



**HOME Investment Partnerships Program
City of Chula Vista**

**Tenant Based Rental Assistance Program Contract
by and between the
City of Chula Vista
and
SBCS Corporation**

This Contract by and between the City of Chula Vista (hereinafter referred to as “City”), and SBCS Corporation (hereinafter referred to as “Subrecipient”) to administer a Tenant Based Rental Assistance Program funded with HOME Investment Partnerships Program funds, is effective on July 1, 2024 (“Effective Date”).

WITNESSETH:

WHEREAS, there has been enacted into law the HOME Act, Title II of the Cranston-Gonzalez National Affordable Housing Act, creating the HOME Investment Partnerships Program that provides funds to expand the supply of affordable housing for very low-income and low-income persons; and

WHEREAS, the City, is authorized to apply for and accept HOME Investment Partnerships funds; and

WHEREAS, the City incorporated a Tenant Based Rental Assistance program described in Attachment A hereof (hereinafter referred to as the “Project”) into the City’s Community Development Block Grant/HOME Investment Partnerships/Emergency Shelter Grant Annual Funding Plan which was submitted to the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, HUD has approved the City Annual Funding Plan for HOME Investment Partnerships funds, and

WHEREAS, the City Council via Resolution Number **XXXX-XX** approved funding for a Tenant Based Rental Assistance Program described in Attachment A here of (hereinafter referred to as the “Project”) on May 21, 2024; and

WHEREAS, it is the desire of the Subrecipient and the City that the Project be implemented by the Subrecipient, and

WHEREAS, the City and Subrecipient agree that Subrecipient shall undertake the same obligations to the City with respect to the Project in the City's aforesaid Annual Funding Plan for participation in the HOME Investment Partnerships Program; and

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

- I. **TENANT BASED RENTAL ASSISTANCE PROGRAM:** The Subrecipient shall implement the scope of work ("Scope of Work") described in Attachment A, hereof fully and in accordance with the terms of the Annual Funding Plan approved by the City and submitted to HUD in application for funds to carry out the Project and the Certifications which were submitted concurrently with the Annual Funding Plan. The Annual Funding Plan and Certifications form is hereby incorporated by reference into this contract fully as if set forth herein.

- II. **WORK TO BE PERFORMED:** Subrecipient shall also undertake the same obligations to the City that the City has undertaken to HUD pursuant to said Annual Funding Plan and Certifications. The obligations undertaken by the Subrecipient include, but are not limited to, the obligation to comply with the current and most up-to-date version of each of the following:
 - A. Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. § 12704;

 - B. Regulations of the Department of Housing and Urban Development relating to HOME Investment Partnerships program (24 CFR 92.1, *et seq.*);

 - C. Regulations of the Department of Housing and Urban Development relating to environmental review procedures for the HOME Investment Partnerships program (24 CFR 92.352);

 - D. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d); Title VII of the Civil Rights Act of 1968 (Public Law 88-352); Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, 42 USC § 3601, *et seq.*); Section 109 of the Housing and Community Development Act of 1974; Executive Order 11246 (equal employment opportunity); Executive Order 11063 (non-discrimination), as amended by Executive Order 12259; and any HUD regulations heretofore issued or to be issued to implement these authorities relating to civil rights;

E. All section 3 covered contracts shall include the following clause (referred to as the “section 3 clause”):

i. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, [12 U.S.C. 1701u](#) (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

ii. The parties to this contract agree to comply with HUD's regulations in 24 CFR 135.1, *et seq.*, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

iii. The Subrecipient agrees to send to each labor organization or representative of workers with which the Subrecipient has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Subrecipient's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

iv. The Subrecipient agrees to include this section 3 clause in every subcontract subject to compliance with Part 135 regulations, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the Subrecipient is in violation of Part 135 regulations. The Subrecipient will not subcontract with any Subrecipient where the Subrecipient has notice or knowledge that the Subrecipient has been found in violation of the regulations in 24 CFR 135.1, *et seq.*.

v. The Subrecipient will certify that any vacant employment positions, including training positions, that are filled (1) after the Subrecipient is selected but before the contract is executed, and (2) with persons other than those to whom the Part 135 regulations require employment

opportunities to be directed, were not filled to circumvent the Subrecipient's obligations under 24 CFR Part 135.

vi. Noncompliance with Part 135 regulations may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

vii. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act ([25 U.S.C. 450e](#)) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

- F. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 USC § 4601, *et seq.*, and regulations adopted to implement that Act in the 49 CFR Part 24;
- G. Cost principles have been established for non-profits through 2 CFR part 200, subpart E, entitled "Cost Principles for Non-Profit Organizations"; 2 CFR part 230 entitled "Cost Principles for Non-Profit Organizations" (Circular A-122); and 2 CFR Part 225 entitled "Cost Principles for State, Local, and Indian Tribal Governments" (OMB Circular A-87); This part establishes principles for determining costs of grants, contracts and other agreements with non-profit organizations. The principles are designed to provide that the Federal Government bear its fair share of costs except where restricted or prohibited by law. The principles do not attempt to prescribe the extent of cost sharing or matching on grants, contracts, or other agreements. However, such cost sharing or matching shall not be accomplished through arbitrary limitations on individual cost elements by Federal agencies;
- H. 24 CFR 92.503 concerning program income, repayments, and recaptured funds" of the HOME Regulations. Any program income earned by Subrecipient in carrying out the activities of this contract shall be returned to the City. Upon expiration of this agreement, Subrecipient shall transfer to the City any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds;

- I. 24 CFR 92.252 or 92.254, as applicable, concerning affordability provisions of the HUD regulations relating to the HOME Investment Partnerships Program. Repayment of any funds to the City is required if the housing does not meet the affordability requirements for the specified time period;
- J. The following laws and regulations relating to preservation of historic places: the National Historic Preservation Act of 1966 (Public Law 89-665); the Archaeological and Historical Preservation Act of 1974 (Public Law 93-291); and Executive Order 11593;
- K. The Labor Standards Regulations set forth in 24 CFR 92.354;
- L. Subrecipient is aware of the requirements of California Labor Code Section 1720, et seq., and 1770 et seq., as well as California Code of Regulations, Title 8, Section 1600 et seq. (“State Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects. If the funds are used as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Subrecipient agrees to fully comply with such State Prevailing Wage Laws. This requirement includes but is not limited to all requirements related to registration with the Department of Industrial Relations to perform public works, and ensuring that all contractors and subcontractors are registered to perform public works. Additionally, pursuant to Labor Code section 1781, if Civil Code sections 9550 et seq. require delivery of a payment bond, Subrecipient shall ensure that all required payment bonds are obtained. This section does not prohibit Subrecipient from determining that an applicable exception under the Prevailing Wage Laws applies;
- M. The Hatch Act relating to the conduct of political activities (5 U.S.C. §§ 1502, et seq.);
- N. The Flood Disaster Protection Act of 1974 (42 U.S.C. § 4106 and the implementing regulations in 44 CFR Parts 59-79);
- O. The Rehabilitation Act of 1973 (Public Law 92-112) as amended, including Section 504 which relates to nondiscrimination in federal programs and HUD Regulations set forth in 24 CFR Part 8;
- P. The Clean Air Act (42 U.S.C. § 7401, et seq.) and the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251, et seq.) and the regulations adopted pursuant thereto (40 CFR 6.100, et seq.);

- Q. The Drug-Free Workplace Act of 1988 (Public Law 100-690);
- R. The Lead-Based paint Poisoning Prevention Act, the Residential Lead-Base Paint Hazard Reduction Act of 1992, and implementing regulations at 24 CFR 35.80, *et seq.*;
- S. No member, officer or employee of the Subrecipient, or its designee or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct, or indirect, in any contract or subcontract, or the process thereof, for work to be performed in connection with the program assisted under the Grant, and that it shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification;
- T. The Subrecipient certifies, that in accordance with Section 319 of Public Law 101-121, to the best of his or her knowledge and belief that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative contract.
 - ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative contract, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- U. The Subrecipient will adopt an affirmative marketing plan in accordance with 24 CFR 92.351 if the housing being funded contains five or more units.
- V. The Architectural Barriers Act of 1968 (42 U.S.C. §§ 4151, *et seq.*);

III. **COMPLIANCE WITH LAWS:** Subrecipient shall comply with all applicable local, state, and federal laws, regulations, and ordinances when performing when performing the work required by this Contract.

IV. **COMPENSATION:** City shall reimburse Subrecipient for the management and implementation of a rental assistance and security deposit assistance costs it incurs under this Contract, not to exceed a maximum reimbursement of **\$405,425.00**. Subrecipient shall not submit claims to the City nor shall City reimburse Subrecipient for costs for which Subrecipient is reimbursed from a source other than the funds allocated for work under this Contract.

V. **COMPENSATION SCHEDULE:** City shall pay Subrecipient monthly progress payments upon certification and submittal by Subrecipient of a statement of actual expenditures incurred, provided, however, that not more than 90% of the total agreed compensation will be paid during the performance of this Contract. The balance due shall be paid upon certification by Subrecipient that all of the required services have been completed. Payment by City is not to be construed as final in the event HUD disallows reimbursement for the project or any portion thereof. The 10% retention will not apply to acquisition or service contracts.

VI. **EXPENDITURE STANDARD:** In order to insure effective administration and performance of approved HOME Investment Partnerships Grant Projects and to meet HUD performance standards, Subrecipient agrees that it shall expedite implementation of the project described herein.

VII. **TERM:** This contract shall commence when executed by the parties and shall continue in effect until terminated as provided herein or until Subrecipient has carried out all its obligations under the contract. Services of the Subrecipient shall start on the 1st day of July, 2024 and end on the 30th day of June of 2025. With City approval, the term of this Agreement and the provisions herein shall be extended to cover any additional time period needed to expend the project HOME funds.

A. City shall have the option to extend this contract for ___(X) additional one year term(s) by giving written notice to Subrecipient prior to the expiration of the current term. Each subsequent term shall commence on the 1st day of July and end on the 30th day of June of the respective year. For each option term, the maximum reimbursement set forth in Section IV of this contract shall adjust in accordance with the Consumer Price Index for all items for the San Diego Area as published by the United States Bureau of Labor Statistics, except that the adjustment shall not be less than 0% nor more than 3%.

VIII. **TERMINATION FOR CONVENIENCE:** The City may permit the agreement to be terminated for convenience in accordance with 2 CFR Appendix II to Part 200.

IX. **AUTOMATIC TERMINATION:** This Contract shall terminate at the discretion of the City if the United States Government terminates the HOME Investment Partnerships Grant Program or terminates the Project, which is the subject of this Contract, upon Subrecipient's satisfactory completion of the objectives set forth in the Scope of Work as determined by City, or that the City, in its sole and unfettered discretion, determines that United States Government funding of the Project that is the subject of this Contract is insufficient to continue the Project.

X. **TERMINATION OF CONTRACT FOR CAUSE:**

In accordance with 2CFR Part 200.339, if Subrecipient fails to fulfill in a timely and proper manner its obligations under this contract to undertake, conduct or perform the Project identified in this Contract, or if Subrecipient violates any state laws or regulations or local ordinances or regulations applicable to implementation of the Project, or if Subrecipient violates any provisions of this contract, City shall have the right to terminate this contract by giving at least ten (10) days' written notice to Subrecipient of the effective date of termination. Even if City terminates the Agreement, Subrecipient shall remain liable to City for all damages sustained by City due to Subrecipient's failure to fulfill any provisions of this Contract, and City may withhold any reimbursement payments from Subrecipient for the purpose of set-off until the exact amount of damages due to City from Subrecipient is determined. Subrecipient hereby expressly waives any and all claims for damages for compensation arising under this contract except as set forth in this section in the event of such termination.

XI. **CONTRACT ADMINISTRATION:** The Housing Division of the City of Chula Vista, shall administer this Contract on behalf of the City. The President & CEO of SBCS or her designee shall administer this contract on behalf of the Subrecipient. Within a reasonable time after the City makes a request, Subrecipient shall give the City progress reports or other documentation as required by the City's Administrator to audit Subrecipient's performance of this Contract.

XII. **RECORDS AND REPORTS:** The Subrecipient shall maintain records and make such reports as required by the City's Administrator, to enable the City to analyze Subrecipient's project. All records of the Subrecipient related to this Contract or work performed under this Contract shall be open and available for inspection by HUD and/or City auditors during normal business hours.

XIII. **RETENTION:** The Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of five (5) years after the final draw and all reporting, and until the submission of Grantee's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

XIV. **DATA:** The Subrecipient shall maintain data demonstrating eligibility (low-moderate income data) for Tenant Based Rental Assistance applicants and participants. Such data shall include, but not be amount of assistance, eligibility, waiting list, work performed, and a description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

XV. **DISCLOSURE:** The Subrecipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the state of Federal law privacy laws unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian. Subrecipient shall have applicant signed a City release of information (Attachment H).

XVI. QUARTERLY REPORTS/ANNUAL REPORT

Subrecipient shall provide the City with a quarterly report, submitted no later than fifteen (15) days after the last day of the previous quarter, which includes a narrative of the services provided, progress towards meeting the timeline goals stated in the contract, and an itemized accounting of the expenditures of HOME funds during the previous quarter. Failure to submit quarterly reports in a timely manner will result in withholding of HOME funds until the report has been submitted.

- Quarterly Performance Report due dates are: July 16, 2025
- Annual Performance Report (CAPER) due date is: July 16, 2025

XVII. **INDEMNIFICATION:** City shall not be liable for, and Subrecipient shall defend and indemnify City and its officers, agents, employees and volunteers against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (collectively, Claims), which arise out of or are in any way connected with the work covered by this Contract arising either directly or indirectly from any act, error, omission or negligence of Subrecipient or its officers, employees, agents, Subrecipients, licensees or servants, including without limitation, Claims caused by the concurrent act, error, omission or negligence, whether active or passive, of City, and/or its agents, officers, employees or volunteers. However, Subrecipient shall have no obligation to defend or indemnify City from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence or willful misconduct of City or its agents or employees.

Subrecipient and its successors, assigns, and guarantors, if any, jointly and severally agree to indemnify, defend (with counsel selected by City) reimburse and hold City and its officers, employees and agents harmless from any claims, judgments, damages, penalties, fines, costs, liabilities (including sums paid in settlement of claims) or loss, including attorneys' fees, consultants' fees, and experts' fees which arise during or after the contract term for any losses incurred in connection with investigation of site conditions, or any cleanup, remedial, removal or restoration work required by any hazardous materials laws because of the presence of hazardous materials, in the soil, ground water or soil vapors on the premises, and the release or discharge of hazardous materials by Subrecipient during the course of any alteration or improvements of the Premises by Subrecipient, unless hazardous materials are present solely as a result of the gross negligence or willful misconduct of City, its officers, employees or agents. The indemnification provided by this section shall also specifically cover costs incurred in responding to:

- a. Hazardous materials present or suspected to be present in the soil, ground water to or under the Property before the Commencement date;
- b. Hazardous materials that migrate, flow, percolate, diffuse, or in any way move on to or under the Property following the Commencement Date; or
- c. Hazardous materials present on or under the Property as a result of any discharge, release, dumping, spilling (accidental or otherwise), onto the Property during or after the Term of this contract by any person, corporation, partnership or entity other than

City.

The foregoing indemnities shall survive the expiration or termination of the contract any or any transfer of all or any portion of the Premises, or of any interest in this contract and shall be governed by the laws of the State of California.

XVIII. **AUDIT COSTS:** Subrecipient shall reimburse City for all costs incurred to investigate and audit Subrecipient's performance of its duties under the Contract if Subrecipient is subsequently found to have violated the terms of the Contract. Reimbursement shall include all direct and indirect expenditures incurred to conduct the investigation or audit. City may deduct all such costs from any amount due Subrecipient under this Contract.

