

**City of Waco**

**HOME TBRA Program  
Policies & Procedures**

**Final**

# CITY OF WACO HOME TBRA PROGRAM POLICIES & PROCEDURES

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<b>1</b>	<b>Tenant Based Rental Assistance (TBRA)</b> .....	<b>2</b>
1.1	Eligible Activities & Costs .....	2
1.1.1	<i>Ineligible Costs (Activities)</i> .....	2
1.2	TBRA Assistance .....	3
1.2.1	<i>Rent Assistance Standard</i> .....	3
1.2.2	<i>Security Deposit</i> .....	3
1.2.3	<i>Utility Deposit</i> .....	4
1.3	Marketing & Outreach .....	4
1.4	Application for Rental Assistance.....	5
1.5	Selection of TBRA Recipients.....	5
1.5.1	<i>Eligible Families and Other Related Terms</i> .....	6
1.5.2	<i>Annual Income</i> .....	7
1.5.3	<i>Preferences</i> .....	8
1.5.4	<i>Waiting List</i> .....	9
1.5.5	<i>Written Notice of Rejection</i> .....	9
1.5.6	<i>Determination of Unit Size</i> .....	9
1.5.7	<i>Rental Assistance Calculation</i> .....	10
1.5.8	<i>Issuance of Rental Coupon</i> .....	11
1.6	Unit Approval .....	12
1.6.1	<i>Eligible Units</i> .....	12
1.6.2	<i>Environmental Checklist</i> .....	12
1.6.3	<i>Rent Reasonableness</i> .....	13
1.6.4	<i>Property and Occupancy Standards</i> .....	13
1.6.5	<i>Lease Approval</i> .....	14
1.6.6	<i>Final Subsidy Calculation</i> .....	15
1.7	Execution of Rental Assistance Payment Contract .....	16
1.7.1	<i>Project Set-up</i> .....	16
1.7.2	<i>Payment Request</i> .....	16
1.8	Rental Assistance Payment Contract Renewal.....	16
1.8.1	<i>Annual Housing Quality Standards (HQS) Unit Inspections</i> .....	17
1.8.2	<i>Annual Income Eligibility Determination</i> .....	17
1.8.3	<i>Requests for Rent Increase</i> .....	17
1.9	Rental Assistance Payment Contract Termination.....	17
1.9.1	<i>Lease Terminations/Evictions</i> .....	18
1.9.2	<i>Tenant Move</i> .....	19
1.10	Recordkeeping & Reporting.....	19
1.10.1	<i>Tenant Records</i> .....	19
1.10.2	<i>Reporting</i> .....	20
1.10.3	<i>Compliance Monitoring</i> .....	20

## 1 Tenant Based Rental Assistance (TBRA)

The procedures described herein are based on the current interlocal agreement between the City of Waco and the Heart of Texas Region Mental Health Mental Retardation Center (herein referred to as the subrecipient) to provide TBRA using HOME funds. These requirements may be modified by future agreements, as long as the changes are in full compliance with the HOME Program Final Rule.

### 1.1 Eligible Activities & Costs

TBRA program funds may be used to provide:

- Rental assistance to help pay the cost of monthly rent and utility costs for up to 24 months.
- Security deposits in conjunction with rental assistance in an amount not to exceed one month's rent for the unit; and
- Utility deposit assistance in conjunction with rental assistance and security deposit assistance.

While the HOME rule permits administrative (admin) funds and certain project delivery costs to be paid in association with TBRA administration, current contract does not permit such use of HOME funds.

#### 1.1.1 Ineligible Costs (Activities)

HOME TBRA funds may not be used for the following activities:

- To make commitments to specific owners for specific projects. Tenants must be free to use the assistance in any eligible unit.
- To prevent displacement of or provide relocation assistance to tenants as a result of activities other than the HOME Program.
- To provide TBRA to homeless persons for overnight or temporary shelter.
- To provide assistance for more than 24 months (the term of rental assistance contract providing assistance with HOME funds will be for 12 months, but may be renewed, subject to the availability of HOME funds.)
- To duplicate existing rental assistance programs that already reduce the tenant's rent payment to 30 percent of income.
- To provide assistance outside of the City of Waco.

The assisted unit cannot be owned by the subrecipient unless an exception is approved in writing by HCDD. In order to be considered for an exception, the request must, at a minimum, include the following information:

- An explanation why the exception is necessary/appropriate; and

- A rent reasonableness analysis to demonstrate cost effectiveness; and
- Documentation of adequate outreach to owners so as not to limit access; and
- Assurance that occupancy of the unit is not a 'requirement' placed on the participating household and that they have a free choice of units.

