

CITY OF HUNTINGTON BEACH
MOBILE HOME TENANT BASED RENTAL ASSISTANCE PROGRAM
PROGRAM GUIDELINES / OPERATING PROCEDURES
(November 1, 2022)

I. INTRODUCTION

Utilizing HOME Investment Partnerships Program (HOME) funding, the City of Huntington Beach (City) has elected to assist certain eligible very-low income senior mobile home owners by establishing a Mobile Home Tenant Based Rental Assistance Program ("MH TBRA Program" or "Program"). This MH TBRA Program compliments the City's existing TBRA program that assists individuals and families that are homeless or at-risk of homelessness. The MH TBRA Program will enable the City to meet the needs of the participating tenant households by providing monthly rental assistance for up to twenty-four months (2 years) to eligible senior mobile home owners to pay for a portion of their space rent.

The MH TBRA Program guidelines and operating procedures may require periodic modifications to remain compliant with changing federal, state or local regulatory or legal requirements, whereby the Director of Community Development may immediately implement such changes. At any time, the Director of Community Development may initiate revisions and waivers of any provisions described in these Program guidelines and operating procedures, providing that such revisions or waivers are not in conflict with HUD policy requirements as described in the City's HOME Policy & Procedure Manual for TBRA programs (Exhibit D).

II. TENANT SELECTION POLICY

- A. Participating Tenant Households – For the purposes of participating in the City's MH TBRA Program, an eligible senior (62 years of age or older) mobile home owner household must at a minimum qualify as a very low-income household and, as necessary, may need to meet local preference requirements. The eligible senior must have owned and lived their mobile home for at least one year. The household must not receive other rent subsidies from federal, state or local sources.

The definition of a **very low-income household** is a household that has an adjusted annual income that does not exceed fifty percent (50%) of the Area Median Income (AMI), adjusted for family size, as established by U.S. Department of Housing and Urban Development (HUD) for the City of Huntington Beach and as shown in Exhibit B.

The City has adopted the following local preferences for all income-qualified Participating Tenant Households consisting of at least one member that is 62 years of age or older that owns the mobile home:

- Veterans of military service. For the purpose of these policy statements, "veteran" is defined to mean a person who served in the active military, naval, or air service,

and who was discharged or released under honorable conditions or conditions other than dishonorable.

- Households that are extremely low-income (30% of AMI or less)
- Households that are paying 50 percent of gross income or greater for space rent

Due to the limited amount of HOME funding available, selection of applicants for the MH TBRA Program will be based upon a lottery system. A one-month period will be established for Huntington Beach senior mobile home owners to submit a brief "interest form" indicating their interest in participating in the MH TBRA Program. The interest form will be a simplified version of an application that will consist of providing self-certification of the following information:

- Name
- Address
- Age
- Phone number/Contact information
- Estimated gross household income
- Number of members in the household
- Qualification for preferences (e.g., veteran, extremely low-income)

At the close of the one-month interest period, City staff will categorize each household by income level and preferences into Excel spreadsheets and then conduct a lottery by randomizing the spreadsheets to determine the order for potential recipients of the MH TBRA Program. Only one interest list form may be submitted per address. Any duplicate or multiple forms submitted from the same address will automatically disqualify the household from participating in the Program. Once the lottery order has been established, the City will contact individuals as MHTBRA funds remain available so that they can submit a MH TBRA Program application and staff will then verify income and preferences to confirm eligibility.

Applicants shall be selected based on Fair Housing priorities, which prohibit discrimination based on age, race, creed, religion, sex, handicap, national origin or familial status.

- B. Determination of Participating Tenant Household Income – The City will review income documentation as part of the Initial Income Verification process. Income Eligibility is dependent upon the gross annual income, and includes all payment from all sources, whether in cash or in kind, that is anticipated to be received by all adult members of the Participating Tenant Household. Household Gross Annual Income includes, but is not limited to:

1. Gross amount of wage, salary, overtime pay, commissions, fees, tips and bonuses
2. Net income from the operation of a business or profession

3. Interest and other income of any kind from real or personal property
4. Full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability/handicap or death benefits
5. Payment in lieu of earnings such as unemployment, worker's compensation and severance pay
6. Welfare/AFDC Assistance
7. Alimony, child support and other regular contributions

C. Adjustment of gross monthly income - Gross monthly income shall equal one-twelfth of gross annual income.

D. Assets – Tenant household assets cannot exceed \$25,000, excluding mobile home, one car, and household furnishings. Under special circumstances the asset limitation may be amended by the City's Director of Community Development on a case-by-case basis.