XIX **ENTIRE CONTRACT:** This contract constitutes the entire agreement of the parties and supersedes any previous oral or written understandings or contracts related to the matters covered herein.

XX **MODIFICATION:** This contract may not be modified except by written amendment executed by each party.

XXI **ACKNOWLEDGEMENT OF FUNDING:** Subrecipient shall identify the City of Chula Vista as the source of funding, or, if applicable, one of the sources of funding in public announcements that are made regarding the project. Acknowledgement of the City's funding role, for example, should be included in publicity materials related to the project. In addition, Subrecipient agrees that the City shall be apprised of any special events linked to the project so that a review can be made on what role, if any, the City would assume.

XXII **NO WAIVER:** No failure, inaction, neglect or delay by City in exercising any of its rights under this Contract shall operate as a waiver, forfeiture or abandonment of such rights or any other rights under this Contract.

XXIII **CONFLICT OF INTEREST:** In the procurement of supplies, equipment, construction, and services by Subrecipients and subSubrecipients, the conflict of interest provisions, 2 CFR Part 200, shall apply. In all cases not governed by the provisions of said Super Circular and regulation, 24 CFR 92.356 (b) shall apply.

- A. No member of the governing body, officers or employee of the Subrecipient, or its designees or agents, or any other person who exercises any functions or responsibilities with respect to the program assisted by this Agreement during his tenure or for one year thereafter, shall have any direct interest in any contract or subcontract, or the proceeds thereof, for the work to be performed in connection with the program.
- B. No employee, officer or agent of the Subrecipient shall participate in the selection, award, or administration of a contract supported by HOME if a conflict-of-interest, either real or apparent, would be involved.
- C. The Subrecipient shall incorporate, or cause to be incorporated in all third party agreements, a provision prohibiting such interest pursuant to the purpose of this

Section.

- D. Subrecipient must maintain written standards of conduct governing the award and administration of contracts. At a minimum, these standards must:
- Require that no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict would be involved. Such a conflict would arise when any of the following parties has a financial or other interest in the firm selected for an award:
 - The employee, officer, or agent of the Subrecipient;
 - Any member of an employee's office's or agent's immediate family;
 - An employee's, agent's, or officer's partner; or
 - Any organization which employs or is about to employ any of the above.
 - Require that employees, agents, and officers of the Subrecipient neither solicit nor accept gratuities, favors, or anything of value from subSubrecipients, or parties of subagreements. However, Subrecipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.
 - Provide for disciplinary actions to be applied for any violations of such standards by employees, agents or officers of the Subrecipient.

XXIV. **EQUAL OPPORTUNITY**: The Subrecipient agrees to comply with all the requirements relating to fair employment practices, to the extent applicable and shall cause the foregoing provision to be inserted in all contracts with third parties for any work covered by this Agreement so that such provisions will be binding upon such third parties. Subrecipient will conduct and administer the grant in conformity with 24 CFR 92.350.

XXV. **LOBBYING**: The undersigned certifies, to the best of his or her knowledge and belief that:

1. No appropriated federal funds have been paid, or will be paid, by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit *Disclosure Form to Report Lobbying* (Standard Form-LLL), in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

XXVI **WAIVER OF ENFORCEMENT:** No waiver by the City of the right to enforce any provision of this Agreement shall be deemed a waiver of the right to enforce each and all the provisions hereof.

XXVII **REVISIONS AND AMENDMENTS AND APPROVALS**

- A. Any changes to this Agreement shall constitute an amendment.
- B. The Subrecipient shall not expand, enhance, commingle or add to the scope of the program, covered by the Agreement.
- C. Amendments of the terms of this Agreement shall not become effective unless reduced to writing, numbered, agreed to and signed by the City and the duly authorized representative of the Subrecipient.

XXVIII **NOTICE:** Any notice of notices required or permitted to be given pursuant to this Contract shall be personally served by the party giving notice or shall be served by certified mail, postage prepaid, addressed to:

SUBRECIPIENT:

SBCS
Attn: President and CEO
430 F Street
Chula Vista, CA 91910

CITY:

City of Chula Vista-Housing Division
Attn: Housing Director
276 Fourth Avenue Bldg A
Chula Vista, CA 91910

[Signature Page to Follow]

SIGNATURE PAGE

IN WITNESS WHEREOF, the Subrecipient and City have executed this contract as of the date first written above.

CITY OF CHULA VISTA

Maria Kachadoorian
City Manager

APPROVED AS TO FORM

Jill D.S. Maland
Lounsbery Ferguson Altona & Peak
Acting City Attorney

SUBRECIPIENT

SBCS Employer Federal ID: 95-
2693142 DUNS ID: 1134077
79

Kathryn Lembo, President & CEO



Attachments to Agreement

Attachment A – Scope of Work

Attachment B – Insurance Requirements

Attachment C – HUD Income Limits

Attachment D – Disclosure Form

Attachment E- CPD Notice Guidance on Tenant-Based Rental Assistance under the HOME Program

Attachment F- Sample Monthly Payment Authorization form

Attachment G- HOME Set up Form

Attachment H- City Release of Information

Attachment I- HUD Waivers (approved)

ATTACHMENT A

SCOPE OF WORK

- 1) The Subrecipient agrees to work with the City to locate and assist up to 9 low income households earning less than 60% of the Area Median income who live in the City of Chula Vista. Project shall be implemented in accordance with the provisions contained in the Federal Act, the most recent HOME Program regulations (24 CFR Part 92) and this Agreement. Subrecipient responsibilities include but are not limited to:
 - a) Providing approximately 9 HOME Tenant Based Rental Assistance (TBRA) for short term or medium-term assistance, in accordance with Title 24, Code of Federal Regulations Section 92.209, and SBCSTenant Based Rental Assistance Program Administrative Plan (TBRA-AP). This assistance can include security deposit assistance (up to 1 month's rent) and utility assistance in accordance with the TBRA-AP. The TBRA-AP shall be consistent with the Chula Vista City Council item #XX-XXXX that was approved by City Council on May 21, 2024.
 - b) Subrecipient can also use the HUD approved waivers included in **Attachment I** to implement the Program through June 30, 2025, unless extended by HUD.
 - c) Counsel prospective tenants regarding landlord/tenant responsibilities, methods of locating suitable units and equal housing opportunity laws;
 - d) Maintain a waiting list and administer the HOME TBRA program as stated in CPD Notice 96-07 Guidance of Tenant-Based Rental Assistance under the HOME Program (Attachment E), Building HOME Chapter 7, HOME Final Rule, and 24 CFR part 92;
- 2) **General Program Rules Part I:**
 - a) Calculate and determine eligibility using the United States Department of Housing and Urban Development's Technical Guide for Determining Income and Allowances for the HOME Program;
 - b) Provide financial literacy, and other self-sufficiency services to families receiving TBRA assistance; and
 - c) Conduct Annual Eligibility Recertifications. Annual Inspections will also be required.
 - d) For each fiscal year, 100 percent of Eligible Households assisted through HOME TBRA must be at or below 60 percent of area median income, adjusted for family size.
 - e) Eligibility is determined by comparing the household's anticipated gross annual income for the next twelve months to the income limits for the appropriate household size. (The

definition of annual income is defined in Section 8 of the United States Housing Act of 1937.) Verification of income should be completed in accordance with the rule of the Section 8 Housing Choice Voucher Program.

- f) Written certification of income eligibility must be obtained prior to occupancy. If applicants or household members that are being assisted have given false information and do not meet their family obligations, the Subrecipient must notify the City and rental assistance must be terminated.
- g) Eligible Households who receive assistance under this Agreement must be currently on a waiting list for a Section 8 Housing Choice Voucher Program and must be transitioned from the HOME TBRA program to the Section 8 program if a Housing Choice Voucher becomes available to them.
- h) Eligible Households who receive assistance under this Agreement must be currently on a waiting list for Public Housing and Affordable Housing.
- i) Eligible Households must participate in family self-sufficiency services and develop a housing plan.
- j) No TBRA application shall be accepted by the Subrecipient after expiration of this contract unless otherwise extended in writing by the City, but in no event will the contract be extended beyond an additional one year.
- k) The Subrecipient is responsible for obtaining the following documentation for each Eligible Household applying to receive TBRA:
 - i) Tenant Income, asset, and criminal history certification. If applicant discloses violent or drug related criminal history, further research may be needed to determine eligibility).
 - ii) Signed HOME Coupon (voucher)
 - iii) Request for Tenancy Approval (original)
 - iv) Conduct a Rent Reasonableness certification; and
 - v) Signed Lease and Lease Addendum (copy).
- l) Rental assistance under this program is **not** portable and is available to Eligible Households to rent the unit of their choice in the City of Chula Vista provided it does not already receive any form of rental assistance. The assistance is conditioned upon eligibility, issuance of a voucher, Housing Quality Standards Inspection, the execution of a Lease Addendum between the landlord/owner and the Eligible Household, and a Housing Assistance Payment contract between the landlord/owner and the City of Chula Vista. Households may rent units outside the City of Chula Vista only in instances when doing so is necessary for reasonable accommodation for persons with disabilities.

3) General Program Rules Part II

- a) The Subrecipient will apply its stated method of continued program participation, including annual income certification and unit inspections, as documented in their Tenant Based Rental Assistance Program Administrative Plan. If Income exceeds 60% of Area Median Income at recertification, assistance must be terminated.

- b) Assisted units may be publicly or privately owned; however, units covered under a project-based rental assistance agreement or Public Housing Authority units are not eligible.
- c) SBCS must perform initial and annual on-site inspections of rental housing occupied by tenants receiving HOME-assisted TBRA to determine compliance with property standards for 24 CFR Part 92.251. The City will be required to inspect units at initial occupancy and certify that the unit meets minimum HUD Housing Quality Standards (HQS). Housing Assistance Payments (HAP) will not begin until the unit has passed a HQS inspection and the unit has been approved by SBCS.
- d) The Subrecipient shall execute a Housing Assistance Payment contract with the landlord. In addition, the Subrecipient shall obtain a copy of the signed lease agreement and Lease Addendum executed between the landlord and the tenant.
- e) The Subrecipient shall maintain a waiting list of families and a written tenant selection policies and criteria that provide housing to low and very low-income families that is consistent with the City's Consolidated Plan. During the term of the contract, the preferences established by the Subrecipient must be consistent with the purpose of providing assistance to very low and low-income families and the TBRA-AP. The waiting list shall be used to fill openings based on their priority status and chronological place on the waiting list.
- f) The term of the lease between the tenant and the owner must be at least for one year, unless both mutually agree in writing. The subsidy payments to the landlord under the HOME TBRA program shall not exceed 12 months from the date of initial occupancy and in no event exceed the actual period of occupancy, if less than 12 months. Tenants may have the option for a one-time re-certification for an additional 12 months with payments not to exceed a total of 24 months. The tenant shall be solely responsible for any damages caused by breaching the lease that exceed the security deposit.
- g) Rental assistance calculations must be prorated during the initial month. Leases should begin on the first day actual tenant occupancy. SBCS shall not be held responsible for paying the rent if the resident chooses to move into the unit prior to SBCS approval.
- h) Certain lease provisions are prohibited under the Regulations. These provisions are contained in the Lease Addendum which shall be executed by the landlord and tenant.
- i) The amount of rental assistance paid on behalf of an Eligible Household is limited to the difference between the established rent for the unit and thirty percent (30%) of the Eligible Household's gross monthly income.

Example: \$500 rent and \$12,000 annual gross income would require a subsidy of:

(\$12,000/12 months) x .30 = \$300 (tenant payment) \$500 rent minus \$300 tenant payment = \$200 monthly subsidy Exclusions are permissible when calculating income, (e.g., dependents, disability, elderly, and child care).

- j) Utility allowances are permissible when calculating rent.
- k) Applicant's and Participant's minimum rent is \$50.00.
- l) Subrecipient will develop and provide each participant with a Tenant Handbook (i.e. Family Obligations) outlining the participant's responsibilities.
- m) Match- As with all HOME Activities, TBRA program expenditures require a 25% non-federal local match. City will provide the required matching funds.
- n) The Subrecipient shall use the Housing Choice Voucher Model for calculating rental subsidies. The maximum amount that the HOME TBRA program may pay to assist any given household is the difference between 30 percent of the household's adjusted monthly income and the lower of the contract rent or payment standard. The payment standard is lesser of the County of San Diego's Payment Standard or the Fair Market Rent (100%). For the initial lease for the unit, the family's share (total family contribution) cannot exceed 40% of the family's monthly adjusted income (including exempt income). The minimum tenant payment is \$50.00.
- o) Issues not covered in this agreement are to be handled in accordance with HUD 24 CFR Part 92, HOME Investment Partnerships Program Final Rule, Community Planning and Development Notice 96-07 (CPD Notice 96-07), and HUD's Technical Guide for Determining Income and Allowances for the HOME Program.

4) Additional Requirements:

- a) The City and/or the City's monitoring agents will monitor the performance of the Subrecipient as it relates to this Agreement on a periodic basis. City may request quarterly meetings.
- b) The Subrecipient will transmit to the City a Monthly Payment Authorization form (Attachment F), authorizing payment for all Eligible Households. Households that are subsequently determined to be ineligible or who have served notice they have vacated must be removed from the next monthly submittal. Subrecipient must notify the City within 10 days in the event that a tenant moves out of a TBRA assisted unit.
- c) In addition to the required quarterly reports identified in Section XVI of this Contract, the Subrecipient shall document eligibility mentioned above to ensure that those served are at or below 60 percent of the Area Median Income as established by the U.S. Department of Housing and Urban Development (HUD). This information is to be collected and compiled at the kept for (5) years, and shall be submitted to the City of Chula Vista upon receipt of a written request and at the time of any monitoring of project records.

5) **Performance:**

- a) **ESTIMATED TIME SCHEDULE:** Subrecipient will make all good faith and reasonable efforts to implement the project in compliance with the following estimated implementation schedule, or earlier:

July 1, 2024 - June 30, 2025

- b) **ESTIMATED BUDGET:** Subrecipient shall make all good faith and reasonable efforts to complete the work under this Contract within the following estimated budget. In no case shall Subrecipient be entitled to, nor shall CITY reimburse Subrecipient, for more than **\$405,425.00** for work performed under this Contract, including:

- Tenant Based Rental Assistance
- Security Deposit Assistance (limited to one-month rent per family)
- Utility assistance

[end of Scope of Work document]

ATTACHMENT B

INSURANCE REQUIREMENTS FOR SUBRECIPIENTS

Subrecipient must procure insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work under the contract and the results of that work by the Subrecipient, his agents, representatives, employees or sub-subrecipients and provide documentation of same prior to commencement or work. The insurance must be maintained for the duration of the contract.

