



# **Designing and Implementing an Emergency HOME TBRA Program**

## **Part 2: Developing Policies & Procedures**

**June 17, 2020**



# Welcome & Introductions

- Sponsored by HUD's Office of Affordable Housing Programs )
- Presenters
  - Stephen Lathom, Sr. Consultant, TDA Consulting
  - Monte Franke, Franke Consulting Group
- HUD TBRA Webinar Series
  - Initial Program Planning – held June 10th
  - TBRA & IDIS Requirements- held June 16th
  - **Still to come: Office Hours on June 24th**

If you can't hear computer audio,  
use conference line:

415-655-0002

Access Code: 145 672 7418

# Part 2 Webinar Objectives

- Detailed discussion of policy and procedures development
  - Identify local policy requirements & decisions )
  - Address suspensions/waivers & TBRA regulatory requirements
  - Ensure compliance while expediting emergency assistance

# Webinar Resources '

- Webinar resources available on the HUD Exchange:
  - <https://www.hudexchange.info/trainings/courses/designing-and-implementing-an-emergency-home-tbra-program-part-2-developing-policies-and-procedures/3527/>
- Available materials
  - Today's slides
  - Emergency HOME TBRA Program Design Crosswalk – Final Rule Reqs & Suspensions/Waivers
  - Emergency HOME TBRA – Program Design Decisions

# COVID-19 Suspensions & Waivers

- HUD issued two memos on April 10, 2020
  - Availability of Waivers and Suspensions of the HOME Program Requirements in Response to COVID-19 Pandemic
  - 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 )
  - <https://www.hudexchange.info/programs/home/covid-19/>
- Webinar conducted April 20, 2020
  - <https://www.hudexchange.info/trainings/courses/home-program-covid-19-response-statutory-suspensions-and-regulatory-waivers-webinar/>



# Background

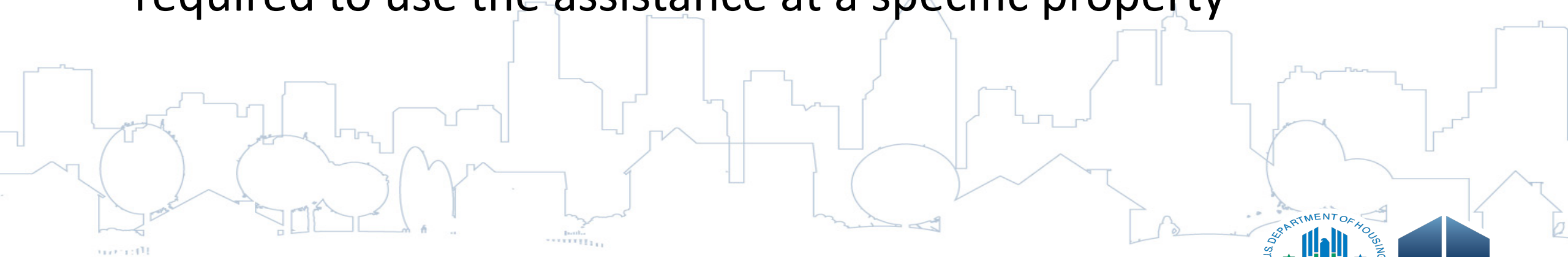


# Emergency TBRA v. Regular TBRA

- HUD provided suspensions/waivers for temporary programs to provide short-term assistance to households experiencing financial hardship as a result of the COVID-19 pandemic
  - Available period: 4/10/20 – 12/31/20
  - Waivers altered some, but not all, requirements – see the Crosswalk
- Waivers do not apply to:
  - Ongoing “regular” TBRA programs that provide longer-term TBRA
  - TBRA provided beyond 12/31/20