III. ELIGIBLE HOUSING UNITS

A. Eligible Housing Units - Participating Tenant Households receiving Program assistance from the City of Huntington Beach must reside in an eligible Housing Unit. An eligible Housing Unit is defined as:

1. The mobile home is located in a mobile home park in the City of Huntington Beach.
2. The household includes at least one member that is a senior age 62 years or older, that has resided in their mobile home for at least one year.
3. The mobile home must be inspected to demonstrate that the housing unit and housing unit characteristics meet federally established Housing Quality Standards (HQS).

B. Occupancy Standard - The eligible Housing Unit shall contain at least one bedroom or living/sleeping room of appropriate size. The following occupancy standard shall apply:

- 0 bedroom – 1 person maximum
- 1 bedroom – 3 persons maximum
- 2 bedroom – 5 persons maximum
- 3 bedroom – 7 persons maximum

IV. MAXIMUM AMOUNT OF RENTAL SUBSIDY/TENANT HOUSEHOLD CONTRIBUTION

- A. Rent Standard – The City shall establish a Fair Market Rent standard for the Program by utilizing HUD's Fair Market Rent documentation system for the Santa Ana-Anaheim-Irvine, California metro area. As shown in Exhibit C, the maximum fair market rent for a two-bedroom unit in 2022 is \$2,324 per month.
- B. Total Tenant Household Payment – Participating Tenant Households shall pay thirty percent (30%) of their adjusted monthly income (as hereafter defined) for housing costs consisting of monthly space rent payment and a utility allowance.
- C. Maximum MH TBRA Payment – The maximum amount of a MH TBRA Program payment is restricted, in that, payments to MH TBRA participants is the difference between thirty percent (30%) of the Participating Tenant Household's adjusted monthly income and the Fair Market Rent standard established by the City as shown in Exhibit C.
- D. Rent Reasonableness Review – City shall review the Participating Tenant Household's space Lease Agreement to verify the amount of space rent paid on a monthly basis, excluding utilities, is reasonable.

V. LENGTH OF ASSISTANCE

The City of Huntington Beach will provide rental assistance payments for up to twelve months (1 year) from the date of the execution of Rent Payment Contract with the possibility of renewal for a second one-year period following recertification of the Participating Tenant Household's income eligibility and Program qualification.

Rental Assistance Payments will be made directly to the Participating Tenant Household by the City on a monthly reimbursement basis. Assistance may be terminated upon verification that the Participating Tenant Household:

- 1. Is no longer income eligible (i.e., income exceeds fifty percent (50%) of AMI adjusted per family size), or
- 2. Fails to complete the recertification process, or
- 3. No longer resides in the eligible Housing Unit on a full-time basis.

In addition, rental assistance per this MH TBRA Program may be terminated prior to annual renewal if the City no longer receives HOME funding or if HOME funds carried-over from prior fiscal year to fund the Program are not available. If HOME funding to the City is discontinued or not available, the MH TBRA Program funding will be terminated on June 30th of the current Program year.

VI. RECERTIFICATION

Federal law requires that the City of Huntington Beach recertify the income of each

assisted Participating Tenant Household annually. This recertification must be completed prior to the execution of a second year Rent Payment Contract. Failure on the part of the Participating Tenant Household to recertify its income eligibility will cause the termination of any further rental assistance. Should a Participating Tenant Household income exceed fifty percent (50%) of the Area Median Income, assistance will be terminated.

VII. RIGHT TO APPEAL PROCEDURE

Program participants may appeal a proposed Program action that may have an adverse effect upon them by submitting a written Request for Appeal to the City of Huntington Beach, which includes the Participating Tenant Household's objection, name and relationship of all potential parties, list of documents to be included in appeal, current address and telephone number. Appeals must be filed within seven (7) calendar days of notification of a proposed Program action. The appeal will be reviewed by the Director of Community Development on a case-by-case basis, and they will provide a decision on the appeal by mail within 30 days of the date the Participating Tenant Household's objection was first submitted.

VIII. PROGRAM PROCEDURES

1. City will provide a one month period for Huntington Beach senior mobile home owners to submit self-certified initial information to the City and sign-up to be included on the MH TBRA Program Interest List.
2. City conducts a lottery based upon the Program eligibility categories, including preferences, from the interest list to determine the order of potential MH TBRA Program candidates to receive Program assistance.
3. Based upon lottery results, City contacts each candidate Participating Tenant Household to review Program requirements and to prepare and submit a Program application.
4. City reviews and verifies annual gross income and other required documentation and the adjusted monthly income is calculated to determine the Total Tenant Payment.
5. Application approved by City staff.
6. Unit inspection to confirm Housing Quality Standards.
7. Preparation and execution of the One-Year Rent Payment Contract between the City and the Participating Tenant Household.
8. City sets up project in the HUD Integrated Disbursement and Information system (IDIS).
9. City makes twelve monthly payments to the Participating Tenant Household upon

receipt of proof of space rent payment. City shall drawdown federal funds to reimburse City for such costs.

