

**Policy Update on Leases and Oral Leases for HPRP
and Updated Eligibility and Income Determination Guidance Document
August 19, 2011**

Audience: Program managers and staff at the grantee and subgrantee levels

Policy Update:

HUD has updated the frequently asked question (FAQ) related to leases and the use of oral leases. This change allows oral leases for rental arrears as long as the oral lease is enforceable under state law, and there is sufficient documentation in place to prove that the HPRP program participant resides in the rental unit and owes the arrears. See below or [go to the HRE](#) for the Full FAQ. The related, existing FAQ on leases for legal assistance only is also included below, and has not changed.

- **Question: Does a lease have to be in place in order to pay rental assistance? Is an oral lease acceptable?**

Each program participant receiving rental assistance must have a written lease for the rental unit, unless the assistance is solely for rental arrears. The program participant must be on the lease. The document must identify the payee (i.e., the individual and/or entity collecting rent), the HPRP program participant as the tenant, and the terms of the agreement (dates of tenancy, monthly amount due, etc.). The agreement must be current, signed by both parties and dated. A verbal/oral agreement is not sufficient for providing ongoing financial assistance. Note, however, that once a written lease/agreement is established, eligible program participants may receive assistance with future payments.

Where the assistance is solely for rental arrears, an oral agreement may be accepted in place of a written lease, if the agreement gives the program participant an enforceable leasehold interest under state law and the agreement and rent owed are sufficiently documented by the owner's financial records, rent ledgers or canceled checks.

Grantees/subgrantees are encouraged to work with the landlord and program participant to resolve arrears that cannot be documented, using other resources, including negotiating a payment plan if possible.

- **Question: Per the FAQs, a written lease or documentation establishing tenancy must be in place to pay rental assistance for a household using HPRP funds. Is a written lease required in order to provide legal services?**

HPRP funds can be used to provide legal services only to assist an eligible household to remain in their housing. In such cases a written lease is not required—but other written evidence of a valid pre-existing tenancy must be in the case files. For example, if there is an oral lease agreement in place, court documents could serve to document the household's tenancy; similarly, a case manager could review a landlord's rent ledger to

confirm the amount of rent and terms of the oral lease agreement and make a note in the case file as documentation of tenancy. Please note that the same level of documentation of eligibility to receive HPRP assistance (the income and 'but for' criteria) is required no matter whether financial assistance or housing relocation and stabilization services are provided.

HUD Guidance Document Updates:

In order to ensure that HUD guidance is consistent with this policy revision, HUD has updated and posted the following revised document:

- [HPRP Eligibility Determination and Documentation Guidance](#) has been updated to include:
 1. Lease requirements for rental arrears assistance
 2. Treatment of Federal and State tax refunds
 3. Clarification on recertification of eligibility, including an assessment of the appropriate level of HPRP assistance
 4. Difference between gross and net income and provides clarification around deductions or other amounts withheld
 5. Instructions on how to annualize wages and periodic payments for capped benefits

Please send any questions to the HUD Virtual Help Desk, at www.hudhre.info.