACC term.

“**Guidebook**” refers to the current and published HUD manual for the Contract Administration Program, as may be amended from time to time.

“**HAP**” means Housing Assistance Payment.

“**HUD**” means the United States Department of Housing and Urban Development.

“**Immediate family member**” means the spouse, parent, child, grandparent, grandchild, sister, or brother of any covered individual.

“**OHFA**” means Oklahoma Housing Finance Agency.

“**Owner(s)**” means the property owner(s) of covered units receiving project-based Section 8 assistance payments.

“**Performance Based Contract Administrator**” means a PHA administering the Contract Administration Program pursuant to an ACC. OHFA is the Performance Based Contract Administrator for the State.

“**PHA**” means “public housing agency” as defined in Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

“**Program Center**” means the HUD Office of Oklahoma City.

“**Section 8**” means Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

“**Service Area**” means the area where OHFA provides contract administration services under the ACC.

“**State**” means the State of Oklahoma.

“**Voucher**” means a request submitted to OHFA from a project-based Section 8 owner for payment of eligible covered units. The format of the owner’s submission must be an electronic file followed by a mailed copy with the owner’s original signature.

330:70-1-6. [RESERVED]

330:70-1-7. Standards incorporated by reference

(a) The Guidebook provides requirements, procedures, regulations, and processes for the Performance Based Contract Administrator. The Guidebook and all revisions or amendments to the Guidebook shall apply to all Covered Units and are incorporated by reference to these rules.

(b) Final Rule [24 CFR Part 5 et al, *Screening and Eviction for Drug Abuse and Other Criminal Activity*, Docket No. FR-4495-F-02, Federal Register Vol. 66, No. 101, beginning on page 28776] released on May 23, 2001, or as may be amended.

330:70-1-8. [RESERVED]

330:70-1-9. Technical assistance

OHFA will designate staff members to provide general technical assistance regarding project-based Section 8 guidelines, procedures, and implementation of the Contract

Administration Program. The names of staff members designated to provide technical assistance may be obtained by contacting the OHFA Contract Administration Program. General technical assistance will also be provided by the Program Center regarding Contract Administration guidelines and procedures.

SUBCHAPTER 3. FUNDS

330:70-3-1. Fund distribution

Contract Administration Program funds shall be distributed by HUD and OHFA in accordance with the ACC.

330:70-3-2. [RESERVED]

330:70-3-3. Fund activities

(a) The Contract Administration Program funds shall consist of program receipts and administrative fees.

(b) Program receipts will be paid monthly by OHFA to owners after review, verification, and certification of Voucher accuracy.

(c) Administrative fees will be used by OHFA to support the overall Contract Administration Program delivery and operation activities.

330:70-3-4. [RESERVED]

330:70-3-5. Geographic distribution of program receipts

OHFA will distribute the Contract Administration Program receipts to Owners throughout the State.

SUBCHAPTER 5. GENERAL PROGRAM REQUIREMENTS

330:70-5-1. Exclusion of third party rights

(a) A family that is eligible for housing assistance under the ACC is not a party to or a third party beneficiary of the ACC.

(b) Nothing in the ACC shall be construed as creating any right of any third party to enforce any provision of the ACC, or to assert any claim against HUD or OHFA.

330:70-5-2. [RESERVED]

330:70-5-3. Program records

OHFA shall maintain complete and accurate accounts and other records related to operations under the ACC. The records shall be maintained in the form and manner required by HUD, including requirements governing computerized or electronic forms of record-keeping. The accounts and records shall be maintained in a form and manner that permits a speedy and effective audit.

330:70-5-4. [RESERVED]

330:70-5-5. Conflict of Interest

(a) Neither OHFA, nor any OHFA contractor, subcontractor or agent for operations under the ACC, nor any other entity or individual with administrative functions or responsibility concerning the Contract Administration Program, may enter into any contract, subcontract, or other arrangement in connection with the Contract Administration Program in which any Covered Individual or Entity has any direct or indirect interest (including the interest of any Immediate Family Member), while such person is a covered individual or entity or during one year thereafter.

(b) OHFA shall require any Covered Individual Or Entity to disclose his, her or its interest or prospective interest in any contract, subcontract or other arrangement in connection with the Contract Administration Program to OHFA and HUD.