10. Forty-five days prior to the termination of the Rent Payment Contract, the Participating Tenant Household shall submit monthly income information. City or its Consultant shall review documentation for re-certification.
11. Upon confirmation of re-certification and HOME funding availability, the City and the Participating Tenant Household may execute an additional One-Year Rent Payment contract.

EXHIBIT A

DEFINITIONS

Assets

Cash or non-cash item that can be converted to cash. Examples include cash held in savings or checking accounts, equity in rental property, cash value of stocks, bonds, Treasury bills, certificates of deposit, mutual funds and money market accounts, Individual Retirement Accounts (IRAs), 401(K) and Keogh accounts, cash value of life insurance policies available to an individual before death, certain personal property (e.g., gems, jewelry, coin collections), lump sum or one-time receipts such as inheritances, capital gains, lottery or gambling winnings, insurance settlements, mortgages or deeds of trust.

Fair Market Rent (FMR)

The Fair Market Rent (FMR) is a rent standard that is established and published by the U.S. Department of HUD for individual jurisdictions based upon the rent for standard units within that jurisdiction. Fair Market space rent utilized in the MH TBRA program has been determined based upon HUD's Fair Market Rent Documentation System.

Housing Unit Characteristics

The Housing Unit Characteristics are certain minimum housing quality standards that meet local building codes, as well as established federal Section 8 Housing Assistance Program minimum housing quality standards.

Income Verification

Income Verification confirms applicant self-certification and determines if program applicants are income-eligible by reviewing original source documents.

Income Eligibility

Income eligibility is based on anticipated Gross Annual Income from all sources as follows:

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
2. The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation or assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the Family;

3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as a deduction in determining net income. An allowance for depreciation is permitted only as authorized in paragraph 2. above. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the Family. Where the Household has Net Household Assets in excess of \$5,000, annual Income shall include the greater of the actual income derived from all Net Household Assets or a percentage of the value of such Assets based on the current passbook savings rate, as determined by HUD;
4. The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment;
5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (but see paragraph 3. above);
6. Welfare Assistance. If the Welfare Assistance payment includes an amount specifically designed for shelter and utilities that is subject to adjustment by the Welfare Assistance agency in accordance with the actual cost of shelter and utilities, the amount of Welfare Assistance income to be included as income shall consist of:
 - (i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities, plus
 - (ii) The maximum amount that the Welfare Assistance agency could in fact allow the Household for shelter and utilities. If the Household's Welfare Assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage;
7. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;
8. All regular pay, special pay and allowances of a member of the Armed Forces; and
9. Any earned income tax credit to the extent it exceeds income tax liability.

Gross Annual Income does not include the following:

1. Income from employment of children (including foster children) under the age of 18 years;
2. Payments received for the care of foster children;
3. Lump-sum additions to household assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation),

capital gains and settlement for personal or property losses;

4. Amounts received by the Household that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
5. Income of a live-in aide, as defined in 24 CFR 813.102;
6. Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the Government to a veteran, for use in meeting the costs of tuition, fees, books, equipment, materials, supplies, transportation, and miscellaneous personal expenses of the student. Any amount of such scholarship or payment to a veteran not used for the above purposes that is available for subsistence is to be included in income;
7. The special pay to a Household member serving in the Armed Forces who is exposed to hostile fire;
8.
 - (i) Amounts received under training programs funded by HUD
 - (ii) Amounts received by a Disabled person that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS); or
 - (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;
9. Temporary, nonrecurring or sporadic income (including gifts);
10. Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category or assistance programs that includes assistance under the United States Housing Act of 1937.

Lease Agreement

The lease must be a written document and have a term of at least one year.

Maximum MH TBRA Payment

The maximum MH TBRA payment is the difference between thirty percent (30%) of the Participating Tenant Household's adjusted monthly income and the payment standard established by the City. The payment standard is the rent limit established by the City's Fair Market Space Rent on a yearly basis. The payment standard includes rent plus a utility allowance cost.

Tenant Based Rental Assistance (TBRA)

Tenant based rental assistance is a rental subsidy reimbursement program provided by the City to help individual households afford housing costs.

Total Tenant Payment

The total tenant payment is the share of the amount of monthly space rent to be paid by the Participating Tenant Household.

Utility Allowance Schedule

Monthly utility cost established by the City (estimated at \$157.00 per month). Utilities include water/sewer, electric, gas and trash. Telephone and cable TV are not considered utilities for this purpose.