I. Minimum Scope of Insurance

Coverage must be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG0001)
2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, code1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

II. Minimum Limits of Insurance

Subrecipient must maintain limits no less than:

- | | |
|--|---|
| 1. General Liability:
(Including operations,
products and completed
operations, as applicable.) | \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit. |
| 2. Automobile Liability: | \$1,000,000 per accident for bodily injury and property damage. |
| 3. Workers' Compensation
Employer's Liability: | Statutory
\$1,000,000 each accident
\$1,000,000 disease-policy limit
\$1,000,000 disease-each employee |

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer will reduce or eliminate such deductibles or self-insured retentions as they pertain to the City, its officers, officials, employees and volunteers; or the Subrecipient will provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

Other Insurance Provisions

The general liability, automobile liability, and where appropriate, the worker's compensation policies are to contain, or be endorsed to contain, the following provisions:

1. ***The City of Chula Vista, its officers, officials, employees, agents, and volunteers are to be named as additional insureds with respect to liability arising out of automobiles*** owned, leased, hired or borrowed by or on behalf of the Subrecipient, where applicable, and, with respect to liability arising out of work or operations performed by or on behalf of the Subrecipient including providing materials, parts or equipment furnished in connection with such work or operations. ***The general liability additional insured coverage must be provided in the form of an endorsement to the Subrecipient's insurance using ISO CG 2010 (11/85) or its equivalent. Specifically, the endorsement must not exclude Products / Completed Operations coverage.***
2. The ***Subrecipient's insurance coverage must be primary insurance as it pertains to the City***, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers is wholly separate from the insurance of the Subrecipient and in no way relieves the Subrecipient from its responsibility to provide insurance.
3. Each insurance policy required by this clause must be endorsed to state that ***coverage will not be canceled by either party, except after thirty (30) days' prior written notice to the City*** by certified mail, return receipt requested.
4. ***Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured*** in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
5. Subrecipient's insurer will provide a ***Waiver of Subrogation*** in favor of the City for each required policy providing coverage during the life of this contract.

Acceptability of Insurers

Insurance is to be placed with licensed insurers admitted to transact business in the State of California with a current A.M. Best's rating of no less than A V. If insurance is placed with a surplus lines insurer, insurer must be listed on the State of California List of Eligible Surplus Lines Insurers (LESLI) with a current A.M. Best's rating of no less than A X. Exception may be made for the State Compensation Fund when not specifically rated.

Verification of Coverage

Subrecipient shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on insurance industry forms, provided those endorsements conform to the contract requirements.

All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require, at any time, complete, certified copies of all required insurance policies, including endorsements evidencing the coverage required by these specifications.

SubSubrecipients

Subrecipient must include all sub-contractors as insureds under its policies or furnish separate certificates and endorsements for each sub-contractors. All coverage for sub-contractors are subject to all of the requirements included in these specifications.

ATTACHMENT C
2024 AREA MEDIAN HOME INCOME LIMITS
(San Diego-Carlsbad, CA MSA)

Income Category	Number of Persons in Household							
	1	2	3	4	5	6	7	8
Extremely Low	\$31,850	\$36,400	\$40,950	\$45,450	\$49,100	\$5,2750	\$56,400	\$60,000
Very Low Income	\$53,050	\$60,600	\$68,200	\$75,750	\$81,850	\$87,900	\$93,950	\$100,000
Low Income	\$84,900	\$97,000	\$109,150	\$121,250	\$130,950	\$140,650	\$150,350	\$160,050

Source: U.S. Dept. of Housing and Urban Development, published April 2024.

<https://www.hudexchange.info/programs/home/home-income-limits/>

ATTACHMENT D
CITY DISCLOSURE STATEMENT

DISCLOSURE STATEMENT

Pursuant to City Council Policy 101-01, prior to any action on a matter that requires discretionary action by the City Council, Planning Commission or other official legislative body of the City, a statement of disclosure of certain ownerships, financial interests, payments, and campaign contributions must be filed. The following information must be disclosed:

1. List the names of all persons having a financial interest in the project that is the subject of the application, project or contract (e.g., owner, applicant, contractor, subcontractor, material supplier).

[SBCS]

2. If any person* identified in section 1 above is a corporation or partnership, list the names of all individuals with an investment of \$2,000 or more in the business (corporation/partnership) entity.

[Not Applicable]

3. If any person* identified in section 1 above is a non-profit organization or trust, list the names of any person who is the director of the non-profit organization or the names of the trustee, beneficiary and trustor of the trust.

[Kathryn Lembo.]

4. Please identify every person, including any agents, employees, consultants, or independent contractors, whom you have authorized to represent you before the City in this matter.

[Kathryn Lembo, Valerie Brew, Ismena Valdez]

5. Has any person* identified in 1, 2, 3, or 4, above, or otherwise associated with this contract, project or application, had any financial dealings with an official** of the City of Chula Vista as it relates to this contract, project or application within the past 12 months? Yes No If yes, briefly describe the nature of the financial interest the official may have in this contract.

[Not Applicable]

6. Has any person* anyone identified in 1, 2, 3, or 4, above, or otherwise associated with this contract, project or application, made a campaign contribution of more than \$250 within the past twelve (12) months to a current member of the Chula Vista City Council? No Yes If yes, which Council member(s)?

[Not Applicable]

7. Has any person* identified in 1, 2, 3, or 4, above, or otherwise associated with this contract, project or application, provided more than \$420 (or an item of equivalent value) to an official** of the City of Chula Vista in the past twelve (12) months? (This includes any payment that confers a personal benefit on the recipient, a rebate or discount in the price of anything of value, money to retire a legal debt, gift, loan, etc.) Yes No If Yes, list official and what was the nature of item provided?

8. [Not Applicable] Has any person* identified in 1, 2, 3, or 4, above, or otherwise associated with this contract, project or application, been a source of income of \$500 or more to an official** of the City of Chula Vista in the past twelve (12) months? Yes No If Yes, identify the official and the nature of the income provided?

[Not Applicable]

[Date]

[Kathryn Lembo]

Signature: _____

* Person is defined as: any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, any other county, city, municipality, district, or other political subdivision, or any other group or combination acting as a unit.

** Official includes, but is not limited to: Mayor, Council member, Planning Commissioner, Member of a board, commission, or committee of the City, and City employees or staff members.

ATTACHMENT E

U.S. Department of Housing and Urban Development
Community Planning and Development

Special Attention of:

Notice CPD 96-07

All Secretary's Representatives

All State/Area Coordinators

Regional Directors for CPD

CPD Division Directors

All HOME Coordinators

All HOME Participating Jurisdictions

Issued: November 1, 1996

Expires: November 1, 1997

Cross References: 24 CFR 92.209

Subject: Guidance on Tenant-Based Rental Assistance under the HOME Program.

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DGHP: Distribution: W-3-1

1. PURPOSE

This notice outlines the basic requirements for using HOME funds for a tenant-based rental assistance (TBRA) program. The Department will also issue a model program that expands upon this notice. The purpose of the model will be to assist State and local participating jurisdictions (PJs) with basic decisions regarding TBRA program design and operation.

The Department has exercised its discretion based on the statute to make the TBRA program, as described in recent regulations and this notice, flexible and responsive to local market conditions and housing needs. The current regulations may not address all the design or operational considerations. As a result, some PJs may wish to structure TBRA programs in a manner that is not entirely consistent with HOME regulations. In some instances, it may be possible to waive certain regulatory requirements, if statutory flexibility exists and the PJ can demonstrate good cause for the request.

II. BACKGROUND

TBRA was first authorized under section 212 of the Cranston-Gonzalez National Affordable Housing Act (NAHA). HUD implemented the basic requirements for using HOME funds for TBRA through publication of interim regulations at [24 CFR Part 92](#) on December 16, 1991. TBRA programs directly assist individual low-income families by making up the difference between actual housing costs and what a family can afford to pay. Tenants are free to select any standard unit, whether or not it is HOME-assisted.

In October, 1992, the initial TBRA provisions were amended by section 220 of the Housing and Community Development Act (HCDA) of 1992. HCDA made two significant amendments. First, it eliminated the provision that required PJs to use the local Section 8 waiting list to determine who would receive assistance. Instead, PJs were permitted to select tenants in accordance with written tenant selection policies and criteria that provide housing to low and very low-income families and were reasonably related to the Federal preferences. Second, it permitted PJs to administer programs that provide only security deposit assistance, rather than requiring that security deposits only be provided in the context of an ongoing rental assistance program. These statutory revisions have been incorporated by interim rules published in the Federal Register on December 22, 1992 and June 23, 1993.

HUD also implemented regulatory changes to provide PJs greater flexibility in administering TBRA programs. Publication of a rule on April 19, 1994 made it possible for a PJ to establish its own payment standard based on local market conditions and a determination of rent reasonableness. The rule further clarified the term "reasonably related to Federal preferences" and permitted a PJ's non-Federal contributions to a TBRA program that is not HOME-funded, other than contributions for administrative costs, to count as match for the HOME

Program. A rule published on July 12, 1995 provided information on using HOME TBRA to assist special needs populations.

On January 26, 1996, the Balanced Budget Downpayment Act, I, suspended the Federal preferences applicable to public housing admissions and the Section 8 voucher and certificate programs for Fiscal Year 1996 (which ended on September 30, 1996). HUD's FY 1997 appropriation act extended this suspension through Fiscal Year 1997, which ends on September 30, 1997. During Fiscal Year 1997, public housing authorities are authorized to establish their own preferences. These local preferences may be established after opportunity for public notice and comment and must be consistent with the jurisdiction's Consolidated Plan. The temporary suspension of the Federal preferences extends to the selection criteria for TBRA programs funded by HOME.

III. SUSPENSION OF FEDERAL PREFERENCES

As described in the previous section of this notice, the Federal preference requirements applicable to HOME-funded TBRA programs have been suspended for the remainder of Fiscal Year 1997. The effect of this suspension is to permit a PJ to establish and provide TBRA based entirely on a locally-established system of written tenant selection criteria that is consistent with its Consolidated Plan. During this time period, the preferences established by the PJ must be consistent with the purposes of providing assistance to very low- and low-income families. However, locally-established preferences will not be required to be reasonably related to the Federal preferences.

For a PJ that is currently administering a TBRA program, the effect of this suspension may be simply to permit it to alter the order in which families on the waiting list are selected, based upon its system of preferences. Alternately, a PJ may wish to fundamentally change its TBRA program by establishing a preference system very different than the one it currently administers. For a PJ that is in the process of designing a TBRA program, this suspension may affect its program design and tenant selection system.

The current suspension is temporary. Legislative action will be necessary to extend the suspension beyond September 30, 1997 or to make it permanent. Before making any changes to an existing or proposed TBRA program, a PJ should consider whether it could easily bring its program back into conformance with the law if the suspension terminates.

This notice assumes that the Federal preference suspension will continue on a provisional basis. However, because the suspension may not be in effect beyond September 30, 1997, it also outlines the requirements that would apply to HOME TBRA programs should the suspension not be extended or made permanent. At the time that this Notice was published, the Congress was considering rescinding the Housing Act of 1937 which contains the Federal preference requirements.

Should Congress take such action, it would eliminate the need for the PJ's written tenant selection criteria to be reasonably related to Federal preferences. Each PJ would be free to establish tenant selection criteria based solely on the needs identified in its Consolidated Plan.

IV. ELIGIBLE ACTIVITIES

A. Eligible Uses

HOME TBRA can be used to undertake one or a combination of the following activities:

Free-standing rental assistance. A PJ may administer a rental assistance program to assist low- and very low-income families. These freestanding programs are similar to the Section 8 certificate and voucher programs in that tenants choose their housing within guidelines established by the PJ.

Special purpose programs. Within limitations described in Section VII, E of this notice, PJs can use TBRA to support a variety of local goals including self-sufficiency and homeownership initiatives and assistance to special populations.

- o Self-sufficiency programs. PJs may require HOME TBRA recipients to participate in self-sufficiency programs as a condition of assistance. However, such conditions may not be placed on tenants living in a HOME-assisted project who receive TBRA as relocation assistance.
- o Homebuyer programs. HOME TBRA may assist a tenant, who has been identified as a potential low-income homebuyer through a lease-purchase agreement, with monthly rental payments for a period up to 36 months.¹ While the HOME TBRA payment cannot be used to create equity, all or a portion of the homebuyer's monthly contribution toward housing expenses may be set aside for this purpose. If a PJ determines that a tenant has met the lease-purchase criteria and is ready to assume ownership, HOME funds may be provided for downpayment assistance.
- o Targeted Populations. PJs may establish local preferences for special needs groups in a broad, community-wide TBRA program or may design a program that exclusively serves one or more special needs groups.

Anti-displacement assistance. TBRA can be used to minimize displacement associated with HOME-funded activities. TBRA can be

¹ HOME TBRA may not exceed 24 months but may be renewed at the PJ's discretion.

provided to income-eligible tenants who live in units that will be acquired, demolished or rehabilitated with HOME funds. Existing tenants in HOME-assisted projects who receive TBRA may remain in the project or move to another suitable unit. These tenants may be assisted with TBRA regardless of whether the PJ administers a broader TBRA program and are not required to meet written tenant selection policies and criteria. ²

Security and utility deposit assistance. PJs may provide security deposit assistance to tenants regardless of whether the PJ is providing ongoing tenant-based rental assistance. Utility deposit assistance may be provided only in conjunction with a TBRA program or a security deposit program.

B. Ineligible Uses

HOME TBRA funds cannot be used for the following:

- o to assist resident owners of cooperative housing that qualifies as homeownership housing (cooperative and mutual housing may qualify as either rental or owner-occupied housing under the HOME Program, depending upon the provisions of the agreement applying to the unit). TBRA may, however, be used by a tenant who is renting from a cooperative unit owner;
- o to prevent the displacement of tenants from projects assisted with Rental Rehabilitation Program funds under 24 CFR 511. (See [24 CFR 92.214](#));
- o to provide TBRA vouchers to homeless persons for overnight or temporary shelter. The HOME TBRA subsidy must be sufficient to enable the homeless person to rent a transitional or permanent housing unit that meets Housing Quality Standards (HQS).

V. PROGRAM ADMINISTRATION

Certification - To establish a TBRA program, a PJ must certify in its Consolidated Plan that TBRA is an essential part of its approved housing strategy and that market conditions in the locality make TBRA a viable option. This means that an assessment of market factors has been

² The 1992 HCDA amendments require the PJ to certify in its Consolidated Plan that it has a Residential Anti-displacement and Relocation Plan for the HOME Program equivalent to the Plan required for the Community Development Block Grant (CDBG) Program.

undertaken and, because there is an ample supply of housing, a TBRA program is an effective way to expand affordable housing opportunities in the community.

Program Operation - A PJ may administer its TBRA program or contract administrative functions out to another entity, such as a local public housing agency (PHA), another public or private agency, or a nonprofit organization. In deciding whether to administer its program or contract out, the PJ should consider its TBRA program design. If its TBRA program will be modeled after the Section 8 certificate or voucher programs or uses the Section 8 waiting list, it may be administratively simpler to contract with the PHA. Alternately, if the program will use an independent waiting list or target special populations, it may be preferable for the PJ or another entity to administer the TBRA program.

A PJ that is an urban county or consortium may establish a TBRA program that is limited to a single or multiple jurisdictions, but does not encompass the entire PJ. For instance, one local government participating in a consortium may administer a TBRA program in its jurisdiction.

It should be noted that the provision of TBRA is not an eligible Community Housing Development Organization (CHDO) set-aside activity. If a PJ selects a CHDO to administer its TBRA program, the CHDO is acting as a subrecipient and general HOME program funds (not CHDO set-aside funds) must be used.

Administrative Costs - HOME funds may be used to pay for reasonable planning and administrative expenses associated with operating a TBRA program, regardless of what entity operates the program. Such expenses are limited by the ten percent cap on administrative costs. TBRA administrative costs are not considered "project soft costs" under [24 CFR 92.206](#)(b).

Match - As with all HOME activities, TBRA program expenditures require a 25% local match. A PJ may count non-Federal funds that it contributes to its HOME TBRA program as a matching contribution. It may also count as match any funds it contributes to a TBRA program which does not use HOME funds but meets the HOME Program requirements (see [24 CFR 92.219](#)(b)(1)). HOME funds expended for TBRA may be matched with funds from any eligible match source, not just TBRA-related contributions. Payment of costs associated with administration of a TBRA program does not count as match.

