



HOME-American Rescue Plan Program Webinar

Session 2: Preferences, Referral Methods and Rental Housing

Today's Presentation

- This is the second in a four-part webinar series on the HOME-American Rescue Plan Program conducted by HUD's Office of Affordable Housing Programs (OAHP)
- Today's Presenters:
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Qualifying Populations (QP)

Funds must primarily benefit eligible populations:

- Homeless
- At-risk of homelessness
- Fleeing or attempting to flee domestic violence, dating violence, sexual violence, stalking, or human trafficking
- Other populations for whom supportive services or assistance would prevent the family's homelessness or serve those with the greatest risk of housing instability
- Veterans and families that include a veteran member that meet one of the preceding criteria.



Preference

- PJ may establish reasonable preferences among the Qualifying Populations (QP)
- Preferences must be based on local housing needs and priorities as identified in the HOME-ARP allocation plan.
- Prioritize admissions to projects, assistance, or services consistent with the HOME-ARP allocation plan.
- PJ must comply with all applicable fair housing, civil rights, nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR 5.105(a).
- Persons eligible for a preference must have the opportunity to participate in all HOME-ARP activities of the PJ in which they are eligible.



Preference & Waiting List

- Preferences affect the order in which applicants are selected.
- They do not make anyone eligible for HOME-ARP activities who was not otherwise eligible.
- Establish system to select among applicants:
 - (1) Date and time of application; or
 - (2) A drawing or other random choice technique.



Targeted Assistance (TBRA)

- May establish a preference for individuals with special needs or persons with disabilities among HOME-ARP QP.
- May limit to persons with a specific disability within QP only if necessary to provide effective housing or services.
- May provide preference for specific category of individuals with disabilities (e.g., persons with HIV/AIDS or chronic mental illness) within QP to meet unmet need.
 - The specific category must be identified in the HOME-ARP allocation plan.



Referral Methods

- A coordinated entry (CE) of a continuum of care (CoC) is a centralized or coordinated process designed to coordinate program participant intake assessment and provision of referrals within a defined area.
- PJs may use the following options for referrals for projects and activities:
 - Expanded CE
 - CE + other referral methods
 - Project/Activity Waiting List
- PJ is responsible for determining/documenting that beneficiaries meet the definition of QP.



Expanded CE

- PJ may use expanded CE established by a CoC operating within its boundaries for one or more projects or activities
- Expanded CE must accept all HOME-ARP QP in accordance with the preferences and prioritization established by the PJ in the HOME-ARP allocation plan, if any
- PJ should consider whether the CE covers the same service area as the HOME-ARP project or activity



Expanded CE– cont'd

- PJ must establish policies and procedures that describe the relationship of the geographic area(s) served by the project or activity to the geographic area(s) covered by the CoC CE
 - Address access
 - Implement uniform referral processes
- CE referral must be imposed through the PJ's written agreement



CE + Referral

- CE with additional referrals from outside organizations or project-specific waiting lists required if:
 - CE does not have a sufficient number of QP;
 - CE does not include all QP; or,
 - CE does not provide access and does not implement uniform referral processes for projects with broader geographic area(s) than the area(s) covered by the CE.
- Establish & approve any preferences or prioritization criteria applied by a CE or other referral sources
- CE referral must be imposed through the PJ's written agreement



CE+ Referral – cont'd

- PJ must establish policies and procedures for applying a PJ's established preferences and method of prioritization when accepting direct referrals from a CE and other referral agencies
- PJ must document that policies and procedures were followed for each applicant



Project/Activity Waiting List

- Establish a waiting list for each HOME-ARP project or activity
- QP must have access to apply for placement on the waiting list for an activity or project
- A waiting list may be used to accept applicants from referral agencies, including CE
- Chronological order
 - Uniform Access
 - Cannot exclude or discriminate
 - Documented process



Limiting Eligibility to Subpopulations

- May limit eligibility to specific subpopulations of QP for rental and NCS
- For example, homeless households and at risk of homelessness households, veterans and their families, victims of domestic violence, dating violence, sexual assault, stalking or human trafficking and their families
- Limit must not discriminate against any protected class under federal nondiscrimination laws (24 CFR 5.105(a))





HOME-ARP Rental Housing

Rental Housing Targeting

- Not less than 70% total HOME-ARP rental units assisted by PJ with its HOME-ARP grant must be restricted for occupancy by qualifying households at time of household's initial occupancy
 - These are “QP units”
- Not more than 30% of total HOME-ARP rental units assisted by PJ may be restricted for occupancy by low-income households
 - These are “LI units”
 - Proportions in a project may vary, but LI Units are only permitted in projects that also include QP units restricted for qualifying households



Eligible Activities

- HOME-ARP funds may be used for:
 - Acquisition
 - Construction
 - Rehabilitation
 - Including reconstruction as defined in 24 CFR 92.2
 - Acquisition of vacant land or demolition permitted only with respect to specific HOME-ARP project with construction expected to be within 12 months of commitment
- Must meet the definition of “*project*” in 24 CFR 92.2



Eligible Activities cont.

