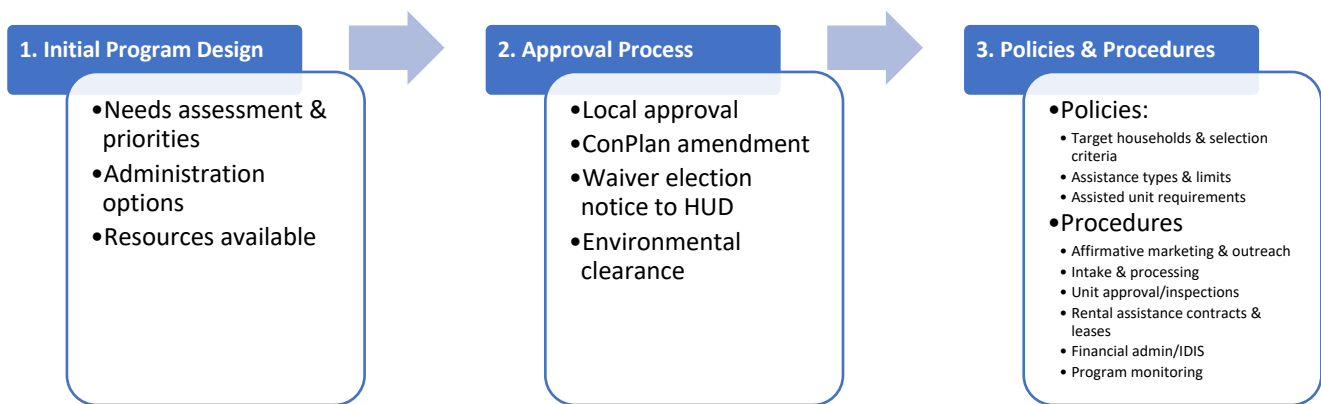


Designing and Implementing an Emergency HOME TBRA Program – Program Design Decisions

On April 10, 2020, HUD issued field memoranda identifying HOME statutory suspensions and regulatory waivers available to HOME Participating Jurisdictions (PJs) to facilitate their response to emergency conditions caused by the COVID-19 pandemic, including emergency tenant-based rental assistance (TBRA) programs to assist those experiencing financial hardship as a result of job loss or income reduction.

This tool provides PJs with an outline of key policy decisions and program planning steps that will expedite program planning and ensure compliance with HOME rules, including those *not* modified by waivers. The guidance is organized into three phases – initial program design decisions, the process for approving the program and notifying HUD of waivers elected, and the design of detailed policy and procedures to ensure fairness and transparency when providing assistance.



1. INITIAL PROGRAM DESIGN

While HUD has provided suspensions and waivers to enable a PJ to expedite the approval and implementation of an emergency TBRA program in response to the pandemic, the PJ is still responsible for effective use of all HOME funds and for implementing the program in compliance with HOME rules. Before a PJ proceeds with securing local approvals, publishing Consolidated/Annual Plan amendments, and issuing notice of intent to use waivers to HUD, preliminary scoping and planning is essential. A PJ needs to initially determine:

- What are the priority needs?
- How should the program be administered?
- What is the budget (HOME and other funds) required for the program?

1.1. Needs Assessment & Priorities

1.1.1. Identify Needs

While HUD suspended the ConPlan requirement for an analysis of market conditions and needs, the PJ still should assess the extent of need and determine its priorities or target populations. The situation is dynamic and evolving, and the sources of information are unlikely to be the traditional housing needs databases. PJs may need to look at a broader set of data sources and engage a larger group of experts and stakeholders to determine its community needs.

- Consultation – In addition to consulting with the housing partners that a PJ typically consults with under the consolidated planning process to understand local needs – including housing authorities, nonprofit and social service agencies, and tenant advocates – PJs should reach out to a broader set of potential partners in the community – agencies and organizations that deal with unemployment and employment, food pantries and organizations that serve emergency needs, continuum of care providers, tenant advocate and legal aid organizations, schools, etc.
- Needs analysis – Understanding the extent of the problem requires access to current data on the unemployed, homeless, and those seeking assistance, and also requires an understanding of the legal framework that protects tenants in these circumstances.
 - Using sources available locally, PJs need to estimate the number of households affected. Try to estimate how many households in the jurisdiction have lost jobs or income as a result of the COVID-19 pandemic, and how many households are not able to pay rent and have already or are at risk of losing housing. Does the data help to understand who is disproportionately affected?
 - Analyze the local framework of tenant protections – Are there state or local moratoriums or other tenant protections in place to assist tenants impacted by the pandemic?