EXHIBIT B

INCOME LIMITS

(50% of Area Median Income, as established by HUD for FY 2022-23)

1 Person	\$47,450
2 Persons	\$54,200
3 Persons	\$61,000
4 Persons	\$67,750
5 Persons	\$73,200
6 Persons	\$78,600
7 Persons	\$84,050

EXHIBIT C

RENT STANDARD

FY 2022 Fair Market Rent (2-bedroom) – \$2,324 per month maximum

FY 2023 Fair Market Rent (2-bedroom) – \$2,539 per month maximum

Source: HUD's Fair Market Rent Documentation System for the Santa Ana-Anaheim-Irvine (Orange County) Metro Area

EXHIBIT D

HOME Policy & Procedure Manual
for
Tenant Based Rental Assistance Programs

TENANT-BASED RENTAL ASSISTANCE (TBRA) PROGRAM

The HOME Program permits the City to create flexible programs that provide assistance to individual households to enable them to rent market-rate units. These programs are known as tenant-based rental assistance (TBRA).

The TBRA program differs from other types of HOME rental housing activities in three key ways:

TBRA programs help individual households (rather than subsidizing particular rental projects).

TBRA assistance moves with the tenant

The level of TBRA subsidy varies

A. General Guidelines

1. Eligible Activities

The HOME rules are flexible regarding the types of TBRA programs that may be developed by the City.

a. **Self-sufficiency Programs**

The City may require HOME TBRA recipients to participate in self-sufficiency programs as a condition of rental assistance.

b. **Homebuyer Programs**

HOME TBRA may assist a tenant who has been identified as a potential low income homebuyer under a lease-purchase program. The City may provide HOME TBRA to these homebuyers until the purchase is complete. The HOME TBRA payment must be used for monthly rental and/or utility expenses. This means that HOME-funded TBRA may not be used to create equity in the unit on behalf of the homebuyer. However, all or a portion of payments made by the homebuyer may be used to build such equity.

c. **Targeted Populations Programs**

The City may establish local preferences for special needs groups within its broad, community-wide program, or it may design a specific program that exclusively services one or more special needs groups. If TBRA is provided exclusively to persons with a particular type of special need, the need must be identified in the City's Consolidated Plan as an unmet need and the preference must be needed to fill the gap in benefits and services available to such persons.

d. **Anti-displacement Assistance Programs**

TBRA may be used to minimize displacement associated with HOME-funded activities. Tenants who receive HOME TBRA to avoid displacement from a HOME funded project may remain in the project or move to another suitable unit, taking the TBRA with them. However, the City is not allowed to require households who receive TBRA as relocation assistance to participate in self-sufficiency programs.

e. Security Deposit Programs

The City may establish a program that limits assistance to help tenants with security deposits. The maximum amount of HOME funds that may be provided for the security deposit is the equivalent of two months' rent for the unit. The security deposit may be made as a grant or a loan. If the deposit is a loan, the terms of that loan, including provisions for repayment, should be set out in a written agreement between the City and the tenant.

Utility deposit assistance must be provided in conjunction with a TBRA security deposit or monthly assistance program. In addition, utility deposit assistance may be used only for utilities permitted under the Section 8 utility allowance. This includes electric, gas, water and trash, but does not include telephone and cable television.

f. Ineligible Activities

The ineligible activities for TBRA programs are as follows:

- ❖ TBRA may not be used to assist a resident owner of a cooperative or mutual housing unit when the resident is recognized by state law as a homeowner. However, under the provisions of some cooperative or mutual housing agreements, the units are considered rental housing under state law. The residents of this rental housing may receive TBRA. Under any circumstance, a tenant who rents from an owner of a cooperative or mutual housing unit may receive HOME TBRA.
- ❖ HOME TBRA may not be used to prevent the displacement from projects assisted with Rental Rehabilitation Program funds.
- ❖ The City may not provide HOME TBRA to homeless persons for overnight or temporary shelter.
- ❖ HOME TBRA may not duplicate existing rental assistance that already reduces the tenant's rent payment to 30% of income. For example, if the household is already receiving assistance under the County's Section 8 Program, the household may not also receive assistance under the City's HOME TBRA program.

2. Eligible Applicants/Beneficiaries

There are two key rules regarding eligible income of households under a HOME TBRA program:

a. Low Income

HOME TBRA is limited to tenants who are at or below the HUD low income limit. The low income limit is defined as 80% or below of area median income. HUD establishes and periodically publishes this income limit by family size for each jurisdiction.

b. Funding Allocation

For each fiscal year allocation, at least 90% of the families assisted through HOME TBRA and the households occupying assisted units in HOME rental developments (taken together) must be at or below 60% of area median income. This means that although the program permits assistance to households with incomes of up to 80% of median, the City will only be able to serve a limited number of households whose incomes are between 60% and 80% of median.