- May assist one or more units in a project
 - HOME-ARP can only pay costs associated with HOME-ARP units and proportionate share of common areas
 - Underwriting/subsidy layering required
 - Cost allocation required if assisted/unassisted units are not comparable
- After project completion, number of HOME-ARP units cannot decrease
- Additional HOME-ARP investment permitted for operating cost assistance
 - Only during compliance period and prior to end of HOME-ARP budget period
- Additional HOME-ARP investment for capital costs prohibited
 - Except within 12 months of project completion



Eligible and Ineligible Costs

- Eligible Costs

- Development hard costs (24 CFR 92.206(a))
- Acquisition costs of improved or unimproved real property
- Refinancing of existing debt secured by rental project rehabilitated with HOME-ARP (24 CFR 92.206(b)(2))
- Soft costs (24 CFR 92.206(d))
- Relocation (24 CFR 92.206(f), 92.235)
- Costs relating to payment of loans
- **Operating cost assistance**

- Ineligible Costs

- As defined in 24 CFR 92.214
 - Except, prohibition of operating cost assistance is waived for HOME-ARP



Eligible Costs: Operating Cost Assistance

- Operating cost assistance covers any operating deficits remaining after rental revenue applied to project operating costs
- Operating costs eligible **ONLY** for units restricted for occupancy by qualifying households
 - Ongoing operating cost assistance **OR**
 - Capitalized operating cost assistance reserve
- Amount of assistance based on project underwriting
 - Must be reasonable and appropriate for the area, size and population served



Eligible Costs: Operating Cost Assistance

- Operating costs include reasonable and necessary:
 - Administrative expenses
 - Payroll costs of employees assigned to the property
 - Employee education, training and travel
 - Cost of goods and service necessary for the administration of the housing
 - Property management fees
 - Fee paid to management agent for day-to-day management of HOME-ARP units restricted for occupancy by qualifying populations
 - Maintenance
 - Including ongoing payments or capitalization of replacement reserve
 - Must be based on useful life of major systems



Operating Cost Assistance Reserve: Management and Oversight

- PJ must oversee project operating cost assistance reserves
- Reserves must be held in interest bearing account
- Project owner must request written approval from PJ prior to disbursement
- PJ must determine distribution is reasonable and necessary to cover operating deficits associated with units for qualifying populations
- No less than annually, PJ must review reserve accounts to determine accounts are appropriately sized based on projected operating deficits



Operating Cost Assistance Reserve: Return at End of Compliance Period

- Project must return funds remaining in the operating cost assistance reserve if:
 - Project will not continue to operate in accordance with HOME-ARP requirements and serve qualifying populations beyond the 15-year compliance period and
 - The HOME-ARP grant has expired or is closed out
- Remaining operating cost assistance reserve must be deposited in the PJ's local HOME account and recorded in IDIS as HOME program income
 - May be used for eligible HOME activities
- Project may retain funds remaining in operating cost assistance reserve if:
 - Project continues to operate in accordance with HOME-ARP requirements
 - As demonstrated by enforceable restrictions
 - Continues to serve qualifying households
- Ongoing operating cost assistance prohibited after September 30, 2030



Form and Amount of Assistance

- Eligible forms of assistance include:
 - Equity investments
 - Interest/non-interest-bearing loans or advances
 - Interest subsidies
 - Deferred payment loans
 - Grants
 - Other forms approved by HUD
- Minimum amount of assistance
 - \$1,000 x # of HOME-ARP assisted units in the project
- Maximum subsidy
 - ARP suspended the maximum per-unit subsidy therefore:
 - 100% of eligible and reasonable HOME-ARP costs allocated to a HOME-ARP unit
 - Eliminates the need for HOME-ARP units to support debt



Underwriting and Subsidy Layering

- HOME-ARP projects will require:
 - Multiple funding sources (LIHTC, project-based rental subsidy/vouchers)
 - Operating cost assistance
- PJ responsible for financial viability of project through compliance period
 - Must provide adequate assistance without over subsidizing
- Underwriting and subsidy layering required prior to commitment to determine amount of:
 - Capital subsidy
 - Operating cost assistance