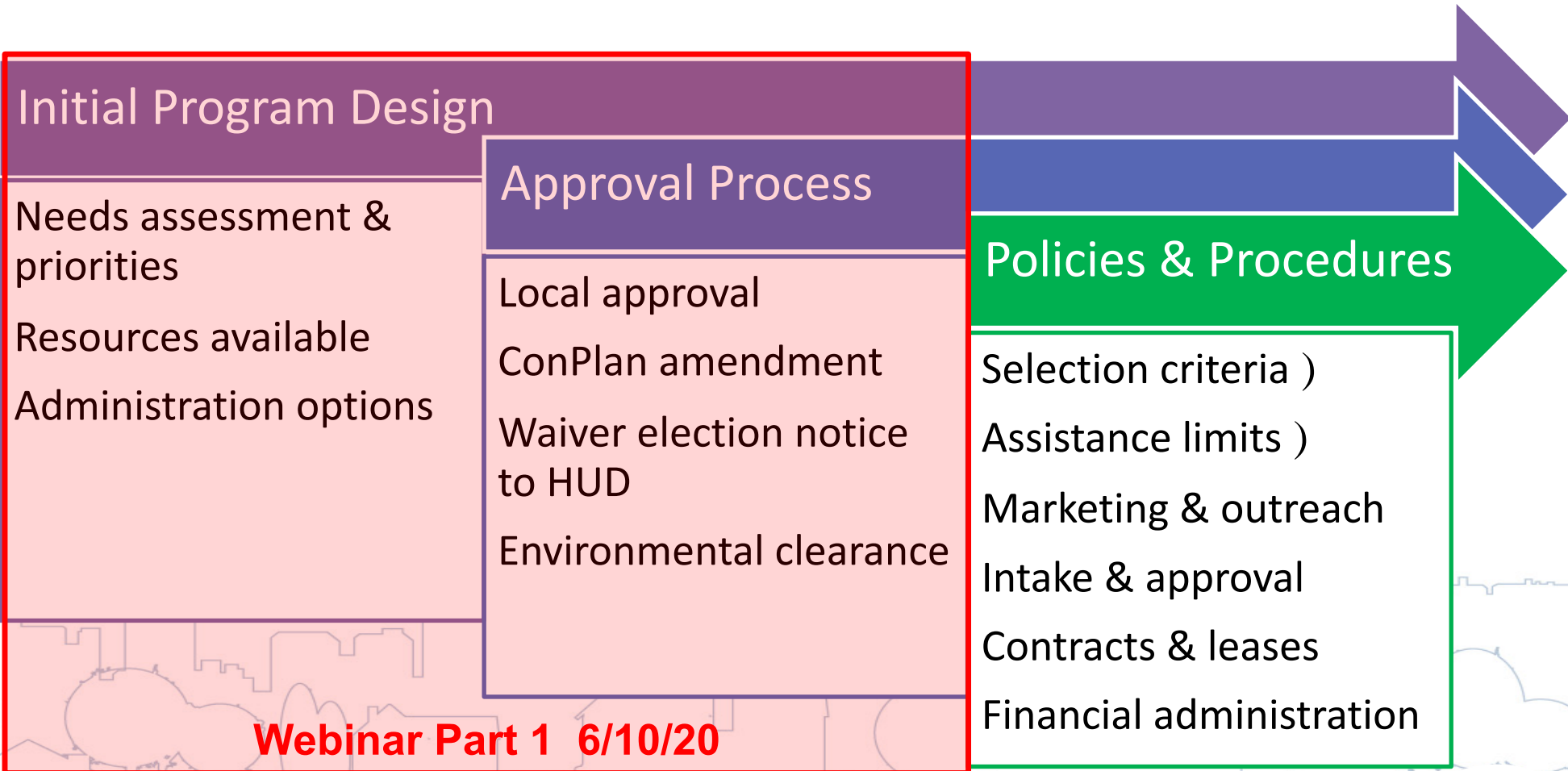
# TBRA v. Project-Based Assistance

- TBRA is tenant based; recipients can use assistance in any property that is eligible under HOME
- While TBRA can be made available to tenants that live in HOME-assisted or other assisted housing, the assistance cannot be tied to a specific property and the tenant cannot be required to use the assistance at a specific property





# Emergency TBRA Program Design Framework



# Program Administration Requirements



# The Essential PJ Administrative Responsibility

- §92.504 – the HOME PJ:
  - Is responsible for:
    - “Managing the day-to-day operations of its HOME program” )
    - “Ensuring that HOME funds are used in accordance with all program requirements and written agreements”
    - “Taking appropriate action when performance problems arise”
  - Must have “**written policies, procedures and systems**”
  - Before disbursing any HOME funds to any entity, “must enter into a **written agreement** with that entity to ensure compliance with the requirements...”