1.1.2. Prioritize Needs

While program rules require a fair process, and the waivers allow PJs to assist those who are experiencing financial hardship, the number of households experiencing financial hardship are likely to significantly exceed the available program resources. PJs may wish to consider adopting priorities that target funds to households with the greatest needs as defined locally, including:

- Financial hardship – A PJ’s emergency TBRA must serve households experiencing financial hardship, and the PJ may establish priorities for assistance such as unemployment, higher percentage loss of income, or homelessness (or imminent loss of housing). The PJ may also consider prioritizing identifiable subpopulations that have been identified as disproportionately affected (which must be consistent with Fair Housing requirements).
- Eligible income levels – HOME requires all tenants to be Low Income (i.e., at or below 80% AMI), but ninety percent (90%) percent of the PJ’s rental units and rental assistance must assist households at or below 60% AMI. A PJ may limit eligibility to 60% AMI or perhaps target or prioritize even lower income levels such as at 50% or 30% AMI.

Again, the Rule and waivers do not require a PJ to establish priorities but based on the local planning and citizen participation process, a PJ might elect to prioritize certain needs over others to achieve the best use of program funds. Any priorities must be transparent and fully disclosed in the program documents and tenant selection criteria.

1.1.3. Identify and Coordinate Resources

HOME funds are not the only source of funds for emergency assistance. Other sources might be more appropriate for certain needs, and there may be certain needs that HOME can best serve in the context of all assistance.

- As part of its outreach and consultation, a PJ should identify other public and private resources that may be available, including ESG-CV, CDBG-CV, other rental assistance programs, and other resources available to assist those who become homeless as a result of the pandemic.
- Given the inventory of other programs and resources, the PJ should identify gaps that HOME can address – particular needs or types of households that can be assisted by HOME funds that are not addressed (adequately) by other programs and resources while other segments of needs might be better served by other sources of funding.

1.2. Administration Options

Given the urgency of the problem and the short-term availability of the waivers, the administrator of the program must be able to staff and implement the program quickly. Generally, agencies that have run or continue to run TBRA programs are more likely to have skilled and available staff to mobilize the program. A PJ must decide whether it has the capacity and expertise to quickly design and administer a TBRA program, or if it might be expeditious to select another entity – a subrecipient (or State Recipient for State PJs) or a contractor to administer the TBRA program or portions of the program on its behalf. If a PJ elects to use a subrecipient to administer its emergency TBRA program, the PJ must ensure program oversight and compliance with written policies and procedures for effective administration. In either case, PJs should examine available administrative capacity and choose the best administrative option given its administrative budget.

1.2.1. Assess Internal Administration Capacity

A PJ should first assess whether it has the internal administrative capacity and staff to administer the program, either within the HOME administrative agency or department, or more broadly across other agencies or departments of the PJ:

- Does the HOME administrative agency/department or other PJ agency/department have prior experience administering TBRA or comparable programs?
- Does the PJ have staff with skills and experience needed for TBRA (income eligibility, property owner/tenant orientations and relations, lease and contract processing, etc.)?
- Can PJ staff be redeployed in the near term (likely a full-time commitment in the next couple of months) to running this program?
- What impact will this have on other obligations of the PJ staff and HOME administration?

1.2.2. Identify External Administration Capacity

Although some PJs have the capacity to directly administer TBRA, it is also common for PJs without direct TBRA administrative experience and capacity to utilize experienced housing authorities or nonprofits as subrecipients or contractors.

- Are there nonprofit or public authorities that have experience with rental assistance and working with property owners and tenants and the current capacity and willingness to administer TBRA?
- Alternatively, are there experienced contractors that can provide skilled staff to administer certain aspects of the PJ's program?