TBRA Project Set-Up - To access funds, information concerning the project must first be provided through the HOME Cash and Management Information System (C/MI), or the Integrated Data and Information System (IDIS), which is replacing the C/MI. Until a PJ has been converted to IDIS, all TBRA projects set up through the C/MI system should be reported on Form HUD-40095. Each TBRA project may include several hundred individual households. Once a TBRA project has been

set up, the PJ may add families to the project for up to 6 months. The TBRA set-up form requires each tenant's Social Security number and certain demographic information.

The set-up of TBRA projects in IDIS is similar to the set-up in the HOME C/Ml. However, there is neither a limitation on the number of households that can be included in a single project (referred to as an activity in IDIS) nor a time limit for adding families to the project.

Drawing Down Funds - As with all HOME funds, TBRA funds drawn from the U.S. Treasury must be expended within 15 days. Thus, draws may not be made for TBRA on a quarterly basis.

VI. TENANT SELECTION

A. Income Eligibility/Verification

HOME funds can only be used to assist low-income families with incomes at or below 80% of area median income as determined by HUD. In addition, for each fiscal year's HOME allocation, 90% of the families assisted with HOME funds for TBRA and other rental activities must have incomes which are at or below 60% of area median income (see [24 CFR 92.216](#)).

The PJ must determine the income and eligibility of all proposed beneficiaries before the TBRA contract is signed. The HOME final rule, which was published on September 16, 1996, amended the income definition to permit PJs to choose from among three definitions of income (the Section 8 definition, the U.S. Census long form definition, and the IRS definition of adjusted gross income). A PJ that chooses the Section 8 definition of income for its TBRA program should follow the procedures outlined in the Technical Guide for Determining Income and Allowances for the HOME Program, which HUD issued in May, 1994. In addition, PJs should note that a rule published on April 5, 1996 added nine exclusions to the definition of income applicable to HOME TBRA programs. That definition was subsequently moved to 24 CFR 5.609 by a regulation published on October 18, 1996. (See the Appendix to this notice for a list of the nine additional exclusions). PJs opting for the IRS or Census definitions must adhere to the instructions developed by those agencies for calculating income.

In accordance with the Section 8 program rule at 24 CFR 982.352(c)(6), Section 8 rental assistance voucher and certificate holders cannot also receive TBRA under the HOME Program because the two programs would provide duplicative subsidies. HOME TBRA recipients who are offered a Section 8 voucher or certificate must relinquish HOME assistance, if they wish to accept the Section 8 assistance. Similarly, a family currently receiving Section 8 rental assistance may not accept HOME TBRA without relinquishing

the Section 8 assistance. However, a Section 8 rental assistance recipient @a receive HOME-funded security deposit and utility deposit assistance.

Similarly, a family cannot receive HOME TBRA if they are receiving rental assistance under another Federal program (e.g., Section 521 of the Housing Act of 1949 provided through the Rural Housing Service) or a State or local rental assistance program, if the HOME subsidy would result in duplicative subsidies to the family. [NOTE: Some State and local rental assistance programs do not provide assistance in amounts sufficient to lower a tenant's rental payment to 30 percent of income. In such cases, HOME TBRA could be provided as supplemental assistance to further reduce the tenant's rent payment to 30 percent of income.] In addition, HOME TBRA should not be provided to a family who proposes to rent a unit that receives project-based rental assistance through Federal, State or local programs, if the HOME assistance would provide a duplicative subsidy.

Income and eligibility determinations for a newly-participating tenant remain valid for up to six months. Income eligibility criteria must be met, regardless of the type of TBRA program the PJ will administer (i.e., anti-displacement, security deposit, or freestanding). Special needs populations are not presumed to be low-income.

The PJ (or TBRA administrator) must reexamine family income, size, and composition at least annually. The family's contribution toward rent may need to be adjusted as a result of the annual income reexamination. Although not required by the HOME regulations, the PJ may require families to report changes in income that occur between annual income examinations.

Because HOME funds may only be used to assist families with incomes at or below 80% of area median income, assistance to tenants whose incomes rise above 80% of area median income must be terminated after the PJ gives reasonable notice to tenant and owner. Since the PJ normally would make any required payment adjustment or contract termination at the end of the rental lease period, it should time the income recertification process so that tenants whose assistance will be terminated or whose required contributions toward rent will be increased can be given reasonable notice of the change. In determining what period constitutes reasonable notice, the PJ should consult both State law and common practice in the area.

B. Tenant Selection Criteria

Scenario 1: Under the Federal Preference Suspension

The HOME Program rule requires that PJs select tenants in accordance with written tenant selection policies and criteria. These policies and criteria must be consistent with the purpose of providing housing to very low- and low-income families. Under the temporary suspension of the Federal preferences in effect until September 30, 1997, PJs may establish their own preference systems for selecting families for rental assistance.

The locally-established preference system must be consistent with the priorities established in the Consolidated Plan.

The Federal preference suspension applies to PHAs administering Section 8 rental assistance, as well as to PJs administering HOME TBRA. A PHA and a PJ administering rental assistance in the same jurisdiction are not required to use the same preference system. However, HUD encourages entities providing assistance to families within the same jurisdiction to coordinate their efforts to the greatest extent possible.

Scenario 2: Elimination of the Housing Act of 1937

Should Congress rescind the Housing Act of 1937, there would no longer be any Federal preferences for admission to public housing and Section 8 assistance. Consequently, PJs would no longer be required to establish preferences for their TBRA programs that are reasonably related to the Federal preferences. Each PJ administering a TBRA program would establish a written tenant selection system consistent with the needs identified in its Consolidated Plan.

Scenario 3: Federal Preference Requirements In Effect (suspended through 9/30/97)

PJs that operate TBRA programs must select tenants in accordance with written tenant selection policies and criteria. The policies and criteria must be consistent with the purpose of providing housing to very low- and low-income families and be reasonably related to preference rules established under section 6(c)(4)(A) of the U.S. Housing Act of 1937.

The term "reasonably related to Federal preference rules" means that at least 50% of the families assisted must qualify for one of the three Federal preferences. Those Federal preferences are:

- o families living in substandard housing, including families that are homeless or living in a shelter for homeless families;
- o families paying more than 50% of family income (gross) for rent; or
- o families involuntarily displaced at the time they are seeking TBRA assistance.

PJs may rank the Federal preferences to serve those families they deem most in need. For instance, a PJ may give preference to families who are involuntarily displaced over those living in substandard housing. In addition, the PJ may rank the definitional elements of each Federal preference to reflect its own priorities.

Section 6(c)(4)(A) of the Housing Act of 1937 requires that PHA's prohibit any individual or family evicted from public housing or assisted under

Section 8 because of drug-related criminal activity from having a preference for three years, unless the evicted tenant successfully completes a rehabilitation program approved by the agency. Each PJ should determine whether this or a similar policy is appropriate for its HOME TBRA program.

The PJ may establish local preferences for assisting the 50% of families who are not required to qualify for a Federal preference. Local preferences must be established in writing and respond to local housing needs and priorities.

Examples of local preferences that might be provided include preferences for families who:

- o have veteran's status;
- o lack adequate housing and whose children eventually may be proposed for placement in foster care as a result. (These families are usually identified by local agencies that are involved in providing for children's welfare);
- o are members of special needs populations, such as battered spouses, persons with AIDS, senior citizens or those with disabilities.

In establishing local preferences, PJs must consider how specific preferences will impact fair housing efforts in its community. The local preferences must not result in discrimination against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. In monitoring a PJ's fair housing efforts, HUD's Office of Fair Housing and Equal Opportunity will consider both the intent and the effect of local preference rules.

C. Waiting Lists

To implement its tenant selection policies for an ongoing TBRA program in a fair and orderly manner, a PJ must use a waiting list for families applying for TBRA. The PJ may choose to use a Section 8 waiting list that covers the jurisdiction or may establish a separate waiting list for HOME TBRA applicants. In determining which list to use, the PJ will need to consider the following factors:

- o The preferences established by the PHA and how those preferences compare with the Pj's priorities for assistance. If the PHA has adopted its own preferences as permitted under the temporary suspension of Federal preferences, the PJ should examine those preferences. If the suspension is terminated or the PHA has chosen not to establish its own preference system, the PJ should examine both the local preferences established by the PHA and the manner in which it prioritizes the Federal preferences. If the

PHA's preference system will not result in assistance being provided to the subpopulations that the PJ deems most in need, the PJ should consider establishing a separate HOME TBRA waiting list.

- o The length of the PHA's Section 8 waiting list and the turnover rate of vouchers and certificates. In communities where the existing Section 8 waiting list is very long and the unavailability of new or turnover resources results in long periods on the waiting list, a PJ's priority may be to provide interim assistance to families who are currently on the Section 8 waiting list. In these instances, the PJ will adopt the Section 8 waiting list and use HOME TBRA to supplement the existing Section 8 program.
- o The PJs preferred program design. If the PJ wishes to administer a TBRA program that closely resembles the Section 8 voucher or certificate program and finds the PHA's preference system acceptable, it may wish to adopt the Section 8 waiting list (and, perhaps, to contract with the PHA as the administering agent) for simplicity's sake. However, if the PJ wishes to implement a program that is very different from the Section 8 programs, there may be no advantage in adopting the Section 8 waiting list.
- o The Pj's capacity and preference with respect to an administering agent. If the PJ plans to administer the TBRA program itself or to contract out with a capable nonprofit organization, it will have flexibility with respect to choosing a waiting list for its program. However, if the PJ lacks capacity to administer the program and chooses to contract with a PHA, it may have little choice but to adopt the PHA waiting list. The PHA may be reluctant to take on the added responsibility of establishing and maintaining a separate waiting list and administering selection criteria that are very different from its existing program.

D. Section 8 Availability

The HOME statute requires that families who receive HOME TBRA and are also on the Section 8 waiting list continue to qualify for Section 8 assistance to the same extent as they did before they received the HOME TBRA. Consequently, when the Federal preferences are in force, the PHA must carefully document how an applicant for HOME assistance who is also on the Section 8 waiting list meets Federal preference requirements at the time HOME assistance is provided to preserve the applicant's qualification to receive future Section 8 assistance. If a Section 8 voucher or certificate becomes available through turnover or additional budget authority and the next eligible family on the Section 8 waiting list is a HOME TBRA recipient, that family must be offered a Section 8 voucher or certificate. The PJ and PHA should develop a procedure for offering Section 8 assistance to HOME TBRA recipients who become eligible for a voucher or certificate at regular intervals (e.g., monthly, quarterly, or less frequently, depending on average turnover of vouchers and certificates).

Under the current suspension of Federal preferences, the PJ should document how the HOME TBRA recipient meets Federal preference requirements and, if the PHA has adopted a local preference system, the local preference requirements. This will permit the PJ to determine a HOME TBRA recipient's initial eligibility for Section 8 under the Federal preference system if the suspension lapses.

Should legislation permanently eliminate the Federal preferences, the HOME Program requirement that HOME TBRA recipients maintain their place and status on the Section 8 waiting list would also be eliminated. However, HOME TBRA is often a temporary resource for a low-income family. Consequently, the PJ should coordinate with the local PHA so that the PHA's policies do not disqualify applicants who come to the top of Section 8 waiting list because they are currently receiving HOME TBRA.

E. Assisting Special Needs Populations

HOME TBRA may be used to assist special needs populations regardless of whether the Federal preference suspension is in effect. This can be done in one of two ways:

- o General TBRA Program. A PJ administering a community-wide TBRA program may establish a local preference for persons with special needs (e.g., persons with disabilities) or for a specific category of individuals with special needs (e.g., chronically mentally ill individuals). A preference may be provided for persons with a particular type of special need, if the specific category of need is identified in the PJ's consolidated plan as having unmet need and the preference is needed to narrow the gap in benefits and services received by such persons.

In conjunction with the TBRA, the PJ may offer non-mandatory services appropriate for persons with a particular disability. The nature of these services should be identified in consultation with persons with special needs residing in the community. Generally, TBRA and related services should be made available to all persons with disabilities who can benefit from such services.

- o TBRA Program for Persons with Special Needs. A PJ may establish a TBRA category of special needs or disabilities. The PJ may accomplish this simply by limiting eligibility for assistance to special needs groups it wishes to target. If the Federal preference rules are in effect, then 50% of the individuals assisted must qualify or would qualify in the near future for a Federal preference. As with a general TBRA program, the PJ may provide appropriate, non-mandatory social services in conjunction with the TBRA. TBRA may be provided exclusively to persons with a particular type of special need, if the specific category of need is identified in the PJ's consolidated plan as having unmet need and the preference is needed to narrow the gap in benefits and services received by such persons.

VII. PROGRAM REQUIREMENTS

A. Rent Requirements

Payment Standards

Each PJ administering a TBRA program must establish a payment standard for units of each available bedroom size. This standard is intended to represent the rent and utility costs of moderately priced units that meet the Section 8 Housing Quality Standards (HQS) in the jurisdiction. It is important that the PJ establish its payment standard carefully. A standard that is set too low in comparison to the market will result in assisted families experiencing difficulty in finding housing. A payment standard that is set too high will result in excessive subsidies and fewer families being assisted.

A PJ may determine its HOME payment standard in one of two ways:

- 1) The PJ may develop a standard based on documented local market conditions.
- 2) To conform more closely to PHA rent standards, the PJ may adhere to the following:
 - o For each unit size, the rent standard may not be less than 80% of the published Section 8 Existing Housing fair market rent (FMR) in effect when the PJ adopts its rent standard amount.
 - o For each unit size, the rent standard may not be more than the FMR or HUD-approved community-wide exception rent (discussed below) in effect when the PJ adopts its rent standard amount.
 - o For not more than 20% of the total number of units assisted in their TBRA program, a PJ may approve, on a unit-by-unit basis, a subsidy based on a rent standard that exceeds the applicable FMR by up to ten percent.

NOTE: The PJ must disapprove a lease if the rent is not reasonable, based on rents that are charged for comparable unassisted rental units.

Community-wide Exception Rents

Under certain circumstances, HUD approves maximum gross rents for the Section 8 Certificate Program for units in a designated municipality, county or similar locality that are higher than the FMR (see 24 CFR, 882.106(a)(3)). These rents, generally referred to as community-wide exception rents, may equal up to 120% of the FMR applicable to the entire jurisdiction.

The PJ may use HUD-approved exception rents in lieu of the FMR to establish the rent standard for HOME TBRA. HOME does not require that a PJ provide additional rationale for adopting exception rents.

TBRA in HOME-Assisted Units

Rents in HOME-assisted units must meet the requirements of 24 CFR 92.252. When a family that receives HOME TBRA resides in a HOME-assisted unit, the maximum rental assistance subsidy is the difference between the HOME rent and 30% of the family's adjusted monthly income.

PJ and Tenant Rent Contributions

The maximum amount of subsidy the PJ may provide to a family is the difference between 30% of the family's monthly adjusted income and the payment standard established by the PJ for the size of unit the family will occupy. The PJ's contribution toward rent may vary each year because the family moves, the rent on the unit increases or decreases, or the family's income changes.

The PJ also must establish a minimum tenant rent contribution. If the PJ is assisting a tenant with a very low-income, that contribution may be minimal.

If a PJ contracts with a PHA to operate its program, it may wish to adopt the Section 8 housing certificate or voucher program rules. Under the certificate program, families pay a specified percentage of their income for housing, usually 30%, and a limit is set on what the owner can charge for rent. Housing vouchers assume that the family will pay 30% of adjusted income, but do not limit the amount an owner can charge for rent. Vouchers limit only the subsidy amount and, therefore, a family may pay more than 30% of its income for rent. A tenant's contribution to rent may change each year as a result of changes in adjusted family income. HUD generally publishes area median incomes in January.

Rent Increases and Decreases

The owner may adjust the rent levels as leases are renewed. They must be reviewed and approved by the PJ. HUD generally publishes FMRs in late September.