# Review: Using Subrecipients or Contractors

- PJ can administer directly or designate subrecipient/contractor)
  - Consider “adaptive capacity,” opportunity cost & time frame
- Subrecipient v. Contractor

Subrecipient	Contractor
Nonprofit or public entity	Nonprofit or for-profit )
Administers a program	Provides a specific service
Subject to all federal requirements	Subject to contract provisions
May be designated by PJ without procurement	Must be selected following procurement rules
Written agreement §92.504(c)(2)	Contract §92.504(c)(4)

# Key TBRA Policies & Procedures (P&Ps)

## Policies

### *Rules of the Road &*

- Target households & selection criteria )
  - Priorities
- Assistance types & limits
- Assisted unit requirements
- Other policies?
  - Occupancy standards?

## Procedures

### *Who does what when?*

- Affirmative marketing & outreach
- Intake & processing
- Unit approval
- Rental assistance contracts & leases
- Financial admin/IDIS
- Program monitoring



# Written Agreements

- Administrative agreement, if not PJ agency (§92.504(c)) – State Recipient (c)(1), Subrecipient (c)(2), contractor (c)(4)
- Beneficiary agreements – §92.2 requirement to commit to a specific project
  - PJ/Subrecipient with Tenant (§92.504(c)(5)(iii))
  - PJ/Subrecipient with Owner (§92.209 & §92.504(c)(2)(x))
  - Owner & tenant may be combined in a three-party agreement

# Program Policies



# Initial Program Design: Target HHs & Priorities

- Eligibility
  - Income
  - Financial hardship
  - Other regulatory requirements
- Priorities
  - *Demand will outstrip available funding... likely significantly*
  - Priorities establish the queue, and who is likely to be funded
  - Income level, type of hardship, other?

# Income Eligibility

- Income level
  - Can serve up to 80% AMI, but 90% at 60% applies; target lower? )
  - Given other resources available or expected, what is the appropriate role for emergency HOME assistance?
- Income definition: likely Part 5 (aka Section 8)
  - CARES Act assistance excluded from TBRA income determination:
    - Up to \$1,200 Economic Impact Payments (aka “stimulus payments”)
    - Federal Pandemic Unemployment Compensation (FPUC) - additional \$600 per week through July 31 for workers impacted by pandemic
  - Waiver allows for tenant self-certification



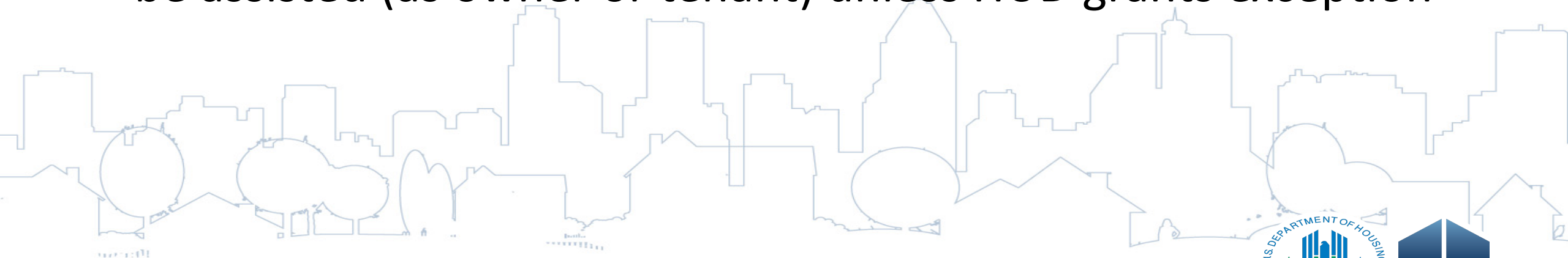
# Financial Hardship

- Waiver defines hardship as loss of job/income or homelessness as a result of the pandemic
- Given demand and other assistance available, do you want to target or prioritize based on type of hardship? e.g.,
  - Displaced or needing to find new housing v. assistance to remain in place?
  - Temporary v. permanent loss of income or employment?
- Targeting/prioritizing is not required; if done, should not slow the delivery of emergency assistance