HOME TBRA funds cannot be used for the following costs:

- Application fees for housing units
- Applicant background checks
- Telephone and cable deposits
- Landlord vacancy and/or damage claims
- Down payment and/or closing costs in conjunction with a lease-purchase program

## 1.2 TBRA Assistance

### 1.2.1 Rent Assistance Standard

The TBRA program is based on the premise that decent, safe, sanitary, and affordable housing can be obtained on the private market for very low to low-income families. The unit chosen by the family should not exceed HUD published Fair Market Rents (FMRs).

The subrecipient may request HEDD to approve, on a unit-by-unit basis, a rent standard that exceeds the applicable fair market rent by up to 10 percent for 20 percent of units assisted.

A unit is determined to fall within the FMR of a specific area by adding the contract rent and the applicable utility allowance for the unit. For the purposes of the TBRA program subsidy, the sum of both numbers cannot exceed the FMR of a unit. The tenant may select a unit that falls over the FMR if the unit meets rent reasonableness standards in the area and if the tenant is willing to pay the excess rent.

No unit assisted by TBRA can be less than 80 percent of the published FMR for the unit.

### 1.2.2 Security Deposit

The subrecipient may use TBRA funds to provide loans or grants for security deposits associated with rental assistance. The following criteria must be followed:

- Only the prospective tenant may apply for security deposit assistance;
- The subrecipient must pay the security deposit directly to the landlord;
- The security deposit may not exceed one month's contract rent for the unit. If the unit is furnished and/or a pet deposit is required, an additional ½ month's rent for either circumstance may be collected. The total security deposit must not exceed the equivalent of one month of rent.

- The security deposit shall be used to provide compensation to the owner if the tenant, upon vacating, owes money for damages and unpaid rent in the unit.
- The assisted household may receive any security deposit refunded by the owner upon vacating the unit. However, if the subrecipient receives any security deposit funds returned from the owner upon the tenant vacating the unit, it must use the funds for future security deposits under the guidelines of the program. In the event the funding agreement has expired with the subrecipient, any returned deposits must be transmitted to the HCDD.

### 1.2.3 Utility Deposit

The subrecipient may use TBRA funds to provide funds for utility deposits. TBRA utility deposits can only be made if the subrecipient provides an ongoing HOME funded rental assistance and/or HOME funded security deposit program.

If the subrecipient pays a utility deposit, the following criteria must be followed:

- The family, housing unit, and all other eligibility criteria for assistance must be followed.
- Only the prospective tenant may apply for utility deposit assistance.
- The subrecipient must pay the utility deposit directly to the service provider.
- TBRA utility deposit assistance is limited to the paying of deposits.
- Deposits should be returned to the tenant. If the subrecipient receives the return of any deposit, it must use the funds for the next eligible HOME cost under the guidelines of the program, or return the funds to HCDD. In the event the funding agreement has expired with the subrecipient, any returned deposits must be transmitted to the HCDD.

## 1.3 Marketing & Outreach

HOME rules require affirmative marketing for any program or project with 5 or more HOME assisted units. Consequently, the TBRA program must be affirmatively marketed, with procedures to be approved by HCDD.

HOME TBRA should be affirmatively marketed to all persons within the target population and/or special needs group. The marketing plan must address: (1) how the program will be announced (i.e., which media and other sources); (2) where applications will be taken (i.e., at one site or more); (3) when applications will be accepted (i.e., daily, during normal working hours or extended hours for a specified period); and (4) the method for taking applications (i.e., in person, by mail).

The willingness of owners to participate in the HOME TBRA program significantly affects the options and opportunities available to coupon holders. Grantees should conduct outreach to owners of rental property to stimulate their interest in the program. Mailing program notices to owners using tax or PHA records as sources, and participating in meetings of owner and realtor associations are often effective outreach methods.

## 1.4 Application for Rental Assistance

All applications must be in written form and must contain, at a minimum, information that enables the Grantee to determine household composition, income and eligibility.

Each application received must be reviewed for completeness and to determine if the applicant is obviously ineligible. Grantees may elect to fully determine eligibility at the time the household makes application. However, it is rare that households bring or provide at the time of application sufficient documentation to confirm eligibility. The subrecipient will place all applicants who are apparently eligible on the waiting list pending verification of information provided.

A tenant file must be created for each application. This file will ultimately contain the application, documentation of the household's eligibility, copies of program forms, correspondence, etc.

## 1.5 Selection of TBRA Recipients

Subrecipients administering HOME-funded TBRA programs must have a written tenant selection policy that clearly specifies how households will be selected for participation in its TBRA program. There are two major components of tenant selection –income eligibility (as referenced above) and preferences established by the subrecipient.

NOTE: Program access cannot be limited to a particular facility's or program's clients.