B. Terms of Assistance

Unlike the Section 8 programs which make payments to the landlord, HOME TBRA payments may be made either to the unit owner or the tenant. The term of the rental assistance contract must begin on the first day of the lease. For a rental assistance contract between the PJ and an owner, the term of the contract must end upon termination of the lease. If a PJ makes payments directly to the family, that agreement need not end upon termination of the lease, but no payments may be made after termination of the lease until the family enters into a new lease.

TBRA agreements may not exceed 24 months. However, the PJ, at its discretion, may renew a TBRA agreement.

C. Lease Requirements

The term of the lease between a tenant and the owner must be for not less than one year, unless another term is mutually agreed upon by the tenant and the owner.

The lease may not contain any of the following terms (see 24 CFR 92.253(b)):

- o agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease.
- o agreement by the tenant that the owner may take, hold or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. In that case, the owner may dispose of this personal property in accordance with state law.
- o agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or the failure to act, whether intentional or negligent.
- o agreement of the tenant that the owner may institute a lawsuit without notice to the tenant.
- o agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense or before a court decision on the rights of the parties.
- o agreement by the tenant to waive any right to a trial by jury.

- o agreement by the tenant to waive the tenant's right to appeal or to otherwise challenge in court a decision in connection with the lease.
- o agreement by the tenant to pay attorney fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

D. Termination of Tenancy

The PJ must develop standards outlining when unit owners may terminate tenancy or refuse to renew a lease in its TBRA program. These standards must be established in writing and be included in the lease between the owner and the TBRA recipient and/or, if appropriate, the TBRA agreement between the PJ and tenant. The PJ should address the permissible grounds for termination or tenancy/refusal to renew and establish notification requirements for these actions. Please note that the requirement for 30 days notice for termination of tenancy/refusal to renew in HOME-assisted units does not apply to owners of units occupied by HOME TBRA recipients.

E. Portability

The PJ may require tenants to use their TBRA within the PJ or may establish a portability policy, allowing use of TBRA outside of the jurisdiction. The experience of many PHAs using portable housing vouchers has been that most tenants move to nearby jurisdictions, usually only across city or county lines.

If a PJ permits portability, it must develop procedures to satisfy HOME TBRA requirements at a distance. Unless it limits portability to contiguous jurisdictions, it may be impractical for the PJ to attempt to oversee the program itself. Thus, it may wish to make arrangements with a government agency or PHA in the jurisdiction to which the family is moving to administer the TBRA or to use a subrecipient or contractor to do so. Requirements that the PJ should consider in establishing a portability policy include the need to:

- o initially and annually inspect units occupied by TBRA families;
- o execute necessary documents with the family and the owner; and
- o make monthly rent payments and/or security deposit payments on behalf of the PJ to the owner and/or utility companies.

F. Eligible Units

The PJ must establish occupancy standards that will be used to determine the unit size (i.e., number of bedrooms) that TBRA families of various sizes and composition will be permitted to occupy. The PJ's standards for occupancy must be at least as stringent as those set out in the Section 8 Housing Quality Standards (HQS). At the time that it is approved for TBRA, the family should be counseled regarding the size of the unit for which it is approved, whether it will be permitted to select a unit that is larger or smaller than the approved unit size and what the consequences of such a decision will be with respect to the family's monthly contribution toward rent. The PJ may refer the TBRA family to suitable units. However, the PJ must inform the family that it is not obligated to select a referral unit.

Rental units are selected by the tenant, and:

- o may be owned by the PJ, a PHA or another public entity or be privately owned housing;
- o may include units developed or rehabilitated with HOME assistance;
- o may be transitional housing units, if the lease terms meet the minimum lease requirements;
- o must not be units receiving public or Indian housing assistance, any Section 8 rent subsidies, or any other Federal, State or local subsidy that provides a duplicative subsidy to the HOME TBRA recipient or the unit which they propose to rent; and
- o if part of a cooperative, must be rented from the owner of the cooperative unit. HOME TBRA cannot be used to pay cooperative shares if the cooperative membership is considered ownership under HOME.

In conjunction with the annual reexamination of income, the PJ must reexamine the TBRA family's size and composition to determine whether its circumstances have changed. Depending upon the occupancy requirements established by the PJ, a family whose size or composition has changed may be required to find a unit that is suitable to its current circumstances.

Housing occupied by a family receiving TBRA must meet Section 8 HQS. The housing must meet both the performance and acceptability requirements outlined at 24 CFR 982.401. PJs may request waivers to permit specific variations on HQS. Examples that may justify deviations include local climatic or geological conditions or local codes. The PJ must inspect units selected by families receiving TBRA to determine whether they

meet HQS before authorizing their initial rental and, thereafter, must inspect the units annually. The owner must maintain the premises in compliance with all applicable housing quality standards and local code requirements throughout the period of the TBRA family's occupancy.

G. Self-Sufficiency Programs

PJs administering a freestanding TBRA program may require HOME TBRA recipients to participate in self-sufficiency programs as a condition of assistance. All terms and conditions of participation should be clearly spelled out in the written agreement between the tenant and the PJ.

During the term of the TBRA contract, the PJ may not withdraw rental assistance based on the tenant's failure to continue participation in the program without providing proper notice in accordance with the standards the PJ established in the TBRA agreement. Because it may prove administratively simpler, PJs considering conditioning rental assistance on participation in such programs may wish to limit the term of assistance to a short period of time (e.g., 6 or 12 months) rather than attempting to terminate assistance for noncompliance during the contract term. In such instances, TBRA participants should be assured that the assistance will be renewed if the conditions established by the PJ are met.

H. Making the Payments

Unlike the Section 8 program, which requires that subsidy payments be made directly to the owner, a PJ using HOME TBRA funds may provide monthly payments to the tenant directly or to the owner on behalf of the tenant.

Paying tenants directly may eliminate paperwork and save staff time because no contract between the PJ and owner is necessary. The PJ must, however, examine the lease to make certain it does not contain prohibited lease terms and inspect the unit. A "real-world" tenant-owner market relationship, in which tenants pay owners, results. If the PJ makes payments directly to tenants, the contract should include provisions to recoup HOME funds for nonpayment of rent.

If the PJ decides to pay owners directly, the PJ has the advantage of negotiating the rent. Also, paying the owner directly may encourage private owners to participate because they will receive at least a partial rent payment from the PJ each month. If a PHA administers the program for the PJ, this procedure may be preferable because Section 8 payments are made only to owners. Consequently, the HOME TBRA payments can be easily integrated into the PHA's financial management system, resulting in lower front-end and processing costs.

The PJ also may choose to reimburse tenants for rent paid to the owner. However, this may not be practical because families may not have the money up-front to make their entire rent payment.

I. Utility Deposits

The PJ may pay utility deposits for tenants who are also participating in a TBRA program or a security deposit program. Deposits may be made for utilities authorized under the Section 8 utility allowance (such as electric, gas, water and trash). Deposits for services incidental to housing, such as telephone service and cable television, cannot be paid with HOME funds.

The PJ may make the utility deposit available to the family as a loan or grant or may make payment directly to the utility company. If offered as a grant, the tenant may keep any remaining funds when the family departs from the unit. If offered as a loan, the PJ must make arrangements with the tenant or utility company to return any remaining funds to it. Returned funds are treated as program income and must be reinvested in other HOME-eligible activities (see 24 CFR 92.503(b)). In determining whether to grant or loan these funds, the PJ should consider the time and effort involved in collecting any remaining funds from the tenant or utility company.

VIII. SECURITY DEPOSIT PROGRAM

TBRA may be used for security deposits, regardless of whether the tenant is receiving ongoing rental assistance. For a security deposit program:

- o the relevant state or, local definition of "security deposit" in the jurisdiction where the unit is located applies.
- o the maximum amount of HOME funds that may be provided for a security deposit is the equivalent of two months rent for the unit.
- o only the prospective tenant, not the unit owner, may apply for HOME security deposit assistance.
- o all of the above TBRA requirements apply except for the term of assistance and maximum subsidy amount.
- o the lease associated with the security deposit may not contain the prohibited lease provisions outlined in Section VII, C, of this notice and must be in effect for at least one year unless there is mutual agreement between landlord and tenant.
- o payment may be made to the tenant or the landlord.

The PJ may provide security deposits as either a grant or a loan. If offered as a grant, the tenant may keep any remaining funds when the family leaves the unit. If the PJ lends the funds, it must arrange for the tenant or owner to return the funds. If the unit owner subtracts funds from the security deposit to cover damages, the PJ may accept the remaining balance as repayment or require the tenant to repay the entire amount. This requirement should be set out in the written agreement between the PJ and the tenant. In determining whether to grant or loan these funds, the PJ should consider the time and effort involved in collecting any remaining security deposit funds from the tenant or owner after the tenant leaves the unit. Returned security deposit funds are treated as program income and must be reinvested in HOME-eligible activities (see [24 CFR 92.503\(b\)](#)).

APPENDIX: Exclusions from Income Under Section 8 Income Definition

Annual income does not include the following:

- 1) Resident service stipends of less than \$200 per month (e.g., fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and resident management).
- 2) Adoption assistance payments.
- 3) The full amount of student financial assistance paid directly to the student or to the educational institution.
- 4) Earned income of full-time students age 18 years or older.
- 5) Payments received for the care of foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).
- 6) State or local employment training programs and training of resident management staff.
- 7) State tax rent credits and rebates for property taxes paid on a dwelling unit.
- 8) Homecare payments made by a State agency to families that have developmentally disabled children or adult family members living at home.
- 9) Deferred periodic payments of Social Security. Supplemental Income payments and Social Security payments received in a lump sum.

Source: 24 CFR 5.609(c).

TENANT BASED RENTAL ASSISTANCE BILLING FORM

ATTACHMENT F

TENANT LAST NAME	TENANT FIRST NAM	TENANT ADDRESS	UNIT TYPE	MOVE-IN DATE	CONTRACT RENT	TENANT RENT	HAP PAYMENT	DEPOSIT
							\$ -	
							\$ -	
							\$ -	
							\$ -	
							\$ -	
							\$ -	
							\$ -	
							\$ -	
							\$ -	
							\$ -	
							\$ -	
							\$ -	

TOTAL MONTHLY RENTS RECEIVABLE:	\$ -
TOTAL TENANT RENT PAYMENTS:	\$ -
TOTAL DEPOSITS:	\$ -
SUBTOTAL SUBSIDY PAYMENTS AND DEPOSITS REQUESTED (HAP):	\$ -

Adjustments:

Completed By:

Approved By:

Please remit payment to:

SBCS430 F Street
Chula Vista, CA 91910

Tenant Based Rental Assistance (TBRA) Set Up Form HOME Program

Check the appropriate box:

- Original Submission Change Owner's Address
 Revision

Name and Phone Number of Person Completing Form:

A. General and Activity Information.

1. Name of Participant:	2. County Code:	3. IDIS Activity ID Number:	4. Activity Name:

Set Up Activity

B. Objective and Outcome.

1. Objective (enter code): (2) (1) Create suitable living environment (2) Provide decent affordable housing (3) Create economic opportunities	2. Outcome (enter code): (2) (1) Availability/accessibility (2) Affordability (3) Sustainability
--	---

C. Household Characteristics. (Refer to code below where applicable) **Assisting more than 8 tenants? Make copies of this page for additional space.**

Last Name	# of Bdrms	Sec Dep	Monthly Rent			Household					Tenant Contract			
			Tenant Monthly Rent	TBRA Monthly Rent	Total Monthly Rent	% Med	Hispanic? Y/N	Race	Size	Type	Paid To O=Owner T=Tenant	New? Y/N	Months (1 to 24)	

D. Total/Subtotal of HOME Funds Requested: \$

E. TBRA Units

Number of TBRA Units:

Designated for the homeless:

Of those the number designated for the chronically homeless:

Was this activity carried out by a faith-based organization (Y/N)?

-
0
1
2
3
4
5

-

-
11
12
13
14
15
16
17
18
19
20

-
1
2
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6
7
8

-
1
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4
5

Instructions for Completing the Tenant-Based Rental Assistance Set-up Report

HOME Program

Read the instructions for each item carefully before completing the form.

Applicability. The purpose of this report is to assist with the collection of information to be entered into IDIS. This report is to be completed for each TBRA activity set-up in IDIS. A single activity may include up to 99 tenants. For centralized State projects, the tenants must be in the same county.

Timing. Data is to be entered into IDIS before funds may be drawn down for the activity. An amended set-up report should be completed to increase or decrease HOME funding for the activity.

A. General and Activity Information.

- Name of Participant.** Enter the name of the participating jurisdiction or the agency administering the TBRA activity.
- County Code.** Enter the county code of the agency administering this HOME activity.
- IDIS Activity ID Number.** Enter the activity number assigned by IDIS.
- Activity Name.** Enter the name designated to the activity. The blank boxes may be used for internal tracking purposes.

B. Objective and Outcome:

Objective. Enter the code of the objective that best describes the purpose of the activity. If a code is not entered in IDIS, the system will default the answer to "2" – Decent affordable housing.

- Suitable living environments.** Applies to activities that benefit communities, families, or individuals by addressing issues in their living environment.
- Decent affordable housing.** Applies to housing activities that meet individual family or community needs. This objective should not be used for activities where housing is an element of a larger effort.
- Creating economic opportunities.** Applies to activities related to economic development, commercial revitalization, and job creation.

Outcome. Enter code of the outcome that best describes the benefits resulting from the activity. If a code is not entered in IDIS, the system will default the answer to "2" – Affordability.

- Availability/accessibility.** Applies to activities that make services, infrastructure, housing, and shelter available and accessible. Note that accessibility does not refer only to physical barriers.
- Affordability.** Applies to activities that provide affordability in a variety of ways. It can include the creation or maintenance of affordable housing, basic infrastructure hookups, or services such as transportation or day care.
- Sustainability.** Applies to activities that promote livable or viable communities and neighborhoods by providing services or by removing slums or blighted areas.

C. Household Characteristics.

Complete one line for each tenant receiving tenant-based rental assistance from the HOME Program.

Tenant's Last Name. Enter the tenant's last name if the name is 5 letters or less. Enter the first five letters of the last name if the name is more than five letters or a unique file identification number.

of Bdrms. Enter 0 for a single room occupancy (SRO) unit or for an efficiency unit, 1 for 1 bedroom, 2 for 2 bedrooms, 3 for 3 bedrooms, 4 for 4 bedrooms, and 5 for 5 or more bedrooms.

Sec Dep. Enter the amount of HOME funds to be paid to the tenant or owner as a security deposit payment (to the nearest dollar).

Tenant Monthly Rent. Enter the actual rent, including utilities, to be paid by the tenant at the time of activity completion (to the nearest dollar). If the rent includes utilities, or, if the rent includes partial utilities, e.g., heat, but not electricity, these utility costs must be added to the rent. Compute utility costs for the area (and in the case of partial

utilities, compute costs for utilities excluded from the rent), by using the utility allowance schedule produced by the local Public Housing Authority (PHA).

TBRA Monthly Rent. Enter the amount of HOME funds to be paid to the tenant or owner as a rent subsidy payment, including any utility allowances (to the nearest dollar).

Total Monthly Rent. The total monthly rent is automatically calculated by IDIS.

Household % of Med. For each household assisted with HOME funds, enter one code only based on the following definitions:

- 0 to 30%** refers to a household whose annual income is at or below 30 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families.
- 30+ to 50%** refers to a household whose annual income exceeds 30 percent and does not exceed 50 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families.
- 50+ to 60%** refers to a household whose annual income exceeds 50 percent and does not exceed 60 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families.
- 60+ to 80%** refers to a household whose annual income exceeds 60 percent and does not exceed 80 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families.