It is important to recognize two issues. First, while subrecipients and contractors may fill comparable roles in administering a TBRA program, the requirements for selection are different. Contractors must be selected following PJ and federal procurement rules, while subrecipient selection is not subject to procurement rules. In an emergency program where fast implementation is essential, the designation of a subrecipient may be accomplished more quickly. Second, whether using a subrecipient or contractor, the PJ is still ultimately responsible for overall program oversight and performance and must ensure it has sufficient in-house capacity to effectively oversee its program partners.

1.2.3. Enter into a Written Agreement with an External Administrator (if applicable)

If the PJ will engage a subrecipient or contractor to administer the PJ's TBRA program, it must enter into a written agreement with that external entity in accordance with [§92.504](#) – §92.504(c)(2) for subrecipients and §92.504(c)(4) for contractors.

1.3. Resources Available

Currently, there are no new or emergency HOME funds available to assist with the pandemic response, so a PJ must reallocate/reprogram uncommitted HOME funds for its emergency TBRA program. Before developing a substantial amendment to its Consolidated Plan, the PJ should establish a program budget including program administration costs and identify available HOME funds to reallocate to this use.

For some PJs, the amount of HOME funds available may determine the amount of assistance and number of tenants assisted, while other PJs may determine the amount of assistance needed before identifying available HOME funds to cover those costs. Most likely, it will be an iterative process balancing the two – targeted needs and available funds.

1.3.1. Identify the HOME Funds Available to Be Reallocated

Since the CARES Act did not provide additional funding to HOME, the PJ will need to identify funding from existing program resources. The PJ might consider the following:

- Are any HOME funds currently uncommitted and available?
- Is program income available to be allocated to the program?
- Are there any unused funds in completed activities or subfunds that can be reallocated and expended before expiring?
- Are HOME funds allocated to projects or activities that should be canceled?
- Are there any planned activities for which funds were allocated under a previous Annual Plan (but not yet committed) that are not expected to proceed or will be deferred as a result of the pandemic?
- Are there uncommitted CHDO set-aside funds that can be reallocated to TBRA utilizing the CHDO set-aside suspension? (Before moving funds out of the CHDO set-aside, PJs should carefully consider the impact on existing CHDOs and CHDO activities.)

1.3.2. Estimate the Tenant Assistance and Number of Tenants to be Assisted

While it is difficult to estimate the total amount of tenant assistance needed during these unusual circumstances, it is nonetheless an essential exercise to provide information and create reasonable expectations among policymakers and stakeholders.

To estimate the total project assistance budget (or to determine the number of households that can be assisted), the PJ should estimate the average amount of assistance per household by the type(s) of assistance it will provide. For example:

- For rental assistance, estimate an average amount of monthly rental assistance based on assumptions of average rent and average tenant contribution. This should be multiplied by the number of months provided (months remaining until the end of the year and expiration of the waiver) plus months of back rent – if the PJ elects to provide back rent
- If the PJ elects to pay utility costs, estimate the average monthly utility assistance, again times the number of months
- If security deposits and/or utility deposits will be provided, estimate the one-time amounts based on average monthly rent. [§92.209\(j\)\(2\)](#) permits up to 2 month's rent for security deposits.

With these estimates of average assistance, the PJ can calculate either the number of households it can assist given the estimated amount of HOME funds available (excluding administration) or the amount of project funding needed given a target number of households to assist.

1.3.3. Develop the Budget for Administration

Recognizing the need to develop and mobilize new programs in response to the pandemic, HUD has suspended the 10% administration and planning cap, allowing PJs to elect to increase administrative funding up to 25% for FY 2019 and 2020. A PJ should determine an administrative budget for this program and all ongoing HOME administration to determine if it will utilize the waiver to reallocate funding from project costs to administration.

The budget depends in part on the administration option selected (see section 1.2.2 above), but should include staffing costs and other program costs, including marketing.

PJs should also consider whether some staff functions might be charged as project costs. The rule permits charging staff costs for inspections & income qualification to projects.

If a PJ is going to use a subrecipient or contractor to administer the TBRA program, it should remember to budget PJ staff time for program oversight costs, including reviews, monitoring, and financial administration.

2. APPROVAL PROCESS

With an initial program design and budget, the PJ can proceed to obtain any necessary local approvals, amend its Consolidated/Annual Plan, notify HUD of waivers it intends to implement, and initiate environmental review.