Households cannot receive HOME TBRA if they are receiving rental assistance under another Federal, state or local rental assistance program **IF** the HOME subsidy would result in duplicative subsidies. However, if another rental subsidy program does not provide assistance sufficient to lower a tenant's rental payment to 30 percent of their monthly adjusted income, HOME TBRA could be provided as supplemental assistance to further reduce the tenant's rent payment to 30 percent of monthly adjusted income.

TBRA rental assistance may be provided only to families whose annual income does not exceed 60 percent of the median family income for the area, as determined and made available by HUD with adjustments for smaller and larger families at the time of occupancy.

The subrecipient must determine whether an applicant:

- Qualifies as a family;
- Is income-eligible; and,
- Is a member of a target population under approved preferences, if any.

### 1.5.1 Eligible Families and Other Related Terms

The following definitions shall be applicable to all housing assisted under the TBRA Program:

- **Dependent.** A member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a person with disabilities, or is a full-time student.
- **Disabled person.** A person who is under a disability as defined in Section 223 of the Social Security Act (42 USC 423), or who has a developmental disability as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 USC 6001(7)).
- **Displaced person.** A person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under Federal disaster relief laws.
- **Elderly family.** A family whose head or spouse (or sole member) is an Elderly, Disabled, or Handicapped person. It may include two or more elderly, disabled, or handicapped persons living together, or one or more of those persons living with one or more live-in aides.
- **Elderly person.** A person who is at least 62 years of age.
- **Family.** "Family" includes, but is not limited to an elderly family or single person, the remaining member of a tenant family, and a displaced person.
- **Handicapped person.** A person having a physical or mental impairment that:
  - Is expected to be of long-continued and indefinite duration.
  - Substantially impedes the person's ability to live independently, and,
  - Is of such a nature that the tenant's disability could be improved by more suitable housing conditions.
- **Live-in Aide.** A person who resides with an elderly, disabled, or handicapped person, or persons who:
  - Is determined to be essential to the care and well-being of the person(s);
  - Is not obligated for the support of the person(s);
  - Would not be living in the unit except to provide the necessary supportive services; and
  - Is not related to the household receiving the rental assistance.
- **Single person.** A person who lives alone or intends to live alone, and who does not qualify as an elderly family or a displaced person, or as the remaining member of a tenant family.

**Live-in Aides.** A Live-in Aide may only reside in the unit with the approval of the administrator, subject to the following requirements:

- The income of the Live-in Aide shall not be counted as household income. The Live-in Aide may be counted in terms of household/unit size as long as the Live-in Aide resides with the tenant on a full-time basis.
- Part time Live-in Aides may not be counted in terms of family or unit size.
- The tenant's physician must sign the Physician's Verification of Live-in Aide form. The form must be placed in the tenant file.

- The tenant, Live-in Aide and the Landlord must sign the Live-in Aide Housing Agreement. A copy of the agreement must be placed in the tenant file.
- The Live-in Aide qualifies for occupancy only as long as the tenant needs supportive services. In the event the tenant no longer requires a Live-in Aide, the TBRA subsidy shall revert to HUD guidelines as to the applicable rents for the number of bedrooms allowed for the household.
- If the household member requiring assistance dies, the Live-in Aide shall vacate the unit within ten days of said household member's death. If the household member requiring assistance moves out, the Live-in Aide shall vacate the unit no later than the tenant's vacate date. Upon the termination of the Live-in Aide's services for any other reason, the Live-in Aide shall vacate the unit within 24 hours.
- The Live-in Aide shall not violate any of the landlord's house rules. The Landlord may evict the Live-in Aide if s/he violates any of the House Rules.

Applicants must disclose all real, potential, or perceived conflicts of interest as outlined in 24 CFR 92.356. All conflicts of interest must be disclosed and resolved prior to providing HOME TBRA assistance to the household.

### 1.5.2 Annual Income

Income must be verified before assistance is provided and re-examined annually thereafter. Income limits are established by household size and revised annually by the U. S. Department of Housing and Urban Development (HUD).

Household income under HOME-funded TBRA program must be calculated using the definition of annual income at 24 CFR Part 5 (Section 8).

Annual income is the anticipated total income from all sources received by the family head and spouse (even if temporarily absent) and by each additional member of the family, including all net income derived from assets for the 12-month period following the effective date of certification of income.

Annual income includes, but not limited to:

- The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips, and bonuses, and other compensation for personal services.
- The net income from operation of a business or profession.
- Interest, dividends, and other net income of any kind from real or personal property.
- The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including lump-sum payment from a delayed start of a periodic payment.
- Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay.



- Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling.
- All regular pay, special pay, and allowances of a member of the Armed Forces.