Household Hispanic? Y/N. For each household assisted with HOME funds, enter the ethnicity of the head of household as either "Y" for Hispanic or Latino or "N" for not Hispanic nor Latino. Hispanic or Latino ethnicity is defined as a person of Cuban, Mexican, Puerto Rican, South/Central American, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."

Household Race. For each household assisted with HOME funds, enter one code only based on the following definitions:

- White.** A person having origins in any of the original peoples of Europe, North Africa or the Middle East.
- Black/African American.** A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."
- Asian.** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.
- American Indian or Alaska Native.** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains affiliation or community attachment.
- Native Hawaiian or Other Pacific Islander.** A person having origins in any of the original people of Hawaii, Guam, Samoa or other Pacific Islands.
- American Indian/Alaska Native & White.** A person having these multiple race heritages as defined above.
- Asian & White.** A person having these multiple race heritages as defined above.
- Black/African American & White.** A person having these multiple race heritages as defined above.
- American Indian or Alaska Native & Black or African American.** A person having these multiple race heritages as defined above.
- Other multi-racial.** For reporting individual responses that are not included in any of the other categories listed above.

Household Size. Enter the appropriate number of persons in the household: 1, 2, 3, 4, 5, 6, 7, or 8 (for households of more than 8, enter 8).

Household Type. For each household assisted with HOME funds, enter one code only based on the following definitions:

1. **Single, non-elderly.** One-person household in which the person is not elderly.
2. **Elderly.** One or two person household with a person at least 62 years of age.
3. **Single parent.** A single parent household with a dependent child or children (18 years old or younger).
4. **Two parents.** A two-parent household with a dependent child or children (18 years old or younger).
5. **Other.** Any household not included in the above 4 definitions, including two or more unrelated individuals.

Tenant Contract Paid To. Enter an O, if the TBRA Monthly Rent will be paid to the Owner. Enter a T, if it will be paid to the Tenant.

Tenant Contract New? Enter a Y, if the tenant is newly assisted. Enter an N, if the tenant's assistance is being renewed.

Tenant Contract Months. Enter the number of months in the contract with the tenant. Valid entries are 1 to 24.

D. Total/Subtotal of HOME Funds Requested.

Enter the total amount of HOME funds requested for the activity. This amount includes the TBRA Monthly Rent for each tenant multiplied by the Tenant Contract Months. It also includes the security deposit amount for each tenant, if requested.

E. TBRA: Units

Number of TBRA units designated for the homeless. Of the total number of TBRA units in the activity, enter the number designated for the homeless. Homeless is defined as (1) an individual or family who lacks fixed, regular, and adequate nighttime residence; or (2) An individual or family who has a primary nighttime residence that is: (a) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); (b) an institution that provides a temporary residence for individuals intended to be institutionalized; or (c) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Of those, the number designated for the chronically homeless. Of the number of units designated for the homeless, enter the number designated for the chronically homeless. A chronically homeless person is defined as an unaccompanied homeless individual with a disabling condition who has either: (1) been continuously homeless for a year or more, or (2) has had at least four episodes of homelessness in the past three years. A disabling condition is defined as a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability. For the purpose of determining chronically homelessness, a homeless person an unaccompanied individual sleeping in a place not meant for human habitation or in an emergency homeless shelter.

Note: IDIS will default to zero if units are not entered in these fields.

Faith-based Organization. Was this activity carried out by a faith-based organization (y/N)? Enter "Y" if it is known or if the organization declares itself to be a faith-based organization. If not, enter "N".

Note: IDIS will enter the default answer of "N" if an answer is not typed in the field.



AUTHORIZATION FOR RELEASE OF INFORMATION

Each household member 18 years or older must read and sign an Authorization Form for Release of Information. A separate form is included in this package for each adult. If you need additional Authorization forms, please contact the City of Chula Vista Development Services-Housing Division.

I, _____ (legal name), do hereby authorize any agencies, offices, groups organizations or business firms to release to the CITY OF CHULA VISTA any information or materials which are deemed necessary to complete and verify my application for participation and/or to maintain my continued assistance under the HOME TBRA Program, and/or Low-Income Housing Programs. The information needed may include verification or inquiries regarding my identity, household members, employment and income, assets, allowances or preferences I have claimed, and residency. These organizations are to include, but are not limited to: financial institutions; Employment Security Commission; educational institutions; past or present employers; Social Security Administration; welfare and food stamps agencies; Veteran's Administration, court clerks; utility companies; Workmen's Compensation Payers; public and private retirement systems; law enforcement agencies; medical facilities and credit providers.

I understand that the Department of Housing and Urban Development (HUD) and/or the CITY OF CHULA VISTA (City) may utilize third parties to verify information and other computer matching programs in order to verify the information supplied on my application or recertification. It is understood and agreed that this authorization or the information obtained with its use may be given to and used by HUD and/or City in the administration and enforcement of program rules and regulations and that HUD and/or City may in the course of its duties obtain such information from other Federal State or local agencies, including State Employment Security Agencies; Department of Defense; Office of Personnel Management; the Social Security Administration; and State welfare and food stamp agencies. If there is a discrepancy between the information provided by the above sources and the information that I have provided, I understand that City may take action to terminate my benefits and will require the repayment of benefits I was not eligible to receive.

It is with my understanding and consent that a photocopy of this authorization may be used for the purposes stated above. This authorization is valid for two years from the date of my signature.

Address	City	State	Zip
Social Security Number	Date of Birth	Telephone Number	
Signature	Date Signed		

ATTACHMENT I

HUD APPROVED WAIVERS



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF THE ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND DEVELOPMENT

April 10, 2020

MEMORANDUM FOR: All Community Planning and Development Field Office Directors, Deputy Directors, and Program Managers

FROM: John Gibbs, Acting Assistant Secretary for Community Planning and Development (D)

SUBJECT: Availability of Waivers and Suspensions of the HOME Program Requirements in Response to COVID -19 Pandemic

This memorandum provides guidance and the necessary statutory suspensions and regulatory waivers to enable HOME participating jurisdictions (PJs) affected by the Coronavirus Disease 2019 (COVID-19) pandemic to use HOME funds to address immediate housing needs and to help prevent spread of the virus. The memorandum is divided into two sections. Section I addresses PJs located in areas covered by a major disaster declaration made under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). Section II describes regulatory waivers available to all HOME PJs, not just those included in a major disaster declaration. Provisions that are not specifically suspended or waived remain in full effect.

CPD Field Offices shall inform PJs of the availability of these suspensions and waivers. A PJ that intends to implement the HOME statutory suspensions and/or regulatory waivers identified below, must send written notification via e-mail to the CPD Division in its local HUD Field Office before it implements the waiver or suspension. This written notification must identify which suspensions and/or waivers the PJ plans to use.

Waiver and Suspension Authority

Section 290 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (NAHA), as amended, authorizes HUD to suspend HOME statutory requirements to assist PJs in addressing the damage in an area for which the President has issued a major disaster declaration under Title IV of the Stafford Act and to assist them in disaster recovery.

Upon determination of good cause, in accordance with 24 CFR 5.110, HUD may waive regulatory provisions subject to statutory limitations. These provisions provide HUD the authority to make waiver determinations for the HOME program.

I. Statutory Suspensions and Regulatory Waivers Available Only to Major Disaster Areas

Pursuant to the authority provided in Section 290 of NAHA and 24 CFR 5.110, I hereby find good cause, as stated in the justifications that follow, to suspend the statutory provisions and waive the related regulatory provisions described below for PJs covered by a major disaster declaration under Title IV of the Stafford Act as a result of the COVID-19 pandemic. These suspensions and waivers are also available to any PJ that receives a major disaster declaration related to the COVID-

19 pandemic after the date of this memorandum. These suspensions and waivers are intended to provide maximum administrative flexibility to PJs and better assist low-and very low-income households as they deal with the effects of the COVID-19 pandemic.

1. 10% Administration and Planning Cap

Requirement: Limitation on the Use of HOME Funds for Administrative Costs

Citations: Section 212(c) of NAHA and 24 CFR 92.207

Explanation: These provisions limit the amount of HOME funds that a PJ may use for administrative and planning costs associated with its HOME award. A PJ may expend up to 10 percent of its annual HOME allocation, plus any program income received, for administrative and planning costs. These provisions are suspended to enable the PJ to expend up to 25 percent of its FY 2019 and FY 2020 allocations and program income received for administrative and planning costs.

Justification: This suspension is required to provide the PJ adequate funds to pay for the increased cost of administering HOME-related activities to address the effects of COVID-19, including attempts to prevent the spread of the virus. The suspension is also intended to relieve the PJ of the burden of identifying other general funds to pay HOME administrative and planning costs at a time when the State and local tax revenues that provide general operating revenue are decreasing.

Applicability: This suspension and waiver applies to the FY 2019 and FY 2020 HOME allocations of PJs that are covered by a major disaster declaration.

2. CHDO Set-aside Requirement

Requirement: Set-aside for Community Housing Development Organizations (CHDOs)

Citations: Section 231 of NAHA and 24 CFR 92.300(a)(1)

Explanation: These provisions establish a set-aside for CHDOs. The PJ must use 15 percent of each annual allocation of HOME funds only for housing owned, developed, or sponsored by CHDOs.

Justification: The suspension and waiver are required to relieve the PJ of requirements that may impede the obligation and use of funds to expeditiously assist families affected by the COVID-19 pandemic. Suspension of the CHDO set-aside will immediately make additional HOME funds available for activities such as tenant-based rental assistance for which CHDO set-aside funds cannot be used.

Applicability: The CHDO set-aside requirement is reduced to zero percent for the fiscal year 2017, 2018, 2019, and 2020 allocations of State and local PJs.

3. Limits and Conditions on CHDO Operating Expense Assistance

Requirement: Operating Assistance for Community Housing Development Organizations (CHDOs)

Citations: Section 212(g) and 234(b) of NAHA; 24 CFR 92.208 and 24 CFR 92.300(e) and (f)

Explanation: Section 212(g) of NAHA and 24 CFR 92.208 limit the amount of CHDO operating assistance that a PJ may provide to 5% of each annual HOME allocation. Section 234(b) of NAHA and 24 CFR 92.300(f) limit the amount of CHDO operating assistance, in combination with certain other forms of assistance, that each CHDO may receive to the greater of 50% of its annual operating budget or \$50,000. 24 CFR 92.300(e) requires a CHDO receiving operating assistance that is not currently receiving CHDO set-aside funding for a specific project to be expected to receive such funding within 24 months.

These statutory provisions are suspended and regulatory provisions are waived to permit a PJ to provide up to 10% of its FY 2019 and FY 2020 HOME allocations as operating assistance to CHDOs and to permit a CHDO to receive funding to fill operating budget shortfalls, even if the amount exceeds the higher of \$50,000 or 50% of its annual operating budget. Furthermore, PJs will not be required to include a provision in the written agreement with the CHDO that the CHDO is expected to receive CHDO set-aside funds within 24 months of receiving the additional operating assistance, as required in 24 CFR 92.300(e).

Justification: The suspension and waiver of these requirements is required to ensure that CHDOs are able to maintain operations and retain staff capacity to own, develop and sponsor housing with CHDO set-aside funds to serve communities impacted by the COVID-19 pandemic.

Applicability: PJs in areas covered by a major disaster declaration may use up to 10% of their FY 2019 and FY 2020 allocations for CHDO operating assistance. A CHDO receiving increased operating assistance must use the assistance to maintain organizational capacity during the COVID-19 pandemic. CHDOs may receive increased operating assistance under these suspensions and waivers through June 30, 2021.

4. Matching Contribution Requirements

Requirement: Reduction of Matching Contributions

Citation: 24 CFR 92.218 and 92.222(b)

Explanation: The provisions of 24 CFR 92.218 and 24 CFR 92.222(b) require all HOME PJs to contribute throughout the fiscal year to housing that qualifies as affordable housing under the HOME program. The contributions must total no less than 25 percent of the HOME funds drawn from the PJ's HOME Investment Trust Fund Treasury account. The COVID-19 pandemic has drastically reduced economic activity, reducing state and local tax revenues and placing financial strain on PJs as they deliver urgently needed public health, emergency housing, education, community and social services. Reducing the matching requirement for PJs in areas covered by a major disaster declaration by 100 percent for FY 2020 and FY 2021 will ease the economic burden on PJs and eliminate the need for them to identify other sources of match for HOME activities.

Justification: Given the urgent housing and economic needs created by COVID-19, and the substantial financial impact the PJ will face in addressing those needs, waiver of these regulations will relieve the PJ from the need to identify and provide matching contributions to HOME projects.

Applicability: This match reduction applies to funds expended by a PJ located in Presidentially declared-disaster area between October 1, 2019 and September 30, 2021.

II. **Regulatory Waivers Available to All Participating Jurisdictions**

The following regulatory waivers are available to all PJs, not just those PJs covered by a major disaster declaration under Title IV of the Stafford Act. Pursuant to the authority provided in 24 CFR 5.110, I hereby waive the HOME regulatory requirements specified below for all HOME PJs.

1. Citizen Participation Reasonable Notice and Opportunity to Comment

Citation: 24 CFR 91.105(c)(2) and (k) (Local governments), 24 CFR 91.115(c)(2) and (i) (States), and, 24 CFR 91.235(e) (Insular areas) 24 CFR 91.401 (Consortia)

Explanation: The regulations at 24 CFR 91.105(c)(2) and (k) (Local governments), 24 CFR 91.115(c)(2) and (i) (States), 24 CFR 91.235(e) (Insular Areas), and 24 CFR 91.401 (Consortia) set forth the citizen participation requirements for PJs. For substantial amendments to the consolidated plan, the regulations require the PJ to follow its citizen participation plan to provide citizens with reasonable notice and opportunity to comment. The citizen participation

plan must state how reasonable notice and opportunity to comment will be given. This waiver will permit PJs amending their plans as a result of the COVID-19 pandemic to reduce the comment period to 5 days.

- Justification:** Given the unprecedented economic disruptions caused by the COVID-19 pandemic, PJs may need to expeditiously reprogram HOME funds to activities that more directly meet their immediate housing needs, including reprogramming funds to cover increased administrative costs or away from other development activities. Requiring these PJs to complete the required public comment period would cause undue delays in the face of urgent and growing need. PJs must have the ability to respond immediately to the unprecedented housing need caused by the COVID-19 pandemic.
- Applicability:** This waiver is in effect for any necessary substantial amendments to FY 2020 and earlier consolidated plans or action plans.

2. Income Documentation

- Requirement:** Source Documentation for Income Determinations
- Citations:** 24 CFR 92.203(a)(1) and (2), 24 CFR 92.64(a) (Insular Areas)
- Explanation:** These sections of the HOME regulation require initial income determinations for HOME beneficiaries by examining source documents covering the most recent two months. 24 CFR 92.64(a) applies these requirements to Insular Areas.
- Justification:** This waiver permits the PJ to use self-certification of income, as provided at §92.203(a)(1)(ii), in lieu of source documentation to determine eligibility for HOME assistance of persons requiring emergency assistance related to COVID-19. Many families affected by actions taken to reduce the spread of COVID-19, such as business closures resulting in loss of employment or layoffs, will not have documentation that accurately reflects current income and will not be able to qualify for HOME assistance if the requirement remains effective.
- Applicability:** The waiver applies to individuals and families that have lost employment or income either permanently or temporarily due to the COVID-19 pandemic and who are applying for admission to a HOME rental unit or a HOME tenant-based rental assistance program. This waiver also applies to homeless individuals and families who are applying for admission to a HOME rental unit or a HOME tenant-based rental assistance program. Timely provision of this assistance will reduce the spread of COVID-19.
- If a PJ chooses to use this waiver availability, the PJ must ensure that self-certified income takes into consideration all income, including any

unemployment and emergency benefits the applicant will receive. However, for purposes of an applicant's self-certification, emergency tax relief (commonly referred to as stimulus payments) is not to be included as an emergency benefit. Also, the PJ must arrange to conduct on-site rent and income reviews within 90 days after the waiver period. The PJ must include tenant income certifications in each project file. This waiver remains in effect through December 31, 2020.

