

Housing Assistance Payments Contract SAMPLE SUBSIDY Program

Part B: Contract Terms

1. Definitions

SAMPLE SUBSIDY program. The SAMPLE SUBSIDY Program is a federal housing subsidy program under the supervision of HUD. Under this program, HUD provides funds to EDEN for rent subsidies on behalf of eligible families. EDEN has entered into this HAP contract to provide assistance to the family under the SAMPLE SUBSIDY program.

Contract rent. The total monthly rent payable to the owner for the contract unit. The contract rent is the sum of the tenant rent plus the housing assistance payment from EDEN to the owner.

Contract unit. The housing unit rented by the tenant. (The contract unit is described in Part A.)

EDEN. Emerald Development and Economic Network, Inc. (EDEN) is the housing agency designated by HUD and the Cuyahoga County Department of Human Services to administer the SAMPLE SUBSIDY program in Cuyahoga County.

Family. The persons who are authorized to reside in the unit with assistance under the program.

HAP contract. This housing assistance payments contract consisting of Part A and Part B.

Housing quality standards (HQS). The minimum housing quality standards (HQS) for housing units assisted under the SAMPLE SUBSIDY program.

HUD. The U.S. Department of Housing and Urban Development.

HUD requirements. HUD requirements for the SAMPLE SUBSIDY programs. HUD requirements are issued by HUD headquarters, as regulations, Federal Register notices or other binding program directives.

Premises. The building or complex in which the contract unit is located, including common areas and grounds.

Tenant. The tenant is the family member who is declared eligible by EDEN to sign a lease with the owner for the contract unit.

Tenant rent. The portion of the contract rent payable by the family, as determined by the HA in accordance with HUD requirements.

2. Purpose

- a. This is a HAP contract between EDEN and the owner.
- b. The family is a participant in the SAMPLE SUBSIDY program. The purpose of the HAP contract is to assist the tenant to lease a dwelling unit from the owner for occupancy by the family with tenant-based assistance under the SAMPLE SUBSIDY program.
- c. EDEN must pay housing assistance payments to the owner in accordance with the HAP contract. HUD provides funds to EDEN to pay housing assistance payments for eligible families.

3. Lease of Contract Unit

- a. The owner has leased the contract unit to the tenant for occupancy by the family with assistance under the SAMPLE SUBSIDY program.
- b. The lease must not be inconsistent with the provisions of the Ohio Landlord-Tenant Act (ORC 5321) or this HAP, and must be approved by EDEN. Any lease provisions not in compliance with this provision shall be deemed unenforceable.
- c. The owner certifies that the tenant and the owner have executed the lease in the form approved by EDEN. The lease may not be revised unless EDEN gives notice that the lease revision has been approved.
- d. Acceptance and screening of tenants is exclusively the owner's responsibility.

4. Use and Occupancy of Contract Unit

- a. The HAP contract applies only to the family and the contract unit.
- b. EDEN shall approve the composition of the family residing in the contract unit. The members of the family approved by EDEN at execution of the HAP contract are listed in Part A of the HAP contract.

5. Maintenance and Inspection

- a. The owner must maintain the contract unit and premises in accordance with the HQS at all times. EDEN will not make any housing assistance payments until after the dwelling unit meets the HQS.
- b. The lease must specify what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the tenant.
- c. The owner is not responsible for a breach of the HQS that is caused by any of the following:
 - i. The family fails to pay for any utilities that the owner is not required to pay for under the lease, but which are to be paid by the tenant;
 - ii. The family fails to provide and maintain any appliances that the owner is not required to provide under the lease, but which are to be provided by the tenant; or
 - iii. Any member of the household or guest damages the contract unit or the premises (damages beyond ordinary wear and tear).
- d. EDEN will inspect the contract unit and premises at least annually, and at such other times as it determines necessary, to assure that the unit is in accordance with the HQS.
- e. EDEN must notify the owner in writing of defects found by the inspection. If a defect is life threatening, the owner must correct the defect within no more than 24 hours. For other defects, the owner must correct the defect within a reasonable period specified by EDEN.

f. If the owner does not maintain the unit in accordance with the HQS, EDEN will withhold rent in accordance with Ohio Landlord tenant law unless the defects are corrected within the period specified by EDEN. In addition, EDEN may terminate the HAP contract. EDEN may not exercise such remedies against the owner because of an HQS breach for which the family is responsible (as described in section 5.c).

g. Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the owner.