Annual income does not include the following:

- Income from employment of children (including foster children) under the age of 18 years.
- Payments received for the care of foster children.
- Lump-sum additions to family assets, such as inheritances, insurance payments, capital gains, and settlement for personal or property losses.
- Amounts received by the family that is specifically for, or in reimbursement of the cost of medical expenses for any family member.
- Income of a Live-in Aide.
- Amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid by the Government for use in meeting the costs of tuition, fees, books, equipment, materials, supplies, transportation, and miscellaneous personal expenses of the student.
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- Amounts received under training programs funded by HUD.
- Temporarily, nonrecurring or sporadic income (including gifts).
- If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period must be annualized.

#### **1.5.2.1 Verification of Income**

The subrecipient must determine annual income by reviewing source documents for at least two months, evidencing annual income (for example, wage statement, interest statement, unemployment compensation) for the TBRA-assisted household.

Income and asset source documentation for new TBRA recipients is good for a six-month period. If a TBRA contract is not executed before the six months has expired, the household's income eligibility must be reviewed again before assistance may be provided.

It is the obligation of the subrecipient to obtain complete information from applicants and thoroughly document the methods by which it has verified all pertinent information in the applicant's file.

#### **1.5.3 Preferences**

The City and subrecipient have agreed that the program is limited to assisting households with a person with chronic mental illness. Determination of qualification under this disability will be made by the subrecipient using standards consistently applied to all applicants.

Such preference for persons with chronic mental illness is identified in the Consolidated Plan as an unmet need and is needed to narrow the gap in benefits and services available to such persons. The City has determined that the provision of assistance is necessary to provide housing, aid, benefit, or services that are as effective as those provided to others.

Eligibility may NOT be contingent upon participation in medical- or disability-related services, and cannot be administered in a manner that limits opportunities for persons with disabilities.

In addition, the subrecipient can propose additional preferences, as approved by HCDD and reflected in the City's Consolidated Annual Plan.

#### **1.5.4 Waiting List**

After a family has been determined eligible for the TBRA program, the subrecipient shall place the family on a waiting list in chronological order of completed application received.

The waiting list shall comply with 24 CFR Part 92.253(d). The waiting list should show the family's name, date and time of application, local preferences if applicable, and appropriate size of units in bedroom.

Families currently on a Section 8 or other rental assistance waiting list who received TBRA shall not be harmed or removed from the subrecipient waiting list. In any case where assistance under Section 8 becomes available, recipients of TBRA will qualify for tenant selection preferences to the same extent as when they received TBRA.

#### **1.5.5 Written Notice of Rejection**

If an applicant is rejected for the program, the subrecipient must provide in writing the reason(s) for rejection and provide an administrative process for the applicant to appeal the determination.

#### **1.5.6 Determination of Unit Size**

The unit size designated shall be assigned in accordance with the following criteria:

- No more than two persons are required to occupy a bedroom;
- Persons of different generations (i.e., grandparents, parents, children), persons of the opposite sex (other than spouses/couples) and unrelated adults are not required to share a bedroom;
- Children of the same sex (regardless of age) and spouses must share the same bedroom for purpose of assigning the bedroom size on housing coupon;
- Unborn child may be considered for purpose of assigning the bedroom size on housing coupon.
- In some cases, however, the relationship, age, sex, health, or handicap of the family members may warrant the assignment of a larger unit size. Such flexibility is permissible to the extent the

determinations are made on the basis of these factors. Such allowable determination should be fully documented in the applicant's file. For example, a two-bedroom unit may be used by a two-member family which consists of a single parent and child or by a couple who, due to medical reasons, must have separate bedrooms, as approved by the subrecipient.

- Fair housing rules permit a household to select smaller units that do not create seriously overcrowded conditions. Participants may also select larger units at their own expense (i.e., TBRA subsidy will not cover the increased cost of a larger unit). In addition to the number of bedrooms, both the size of the unit and the size of the bedrooms should be considered when evaluating the individual circumstances of the family.

### 1.5.7 Rental Assistance Calculation

The rental assistance payment is the

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** using the requirements in 24 CFR Part 5.611 and the rent limit established by the subrecipient, known as the payment (rent) standard.

Adjusted income is derived by subtracting any of five deductions (or allowances) that apply to the household from the household's annual (gross) income. The household's eligibility for deductions depends, in part, on the type of household that it is. For disabled households, deductions are permitted for:

- Elderly or disabled household deduction - \$400 per household;
- Dependent - \$480 for each household dependent (non-head of household under 18, disabled, or a full-time student);
- Child care expenses;
- Medical expenses in excess of 3% of annual income; and
- Disability assistance expenses in excess of 3% of annual income.