2.1. Local Approval Process

While HUD has provided statutory suspensions and regulatory waivers to expedite the ConPlan process for necessary program amendments, each PJ must determine what local process is needed for transparency and to ensure adequate local political support.

The PJ should determine what local consultation, review, and approvals are required or advisable to reallocate HOME funds to a TBRA program. Are formal votes or approvals of elected officials necessary beyond the ConPlan approval process? Are there informal consultations that are consistent with local practices and transparency? Are there local groups or organizations that should be consulted or engaged to ensure adequate public support?

2.2. ConPlan/Annual Action Plan Amendment

2.2.1. Develop a Substantial Amendment

While HUD has waived the requirement to tie the approved ConPlan market and priority needs analysis to the establishment of the PJ's TBRA program, a substantial amendment to the PJ's ConPlan or Annual Action Plan is likely required when reprogramming funds for an emergency TBRA program. Consequently, a PJ that does not have a TBRA program or is shifting funds from other program activities, including the CHDO set-aside, will likely need to develop a substantial amendment.

- Check the PJ's Citizen Participation Plan (CPP) to confirm that the proposed TBRA activity will require a substantial amendment. (See [§91.105\(c\)\(2\)](#) and (k) for local governments, [§91.115\(c\)\(2\)](#) for states, [§91.235\(e\)](#) for insular areas, and [§91.401](#) for consortia.)
- Determine which program year(s) or approved Annual Action Plan(s) will be amended to reprogram funds for TBRA.
- Develop the substantial amendment.

2.2.2. Publish for Public Comment

HUD reduced the required public comment period on a substantial amendment from 30 to a minimum of five (5) days, but publication of the amendment for public comment as specified in the PJ's CPP is still required.

2.3. Notify HUD of Suspensions and Waivers

On April 10, 2020, HUD issued two memoranda providing HOME statutory suspensions and regulatory waivers in response to the COVID-19 pandemic. A PJ seeking to take advantage of these waivers must provide written notice to HUD identifying the specific waivers it intends to use.

Based on the PJ's program design, decide which waivers the PJ will elect and notify HUD of intent.

PJs that wish to implement one or more of the statutory suspensions and/or regulatory waivers must send the request by email to their CPD Field Office and also to OAHP at HOMECOVID19@hud.gov.

2.4. Environmental Clearance

Under [§58.35\(b\)\(1\)](#), TBRA is Categorically Excluded Not Subject to [§58.5](#) (CENST) but is subject to [§58.6](#). Generally, emergency TBRA programs will not require publication and notice.

However, some PJs that have coastal barrier zones may need to address or exclude units in those areas. In flood zones, flood insurance is recommended but not required. PJs may choose to limit assistance to units in airport clear zones. PJs should begin environmental review as soon as possible to determine if any environmental factors might delay implementation or require excluding some locations.

3. PROGRAM POLICIES/GUIDELINES

While the local and HUD review process is occurring, the PJ (and its subrecipient or contractor) should develop detailed program policies and procedures as required by the HOME Rule. The purpose of policies and procedures is to ensure transparency and fair treatment. This section outlines some of the key policy and procedure decisions that the PJ should make and document.

3.1. Document Target Households & Selection Criteria

The requirement that tenant selection criteria align to the ConPlan's previously identified needs and priorities is suspended, but PJs must still document their tenant selection criteria. Given the potential high demand for assistance, as a matter of transparency PJs should clearly define income eligibility and preferences or priorities that will determine the queue for processing applications for assistance. Some of the key requirements and policy decisions are discussed below.

3.1.1. Define Income Limits

All assisted households must be below 80% of AMI, but deeper targeting may be necessary and desirable given the potential demand. PJs must also comply with the HOME "Program Rule" at [§92.216\(a\)](#) that requires 90% of households in HOME rental units and receiving rental assistance be at or below 60% AMI.

As a practical matter, most PJs opt for 60% as the income limit for TBRA assistance. However, given the potential demand for funds, the PJ might decide to target even lower income levels. Alternatively, it might decide to provide for a limited number of exceptions to assist households above 60% but below 80% AMI.