6. Term of HAP Contract

a. The term of the HAP contract begins on the first day of the term of the lease, and terminates on the last day of the term of the lease.

b. The term of the HAP contract terminates if any of the following occurs:

i. The lease terminates;

ii. The HAP contract terminates; or

iii. EDEN terminates program assistance for the family.

c. If EDEN terminates program assistance for the family, the HAP contract terminates automatically. EDEN may terminate program assistance for the family for any grounds authorized in accordance with HUD requirements or Ohio law.

d. If the family moves out of the unit, the HAP contract terminates automatically.

e. EDEN may terminate the HAP contract if EDEN determines, in accordance with HUD requirements, that available program funding is not sufficient to support continued assistance for families in the program.

f. EDEN may terminate the HAP contract if EDEN determines that (1) The contract unit does not meet the HQS space standards because of an increase in family size or a change in family composition, or (2) The contract unit is larger than appropriate for the family size and composition.

g. If the family breaks up, EDEN has discretion to determine which members of the family continue to receive assistance in the program. EDEN may terminate the HAP contract, or may continue housing assistance payments on behalf of family members who remain in the contract unit.

i. EDEN may terminate the HAP contract if EDEN determines that the owner has breached the HAP contract.

j. Written notice of termination of the HAP contract shall be given by EDEN not less than 30 days before the effective date of termination, unless the reason for termination is a breach of the HAP contract by the owner.

7. Termination of Tenancy by Owner

a. The owner may only terminate the tenancy in accordance with the lease.

b. The owner must give notice of termination in accordance with the requirements of Ohio law and HUD.

c. The owner must give EDEN a copy of any owner termination of lease notice or eviction notice to the tenant at the same time that the owner gives notice to the tenant. Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action.

8. Tenant Rent

a. The amount of the tenant rent is determined by EDEN in accordance with HUD requirements. The amount is subject to change during the term of the HAP contract. Any changes in the amount of the tenant rent will be effective on the date stated in a written notice by EDEN to the family and the owner.

b. The amount of the tenant rent is the maximum amount the owner can require the family to pay for rent of the contract unit, including all services, maintenance and utilities to be provided by the owner in accordance with the lease.

c. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent, and must immediately return any excess rent payment by the tenant.

d. The family is not responsible for payment of the portion of contract rent covered by the housing assistance payment under the HAP contract between the owner and EDEN. The owner may not terminate the tenancy of the family for nonpayment of rent if the family pays its portion of the rent.

9. Housing Assistance Payment

a. Housing assistance payments will be paid to the owner during the lease term and while the family resides in the unit on the condition that the HAP contract has been signed by all parties and the unit remains in compliance with HQS.

b. EDEN must pay the housing assistance payment promptly when due to the owner.

c. The amount of the housing assistance payment will be determined by EDEN and shall be equal to the difference between the contract rent and the tenant rent.

d. The amount of the housing assistance payment is subject to change during the HAP contract term. Any change in the amount of the housing assistance payment will be effective on the date stated in a written notice by EDEN to the owner.

e. The housing assistance payment for the first and last month of the HAP contract term will be pro-rated for a partial month in accordance with actual occupancy.

f. EDEN will not pay the tenant rent, or any claim by the owner against the tenant or family. EDEN is only responsible for making housing assistance payments to the owner in accordance with the HAP contract.

g. The housing assistance payment is credited toward the monthly contract rent owed to the owner under the lease.

h. If the family moves out of the contract unit, EDEN will not make any housing assistance payment to the owner for any month after the month when the family moves out.

i. Unless the owner complies with all provisions of the HAP contract and supplies EDEN with all information needed for record keeping and financial reporting, the owner does not have a right to receive housing assistance payments.

j. If EDEN determines that the owner is not entitled to the housing assistance payment or any part of it, EDEN in addition to other remedies, may deduct the amount of the overpayment from any amounts due the owner (including amounts due under any other SAMPLE SUBSIDY HAP contract).

10. Adjustment of Contract Rent

a. EDEN must review the contract rent at least annually on the anniversary of the HAP contract and make such adjustments upward or downward as required by HUD. To receive an upward adjustment of the contract rent, the owner must request the annual adjustment by giving EDEN notice in the form and at the time required by EDEN.

b. The owner shall not have any right to any upward adjustment of the contract rent unless the contract unit meets the HQS, and the owner is in compliance with the lease and with the HAP contract.

c. The contract rent may not exceed the rents charged for comparable unassisted dwelling units (rent reasonableness), as determined by EDEN in accordance with HUD requirements.

11. Owner Certification

During the term of this contract, the owner certifies that:

a. The owner is maintaining the contract unit in accordance with the HQS.

b. The contract unit is leased to the tenant and the lease is in accordance with this contract and program requirements.

c. The contract rent does not exceed rents charged by the owner for other comparable unassisted units.

d. Except for the housing assistance payment and the tenant rent as provided under the HAP contract, the owner has not received and will not receive any payments or other consideration (from the family, EDEN, HUD, or any other public or private source) as rent for the contract unit.

e. The family does not own or have any interest in the contract unit.

f. To the best of the owner's knowledge, the members of the family reside in the contract unit, and the unit is the family's only residence.

12. Security Deposit

a. The owner may receive a security deposit of no more than one month's rent from EDEN. The tenant will assign all rights to the security deposit to EDEN.

b. When the family moves out of the contract unit, the owner, subject to State and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit or other amounts that the tenant owes under the Lease.

c. The owner must comply with the provisions of Ohio landlord-tenant law and give EDEN and the tenant a written list of all items charged against the security deposit, and the amount of each item. After deducting the amount, if any, used to reimburse the owner, the owner must promptly refund the full amount of the unused balance to EDEN.

d. The owner shall not make a claim against EDEN for any damages in excess of the security deposit attributable to the tenancy.