These must be calculated and documented as specified in HOME Program guidance, including Chapter 4 of the Technical Guide for Determining Income and Allowances for the HOME Program, available at: <https://www.hudexchange.info/resources/documents/HOMEGuideForIncomeAndAllowances.pdf>.

This gap is then the constant amount of the monthly TBRA assistance. The household is free to select an actual unit that costs more or less than the subrecipient's payment (rent) standard.

- Unit costing more: If the household selects a unit costing more than the payment (rent) standard, the household's monthly payment will exceed 30 percent of its monthly adjusted income. Should a household elect a unit that exceeds the subrecipient's payment (rent) standard, the subrecipient should obtain documentation signed by the household that it understands the unit is considered unaffordable to their income level.

- Unit costing less: If the household selects a unit costing less than the payment (rent) standard, the household's monthly payment will be less than 30 percent of its monthly adjusted income.

Rental assistance is subject to the following limits:

- Minimum Family Contribution: Participating households must pay at least \$10.00 per month (the greater of \$10.00 or 30% of their adjusted monthly income) towards rent and utilities.
- Maximum TBRA Subsidy: The TBRA subsidy may not exceed the difference between the Payment Standard and 30 percent of the household's monthly adjusted income.

### 1.5.8 Issuance of Rental Coupon

The Tenant Based Rental Assistance Coupon is the sole document, which authorizes the family to look for an eligible rental unit for the TBRA program. The Rental Coupon specifies the appropriate unit size necessary to meet the family's needs.

The Rental Coupon also sets forth a number of requirements regarding both Family and subrecipient responsibilities that apply only while the Rental Coupon is in effect but also after the Rental Assistance Contract is executed on behalf of the family.

- The Rental Coupon term is for a 60-day period, within which the family must submit a Request for Unit Approval if it is to utilize the Rental Coupon. The subrecipient may extend the term to a maximum 60-day additional period.
- The Rental Coupon is only valid within the jurisdiction of the subrecipient. Rental Coupons are not portable outside the jurisdiction of the subrecipient.

When a family receives a Rental Coupon, the subrecipient must conduct a briefing session to provide the family with an explanation of program requirements, information to assist it in finding a suitable unit, and an explanation of family and owner responsibilities.

The information and specific items which must be given to families in the briefing session are, but not limited to:

- Families and owners responsibilities under the lease and contract;
- How to find a suitable unit;
- Fair housing information, including any search assistance that may be available, and the process for filing a complaint in the case of discrimination;
- The location and characteristics of the full range of neighborhoods in which the subrecipient is able to execute Rental Assistance Contracts;
- Applicable Fair Market Rents (FMRs), how the Gross Family Contribution (GFC) is determined, and how housing assistance payments are determined;

- Limitations on the rent the owner may charge, including how utility allowances are used in this determination;
- Security deposit policy, including how much may be charged, who pays, and who receives any refund;
- Information to the families concerning Housing Quality Standards (HQS) inspections, Rental Assistance Contract, schedule of allowances for tenant-furnished utilities and other services, and the process for lease approval; and
- Coupon expirations and extension policies.

## 1.6 Unit Approval

### 1.6.1 Eligible Units

The HOME TBRA program offers households great flexibility in selecting a housing unit. Households must be free to select the unit of their choice.

- Public or private: Units under the TBRA program may be publicly- or privately- owned. Publicly-owned units include public housing, Section 811, Section 202, HOPE 6, Continuum of Care, and HOPWA.
- Combining rental assistance with another rental assistance program: HOME TBRA rental assistance cannot be provided to a program participant who is receiving tenant-based rental assistance (e.g. Section 8 or Continuum of Care rental assistance) or living in a housing unit receiving project-based rental assistance or operating assistance through other public sources.
- Combining security and utility deposit assistance with another security or utility deposit program: HOME TBRA security and utility deposit assistance cannot be provided to a program participant who is receiving security deposit or utility deposit assistance through other public sources.
- Rents must be reasonable: Subrecipients must disapprove a lease if the subrecipient determines the rent is not reasonable, based on rents that are charged for comparable unassisted rental units.
- HOME-funded units are OK: Households may select units developed or rehabilitated with HOME assistance. However, the subrecipient may not require the household to select a HOME unit as a condition of receiving TBRA. Households must be permitted to move out at the end of the HOME lease term, taking their TBRA assistance with them.
- Portability is not permitted. HCDD does not allow TBRA assistance to be used outside of the City of Waco.

### 1.6.2 Environmental Checklist

Based on 24 CFR 58.35(b), TBRA projects are Categorically Excluded Not Subject to 58.5. While the program as a whole was cleared, the subrecipient must still complete the Compliance Documentation Checklist for 24 CFR Part 58.6 prior to the execution of a rental assistance contract, submit the checklist to HCDD, and maintain a copy in the tenant file.