(c) During the term of the ACC, OHFA shall not own or otherwise possess any direct or indirect interest in any covered unit (including a unit owned or possessed, in whole or in part, by an entity substantially controlled by OHFA), and shall not claim or receive any administrative fee for contract administration of a unit in which OHFA has any such interest.

(d) Notwithstanding paragraph (c), if OHFA provides or has provided financing for development, repair or improvement of covered units, and holds a mortgage of the real property to secure such financing, the existence of such mortgage or interest shall not be considered a conflict of interest under paragraph (c), (provided that OHFA has not obtained any other ownership interest in the property, by exercise of its remedies as mortgagee or otherwise), and in such case, paragraph (c) shall not bar OHFA from claiming or receiving an administrative fee for contract administration of such covered units.

330:70-5-6. [RESERVED]

330:70-5-7. Compliance with applicable laws

(a) Owner shall comply with all equal opportunity requirements imposed by federal law, including applicable requirements under:

(1) The Fair Housing Act, 42 U.S.C. 3601-3619 (implementing regulations at 24 CFR parts 100 et seq.).

(2) Title VI of the Civil rights Act of 1964, 42 U.S.C. 2000d (implementing regulations at 24 CFR part 1).

(3) The Age Discrimination Act of 1975, 42 U.S.C. 6101-6107 (implementing regulations at 24 CFR part 146).

(4) Executive Order 11063, Equal Opportunity in Housing (1962), as amended, Executive Order 12259, 46 FR 1253 (1980), as amended, Executive Order 12892, 59 FR 2939 (1994) (implementing regulations at 24 CFR part 107).

(5) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 (implementing regulations at 24 CFR part 8).

(6) Title II of the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.

(b) Owner shall comply with all applicable State and local laws.

(c) Owner shall cooperate with OHFA and HUD in the conducting of compliance reviews and complaint investigations pursuant to applicable civil rights statutes, Executive Orders, and related rules and regulations.

SUBCHAPTER 7. CRIMINAL BACKGROUND SEARCHES

330:70-7-1. Request for criminal background search

At the request of an Owner, OHFA will conduct a criminal background search on any tenant in a Covered Unit or any applicant for housing in a Covered Unit, to the extent permitted under applicable State and federal laws and regulations.

330:70-7-2. [RESERVED]

330:70-7-3. Consent and fee

The Owner must file a written request for a criminal background search. The request must be accompanied by a consent form executed by the tenant or applicant and the fee set forth in 330:70-9-1 of these Rules. A written request must be submitted for each tenant or applicant.

330:70-7-4. [RESERVED]

330:70-7-5. Procedures to be followed by OHFA

(a) OHFA will conduct the criminal background research following the procedures set forth in the Final Rule.

(b) OHFA will disclose information obtained pursuant to criminal background research to an Owner only upon a showing by said Owner that the information will be used to screen applicants or is being requested in connection with lease enforcement or judicial eviction proceedings.

(c) The Owner must certify in writing that the Owner will use the records disclosed only for the purpose of screening applicants or for the purpose of lease enforcement or eviction.

(d) The request for criminal background research must also include the Owner's standards for prohibiting admission of criminals, the Owner's standards for evicting criminals, or the Owner's standard for lease enforcement, as applicable.

(e) OHFA will, upon receipt of any criminal records, review the records to determine that whether the records received may a basis for eviction from a Covered Unit. Prior to the release of any information to an Owner, the Owner must also certify, in writing, that the information requested will be kept confidential and only used in the manner, and to the extent permitted, in the Final Rule.

(f) OHFA will rely upon the Owner's certifications.

330:70-7-6. [RESERVED]

330:70-7-7. Opportunity to dispute

In the event a criminal record search indicates that a household member has been convicted of a crime relevant to applicant screening, lease enforcement or eviction, the Owner must notify the household of any proposed action based on such information and provide a copy of the criminal report to the subject household member. OHFA will ensure compliance to 330:70-7-7 through the monitoring process.

SUBCHAPTER 9. FEES

330:70-9-1. Criminal Background Search Fee

A \$50.00 (fifty dollar) fee must accompany each request for a Criminal Background Search for each individual for whom a request is made.