# HOME Prohibitions

- Limits on student households – HOME follows Section 8
  - Students under age 24 do not qualify as low-income household unless student is independently eligible or member of income eligible household or a veteran, married, or has dependent child
- Conflict of interest – PJ/subrecipient covered persons may not be assisted (as owner or tenant) unless HUD grants exception



# Assistance Types & Limits

## Monthly Rent Assistance

- Rule: Limits assistance to rent standard less 30% of adjusted income for rent + utility allowance, minimum tenant contribution
- Waiver: Permits PJ to pay up to 100% of rent + utilities (water/sewer, gas, electric)

## Security Deposit

- Rule: Permits up to 2 months of rent; can be standalone, rent assistance not required
- Waiver: Not impacted by waivers

## Utility Deposit

- Rule: Permits PJs to provide utility deposits with rent and/or security deposit assistance
- Waiver: Not impacted by waivers

## Utility Costs

- Rule: Must determine tenant paid utility allowance
- Waiver: Can pay up to 100% of utility cost for water/sewer, electric, and gas

# Monthly Rent Assistance

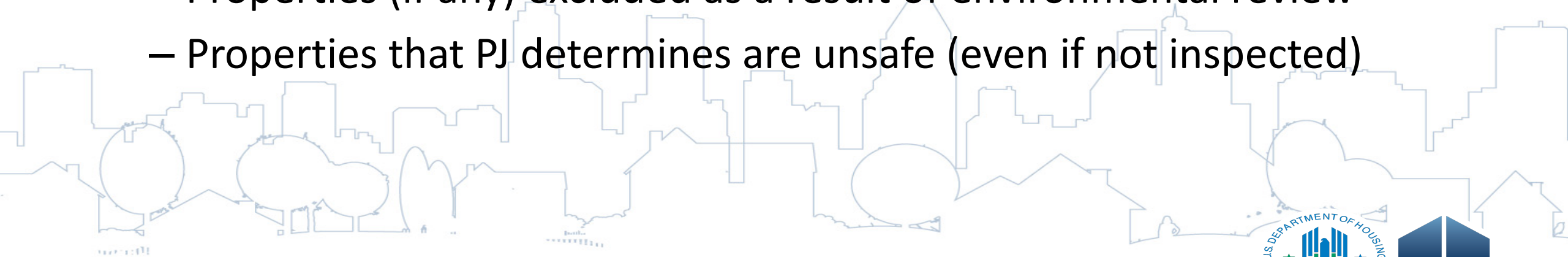
- If waiver elected, what standards/limits (if any) does the PJ want to apply to rent assistance payments?
  - PJ must still consider cost reasonableness; how to determine reasonable rent?
  - Tenant contribution – still 30% of adjusted or establish alternate local policy? )
  - Utility allowance or pay utility cost?
- Back rent: May pay rent (and reasonable late fees) originally due on or ) after March 13, 2020
- Period of assistance: Through December 31, 2020 covered by waivers
  - ***Extending assistance beyond requires compliance with all HOME requirements***

# Deposits & Utility Assistance

- Security deposit
  - Should PJ provide? Form of assistance – grant or loan?
- Utility deposits – option to provide for newly housed?
  - Which utilities & what limits will be placed on this assistance?
  - Paid to tenant or utility company?
- Utility assistance – waiver for full water, electricity or gas
  - How much to provide? Can pay up to 100% of utility costs
  - Need procedures to collect bills
  - Pay to utility company or tenant? If to tenant, must verify payment