3. On-Site Inspections of HOME-assisted Rental Housing

Requirement: Ongoing Periodic Inspections of HOME-assisted Rental Housing

Citation: 24 CFR 92.504(d)(1)(ii) and 24 CFR 92.64(a) (Insular Areas)

Explanation: These provisions require that during the period of affordability PJs perform on-site inspections of HOME-assisted rental housing to determine compliance with the property standards at §92.251 and to verify the information submitted by the owners in accordance with the income and rent requirements of §92.252. On-site inspections must occur at least once every three years during the period of affordability. 24 CFR 92.64(a) applies these requirements to Insular Areas.

Justification: Waiving the requirement to perform ongoing on-site inspections will help protect PJ staff and limit the spread of COVID-19. To protect PJ staff and reduce the spread of COVID-19, this waiver extends the timeframe for PJs to perform on-going periodic inspections and on-site reviews to determine a HOME rental project's compliance with property standards and rent and income requirements.

Applicability: The waiver is applicable to ongoing periodic inspections and does not waive the requirement to perform initial inspections of rental properties upon completion of construction or rehabilitation. Within 120 days of the end of this waiver period, PJs must physically inspect units that would have been subject to on-going inspections during the waiver period. The waiver is also applicable to on-site reviews to determine a HOME rental project's compliance with rent and income requirements if the project owner is unable to make documentation available electronically. The waiver is in effect through December 31, 2020

4. Annual Inspection of Units Occupied by Recipients of HOME Tenant-Based Rental Assistance (TBRA)

Requirement: Annual Inspections of TBRA Units

- Citation:** 24 CFR 92.504(d)(1)(iii); 24 CFR 92.209(i) requirement for annual re-inspections and 24 CFR 92.64(a) (Insular Areas)
- Explanation:** These provisions require PJs to annually inspect each unit occupied by a recipient of HOME TBRA. 24 CFR 92.64(a) applies these requirements to Insular Areas.
- Justification:** Waiving the requirement that these annual inspections be performed according to schedule will protect the health of both inspectors and TBRA tenants by observing physical distancing recommendations to limit the spread of COVID-19.
- Applicability:** The waiver is applicable to annual HQS inspections required to occur from the date of this memorandum through December 31, 2020. At the end of this waiver period, PJs must inspect units that would have been subject to HQS inspections during the waiver period within 120 days of the expiration of the waiver. In addition, PJs shall make reasonable efforts to address any tenant-reported health and safety issues during the waiver period.

5. Four-Year Project Completion Requirement

- Requirement:** Four-Year Project Completion Deadline
- Citation:** 24 CFR 92.205(e)(2) and 24 CFR 92.64(a) (Insular Areas)
- Explanation:** The provision requires that projects assisted with HOME funds be completed within 4 years of the date that HOME funds were committed. If the project is not complete, in accordance with the definition of “project completion” at 24 CFR 92.2, by the deadline, the project is involuntarily terminated in HUD’s Integrated Data Information System (IDIS), and the PJ must repay all funds invested in the project. The regulations permit a PJ to request an extension of the deadline for up to one-year. 24 CFR 92.64(a) applies these requirements to Insular Areas.
- Justification:** This waiver is necessary to provide additional time to permit completion of HOME-assisted projects that may be delayed as a result of the impact of COVID-19 on project timelines. These delays may occur as a result of worker illnesses or efforts to reduce the spread of COVID-19, such as smaller construction crews or delays in local permitting or inspections due to government office closures.
- Applicability:** This waiver applies to projects for which the 4-year project completion deadline will occur on or after the date of this memorandum. The completion deadlines for covered projects are extended to December 31, 2020.

6. Nine-Month Deadline for Sale of Homebuyer Units

Requirement: Qualification as Affordable Housing: Homeownership

Citation: 24 CFR 92.254(a)(3) and 24 CFR 92.64(a) (Insular Areas)

Explanation: This provision requires that a homebuyer housing unit developed with HOME funds have a ratified contract for sale to an eligible homebuyer within 9 months of the date of completion of construction or rehabilitation. If there is no ratified sales contract with an eligible homebuyer within 9 months of completion of construction or rehabilitation, the housing must be rented to an eligible tenant in accordance with §92.252. 24 CFR 92.64(a) applies these requirements to Insular Areas.

Justification: Many PJs will not be able to meet this deadline due to the effect the COVID-19 pandemic will have on the ability of eligible households to qualify for mortgages as a result of income losses or the inability to schedule inspections, titles searches, or closings during periods of business closures. The waiver is necessary to prevent the loss of homeownership opportunities for HOME-eligible families and temporarily suspend the required corrective action of repayment of HOME funds or conversion of the homebuyer units to rental housing.

Applicability: The waiver applies to projects for which the 9-month homebuyer sale deadline occurs on or after the date of this memorandum and extends the deadline for those projects to December 31, 2020. This waiver does not apply to the remaining requirements of the regulation, including that a homebuyer must receive housing counseling, and that a PJ must determine eligibility of a family by including the income of all persons living in the housing.

7. Use of HOME Funds for Operating Reserves for Troubled HOME Projects

Requirement: Troubled HOME Projects

Citations: 24 CFR 92.210(a) and (b) and 24 CFR 92.64(a) (Insular Areas)

Explanation: 24 CFR 92.210 establishes provisions to permit HOME rental projects that are not financially viable (i.e., projects for which operating costs significantly exceed operating revenue) to be preserved through the use of HOME funds to recapitalize project reserves. 24 CFR 92.210(a) requires HUD to review market needs, available resources, and the likelihood of long-term viability of the project before approving this use of HOME funds. 24 CFR 92.210(b) requires a written memorandum of agreement between HUD and the PJ as a precondition of this funding and certain

limitations on the amount of funding. 24 CFR 92.64(a) applies these requirements to Insular Areas.

Justification: The waiver is necessary to enable PJs to take rapid action to preserve the financial viability of HOME-assisted affordable rental projects currently under a HOME period of affordability. Because existing tenants in HOME units may be unable to meet their rent obligations due to the economic impact of the COVID-19 pandemic, HOME rental projects may experience operating deficits due to the sudden decrease in rental revenue.

Applicability: The waiver applies to HOME-assisted rental projects currently within the period of affordability established in the HOME written agreement. PJs will not be required to obtain HUD approval or execute a memorandum of agreement with HUD before providing this assistance. PJs may only exercise this waiver authority when the project owner agrees to forego: 1) any distributions of residual receipts resulting from the project throughout the waiver period and for a period of 6 months thereafter; 2) any right under the existing lease agreement or State or local law to pursue legal action against tenants of HOME-assisted units for non-payment of rent and the collection of any fees associated with late payments without prior approval of the PJ; and 3) any adverse credit reporting against tenants of HOME-assisted units for nonpayment of rent or fees without prior approval of the PJ.

The PJ may provide additional HOME funds to recapitalize operating deficit reserves for HOME-assisted rental projects if the PJ determines that the project is experiencing operating deficits related to the economic effects of the COVID-19 pandemic during the waiver period. The PJ may only provide this assistance to projects experiencing operating deficits that will not be covered by insurance or other sources (e.g., other private, local, state, or federal funds).

The maximum amount of HOME assistance that may be provided is equal to the total of the project's operating expenses, previously scheduled payments to a replacement reserve, and actual debt service (excluding debt service of loans in forbearance) multiplied by the proportionate share of HOME-assisted units to the total number of units in the project for the period beginning on April 1, 2020 and ending on December 31, 2020. Project operating expenses may be demonstrated by one of the following:

- The Owner's most recent year to date financials for the project;
- Certified project-level accounting records covering the most recent 3 months; and
- Copies of project-level bank statements covering the most recent 3 months.

Project operating expenses may also be adjusted due to COVID-19-related expenditures and foregone expenses due to social distancing measures and other COVID-19-related impacts. An owner may demonstrate these expenses with recent receipts, copies of work orders, revised budgets that have been certified by the project owner as true, accurate representations of current expenditures.

In order to take advantage of this waiver, PJs must amend the HOME written agreement with the project owner to include the amount of HOME funds that will be provided to an operating reserve (i.e., the proportion of total costs attributable to HOME units as described in the paragraph above), the costs eligible to be paid with HOME funds in the operating reserve (i.e., operating expenses, scheduled payments to a replacement reserve, and qualifying debt service), and the documentation the PJ is required to maintain to demonstrate the allowable amounts and eligibility of costs paid with the HOME funds in the operating reserve.

The written agreement must specify that the owner must forego: 1) any distributions of residual receipts during the period this waiver is in effect and for a period of 6 months thereafter; 2) any right under the existing lease agreement or State or local law to pursue legal action against tenants of HOME-assisted units for non-payment of rent and the collection of any fees associated with late payments without prior approval of the PJ; and 3) any adverse credit reporting against tenants of HOME-assisted units for nonpayment of rent or fees without prior approval of the PJ.

Within 6 months following the waiver period, the PJ must review the project's records of actual revenue and operating expenses, total amount of HOME funds expended from the operating reserve, and the eligibility of expenses by examining invoices and receipts. The written agreement must require the project owner to repay any expenditures for costs determined to be ineligible and any balance of HOME funds remaining in the reserve after December 31, 2020. Any HOME funds repaid to the PJ must be deposited in the local HOME account and reported as program income in IDIS.

The waiver is effective through December 31, 2020.

8. Timeframe for a Participating Jurisdiction's Response to Findings of Noncompliance

Requirement: Corrective and Remedial Actions

Citations: 24 CFR 92.551(b)(1) and 24 CFR 92.64(a) (Insular Areas)

Explanation: 24 CFR 92.551(b)(1) requires that if HUD determines preliminarily that a PJ has not met a provision of the HOME regulations, the PJ must be notified and given an opportunity to respond within a time period prescribed by

HUD, not to exceed 30 days. 24 CFR 92.64(a) applies this requirement to Insular Areas.

Justification: The waiver is necessary to permit HUD to provide PJs with an extended period to respond to findings of noncompliance in recognition of the unanticipated circumstances created by the COVID-19 pandemic. While HUD must continue its oversight function for the HOME Program, requiring PJs to respond to all findings of noncompliance within 30 days may interfere with a PJ's ability to address the unprecedented housing needs caused by the COVID-19 pandemic.

Applicability: The waiver applies to all findings of HOME regulatory noncompliance issued from the date of this memorandum through December 31, 2020. In the notice of findings, HUD will specify a time period for the PJ's response based on the nature of the noncompliance and required corrective action(s). HUD may also, upon request by the PJ, extend time periods imposed before the date of this memorandum.

Questions regarding this waiver should be directed to Virginia Sardone, Director, Office of Affordable Housing Programs (OAHP), or your OAHP desk officer. Participating jurisdictions and other HOME Program participants should contact the CPD Division of their local HUD Field Office.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF THE ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND DEVELOPMENT

April 10, 2020

MEMORANDUM FOR: All CPD Field Division Directors, Deputy Directors, and Program Managers

FROM: John Gibbs, Acting Assistant Secretary for Community Planning and Development (D)

SUBJECT: Suspensions and Waivers to Facilitate Use of HOME-Assisted Tenant-Based Rental Assistance (TBRA) for Emergency and Short-term Assistance in Response to COVID-19 Pandemic

This memorandum provides guidance and the necessary statutory suspensions and regulatory waivers to enable HOME participating jurisdictions (PJs) affected by the Coronavirus Disease 2019 (COVID-19) pandemic to use HOME tenant-based rental assistance (TBRA) funds to facilitate urgent housing assistance to the communities and families experiencing financial hardship. The memorandum is divided into two sections. Section I addresses PJs located in the areas covered by a major disaster declaration made under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). Section II describes regulatory waivers available to all HOME PJs not just those PJs included in a major disaster declaration. Provisions that are not specifically suspended or waived remain in full effect.

While HOME program funds are primarily a resource for the physical development of affordable housing, the Department recognizes that the COVID-19 pandemic has caused widespread economic damage and created an unprecedented need for housing assistance among individuals and families directly affected by these unanticipated economic changes. The suspensions and waivers provided in this memorandum will allow PJs to use HOME funds for TBRA to individuals and families experiencing financial hardship as a result of the COVID-19 pandemic, including 1) providing immediate rental assistance to individuals and families seeking housing, 2) assisting households that have housing but face reduced or lost wages, and 3) assisting existing TBRA families that need additional assistance due to reduced or lost wages.

CPD Field Offices shall inform PJs of the availability of these suspensions and waivers. A PJ that intends to implement the HOME statutory suspensions and/or regulatory waivers identified below must send written notification via e-mail to the CPD Division in its local HUD Field Office before it implements the waiver and/or suspension. This written notification must identify which suspensions and/or waivers the PJ plans to use.

Waiver and Suspension Authority

Section 290 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (NAHA), as amended, authorizes HUD to suspend, respectively, HOME statutory requirements to assist PJs in addressing the damage in an area for which the President has issued a major disaster declaration under Title IV of the Stafford Act and to assist them in disaster recovery.

Upon determination of good cause, in accordance with 24 CFR 5.110, HUD may waive regulatory provisions subject to statutory limitations. These provisions provide HUD the authority to make waiver determinations for the HOME program.

I. Statutory Suspensions and Regulatory Waivers Available Only to Major Disaster Areas

Pursuant to the authority provided in Section 290 of NAHA and 24 CFR 5.110, I hereby find good cause, as stated in the justifications that follow, to suspend HOME statutory requirements and waive related regulatory requirements specified below for PJs covered by a major disaster declaration under the Title IV of the Stafford Act as a result of the COVID-19 pandemic.

Consolidated Plan – HOME Certification, Analysis of Local Market Conditions, and Citizen Participation

Citations: Section 212(a)(3)(A)(i) of NAHA and 24 CFR 92.209(b)
24 CFR 91.105(c)(2) and (k), 24 CFR 91.215(b)(1) and (e) and 24 CFR 91.225(d)(1) (Local governments),
24 CFR 91.115(c)(2) and (i), 24 CFR 91.315(b)(1) and (e) and 24 CFR 91.325(d)(1) (States),
24 CFR 91.401, 24 CFR 91.415 and 24 CFR 91.425(2)(i) (Consortia), and
24 CFR 91.235(e) and 24 CFR 92.61 (Insular Areas)

Explanation: Section 212(a)(3)(A)(i) of NAHA requires that a PJ that intends to use HOME funds for TBRA certify that the provision of such assistance is an essential part of its Consolidated Plan based on an analysis of local market conditions. This requirement is codified in 24 CFR 92.209(b) and for Insular Areas 24 CFR 92.61, as well as in the Consolidated Submissions for Community Planning and Development Programs regulations at 24 CFR 91.215(b)(1) and (e) and 91.225(d)(1) (for local governments), 24 CFR 91.315(b)(1) and (e) and 91.325(d)(1) (for States), and 24 CFR 91.415 and 91.425(2)(i) (for Consortia). When amending its Consolidated Plan, a PJ must follow the citizen participation plan it developed and adopted in accordance with 24 CFR 91.105(c)(2) and (k) (for local governments), 24 CFR 91.115(c)(2) and (i) (for States), 24 CFR 91.235(e) (Insular Areas), and 24 CFR 91.401 (for Consortia). The citizen participation plan must provide citizens with reasonable notice and an opportunity to comment. The citizen participation plan must state how reasonable notice and an opportunity to comment will be given and provide a period of not less than 30 calendar days to allow citizens to submit comments.