Most TBRA and rental programs use the Part 5 definition of income. Annual income projected for the coming 12 months may be substantially different than past income for households experiencing job or income loss as a result of the COVID-19 pandemic. Recognizing that income documentation may reflect pre-COVID income rather than current and projected income, HUD has waived the requirement to examine two (2) months of source documentation when determining initial income eligibility. PJs electing to use the income determination waiver may allow tenants to self-certify their income at the time of assistance.

In addition, HUD has indicated that the following assistance under the CARES Act is not counted as income for purpose of eligibility:

- Economic Impact Payments (“stimulus payments”); and
- The supplemental Federal Pandemic Unemployment Compensation of \$600/week (Note that under current law as of the publication of this document, the supplemental payments expire after 7/31/20.)

However, “regular” unemployment compensation (including Pandemic Unemployment Assistance and Pandemic Emergency Unemployment Compensation) must still be included. Additionally, any hazard pay received by workers is also counted as income (treated similarly as overtime pay).

3.1.2. Define Other Priorities

The HOME statutory suspensions and regulatory waivers allow PJs to assist households experiencing financial hardship as a result of the COVID-19 pandemic. However, given the level of potential demand, as noted above, the PJ may choose to more narrowly define or establish thresholds or priorities for assistance based on the type of hardship – such as unemployment, higher percentage loss of income, or homelessness (or imminent loss of housing – that target households most in need. For example, a PJ can choose to establish a priority for displaced or homeless households in need of immediate housing or for households that were laid off or lost jobs.

To be clear, a PJ is not required to have priorities or thresholds, and HUD cautions PJs not to establish requirements that unnecessarily slow the delivery of emergency assistance. If chosen, the priorities should be articulated in all program documents for transparency.

3.1.3. Other HOME Requirements

Other HOME restrictions on eligible households continue to apply, and must be included in eligibility guidelines (and application), including:

- Limits on student households – HOME follows the Section 8 definition of student households ([§92.2](#) definition of Low-income family); a student under age 24 does not qualify as a low-income household unless the student is independently eligible or a member of an income eligible household or a veteran, married, or has dependent child; and
- Conflict of interest – Under [§92.356\(b\)-\(e\)](#), assistance (as tenant or owner) may not be provided to PJ or subrecipient officials, staff, etc. or their immediate family or business associates. Only HUD can approve waivers of the conflict of interest provision.

3.2. Assistance Types & Limits

The HOME Rule permits three eligible types of TBRA assistance: rent assistance, security deposits, and utility deposits (if provided with rent or security deposit assistance.) In accordance with the authority provided in the April 10, 2020 waiver, PJs may also temporarily pay monthly utility costs.

The PJ will need to specify which types of assistance it will provide from the following eligible types and its policies for determining or limiting the amount of assistance:

- Monthly rent assistance (may include back rent due on or after March 13, 2020)
- Security deposits
- Utility deposits
- Utility costs

While certain regulatory standards may be waived to expedite the delivery of assistance, the cost principles under [2 CFR 200](#) still compel the PJ to provide reasonable levels of assistance and constrain the use of federal funds for costs that are covered by other sources. Consequently, PJs are encouraged to determine local policies for reasonable assistance that do not unnecessarily delay the delivery of assistance.

3.2.1. Determine Rent Assistance Policies

While the waivers are designed to expedite the delivery of assistance, a PJ also has authority over all program expenditures to determine what assistance is reasonable. The PJ can decide to utilize the waivers and can also determine alternative standards to apply to rent assistance payments, which should be transparent and uniformly applied.