# Eligible/Ineligible Housing

- Properties must meet §92.2 definition of housing
  - Excludes: Emergency shelters/facilities, hotels, motels, nursing homes, convalescent homes, hospitals, residential treatment facilities, halfway houses, housing for students, or dormitories )
- Also ineligible:
  - Properties (if any) excluded as a result of environmental review
  - Properties that PJ determines are unsafe (even if not inspected)





# Pause for Questions



Do you have any

do you have any **questions** for me

do you have any **grey poupon**

do you have any **children**

do you have any **idea** how little that narrows it down

do you have any **grapes**

do you have any **special talents**

do you have any **questions** in spanish

do you have any **dependents**

do you have any **idea**

Slide 24



# Administrative Procedures



# Marketing & Outreach

- Affirmative marketing required by §92.351(a)
- Special considerations for program marketing:
  - Given pandemic-related closures and social distancing, what methods of outreach are most likely to reach the eligible population?
  - Do not rely solely on web-based marketing, consider
    - How to reach those without internet access? Does this correlate with protected classes least likely to apply?
    - Alternative, non-digital forms of outreach, e.g., robocall systems, inserts in mailings or handouts from other entities (e.g. school report cards, utility bills, food bank parcels, etc.), outreach to religious organizations, food banks, or other organizations providing emergency assistance

# Application & Intake

- Application form
  - Do you have existing application forms that can be modified?
  - What forms of assistance are needed (rent, utilities, deposit)?
  - What will you add to certify financial hardship?
  - Does the application identify priority qualification (if applicable)?
  - If self-certification of income waiver elected, what modifications to form are needed?
- Methods of accepting applications – online, mail, in-person
  - How do you provide application assistance while balancing social distancing & program accessibility requirements (Sec. 504/ADA)?



# Application Review

- In what order will you review applications?
  - Processing order can determine who is assisted
  - Clear process is critical for fair access and transparency
  - Options: first qualified/first served, lottery, priority category, other?
    - If not first-qualified, what is the timeframe for submitting?
    - If priorities, when and how will applications be processed
      - e.g., all Priority 1 before Priority 2, or sub-allocations w/ parallel processing?
      - What about apps received after initial window closes?
  - How will you handle incomplete applications?



# Application Approval

- Determine eligibility based on established policies
  - Household size and income – how reviewed; how calculated?
  - Financial hardship – type, verification?
  - Other HOME & PJ requirements
- Document review/determination in PJ files
- Approval - if authorizing applicant to shop for housing
  - What coupon/certificate/form will you provide?
- Appeals procedures

# Unit Approval

- Request for unit approval – form signed by applicant & owner? )
- Determine unit eligibility
  - Eligible unit
  - If occupancy standards, appropriate size
  - Rent approval – if rent waivers elected, any alternate local standard?
  - Unit condition – if HQS inspection waiver elected, other means of identifying deficiencies (virtual, tenant forms, etc.) and verifying correction of deficiencies
  - If pre-1978 & child under 6, visual lead-based paint assessment required

# Assistance Calculations

- Apply rent assistance policies:
  - Proposed rent – tenant contribution = monthly assistance payment
  - Total rent assistance: Based on number of months
    - Waiver only permits payments thru 12/31/20 (e.g., June – Dec = 7 months)
    - Back rent: Permitted for rent originally due on or after March 13th )
    - May also pay for reasonable late fees on back rent
      - Some units subject to CARES Act eviction moratorium and waiver of late fees
  - Utilities – if allowance or actual utility costs
  - If security and/or utility deposits
    - HOME maximum is 2x rent, state laws may limit further

# Rental Assistance Contracts

- Execute rental assistance agreement/contract
  - Payment to landlord or tenant?
  - If contract with owner, written agreement with tenant required
    - Consider three party agreement
  - Term of assistance
    - Start date/lease date identical for new occupancy; waiver may be elected for in-place tenant under existing lease
    - COVID waivers thru December 31<sup>st</sup>