The City needs to assure that the applicant is income eligible prior to signing a contract for TBRA for the household. For initial eligibility purposes, family income under HOME funded TBRA programs may be calculated using one of the three definitions of annual income.

The Program Administrator must determine annual income by reviewing source documents evidencing annual income for the family. Income determinations for new TBRA recipients are valid for six months. Eligibility criteria must be met regardless of the type of TBRA program operated by the City.

3. Tenant Selection Requirements

The City must have a written tenant selection policy that clearly specifies how families will be selected for participation in their programs. There are two major components of tenant selection:

- ❖ **Income Eligibility:** Households who receive HOME funded TBRA must have an annual income that does not exceed 80% of the area median income.
- ❖ **Preferences:** The City can use HOME funded TBRA programs to support a variety of local goals and initiatives. In fact, with the repeal of the Federal preferences in the 1999 appropriations Act, the City has more discretion concerning tenant selection in their TBRA programs.

Establishing Preferences

There are several ways to establish preferences in TBRA programs:

a. General Community-Wide Program

A community-wide program can address the general need for affordable housing by giving more 'buying power' to eligible low income households. Within a community-wide program the City may elect to:

- ❖ Select households from the public housing authority's (PHA) Section 8 waiting list, using the PHA preference criteria; or
- ❖ Establish its own preferences and waiting list.

b. Community-Wide Programs with Preferences

Through the use of local preferences, the City can target funds to meet specific needs or serve specific purposes.

- ❖ **Residency Preferences:** The City may opt to establish a residency preference as part of its community-wide program, which requires TBRA participants to be residents of Huntington Beach. The definition of resident must include persons who currently reside in the jurisdiction, and those who are currently working or have a bonafide job offer in the jurisdiction. However, the City may not establish a requirement for minimum length of residency.
- ❖ **Disabilities Preference:** The City may establish local preferences for all persons with disabilities within a broad, community-wide TBRA program. In addition, the City may target its TBRA program to persons with a particular type of disability.

- ❖ **Self-Sufficiency Program:** The City may require HOME TBRA recipients to participate in self-sufficiency programs as a condition of assistance. However, tenants living in a HOME assisted project who receive TBRA as relocation assistance may not be required to participate in self-sufficiency programs.

c. Targeted Programs

The City is permitted to design local selection criteria that meet the housing needs of specific populations. Below are several examples of targeted TBRA programs:

- ❖ **Preferences for persons with disabilities** – The City may also provide a preference for a specific category of individuals with disabilities (for example, persons with AIDS or chronic mental illness) if the specific category is identified in the City's Consolidated Plan as having unmet needs, and if the preference is needed to narrow the gap in benefits and services received by such persons.
- ❖ **Preferences for persons with other special needs** – TBRA may also be provided exclusively to persons with a particular type of special need, if the specific category of need is identified in the City's Consolidated Plan.

4. Eligible TBRA Units

The TBRA program offers households great flexibility in selecting a housing unit.

- ❖ **Public or private** – Units under the TBRA Program may be publicly- or privately-owned.
- ❖ **Rents must be reasonable** – The City must disapprove a lease if the City determines the rent is not reasonable, based on rents that are charged for comparable unassisted rental units.
- ❖ **HOME-funded units are OK** – Households may select units developed or rehabilitated with HOME assistance. However, the City may not require the household to select a HOME unit as a condition of receiving TBRA.
- ❖ **Portability is an option** – The City may require eligible TBRA participants to use their TBRA assistance in units within the jurisdiction, or permit TBRA assistance to be used to rent units in other jurisdictions.

5. Property and Occupancy Standards

a. Section 8 HQS

The Section 8 Housing Quality Standards (HQS) must be used for HOME TBRA activities. The City may request waivers from HUD to permit HQS variations for local climatic or geological conditions, or to create consistency with local codes. Inspections to verify compliance with HQS and occupancy standards are made both at initial move-in and annually during the term of the TBRA assistance.

b. Occupancy Standards

Program administrators must develop local occupancy standards that specify the number of bedrooms needed by households of various sizes and composition

Further guidance on HUD occupancy standards can be found in a Federal Register Notice from December 1998 (FR-44050N-01 dated 12-18-98).