- Maximum assistance – The HOME Rule states that the maximum amount of monthly assistance the PJ may pay to, or on behalf of, a tenant may not exceed the difference between the PJ’s rent standard (based on local market conditions or the Section 8 Housing Choice Voucher Program) and 30 percent of the tenant’s adjusted monthly income, including a tenant-paid utility allowance. In addition, it requires the PJ to establish a minimum tenant contribution toward rent. However, the eligible TBRA cost and maximum subsidy waivers eliminate the requirement for establishing and using rent standards, minimum tenant contributions, and utility allowances and permit PJs to pay up to 100% of rent and utilities. While regulatory standards have been waived to expedite delivery of assistance, the PJ can choose to apply local standards that will ensure assistance is reasonable without slowing the delivery of assistance. In particular, a PJ should consider if it will:
 - Require tenants to pay a percentage of adjusted income or some alternative or minimum tenant contribution requirement; and
 - Include a utility allowance or pay for actual cost of utilities separately.
- Rent reasonableness – The HOME Rule requires the PJ to determine whether the rent charged for a unit is reasonable in comparison to other similar, non-assisted units. HUD has waived the requirement to expedite the delivery of emergency assistance. Notwithstanding the waiver of the regulatory requirement, the PJ may choose to establish standards or limits on rents it considers reasonable to spread the assistance and/or to prevent rent gouging during the crisis.
- Overdue rent & utilities – In accordance with the April 10, 2020 waivers, HUD has determined that a PJ can pay for overdue rent and/or utilities, including any associated reasonable and customary late fees, due on or after March 13, 2020. If the PJ wishes to pay back rent and utilities, it should include relevant standards in its policy and program documents.

3.2.2. Security Deposit

The HOME regulations permit the PJ to pay, alone or in conjunction with rental assistance, the equivalent of up to 2 months of rent toward security deposit payments. The PJ can decide whether to offer security deposits and specify standards and procedures for paying the deposit (e.g., to the property owner or the tenant.)

3.2.3. Utility deposits

The Rule permits PJs to offer utility deposits if also providing rent or security deposits. If the PJ decides to provide utility deposits to newly housed tenants, it should specify what limits it will place on this assistance and how it will pay the deposits (i.e., direct to the tenant or utility company.)

3.2.4. Utility Costs

The April 10, 2020, memorandum waives the requirement that the PJ approve utility allowances and permits PJs to pay up to 100% of a tenant’s utility costs. If the PJ chooses to use the waiver to provide direct utility assistance, it should specify the utilities it will pay (electricity, water/sewer, and gas) and the procedures for collecting bills and making payments. The PJ may pay the utility cost directly to the utility provider or the tenant. The tenant file must document utility payments.

- Overdue utility costs – HUD will permit the payment of overdue utility costs due on or after March 13, 2020. The PJ’s policy regarding overdue utilities should be specified in relevant program documents.

3.3. Assisted Unit Requirements

The objective of the HOME program is to help households obtain decent and affordable housing. There are some types of housing that are not decent or eligible for HOME. If the PJ is going to exclude housing of a certain type, characteristic, or location, it should specify those limits in its program policies which should address:

- Properties the PJ determines should be excluded as a result of the environmental review, such as properties within coastal barrier zones, airport clear zones, flood zones, or other environmentally sensitive areas.
- Properties that cannot meet HQS or state and local housing codes and standards, including LBP standards for pre-1978 housing. While the April 10, 2020 memorandum waives a PJ's obligation to conduct the initial inspection of a unit, the PJ still must minimize the risk that tenants are in housing that does not meet HQS.
- Occupancy standards – The HOME Rule does not specify limits on household size relative to unit size, but HUD encourages PJs to develop such standards to avoid overcrowding or over-housing that requires excess assistance. If the PJ chooses to impose unit size standards, the policy should be documented.

4. PROGRAM PROCEDURES

4.1. Develop Procedures for Marketing & Outreach

Emergency programs need to be quickly and effectively marketed to ensure fair access. Standard approaches to notifications and advertising may not be effective during a pandemic.

- Affirmative marketing – Affirmative marketing is required for the PJ's HOME programs to ensure equal access to program assistance. While PJs may have standard affirmative marketing plans, the PJ should identify any protected populations that are disproportionately affected by the pandemic and less likely to apply. PJs should consider working through existing community groups or non-conventional partners (such as grocery stores) serving vulnerable populations to identify individuals least likely to apply.
- Marketing and household/property owner outreach – Given the unique circumstances of households sheltering and social distancing during the pandemic, PJs and project owners may find it difficult to advertise and reach targeted tenant populations. In addition, most jurisdictions have suspended requirements for in-person meetings, and some typical outlets for public notice (e.g. city hall or library bulletin boards) and interaction may be unavailable. Therefore, PJs should identify alternative advertising methods for the program. However, electronic marketing efforts alone are not appropriate given concerns about access to the internet, particularly among households otherwise least likely to apply, the PJ should give careful thought to alternative, non-digital forms of outreach. This might include use of robocall systems, inserts in mailings or handouts from other entities (e.g. school report cards, utility bills, food bank parcels, etc.), and additional emphasis on outreach to religious organizations, food banks, or other organizations providing emergency assistance to affected populations.