This suspension will eliminate: 1) the requirement for PJs to amend their Consolidated Plans to include or revise an analysis of local market conditions before implementing a TBRA program; and 2) the requirement that PJs certify that the use of HOME funds for TBRA is an essential element of the Consolidated Plan and that it has conducted an analysis of local needs. PJs that choose to use HOME TBRA to

address the urgent housing needs resulting from the COVID-19 pandemic may do so by amending their Annual Action Plan to reflect the use of HOME funds for TBRA without meeting these requirements.

Justification: Given the unprecedented economic disruptions and associated job losses caused by the COVID-19 pandemic, there is an urgent need for TBRA assistance in communities across the country. Requiring PJs to conduct an analysis of local market conditions, amend their Consolidated Plan, and complete the required public comment period would cause undue delays in commencing TBRA programs to address the urgent and growing need. PJs must have the ability to respond immediately to the unprecedented housing needs created by the COVID-19 pandemic.

Applicability: This suspension and regulatory waiver is applicable to a PJ's current 5-year Consolidated Plan and any Consolidated/Action Plans being amended to reprogram funds to TBRA to address housing needs related to the COVID-19 pandemic.

Tenant Selection and Targeted Assistance

Citation: Section 212(a)(3)(A)(ii) of NAHA, 24 CFR 92.209(c) and 24 CFR 92.64(a) (Insular Areas)

Explanation: Section 212(a)(3)(A)(ii) of NAHA requires a PJ to establish written tenant selection criteria for its TBRA program. In accordance with 24 CFR 92.209(c), or 24 CFR 92.64(a) for Insular Areas, those criteria must be consistent with the local housing needs and priorities established in the PJ's Consolidated Plan. This suspension will eliminate the need for PJs to develop or revise written tenant selection criteria and will allow PJs to assist individuals requiring immediate housing assistance as a result of the COVID-19 pandemic.

Justification: Given the sudden onset and severe effects of the COVID-19 pandemic, PJs could not anticipate the urgent, widespread housing needs created by the pandemic or reflect those needs and priorities in the Consolidated Plan. Suspending this provision will provide PJs with greater flexibility to expeditiously use TBRA as a resource to assist individuals and families affected by the COVID-19 pandemic.

Applicability: Suspending Section 212(a)(3)(A)(ii) of NAHA and waiving 24 CFR 92.209(c) and 24 CFR 92.64(a) for Insular Areas eliminates the requirement for PJs to establish new or revise existing tenant selection criteria for the HOME TBRA program. The statutory suspension and regulatory waiver are in effect through December 31, 2020, for TBRA provided in response to the COVID-19 pandemic. However, a PJ must document its criteria for selecting individuals and families to be assisted by the TBRA program.

II. Regulatory Waivers Available to All Participating Jurisdictions

The following regulatory waivers are available to all PJs, not just those PJs covered by a major disaster declaration under Title IV of the Stafford Act. Pursuant to the authority provided in 24 CFR 5.110, I hereby waive the HOME regulatory requirements specified below for all HOME PJs.

Citizen Participation Reasonable Notice and Opportunity to Comment

Citation: 24 CFR 91.105(c)(2) and (k) (Local governments), 24 CFR 91.115(c)(2) and (i) (States), 24 CFR 91.235(e) (Insular Areas), and 24 CFR 91.401 (Consortia)

Explanation: The regulations at 24 CFR 91.105(c)(2) and (k) (Local governments), 24 CFR 91.115(c)(2) and (i) (States), 24 CFR 91.235(e) (Insular Areas), and 24 CFR 91.401 (Consortia) set forth the citizen participation requirements for PJs. For substantial amendments to the Consolidated Plan, the regulations require the PJ to follow its citizen participation plan to provide citizens with reasonable notice and opportunity to comment. The citizen participation plan must state how reasonable notice and opportunity to comment will be given. This waiver will permit PJs amending their plans as a result of the COVID-19 pandemic to reduce the comment period to 5 days.

Justification: Given the unprecedented economic disruptions caused by the COVID-19 pandemic, the need for this type of assistance in communities across the country is clear. Requiring these PJs to complete the required public comment period would cause undue delays in commencing TBRA programs to address an urgent and growing need. PJs must have the ability to respond immediately to the unprecedented housing need caused by the COVID-19 pandemic.

Applicability: This waiver applies to any approved Annual Action Plan being amended to reprogram funds to TBRA to address housing needs related to the COVID-19 pandemic.

Rent Reasonableness

Citations: 24 CFR 92.209(f) and 24 CFR 92.64(a) (Insular Areas)

Explanation: In accordance with the HOME regulations at 24 CFR 92.209(f), a PJ must disapprove a lease if the rent is not reasonable, based on an assessment of rents charged for comparable unassisted rental units. The HOME regulations at 24 CFR 92.64(a) applies this requirement to Insular Areas. This waiver will permit PJs to provide immediate rental assistance to individuals and families seeking housing and assist individuals and families that have housing but are experiencing reduced or lost wages, without requiring an assessment of rents charged for comparable unassisted rental units.

Justification: Given the unprecedented need for rental assistance for individuals facing financial hardship during the pandemic, requiring PJs to conduct a rent comparison prior to providing rental assistance presents an undue administrative burden. PJs must focus on providing immediate housing for income-eligible individuals currently not in stable housing, as well as assistance to income-eligible individuals that currently have housing, but are unable to pay rent and/or utilities due to lost or reduced wages. In the latter case, some households affected by sudden economic disruptions may be occupying housing with rents that would exceed a PJ's established rent reasonableness standard. Without this waiver, those households could not be assisted with HOME TBRA.

Applicability: This waiver is applicable to TBRA provided to individuals and tenant households experiencing financial hardship because of a reduction or loss of income. This requirement is waived through December 31, 2020, for TBRA provided in response to the COVID-19 pandemic. PJs using this waiver authority must execute a rental assistance contract with the owner or tenant.

Eligible Tenant-based Rental Assistance Costs and Maximum TBRA Subsidy

Citation: 24 CFR 92.209(a) and (h) and 24 CFR 92.64(a) (Insular Areas)

Explanation: The HOME regulations at 24 CFR 92.209(a) state that eligible TBRA costs include rental assistance and security deposit payments made to income-eligible households. PJs can also use HOME funds to provide utility deposit assistance if such assistance is provided in conjunction with TBRA or a security deposit payment. The amount of monthly utility costs included in HOME TBRA is limited by the utility allowance established by the PJ for its TBRA program, irrespective of whether those utilities are paid by the landlord or the tenant.

In accordance with 24 CFR 92.209(h), the maximum amount of monthly assistance a PJ may pay to, or on behalf of, a tenant, may not exceed the difference between the PJ's rent standard and 30 percent of the tenant's monthly adjusted income. The PJ must establish a minimum tenant contribution to rent, and a rent standard that is based on local market conditions or the subsidy standards under the Section 8 Housing Choice Voucher Program. The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas.

This waiver will allow PJs to pay the full cost of monthly utilities in addition to rental assistance and security deposit payments for new and existing TBRA families affected by the COVID-19 pandemic. PJs may provide up to 100 percent subsidy for rent, security deposit payments, and utility bills paid by tenants affected by a reduction or loss of income from the COVID-19 pandemic. The waiver also eliminates the need for the PJ to establish utility allowances for different types and sizes of units for its TBRA program, which eliminates a significant administrative burden.

Justification: The COVID-19 pandemic has caused widespread loss or reduction of income, significantly affecting the financial stability of households, including existing TBRA families, and rendering many unable to pay rent and/or utilities. Households must be able to maintain the basic utilities required to ensure housing remains safe and sanitary. Permitting PJs to use HOME funds to pay for utilities will enable affected households to maintain decent, safe and sanitary housing, which necessarily requires electricity, water, and/or gas service during the pandemic.

As individuals experience financial hardship, the amount of assistance required to ensure they remain housed will often exceed the PJ's payment standard. In addition, individuals may be unable to pay the PJ's minimum required tenant contribution toward rent. Requiring PJs to establish or revise payment standards and the minimum tenant contribution to rent policies in the current emergency would be burdensome and delay the provision of TBRA in response to the pandemic.

Applicability: This waiver is applicable to TBRA provided to individuals or families experiencing financial hardship, including existing TBRA families that have experienced a loss or reduction in income due to the COVID-19 pandemic. This requirement is waived through December 31, 2020, for rental assistance provided in response to the COVID-19 pandemic. PJs using this waiver authority must execute a rental assistance contract with the owner or tenant for a term mutually agreed upon by all parties, but not to exceed the December 31, 2020, waiver period. The PJ may make utility payments directly to the tenant or utility company based on utility bills submitted for the assisted unit, either by mail or electronically.

Term of Rental Assistance Contract

Citation: 24 CFR 209(e) and 24 CFR 92.64(a) (Insular Areas)

Explanation: The HOME regulations at 24 CFR 209(e) state that the term of the rental assistance contract must begin on the first day of the term of the lease. For a rental assistance contract between a PJ and an owner, the term of the contract must terminate upon termination of the lease. For a rental assistance contract between a PJ and a family, the term of the contract is not required to terminate upon the termination of the lease, but no payments may be made after lease termination until the family executes a new lease. The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas. This waiver eliminates the requirement that the rental assistance contract must begin on the first day of the term of lease.

Justification: This waiver is necessary to enable PJs to assist tenants that are currently housed, including existing TBRA households, but have experienced sudden financial hardship as a result of the COVID-19 pandemic. Because affected households already have an executed lease, it is impossible for the TBRA contract to begin on the first day of the term of the lease

Applicability: This requirement is waived through December 31, 2020, for TBRA provided in

response to the COVID-19 pandemic. The PJ's requirement to execute a rental assistance contract with the owner or tenant is not waived. PJs using this waiver authority must execute a rental assistance contract with the owner or tenant for a term mutually agreed upon by all parties, but not to exceed the December 31, 2020, waiver period.

Tenant Protections – Lease

Citation: 24 CFR 92.209(g) and 24 CFR 92.64(a) (Insular Areas)

Explanation: The HOME regulations at 24 CFR 92.209(g) require that each HOME-assisted tenant have a lease that complies with the tenant protection requirements of 24 CFR 92.253(a) and (b). In accordance with 24 CFR 92.253(a), there must be a lease between the tenant and the owner of rental housing assisted with HOME TBRA. The lease must have a term of not less than one year, unless both parties mutually agree to a shorter period. The lease cannot contain any of the prohibited lease terms defined in 24 CFR 92.253(b). The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas. This waiver will permit PJs to assist individuals currently housed but facing financial hardship, where an executed lease is already in place.

Justification: During the COVID-19 pandemic, PJs may assist individuals that are already in rental units but are unable to pay rent and/or utilities due to job loss or reduced wages. These individuals already have an executed lease that may include one or more of the prohibited lease terms included in 24 CFR 92.253(b). Requiring PJs to immediately execute or amend leases creates an undue administrative burden and may disqualify some in-place tenants from receiving TBRA.

Applicability: In response to the COVID-19 pandemic, the requirement that a tenant assisted by TBRA have a lease that complies with the requirements of 24 CFR 92.253(a) and (b) is waived through December 31, 2020, for rental assistance provided to tenants already housed who have an executed lease. PJs using this waiver authority are required to execute a rental assistance contract with the tenant for a term mutually agreed upon by all parties, but not to exceed the waiver period ending on December 31, 2020. PJs must still comply with all VAWA requirements contained in 24 CFR 92.359 by including, at a minimum, a lease addendum that addresses all VAWA requirements.

Housing Quality Standards

Citation: 24 CFR 92.209(i) and 24 CFR 92.64(a) (Insular Areas)

Explanation: The HOME regulations at 24 CFR 92.209(i) require that all housing occupied by households receiving HOME TBRA must meet the housing quality standards (HQS) at 24 CFR 982.401. The PJ is required to inspect the unit for compliance prior to occupancy and annually thereafter. The HOME regulations at 24 CFR 92.64(a)

apply these requirements to Insular Areas. This waiver will permit the PJ to rapidly house or assist individuals affected by the COVID-19 pandemic without requiring an initial HQS inspection.

Justification: The COVID-19 pandemic has created an unprecedented need for rental assistance for tenant households facing financial hardship. PJs must act quickly to address these needs and requiring HQS inspections of all units where HOME TBRA assistance is provided would create an administrative burden and reduce PJs' ability to respond timely to the housing needs created by the pandemic. In addition, requiring initial HQS inspections would increase housing inspectors' risk of contracting or spreading the COVID-19 virus.

Applicability: This waiver is applicable to TBRA provided to tenant households experiencing financial hardship. This requirement is waived through December 31, 2020, for rental assistance provided in response to the COVID-19 pandemic. The lead-safe housing requirements of 24 CFR part 35, subpart M, made applicable to units leased by recipients of HOME TBRA by the HOME regulation at 24 CFR 92.355, cannot be waived. Consequently, units built before 1978 must undergo visual evaluation and paint repair in accordance with 24 CFR Part 35, subpart M. PJs using this waiver authority must establish procedures to minimize the risk that tenants are in housing that does not meet HQS, as well as procedures for conducting physical inspections within 120 days following the end of the December 31, 2020, waiver period.

Annual Inspection of Units Occupied by Recipients of HOME TBRA

Citation: 24 CFR 92.504(d)(1)(iii); 24 CFR 92.209(i) and 24 CFR 92.64(a) (Insular Areas)

Explanation: Provisions require PJs to annually inspect each unit occupied by a recipient of HOME TBRA.

Justification: Waiving the requirement that these annual inspections be performed according to schedule will protect the health of both inspectors and tenants by observing physical distancing recommendations to limit the spread of COVID-19.

Applicability: The waiver is applicable to annual HQS re-inspections required to occur from the date of this memorandum through December 31, 2020. Within 120 days of the end of this waiver period, PJs must physically inspect units that would have been subject to HQS inspections during the waiver period.

Income Determinations

Citations: 24 CFR 92.203(a)(2) and 24 CFR 92.64(a) (Insular Areas)

Explanation: The HOME regulations at 24 CFR 92.203(a)(2) require the PJ to determine a TBRA tenant's annual income by examining at least 2 months of source

documentation evidencing income and projecting anticipated income forward for the next 12 months. The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas. This waiver will permit PJs to follow the regulations at 24 CFR 92.203(a)(1)(ii) in lieu of requiring a review of source documentation. The HOME regulations at 24 CFR 92.203(a)(1)(ii) allow the PJ to obtain a written statement of the amount of the family's anticipated annual income and household size, along with a certification that the information is complete and accurate.

Justification: Given the rapid and unanticipated economic disruptions caused by the COVID-19 pandemic, source documentation from the past two months may not reflect the current financial circumstances of many households. Requiring PJs to determine an individual's annual income using source documentation would be administratively burdensome, may not reflect current or anticipated income, and may result in individuals or families being incorrectly disqualified from receiving TBRA.

Applicability: This waiver is applicable to TBRA provided to individuals or families experiencing financial hardship. This requirement is waived through December 31, 2020, for rental assistance provided in response to the COVID-19 pandemic. The PJ must ensure that the tenant's self-certification indicates how the tenant's financial situation has changed, (i.e., job loss or reduced wages), and includes all income, including any unemployment or emergency benefits received by the tenant as a result of the pandemic. However, for purposes of a tenant's self-certification, emergency tax relief (commonly referred to as stimulus payments) should not be included as an emergency benefit. The PJ must include tenant income certifications in each project file.

Questions regarding this waiver should be directed to Virginia Sardone, Director, Office of Affordable Housing Programs (OAHP), or your OAHP desk officer. Participating jurisdictions and other HOME Program participants should contact the CPD Division of their local HUD Field Office.