# Leases

- If in-place tenants in existing housing and lease
  - Lease not required to start/end with rental assistance contract
  - Lease does not have to be modified for 92.253(a)-(b) compliance
  - VAWA provisions apply – require lease addendum or amend lease thru assistance contract?
- If new occupancy
  - Lease & contract start/end date must be the same
  - Lease approval required
    - 92.253(a)-(b) tenant protections
    - VAWA requirements apply



# Other Implementation Questions

- Document execution – will you allow electronic signatures?
  - Must allow for wet signatures, procedures for submitting hard copies
- Orientation – how will you orient/interact with owner and tenant under pandemic guidelines?
  - Remember to balance with accessibility needs
- HQS – how will you respond to tenant concerns/complaints about housing conditions?
- Expiration notification – how early should you remind owners & tenants about expiration of assistance?
- IDIS & financial administration – June 16<sup>th</sup> webinar

# Tracking Commitments v. Budget

- Given the program budget & simultaneous processing of many applications, what procedures ensure that you are managing program commitments against the program budget?
  - How many applications do you process (given available funds)?
  - How many do you authorize to shop or contact their landlords?
  - How do you keep track of commitments against budget (commitments = executed contracts with owner/tenant)
  - How do you notify certificate holders & applicants when you have reached capacity?

# Recordkeeping

## Program Files

- Environmental review record
- Tenant selection criteria
- Program policies & procedures
- Affirmative marketing plan & outreach )
- Application log & applications
- Application denials )
- Waiting list )
- Financial records

## Tenant/Unit Files

- Application/tenant certification
- Income & eligibility determination
- Unit approval
- Rental assistance calculation
- Rental assistance contract/agreement )
- IDIS set-up & draws )
- Financial disbursements )
- Correspondence (owner & tenant) )
- Completion/termination notice )

# Monitoring

- PJ must oversee program whether directly administered or using subrecipient or contractor
  - What reviews/approvals do you build into the pipeline?
  - How will you review records?
  - How will you monitor disbursements?
- If using a subrecipient or contractor, PJ is still responsible for overseeing and monitoring:
  - The rule requires subrecipient monitoring “at least annually”



# Questions from the Audience

Answers you seek

Questions I too have



# Treatment of CARES Act Assistance

- CARES Economic Impact Payments (\$1,200 stimulus payments)
  - **Not included** in income determination
- Treatment of CARES Act supplemental unemployment
  - Federal Pandemic Unemployment Compensation (FPUC) - additional \$600 per week through July 31 for workers impacted by pandemic, paid through states by federal government – **not included** in income determination
  - Regular state Unemployment Insurance and CARES Act PUA & PEUC extensions of regular UI – **included** in income determination

# Back Rent & Utilities

- Generally, can only pay eligible project expenses incurred after project commitment (i.e., tenant/owner TBRA Contract)
  - Suspensions/waivers are effective from 4/10/20
- HUD will allow PJs to pay TBRA rent assistance & utilities that were originally due on or after March 13<sup>th</sup>
  - May also pay reasonable late fees associated
- PJs must establish local policies (timeframe) for payment

# Eligible for Payment of Utility Costs

- HUD will allow payment of:
  - Water/sewer, electric, and gas
- May not pay for:
  - Trash removal (ok if “project paid” and included in rent)
  - Internet/broadband/phone
- Can pay utility company directly or tenant (will require proof of payment to company)

# Wrap Up





# Next Steps

- Initial program design & approval was just the start
- Clear policies and procedures needed now
  - Fair and transparent rules of the road, and road map for front-line staff to guide implementation
  - Look to existing resources and modify for waivers
  - Consider adapting and adopting samples provided
- Next up Office Hours webinar June 24<sup>th</sup> 1-3pm EDT
  - Review common questions from prior webinars, address additional questions, etc.



# Reminder

- Materials available:
  - Emergency HOME TBRA Program Design Crosswalk – Final Rule Requirements & Suspensions/Waivers
  - Emergency HOME TBRA Program – Program Design Decisions )
  - Slides, transcripts, recordings from prior webinars
  - Slides from today (recording and transcript to follow)