13. Prohibition of Discrimination

In accordance with applicable equal opportunity statutes, Executive Orders, and regulations:

a. The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with this contract.

b. The owner must cooperate with EDEN in conducting equal opportunity compliance reviews and complaint investigations.

14. Rights of EDEN if Owner Breaches the HAP Contract

a. Any of the following actions by the owner (including a principal or other interested party) is a breach of the HAP contract:

i. If the owner has violated any obligation under this HAP contract, including the owner's obligations to maintain the contract unit in accordance with the HQS.

ii. If the owner has violated any obligation under any other housing assistance payments contract under any federal, state or local government housing program.

iii. If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal, state or local housing assistance program.

iv. For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan.

v. If the owner, or an employee of the owner, has engaged in drug trafficking.

b. If EDEN determines that a breach has occurred, EDEN may exercise any of its rights or remedies under the HAP contract. EDEN shall notify the owner of such determination, including a brief statement of the reasons for the determination. The notice by EDEN to the owner may require the owner to take corrective action (as verified by EDEN) by a time prescribed in the notice.

c. EDEN's rights and remedies against the owner under the HAP contract include suspension of housing assistance payments, abatement or other reduction of housing assistance payments, termination of housing assistance payments, and termination of the HAP contract.

d. EDEN's exercise or non-exercise of any remedy for owner breach of the HAP contract shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

15. EDEN and HUD Access to Premises and Owner Records

- a. The owner must provide any information pertinent to the HAP contract EDEN or HUD may reasonably require.
- b. EDEN, HUD and the Comptroller General of the United States shall have full and free access to the contract unit and the premises, and to all accounts and other records of the owner that are pertinent to the HAP contract, including the right to examine or audit the records, and to make copies. The owner must grant such access to computerized or other electronic records, and to any computers, equipment or facilities containing such records, and must provide any information or assistance needed to access the records.

16. Exclusion of Third Party Rights

- a. EDEN does not assume any responsibility for injury to, or any liability to, any person injured as a result of the owner's action or failure to act in connection with the implementation of the HAP contract, or as a result of any other action or failure to act by the owner.
- b. The owner is not the agent of EDEN, and the HAP contract does not create or affect any relationship between EDEN and any lender to the owner or any suppliers, employees, contractors or subcontractors used by the owner in connection with implementation of the HAP contract.
- c. Nothing in the HAP contract shall be construed as creating any right of the family or other third party (other than HUD) to enforce any provision of the HAP contract, or to assert any claim against HUD, EDEN or the owner under the HAP contract.

17. Conflict of Interest

- a. Prohibited interest. The following classes of persons may not have any direct or indirect interest in the HAP contract:
 - i. Any trustee or officer of EDEN;
 - ii. Any employee of EDEN, or any contractor, subcontractor or agent of EDEN, who formulates policy or who influences decisions with respect to its programs;
 - iii. Any public official, member of a governing body, or federal, state or local legislator, who exercises functions or responsibilities with respect to the programs.
- b. The prohibition of such interest shall apply during tenure as a member of such classes, and for one year thereafter.
- c. Owner certifies that no person has or will have a prohibited interest, at execution of the HAP contract, or during the HAP contract term.
- d. Owner shall be responsible for assuring that any member of such classes promptly discloses their interest or prospective interest to EDEN and HUD.
- e. The conflict of interest prohibition under this section may be waived by the HUD Field Office for good cause.

18. Assignment of the HAP Contract

- a. The owner may not assign the HAP contract to a new owner without the prior written consent of EDEN. EDEN may deny approval to assign the HAP contract to a new owner (in whole or in part):

i. If directed by HUD because:

- (1) The federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements, and such action is pending; or
- (2) A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

ii. If the proposed assignee:

- (1) Has violated obligations under a housing assistance payments contract under Section 8 (42 U.S.C. 1437f);
- (2) Has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- (3) Has engaged in drug trafficking;
- (4) Has a history or practice of non-compliance with the HQS for units leased under the Section 8 tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- (5) Has a history or practice of renting units that fail to meet state or local housing codes; or
- (6) Has not paid state or local real estate taxes, fines or assessments.

- b. The assignee must agree to comply with the HAP contract. The agreement must be in writing, and in a form acceptable to EDEN. The transferee must give EDEN a copy of the executed agreement.

19. Written Notices

When this HAP contract requires any notice by EDEN or the owner, the notice must be in writing.

20. Entire Agreement; Interpretation

- a. The HAP contract contains the entire agreement between the owner and EDEN.
- b. The HAP contract shall be interpreted and implemented in accordance with HUD requirements and the law of the State of Ohio.

21. Warranty of Capacity

The party who is executing this HAP contract warrants that such party has authority to execute the HAP contract on behalf of the owner.