4.2. Develop Procedures for Application Intake

PJs need an efficient yet fair method to receive and process applications, considering any priorities that have been established for the program. Even though HUD has provided waivers to expedite the delivery of assistance, the PJ must be transparent in identifying intake, processing, and selection procedures to ensure fair access.

- Application form – While the PJ (or its subrecipient) may already have an application form for rental assistance or general HOME program applicants, a standard form likely will require modifications for the

emergency TBRA program, including addressing financial hardship and information required for any locally designated priority categories. In addition, if the PJ elects the waiver for income source documentation, the application will need to be adjusted for the emergency standards and the tenant self-certification.

- Application intake procedures – The PJ needs to develop procedures for application intake that are appropriate to the current emergency given social distancing practices.
 - The PJ should decide whether it will accept applications in the office, and if so, what procedures should be in place to ensure social distancing.
 - The PJ should determine if the use of electronic submissions is preferred or encouraged without unnecessarily creating an advantage for those with internet access.
 - The PJ must ensure that there are provisions to provide application assistance to persons with disabilities and/or limited English proficiency.
 - The PJ must safeguard all personally identifiable information, including digital signatures.
- Application processing – While imperative to process applications quickly to get assistance to households with financial hardship, the order of processing needs to be fair.
 - While a first-qualified, first-served system is commonly considered an objective method to establish order of processing, the speed advantage of online submissions should not unfairly disadvantage persons with limited access to the internet or those who require assistance in order to apply. To avoid lines at the office given social distancing practices or undue advantages to those who have online access, PJs may want to consider a lottery approach, with applications received during an initial application window – perhaps only a couple of weeks to avoid delays in delivering assistance.
 - If the PJ has specified priority categories, the PJ should specify the procedures for processing applications according to priority. For example, will all “priority 1” applicants be processed before “priority 2” applicants, or will the PJ adopt parallel processing of priority categories based on funding allocations across priorities? If an application window/lottery process is implemented, the PJ should also specify the processing of priority applications submitted after the initial application window.

4.3. Develop Procedures for Determining Household Eligibility

- Income eligibility – To expedite processing of emergency assistance, HUD has waived the requirement to determine an applicant’s initial income eligibility using two (2) months of source documentation, allowing for tenant self-certification of income. If the PJ elects to utilize this waiver, it needs to develop a tenant certification form (include all required income sources) and also determine procedures for application review and ensuring that applications are complete. For example, will program staff interview or otherwise confirm with applicants that all required sources have been disclosed?
- Eligibility document – If the applicant is qualified for assistance, the program may need to issue a document (commonly referred to as a coupon, certificate, or voucher) that indicates the eligible assistance and the unit requirements that the applicant can provide to the current or new property owner.

- File checklist – Given the expedited processing of assistance and the unique temporary waivers affecting eligibility and documentation requirements, PJs should have a project or tenant file checklist of the application documentation required to demonstrate compliance with all eligibility requirements.
- Waitlist and denials of assistance – Given expected high demand for assistance, PJs should have procedures for establishing and maintaining a waitlist, notification of application status, and notification and appeal of denials.

4.4. Develop Procedures to Approve the Unit, Unit Lease, and Assistance Amount

Once an applicant has been approved and has identified a unit, the PJ needs procedures to approve the unit and lease (new or existing) and to determine the amount of rental assistance based on the approved rent and utilities.

4.4.1. Unit Approval

The unit selected by the tenant must meet program requirements.

- Unit condition - While HUD waived the requirement that the PJ conduct an initial HQS inspection prior to occupancy, the PJ must still have procedures to minimize the risk that the unit is unsafe and unsanitary.
- The PJ should consider whether it will use the waiver for all units or only units that cannot be inspected safely, e.g., occupied vs. unoccupied units.
- The PJ should also establish a process for minimizing the risk that a unit is unsafe and unsanitary if it will not conduct an on-site HQS inspection, including a process for identifying deficiencies and a procedure for addressing substandard conditions.
- If the requested unit is a pre-1978 unit, not otherwise exempt from [24 CFR Part 35](#) and a child under the age of 6 will occupy the unit, the PJ *must* conduct a visual assessment of painted surfaces.