The occupancy standards are used to provide consistent criteria for determining the unit size for which the household is eligible. While the City may refer the household to appropriate units, it may not require the household to select the referral unit.

c. Lease Requirements

The term of the lease between the tenant and the owner must be at least one year, unless both agree otherwise. The lease may not contain the following provisions:

Agreement by the tenant to be sued or to admit guilt, or a judgment in favor of the owner in a lawsuit brought in connection with the lease;

Agreement by the tenant that the owner may take, hold or sell the personal property of household members without notice to the tenant and a court decision on the rights of the parties (this does not apply to personal property left by the tenant after move-out);

Agreement by the tenant not to hold the owner or its agents legally responsible for any action or failure to act, whether intentional or negligent;

Agreement by the tenant that the owner may institute a lawsuit without notice to the tenant;

Agreement that the owner may evict the tenant (or other household members) without a civil court proceeding where the tenant has the right to present a defense, or before a court decision on the rights of the tenant and the owner;

Agreement by the tenant to waive a trial by jury;

Agreement by the tenant to waive the tenant's right to appeal or otherwise challenge a court decision; or

Agreement by the tenant to pay attorney fees or other legal costs, even if the tenant wins in court.

The City must establish standards for when a landlord may elect to terminate or refuse to renew the lease of a TBRA household. These standards must be in writing. They must also be included within the lease and/or in the contract between the City and the tenant. The requirement for 30 days' notice of refusal to renew or termination of tenancy that is required of HOME-funded rental projects does not apply to TBRA.

6. Parameters of Assistance

The City is given significant flexibility in modeling the local method of providing TBRA assistance. However, HOME program rules do impose some basic parameters on the level of household and City payment, and the length of time for a single TBRA contract with a household. In addition, the HOME program requires that the City establish certain standards for the cost of the unit.

- ❖ **Minimum tenant payment:** The City may use its discretion in setting this minimum payment level. The minimum payment may be established at a dollar figure (such as \$50) or at a percentage of income (such as 10% of monthly income).
- ❖ **Maximum TBRA payment:** The maximum amount that the TBRA program may pay to assist any given household is the difference between 30% of the household's adjusted monthly income and the City-wide rent limit established by the City (known as the payment (rent) standard).

a. Length of TBRA Assistance

The TBRA rental assistance contracts with individual households may not exceed two years. Contracts can be renewed, subject to availability of HOME funds. The two-year period begins the first day of the lease and will end upon termination of the lease (if the TBRA payment is made directly to the landlord).

Rental assistance contracts may be shorter than two years. For example if TBRA is used in conjunction with a self-sufficiency program, the City may want to have a shorter contract term of 18 months. In circumstances where the payment is made directly to the tenant, the TBRA payment ends when a lease is terminated. However, payments can begin again once the household enters into a new lease.

b. Program Models

Within the broad HOME Program parameters, the City is free to design its own individual TBRA program models as follows:

- ❖ **Section 8 Certificate Program Model** – Under this type of model, the tenants pay 30% of their monthly adjusted income toward rent. The TBRA assistance then makes up the gap between the tenant's payment and the actual rent plus utilities for the tenant's unit. The rent and utilities of the unit selected by the household may not exceed the City's payment (rent) standard.
- ❖ **Section 8 Voucher Program Model** – Under this type of model, the City calculates the differences between 30% of the household's monthly adjusted income and the payment (rent) standard. This gap is then the constant amount of the monthly TBRA assistance. The household is free to select an actual unit that costs more or less than the City's payment (rent) standard. If the household selects a unit costing more than the payment (rent) standard, the household's monthly payment will exceed 30% of its monthly adjusted income. If the household selects a unit costing less than the payment (rent) standard, the household's monthly payment will be less than 30% of its monthly adjusted income. Regardless of whether the unit costs are more or less than the payment (rent) standard, the monthly TBRA to the household remains fixed at the gap between what it can afford and the payment (rent) standard, regardless of the actual unit selected.
- ❖ **Individualized Models** – The most compelling reasons for electing to design a new program would be the City's desire to administer a security deposit-only program or a specialized program which addresses a special needs group. Within the general HOME TBRA rules, the City may decide how it wishes to establish limits for these types of programs.

c. Payment (Rent) Standard

The City must establish a payment (rent) standard. This payment (rent) standard should represent the rent plus utility cost of moderately priced units that meet HUD HQS in the jurisdiction. The payment (rent) standard is established by bedroom size. The payment (rent) standard is similar to the Fair Market Rent (FMR) that is established by HUD for the Section 8 program.

❖ **Establishing the payment (rent) standard:** The city is given several options for establishing the payment (rent) standard – including using the FMR as a basis. The City may develop the payment (rent) standard using one of two methods:

- Based on Local Market Conditions
- Based on Section 8 FMRs

❖ **Administering the payment (rent) standard:** Once established the payment (rent) standard remains constant for all units for the City's entire program year. However, HUD does permit the City to have some flexibility in the administration of this payment (rent) standard.