### 1.6.3 Rent Reasonableness

The subrecipient must certify all units assisted with TBRA are reasonable in relation to rents currently being charged for comparable units in the private unassisted market, and not in excess of rents currently being charged by the owner for comparable unassisted units.

The subrecipient must document the basis for its rent reasonableness determination. Key components of a comparability analysis include:

- Location: In many markets location is the key determinant of housing price
- Size: Only units of comparable size (both in terms of number of bedrooms and square footage) should be used
- Utilities Included: Consider the type and fuel source of utilities
- Condition: Only units in similar condition should be compared
- Amenities: Consider such amenities as garage, appliances and lot size

It is not sufficient to approve a unit merely because its gross rent is within the applicable FMR limits.

### 1.6.4 Property and Occupancy Standards

Any TBRA assisted property must meet all applicable City housing codes and ordinances as well as the Section 8 Housing Quality Standards (HQS). Inspection to verify compliance with HQS and occupancy standards are made both at initial move-in and annually during the term of the TBRA assistance. A written inspection form must be signed and dated, and retained in the tenant file.

The subrecipient must apply the occupancy standards that specify the number of bedrooms needed by households of various sizes and composition, as defined in Section 1.5.5.

The subrecipient must also ensure that the landlord makes reasonable accommodations for the accessibility needs of the tenant.

#### 1.6.4.1 Lead Based Paint

The TBRA program must adhere to Federal Regulation 24 CFR Part 35 that took effect January 2002.

- Tenants must receive the fact sheet “Ten Tips to Protect Children from Pesticide and Lead Poisonings around the Home” (EPA) and the pamphlet “Protect Your Family from Lead” (EPA) at the time of application.
- Tenants must receive the Elevated Blood Level form (tenant signature optional) and the Tenant Notice of Defect/Notice of Elevated Blood Level Above 15 ug form prior to move in.
- A sign off form indicating that the tenant has received the four documents must be in place in tenant files.

- Visual assessment of units built prior to 1978 must take place during the HQS inspection. Exemptions include 0 bedroom units, SROs, and units exclusively for the elderly and disabled where children age 6 and under will not/do not occupy the unit.
- If deteriorated paint is identified in the visual assessment,
  - Lead based paint stabilization/abatement procedures must take place at the expense of the owner within 30 days of notification to the owner (24 CFR Part 35.1330(a) and (b).)
  - The owner of the unit must meet the requirements of paint stabilization as defined in 24 CFR Part 35.110. Paint stabilization must be conducted in accordance with procedures outlined at 24 CFR 1330(a) & (b). Owners must pay for stabilization and/or abatement procedures prior to move-in (or during occupancy). If the owner declines to provide stabilization, another unit must be selected.
  - Owner must provide a copy of the clearance report performed in accordance with 24 CFR 35.1340 whenever paint stabilization is undertaken. Owner must provide tenant with a written notice of the results of the clearance exception (24 CFR 35.1215(c).
- If lead based paint or deteriorated paint in non-exempt units is identified following move in and/or during an annual or periodic re-inspection, depending on the scope of the work to stabilize the paint, and if necessary, the owner is responsible for relocating the tenants to a comparable dwelling free of lead based paint hazards while the work is taking place.
- Owner must adopt procedures to ensure that on-going maintenance activities are conducted in accordance with 24 CFR 35.1355 during the term of assisted tenancy.
- Identification of the number of units built prior to 1978 and the number of children and pregnant women residing in each unit must be provided on TBRA tenant project set-up forms.

### 1.6.5 Lease Approval

After a family finds a unit, which is suitable for its needs, it must submit a completed Request for Unit Approval, signed by both parties, to the subrecipient along with a copy of the proposed lease, if supplied by the owner/landlord.

The subrecipient shall review the request to determine if the owner is eligible, if the unit is eligible, if the lease complies with the program requirements in 92.253 governing prohibited and required lease provisions, and if the lease complies with state and local laws.

The lease must contain certain required provisions which include the tenant and the subrecipient shares of the rent, the landlord's responsibility for maintenance and services, any utilities and appliances which the owner will provide, the condition necessary for eviction, the prohibition against discrimination, and the amount of security deposit.

The lease may not contain any of the following provisions:

- Agreement to be sued. 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.

- Treatment of property. 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. The owner may dispose of this personal property in accordance with state law.
- Excusing owner from responsibility. Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent.
- Waiver of notice. Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant.
- Waiver of legal proceedings. 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.
- Waiver of a jury trial. Agreement by the tenant to waive any right to a trial by jury.
- Waiver of right to appeal court decision. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.
- Tenant chargeable with cost of legal actions regardless of outcome. Agreement by the tenant to pay attorney's 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.

