

# HACSBFACTSHEET

## Landlord and Tenant Lease Information

**H**UD Regulatory Requirements in a compliant lease: As part of our effort to help our Housing Assistance Payment (HAP) Contract landlords comply with regulations from the U.S. Department of Housing and Urban Development (HUD) for the voucher program, the Housing Authority of the County of San Bernardino (HACSB) will no longer be providing a standardized lease to be utilized by landlords and assisted tenants. This will streamline the lease-up process for all parties and we want to ensure that this change in procedure is easy and clear for our local landlords. The following will help you to understand your responsibilities in delivering a lease compliant with HUD regulations; much of this is covered in your HAP Contract. We have landlord briefings on a weekly basis at our Housing Programs office.

The HUD regulations require that certain conditions are included in a compliant tenancy agreement. Following are brief descriptions of the HUD requirements including the reference to the Code of Federal Regulations citation:

§ 982.307 Lease and tenancy—§ 982.309 24 CFR Ch. IX (4-1-05 Edition)

**Tenant's legal capacity.** The tenant must have legal capacity to enter a lease under State and local law. "Legal capacity" means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

**Form of lease.** The tenant and the owner must enter into a written lease for the unit. The lease must be executed by the owner and the tenant.

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form (plus the HUD-prescribed tenancy addendum). The HAP contract prescribed by HUD will contain the owner's certification that the lease is in such standard form.

**State and local law.** The Public Housing Authority (PHA) may review the lease to determine if the lease complies with State and local law. The PHA may decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law.

**Required information.** The lease must specify all of the following:

- (1) The names of the owner and the tenant;
- (2) The unit rented (address, apartment number, and any other information needed to identify the contract unit);
- (3) The term of the lease (initial term and any provisions for renewal);
- (4) The amount of the monthly rent to owner; and
- (5) A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

**Reasonable rent.** The rent to owner must be reasonable (see § 982.507).

**Tenancy addendum.** (1) The HAP contract form required by HUD shall include an addendum (the "tenancy addendum"), that sets forth: The tenancy requirements for the program and the composition of the household as approved by the PHA (family members and any PHA-approved live-in aide).

All provisions in the HUD-required tenancy addendum must be added word-for-word to the owner's standard form lease that is used by the owner for unassisted tenants. The tenant shall have the right to enforce the tenancy addendum against the owner, and the terms of the tenancy addendum shall prevail over any other provisions of the lease.

**Changes in lease or rent.** (1) If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. In the following



cases, tenant based assistance shall not be continued unless the PHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner:

If there are any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;

If there are any changes in lease provisions governing the term of the lease;

If the family moves to a new unit, even if the unit is in the same building or complex.

PHA approval of the tenancy, and execution of a new HAP contract, are not required for changes in the lease other than as specified in the HAP contract.

The owner must notify the PHA of any changes in the amount of the rent to owner at least sixty days before any such changes go into effect, and any such changes shall be subject to rent reasonableness requirements (see § 982.503).

### **Tenancy Addendum Requirements:**

#### **The lease between the tenant and the landlord**

Please note: All of the excerpts from Section C below are incorporated in the Tenancy Addendum that HUD requires you to attach to your lease as part of your HAP contract with HACSB.

- **HAP Contract Part B item 4: *Relation to lease term:*** The HAP Contract defines the initial lease term. The term of the HAP contract begins on the first day of the initial term of the lease, and terminates on the last day of the term of the lease (including the initial lease term and any extensions). HACSB executes HAP contracts only on the 1st or 15th of the month, requests for execution may take up to two weeks to complete. The landlord and tenant should not execute the lease until the inspection has passed, the rent has been approved by HACSB, and HACSB has provided the landlord with the HAP Contract for signature. (HACSB will not pay subsidy on any lease that has been executed prior to the above approvals).

- **Tenancy Addendum, Part C Section 2:**

**Lease:** The owner has given HACSB a copy of the lease, including any revisions agreed by the owner and the tenant. The owner certifies that the terms of the lease are in accordance with all provisions of the HAP contract and that the lease includes the tenancy addendum. The tenant shall have the right to enforce the tenancy addendum against the owner.

**HACSB Termination of Assistance:** HACSB may terminate program assistance for the family for any grounds authorized in accordance with HUD requirements and the Agency's Moving-to-Work Agreement. If HACSB terminates program

assistance for the family, the lease terminates automatically.

**Conflict with Other Provisions of Lease:** The terms of the tenancy addendum are prescribed by HUD in accordance with Federal law and regulations, as a condition for Federal assistance to the tenant and tenant's family under the HCV program. In case of any conflict between the provisions of the tenancy addendum as required by HUD, and any other provisions of the lease or any other agreement between the owner and the tenant, the requirements of the HUD-required tenancy addendum shall prevail.

**Changes in Lease or Rent:** The tenant and the owner may not make any change in the tenancy addendum. However, if the tenant and the owner agree to any other changes in the lease, such changes must be in writing, and the owner must immediately give HACSB a copy of such changes. The lease, including any changes, must be in accordance with the requirements of the tenancy addendum.

### **Regulated Mandatory Notices**

- **Megan's Law Notice: Civil Code Section 2079.10a:** California has enacted legislation that requires rental property owners and sellers to make certain disclosures to tenants and purchasers regarding the existence of the database that contains the names of registered sex offenders. (the notice used must be in at least 8-point type).

- **Lead Warning Statement: Required By 24 code of federal regulations Section 35.92:** This notice must be in the language used in the contract, for example, English or Spanish. For current format and language of these notices see California Department of Consumer Affairs information below.

### **Additional Resources**

If you need help finding or formatting a standardized lease, please contact:

- Apartment Association Greater Inland Empire at [www.aagie.com](http://www.aagie.com)

- Inland Fair Housing and Mediation Board at [www.ifhmb.com](http://www.ifhmb.com)

- California Department of Consumer Affairs Landlord and Tenant section at [www.dca.ca.gov/publications/landlordbook/catenant.pdf](http://www.dca.ca.gov/publications/landlordbook/catenant.pdf). For Residential Tenants' and Landlords' Rights and Responsibilities see page 100 for Regulated Mandatory Notices.

The Housing Authority of the County of San Bernardino is dedicated to providing quality service. If you have any questions, please contact us at (909) 890-9533 or visit our website at [www.hacsb.com](http://www.hacsb.com).