- **Unit Specific:** For up to 20% of the units under its TBRA program, the City may approve a unit-specific payment (rent) standard. This unit-specific payment (rent) standard may be up to 10% above the payment (rent) standard established for all units.

7. Ongoing Responsibilities

The City has significant on-going responsibilities for managing a TBRA program.

❖ **Occupancy Requirements** – The City must ensure that the property standards and occupancy are still met by conducting an annual inspection to ensure that the unit still meets HQS and that the unit is the appropriate size for the household in order to meet the occupancy standard.

❖ **Rent Increases** – The City must also review and approve rent increases by landlords renting to tenants participating in the TBRA program. Owners may adjust rents as leases are renewed (generally annually). The City must disapprove a lease if the rent is not reasonable.

❖ **Recertifying Income** – The incomes of tenants receiving rental assistance must be re-examined at least annually using source documentation. The City must re-evaluate family income, size and composition. The rent and assistance is to be adjusted accordingly, based on the circumstances in effect at the time of recertification. If a tenant's income goes above the Section 8 low income limit at re-examination, assistance must be terminated after the City gives reasonable notice to the tenant and the owner.

❖ **Tenants on Section 8 Waiting List** – special provisions are needed for tenants receiving HOME TBRA who were on the Section 8 waiting list at the time of selection. Households on the Section 8 waiting list when selected for HOME-funded TBRA must remain in their place on the waiting list while receiving the HOME-funded TBRA.

8. Lead-Based Paint

HUD's consolidated Federal lead-based paint regulation took effect September 15, 2000. For more information about lead-based paint, see the summary provided in the "Other Federal Regulations" of this manual. Other resources are the training manual, *Learning the Rules: A Basic Overview of the Lead-Based Paint Regulations for CPD Programs*, the training manual, *Making it Work: Implementing the Lead Safe Housing Rule in CPD-funded Programs*, and HUD's Office of Healthy Homes and Lead Hazard Control website, <http://www.hud.gov/offices/lead>.

9. Calculating the Rental Subsidy

a. **Using the Section 8 Certificate Model**

This model assumes a fixed tenant payment. The tenant's share of housing costs (Total Tenant Payment or TTP) is calculated by formula. The City then pays the difference between the tenant's share and the approved rent for the unit. The formula for computing TTP under the Section 8 Rental Certificate Program requires a tenant to pay the greater of:

- 30% of monthly adjusted income;
- 10% of monthly gross income; or
- The welfare rent in as-paid states.

The following is an example of calculating the rental subsidy under this model:

The Cleavers have been issued a two-bedroom HOME TBRA Coupon. Their annual (gross) and adjusted incomes are \$22,500 and \$18,300, respectively. They find an apartment that rents for \$725 (including utilities). The Cleavers must pay the greater of

\$458	30% of adjusted monthly income	$\$18,300 \times 30\% / 12$
\$188	10% of annual (gross) monthly income	$\$22,500 \times 10\% / 12$

The program administrator must pay the difference between the tenant's share and the approved rent:

Approved Rent	\$725
(Less) Total Tenant Payment (TTP)	(458)
City Share of Rent	\$267

b. **Using the Section 8 Voucher Model**

This model assumes a fixed City payment. The maximum City subsidy is calculated, and the tenant pays the difference between the subsidy and the approved rent for the unit. Using the Section 8 Rental Voucher method, the City first establishes a payment (rent) standard for the

program as a whole. The City generally pays the difference between its payment (rent) standard and 30% of the tenant's adjusted monthly income. However, a minimum tenant payment is requirement.

The following is an example of calculating the rental subsidy under this model:

The Cleavers have been issued a two-bedroom HOME TBRA Coupon. Their annual (gross) and adjusted incomes are \$22,500 and \$18,300, respectively. They find an apartment that rents for \$725 (including utilities). Their monthly annual (gross) and adjusted income amounts are \$458 and \$188, respectively. They find an apartment that rents for \$800 (including utilities). The City's rent standard is \$775. The maximum program subsidy is:

<i>Rent Standard</i>	\$775
<i>(Less) 30% of Adjusted Monthly Income</i>	(458)
Maximum Program Subsidy	\$317

The Cleaver's share of the rent is:

<i>Approved Rent</i>	\$800
<i>(Less) Maximum Subsidy</i>	(317)
Cleaver's Rent Payment	\$483

In this example, the Cleavers will pay more than 30% of their adjusted income for housing because they selected a unit that rents for more than the payment (rent) standard. Had the Cleavers found a very inexpensive unit, the requirement that the family must pay at least 10% of monthly gross income might apply.