4.4.2. Lease Approval

The HOME Rule requires leases that meet Program requirements and states in [§92.209\(k\)](#) that the PJ must approve the lease between the tenant and property owner to ensure it meets HOME requirements.

Recognizing that it may be necessary to provide emergency assistance to households that are already housed subject to ongoing leases, HUD waived two lease requirements to expedite emergency assistance:

- Lease/assistance start date – For tenants currently housed with existing leases, the rental assistance contract is not required to begin on the first day of the lease.
- Tenant protections – For tenants currently housed with existing leases, the lease does not have to be for at least one year as required by [§92.253\(a\)](#), nor does it have to be reviewed for compliance with the tenant protections of [§92.253\(b\)](#).

Note, these waivers can only be applied to currently housed tenants with existing leases and do not apply to newly housed tenants under the program, which are subject to all standard lease requirements.

Furthermore, the VAWA requirements at [§92.359](#) are not waived for any assisted units. PJs must include VAWA requirements in all rental assistance contracts and require a VAWA lease addendum.

4.4.3. Amount of Rental Assistance

The PJ must calculate the amount of rental assistance following its emergency assistance guidelines, including rent determination and calculation of tenant contribution (including utility assistance, if applicable.) The calculations should document that regulatory and/or waiver procedures for calculating the assistance have been followed.

4.5. Develop the Format & Procedures for the Rental Assistance Contract

The HOME Rule requires the execution of a contract between the PJ (or its subrecipient) and the property owner or tenant. If the contract is with the property owner, the PJ (or its subrecipient) must also have a contract with the tenant.

4.5.1. Term of Assistance

The April 10, 2020, memorandum applies the HOME statutory suspensions and regulatory waivers to the period between April 10, and December 31, 2020. A rental assistance contract for TBRA provided in response to the pandemic must end no later than December 31, 2020. Renewal of the TBRA contract beyond December 31, 2020, is subject to all HOME requirements and the waivers no longer apply.

4.5.2. Rental Assistance Contract

The HOME regulations state that the PJ may execute the rental assistance contract with either the property owner or the tenant. When payments are made directly to the property owner (on behalf of the tenant), the contract must be with the owner. However, if the contract is with the owner, a contract with the tenant is also required. The PJ must decide whether it will make payment of the rental assistance to the owner or the tenant, which in turn will determine with whom it executes the rental assistance contract.

To expedite the approval and delivery of assistance, a PJ may wish to develop and execute a three-party rental assistance contract between the owner, the tenant, and the PJ/subrecipient.

4.5.3. Contract Execution & Orientation

Given the need to ensure social distancing, the PJ may wish to establish procedures for electronic or remote signing of the agreements and contracts, while accommodating those who do not have digital access.

In addition, online or other alternative means of interacting with owners and tenants to orient them to program requirements and answer questions are encouraged.

4.5.4. Contract Expiration

The emergency assistance provided under the HOME statutory suspensions and regulatory waivers does not extend beyond December 31, 2020. Since this date may not coincide with the lease, PJs/subrecipients should consider a procedure for reminding owners and tenants in advance of the upcoming end of the assistance term (and opportunities to apply for further assistance, if available).

4.6. Financial & Other Administrative Procedures

4.6.1. IDIS procedures

A PJ should follow the guidance and procedures outlined in [HOME FACTS Vol 9 No 1](#) for subgranting, set-up, funding, drawing, and completing activities.

4.6.2. Program Monitoring

Given the short-term nature of this assistance and the expiration of waivers on December 31, 2020, PJs should have a procedure for tracking progress against budget and household targets.

If using another entity to administer the program, the PJ should have a procedure for monitoring the entity. While the HOME Rule requires monitoring at least annually, an emergency TBRA program will be shorter than a year and monitoring after the program expires will not allow for meaningful corrective actions. Given the short time frame and quick start-up, problems can be addressed best if they are discovered early. Upfront and ongoing monitoring, potentially using remote file reviews and technical assistance is the preferred approach to monitoring.