The subrecipient will also provide the required VAWA lease addendum.

The lease between a tenant and an owner of rental housing assisted with TBRA funds must be for not less than one year in programs that are not participating in self-sufficiency programs. The subrecipient may renew a lease for an additional year. The total time allocated for a family to receive TBRA must be not more than two years per grant award.

The owner may not terminate the tenancy or refuse to renew the lease of the tenant except for serious or repeated violation of the terms and conditions of the lease; for violations of applicable federal, state, or local law; or for other good cause.

Any termination or refusal to renew must be preceded by not less than 30 day notice by the owner specifying the grounds for the action. Rent increases are also subject to 30 day notice.

### **1.6.6 Final Subsidy Calculation**

Once the unit has been approved, a final subsidy calculation is required to determine the tenant's share and assistance amount.



## **1.7 Execution of Rental Assistance Payment Contract**

After a Request for Unit Approval has been approved, the subrecipient must prepare the Rental Assistance Contract for execution by the owner and the subrecipient, and execution of the lease between the family and the owner. No rental assistance will be paid until the contract has been executed.

The subrecipient must retain a copy of the contract and lease in the family's file.

### **1.7.1 Project Set-up**

Upon completion of all requirements of the above, the subrecipient shall submit a completed Project Set-up Report to HEDD. Upon receipt of the Project Set-up Report, HEDD will submit the family for participation in the TBRA program through HUD's IDIS system. IDIS will assign an activity number to the project that HEDD will issue to the subrecipient.

### **1.7.2 Payment Request**

Upon receiving an activity number for a family, the subrecipient must submit a funds requisition to obtain funds for the family's rental assistance. Monthly requests will be submitted, but up to 2 months of rent (plus any approved security and/or utility deposits) may be requested with HEDD approval.

Upon receiving the funds, the subrecipient must disburse the funds within 15 days to the destination of the funds, such as landlords and utility providers. The subrecipient must return any funds not distributed within the time limit to HEDD.

The subrecipient may request administration funds with each Payment Request.

The subrecipient must maintain their financial records in such a manner that is easily possible to summarize subsidy amounts provided by household and owner. The subrecipient must report to the Internal Revenue Service annually the amount of rental income paid to owners.

## **1.8 Rental Assistance Payment Contract Renewal**

Families receiving TBRA assistance may be approved for renewal of the lease and assistance contract for another year, up to the 24 month limit.

Family income eligibility must be recertified on an annual basis. Annual recertifications shall include income verifications, rent increase, HQS inspection, determination of family status, etc. If there are changes in household size, the subrecipient must determine income compliance of the family and the proper unit size.

### **1.8.1 Annual Housing Quality Standards (HQS) Unit Inspections**

All units assisted with TBRA funds must meet HQS. Each unit under contract must be inspected at least annually to assure all HQS requirements are met. Unit may also be inspected as a result of housing quality complaints initiated by the owner or tenant.

If a unit fails to pass an inspection, the owner may be given a reasonable period of time (i.e., 24 hours for emergency conditions or 30 days for less serious conditions) to correct the deficiencies. If the owner fails to make the needed corrections, the program administrator has several options. The program administrator may:

- With adequate notice to the owner and household, terminate the HOME Rental Assistance Contract and require the household to move to another location in order to continue to receive assistance; or
- Temporarily suspend its payments until the owner remedies the HQS deficiencies. (Note: If this second approach is taken, the tenant should be encouraged to continue to pay its share of the rent in order to prevent eviction.)

### **1.8.2 Annual Income Eligibility Determination**

Each household's eligibility to participate in the program and its share of the rent must be confirmed annually. If a participating household's income exceeds the Section 8 Low-Income Limit (i.e., 80% of Area Median) the household's assistance must be ended.

The re-examination process should begin 90-120 days in advance of the household's one year anniversary date to assure that the process is completed on time and that 30 day notice is given to both the owner and tenant of changes in the household's eligibility or share of the rent.

### **1.8.3 Requests for Rent Increase**

Unless the Initial rent negotiations were for the two-year period, owners may request a rent increase at the end of the first year of the contract. The program administrator must again determine that the proposed rent is reasonable in comparison to rents charged for other comparable, unassisted units.

## **1.9 Rental Assistance Payment Contract Termination**

The contract automatically terminates when:

- The family vacates the unit in violation of the lease;
- The family has moved from their unit according to the lease terms, or secured the owner's permission for an early termination date, and the lease term has therefore ended;
- The owner has required the family to move according to the lease term, and the lease term has therefore ended;
- The owner has evicted the family with subrecipient authorization;

- The owner does not wish to enter into a new contract, or refuses to renew or extend the current one;
- The length of assistance provided the family with the existing TBRA grant has reached two years.