<i>Approved Rent</i>	\$500
<i>(Less) Maximum Subsidy</i>	(317)
Cleaver's Rent Payment	\$183

However, the Cleavers must pay at least 10% of gross monthly income ($\$22,500 / 12 \text{ months} \times 10\% = \188). Therefore, the program administrator's contribution would be reduced by \$5.

c. Utility Allowances

To determine the portion of the housing cost that will be paid by the City and the portion that will be paid by the household, the City must establish a utility allowance schedule that estimates the

average cost of utilities for typical types of housing (single-family, row house, high-rise, etc.) and for various utilities and fuel sources (gas, oil, electricity). Utilities included in the schedule generally include those required for water/sewer, electric, gas and trash. Telephone and cable TV are not considered utilities for this purpose.

10. Processing Applications

The following are steps in processing applications for a TBRA program:

11. Using TBRA for Anti-Displacement and Relocation Activities

a. Displacement Assistance

In a HOME project, if post-rehabilitation gross rent (rents and utilities) exceed the tenants' TTP, the tenant is considered rent-burdened. A tenant who moves for this reason is considered displaced. Rent burden may exist even when a tenant occupies a unit that carries HOME rents. To avoid displacement, HOME TBRA or Section 8 assistance may be provided to make the proposed rent affordable to the tenant.

b. Relocation Assistance

HOME TBRA may be offered to displaced low-income tenants as an alternative to the replacement housing payment required by the Uniform Relocation Act (URA) or Section 104(d). URA rules require that displaced tenants be given the choice of TBRTA or a cash replacement housing payment. Section 104(d) gives the option to the City, but if the City offers TBRA and the tenant prefers a replacement housing payment, the tenant may receive the repayment housing payment at URA (rather than Section 104(d)) levels.

In this case, the value of the monthly HOME TBRA must be equal to or greater than the monthly value of the tenant's replacement housing payment. Tenants who accept HOME TBRA must be assured of at least 42 months of assistance when the URA applies and 60 months of assistance when Section 104(d) applies.

The tenant must be made aware that HOME assistance will be terminated if, upon annual recertification, the tenant's income exceeds 80% of the area median income. However, the City must continue to provide assistance, either as continued rental assistance payments funded through some other source, or by providing the balance of the assistance in the form of a replacement housing payment.

B. Program Procedures

The City has entered into an agreement with Interval House, a non-profit entity, which administers the City's TBRA program. The following summarizes the process that Interval House maintains to operate the program:

1. Application Intake and Waiting Lists

The City may use the PHA Section 8 waiting list or create a waiting list of its own. Whichever method is used, the City must follow its written tenant selection plan, which explains how local preferences will be applied.

If the City uses the PHA's waiting list, no additional application intake is needed. The PHA will already have taken applications from families seeking rental assistance. If the City decides to set up a separate waiting list, it will have to take applications. Good record-keeping is essential to demonstrate that all eligible families had the opportunity to apply and were treated fairly in the application process. The City should use a written application form and retain records on the disposition of all applications.

2. Eligibility Determinations

The City, or the PHA on behalf of the City, must verify all factors that relate to the family's eligibility – the household composition, preference and income information provided by the family. The HOME rules require examination of source documents for TBRA households to determine the family's income.

3. Coupon Issuance

Once a household is determined eligible and selected to receive assistance, the City issues the family a TBRA coupon. This is the family's authorization to look for housing (or to request that the City approve the unit in which the family already lives). The City should establish a deadline for the family to locate housing. As a comparison, PHAs give Certificate/Voucher holders 60 days to find a unit. In extraordinary circumstances, they may extend the search period for an additional 60 days.

4. Request for Unit Approval

When the household finds an acceptable unit and a landlord willing to participate in the program, the tenant submits a request for unit approval and for using TBRA to rent the unit. The City must inspect the unit to assure that it meets Section 8 HQS and to determine if the rent the owner is charging for the unit is reasonable, based on the rents for comparable units in the area.

5. Lease Execution and IDIS Project Set-Up

Once the City has inspected and accepted the unit and determined that the rent the owner is charging is reasonable two actions must occur:

- ❖ **Tenant Lease:** The owner and the tenant enter into a lease. To cover the special requirements of the HOME program, the City provides a lease addendum to be used in conjunction with the owner's lease.
- ❖ **Owner Agreement:** The City and the owner enter into an agreement in which the owner agrees to comply with the HOME rules and the City agrees to make the City's share of the payment.

At this point, the TBRA Program must be set-up in IDIS. Just as the City would set-up the construction of a multi-family building as a "project" in IDIS, the City sets up its TBRA program as a project, with up to 99 tenants listed under a single project.