

STAFF REPORT

Background Checks

December 16, 2008

At the December 9, 2008 meeting, the City Council raised four questions regarding the current policy for conducting background checks for Section 8 Housing participants.

Question 1:

Is our current policy of conducting police checks only for criminal activity in the State of Iowa in keeping with the requirements of the Section 8 housing program?

Answer:

Yes. HUD regulations allow Public Housing Authorities to deny assistance to applicants or participants if any family member commits drug-related criminal activity or violent criminal activity. Records of offenses committed are compiled as criminal histories by law enforcement agencies. Upon request from a Housing Authority, criminal histories shall be provided by the National Crime Information Center, police departments, and other law enforcement agencies for purposes of screening.

HUD officials from the Kansas City office have informed City staff that they do not require or specify what geographic area an HA's background checks should cover. It is left to each HA to make this determination based on their waiting lists, local market, etc. HUD does not dictate how it's done, but gave HA's access to obtain it.

Therefore, while our current practice is to conduct searches for only criminal activity (drug-related and/or violent) in the State of Iowa, nothing in HUD regulations would prevent us from conducting searches in other states, or nationwide.

Question 2:

How are other cities/housing authorities handling this issue of police checks for participants? National or State checks?

Answer:

According to the HUD-Kansas City Office, there are seventy (70) Housing Authorities in the State of Iowa. Staff was able to contact 20 (the 20 include the HA's with the largest number of Vouchers in the State). Of the 20 Housing Authorities contacted, Iowa City Housing Authority was the only HA that specifically stated that they currently conduct national backgrounds checks (see attached spreadsheet).

Question 3:

What is the projected cost if we change our policy and do national as well as Iowa police background checks?

Answer:

In speaking with the Iowa City Housing Authority, the cost to conduct a national background search is approximately, \$45.25 per adult in the household over age 18. (\$15.00 for an initial check request submitted by fax and \$30.25 for a finger print check). This cost can be reduced by \$3.00 if a request is sent by mail. However, the time delay associated with this option, makes mailing impractical. From July 2008 through November 2008 they spent approximately \$2,549.

For the City of Ames, the cost for nationwide checks would vary based on the number of names that

would be selected from the waiting list. For example, 102 names were pulled from the waiting list from January 2008 through December 2008. Of this total, 106 were adults in the household over 18. Based on this number, the City would have spent \$1,590 (106 x \$15) and an additional cost of \$30.25 for each applicant that required finger printing for further background checking. If, for example, half (53) required finger print checks, that would total \$1,603.25 (53 x \$30.25). The final cost would have been \$3,193.25 for the year.

Question 4:

What are the advantages and disadvantages of doing national police background checks?

Answer:

Advantages:

-The possibility of uncovering disqualifying criminal activity of applicants and participants which was committed outside the borders of Iowa.

Disadvantages:

- Processing Costs
- Processing Time to meet all of the HUD requirement for lease-up

Housing Authority	# Sec 8 Vouchers	Local Check	State Check	National Check
Albia	*		Y	N
Area XV	*			N
Cedar Falls	*		Y(all states that have free online services like Iowa courts online)	N (did at one time)
Cedar Rapids	1,265		Y	N
CIRHA	911			N
City of Des Moines	3,627			N
Council Bluffs (unable to reach)	944			
Dubuque (unable to reach)	1,073	Y	Y (in state where applicant applied from, charge varies by state)	N
Eastern Iowa	1,048	Y	Y (in state where applicant applied from \$18/per)	N
Grinnell	*			N
Iowa City	1,294			Y
Marshalltown	*			N
MIRHA	*	Y		N
Northwest Iowa Regional Housing Authority	*			N
Oskaloosa	*			N
Region 12	928			N
Sioux City	*	Y (PD)In or out	N	N
SIRHA	1,151			N
Spirit Lake	*		Y	N
Waterloo	1,056	Y	Y	N (but have capability)
* indicates 910 vouchers or less				



Memo

Legal Department

TO: Mayor Campbell and Members of the City Council

FROM: Doug Marek, City Attorney *Doug*

DATE: December 12, 2008

SUBJECT: Iowa Public Records Law Applicable to Section 8 Housing Information

I have been asked for an overview of public records law as it applies to Section 8 Housing.

Records of the City are open to the public unless they meet the definition of confidential records in the Iowa Code. Included in the list of confidential records are those that contain certain information relating to any form of housing assistance such as financial history, medical history, and social security numbers. Records that contain residential addresses of applicants who have applied for or received restraining orders for themselves or other household members are also confidential by law. Iowa Code §22.7(57).

It is important to note that the City does not have information about applicants' pending restraining orders. In many cases, in fact, restraining order files are sealed by the Court. Therefore, when the City receives a request for housing records, those persons whose records are sought are notified in order to determine whether their information is confidential.

Under the terms of the Iowa Public Records Act, a court may issue an injunction to prevent disclosure of a public record if to do so would not be in the public interest and would cause substantial and irreparable injury.

Recently, a group of unnamed past and present recipients of Section 8 housing assistance filed a petition in the Iowa District Court seeking such an injunction. The petition included the affidavit of a case worker describing the mental and physical disabilities of several clients whose records are the subject of a public records request. The petition and affidavit describe harm that would be suffered if the addresses of the recipients were disclosed. Various Unnamed Past and Present Recipients of Section 8 Housing Assistance via the City of Ames, Iowa, v. City of Ames, Iowa, Story County District Court Case no. EQCV044797.

Earlier this week, on December 8, the Court ordered a temporary writ of injunction preventing the City from disclosing information until further order of the Court.