Under the following circumstances, the subrecipient may terminate the contract prior to its regular termination date:

- The unit is not in compliance with HQS or other contract requirements, and the owner refuses to correct the deficiencies;
- The unit is overcrowded or under occupied due to family composition change which requires the family to move;
- The family, at recertification, has been determined ineligible due to their income.
- The subrecipient is unable to approve a new Request for Unit Approval where a contract is expiring due to gross rent exceeding FMR;
- The subrecipient has determined that the owner is not in compliance with the terms of the contract;
- The subrecipient has determined that the family is not in compliance with the terms of its rental coupon;
- A family has been determined to have abused the program, or to have engaged in fraudulent activities.

The subrecipient shall complete a Project Close-out Form when a family is terminated for any reason from the TBRA program.

### 1.9.1 Lease Terminations/Evictions

During the term of the lease, the owner may only terminate the tenancy because of:

- Serious or repeated violation of the lease;
- Violation of Federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the unit and the premises;
- Criminal activity; or
- Other good cause.

Owners must comply with all state and local laws. Other requirements should only be imposed if the Grantee has a specific reason for intervening in the tenant-landlord relationship. For example, Grantees using TBRA assistance in conjunction with some other program (i.e., self-sufficiency, life-skills, etc.) in which the Grantee is providing additional counseling or support, may want to consider requiring the owner to notify the Grantee before taking any termination action.

The Grantee must also identify how termination of tenancy will affect the tenant’s TBRA assistance. For example, if the household is evicted for cause, the Grantee’s policy must identify whether assistance will also be terminated or whether the tenant may receive assistance in another unit.

### **1.9.2 Tenant Move**

Tenant may elect to move to another unit as permitted by the lease. The TBRA Rental Assistance Contract contains provisions that terminate the program administrator’s agreement with the owner when the household moves out. To assure that TBRA subsidies are not paid on units no longer occupied by an eligible tenant, the lease agreement must require that the household provide a minimum of 30 days written notice of their plans to relocate to both the owner and program administrator.

If the tenant is in compliance with program requirements, the TBRA assistance may be transferred to another eligible units, following the same procedures for determining unit eligibility and rent assistance.

## **1.10 Recordkeeping & Reporting**

The subrecipient is responsible for ensuring that TBRA funds are used in accordance with all program requirements of 24 CFR Part 92, and for documenting compliance. The subrecipient must establish and maintain sufficient records to enable HCDD to determine whether the subrecipient has met the requirements of the TBRA program.

### **1.10.1 Tenant Records**

Recordkeeping and Record Retention requirements must be in compliance with 24 CFR 92.508. For TBRA projects, records must be retained for five years after the period of rental assistance ends or from the time the project is closed, whichever is longer.

The tenant files shall contain, but are not limited to, the following:

- Original application with copies of social security cards for each household member;
- Income verifications, along with source documentation;
- Annual release of information forms;
- Rental coupon, Request for Unit Approval, and other materials related to coupon issuance;
- Completed HQS inspection form for the unit;
- Lead based paint disclosure forms to indicate receipt of required pamphlets and required tenant notification forms prior to move-in.
- Descriptions of any required paint stabilization activities, clearance reports and required tenant notifications.
- Annual adjusted income worksheet and other related documents;
- Utility allowance schedule;
- Total Tenant Payment / Total Rent form;

- Rental Assistance Payments Contract and Lease Agreement; and,
- Project Set-up and Project Closeout (IDIS).

Any tenant must give permission for the City of Waco to review records to determine program compliance prior to receiving assistance.

### **1.10.2 Reporting**

The subrecipient must report monthly to HCDD on the status of the program, in the format specified by the City.

### **1.10.3 Compliance Monitoring**

HCDD staff will review all progress reports and will monitor the subrecipient TBRA program annually according to the requirements of 24 CFR 92.504(a). During a compliance visit:

- HQS inspections of randomly selected units will occur
- Administrative and financial procedures and files will be reviewed;
- TBRA tenant files will be randomly reviewed.

A compliance follow-up report will be mailed to the grantee.

Should the follow-up report include findings/concerns, the grantee must respond in writing within thirty days regarding remediation of the findings and compliance with federal regulations and HEDD policies and procedures.

HCDD reserves the right to terminate the agreement and recapture funds:

- If funds are not committed and/or expended by the dates referenced in the funding agreement, or if the project substantially changes after the funding commitment.
- If the program is no longer feasible or is not progressing timely so that the imposed deadlines will be met, funds may be recaptured.
- If the subrecipient becomes suspended or debarred.

Other bases for termination and recapture are included in the funding agreement.