Underwriting and Subsidy Layering

- PJ must have written underwriting guidelines to evaluate:
 - Sources & uses and determination that costs are necessary and reasonable
 - Assessment of market demand should demonstrate:
 - Units for qualifying households – unmet need among population(s) served
 - Units for low-income households – market assessment
 - Review and determination of developer experience and financial capacity
 - Firm written financial commitments
 - Careful review of project operating budget
 - Need for operating cost assistance
 - Assessment of overall viability through compliance period



Commitment

- HOME commitment requirements apply including:
 - Executed legally-binding written agreement between PJ and project owner
 - HOME-ARP assistance must be provided for a specific HOME-ARP project
 - All necessary financing secured
 - Budget and schedule have been established
 - Underwriting is complete
 - Construction is scheduled to start within 12 months of the date of the written agreement



Unit Designation

- At project commitment PJ must
 - Determine number of units restricted for occupancy by qualifying and low-income households
 - Include the unit count by household type in the written agreement (i.e., qualifying vs. low-income)
 - Determine whether units are fixed or floating
 - Specific HOME-ARP units must be identified no later initial occupancy
 - Must maintain unit mix throughout HOME-ARP compliance period



Property Standards

- Units must comply with HOME requirements at 24 CFR 92.251 including:
 - New construction – paragraph (a)
 - Rehabilitation – paragraph (b)
 - Acquisition of standard housing – paragraphs (c)(1) and (2)
 - Manufactured housing – paragraph (e)
 - On-going property condition standards paragraph (f)



Eligibility: Qualifying Households

- Qualifying households are eligible based solely on meeting one of the HOME-ARP qualifying populations
- Initial income determination of household income not required, except
 - As necessary to determine affordable household contribution to rent or
 - Establish eligibility for another funding source (e.g., LIHTC)



Rent Requirements: Qualifying Household

- HOME-ARP rent cannot exceed Low HOME Rent
 - Except – If project receives project-based subsidy or the household receives tenant-based subsidy, then rent is the allowable rent under subsidy program
- If project consists of SROs, maximum rent is:
 - Zero-bedroom FMR if SRO includes sanitary and food prep
 - 75% of zero-bedroom FMR if SRO only contains sanitary facilities
- Rent limits include rent plus the utility allowance
 - PJ must establish maximum allowances for utilities and services and update annually
 - May adopt PHA utility allowance schedule



Contribution to Rent: Qualifying Households

- Tenant contribution to rent must be affordable to qualifying household based on income determination
- Must use Part 5 definition of annual income as defined in 24 CFR 5.609
- PJ must establish initial household rent contribution by:
 - Examining at least 2 months of source documentation or
 - Obtaining a written statement and certification from the household
 - Except, must accept other funding source's determination if unit/household assisted by Federal/State project or tenant-based rental assistance and household cannot contribute more towards rent than required by rental assistance program



Contribution to Rent: Qualifying Households

- Each subsequent year, PJ must examine income to determine rent contribution
- Rent contribution must be determined using 1 of 3 options
 - Source documentation
 - Self-certification (income & asset sworn statement)
 - Written statement from administrator of government program
- At least every 6th year of affordability period, use source docs



Contribution to Rent: Qualifying Households

- If household is NOT receiving project or tenant-based rental assistance and cannot contribute any/sufficient income toward rent, project owner may draw from operating cost assistance reserve
- If operating cost assistance reserve was not capitalized at project completion PJ may provide:
 - Ongoing operating cost assistance to cover deficit of units restricted for qualifying households
 - HOME-ARP TBRA and supportive services



Occupancy Requirements: Qualifying Households

- Unit must be occupied by household that meets definition of qualifying population at admission
- Unit remains compliant irrespective of changes in household income as long as unit is occupied by the qualifying household
 - At recertification, if household income is above 50% of area median income but at or below 80%, the household rent increases to the High HOME rent



Eligibility and Income Determination: Low-Income Households

- Must be occupied by household that qualifies as low-income at initial occupancy and each year throughout the compliance period
 - Income determination process conducted in accordance with HOME requirements at 24 CFR 92.203(a)(1)
- Income determination used to determine household's initial and ongoing eligibility and contribution to rent
 - Increase in tenant income may result in temporary noncompliance
 - PJ is required to take action to maintain rent and unit mix



Rent Requirements: Low-Income Households

- Rent cannot exceed High HOME rent limit
 - Except – If household receives tenant-based subsidy then rent is the allowable rent under subsidy program
- If project consists of SROs, maximum rent is
 - Zero-bedroom FMR if SRO includes sanitary and food prep
 - 75% of zero-bedroom FMR if SRO only contains sanitary facilities



Tenant Protections

- All HOME-ARP assisted households must have an executed a lease that complies with HOME-ARP tenant protections including:
 - Lease cannot contain any of the prohibited lease provisions in 24 CFR 92.253(b)
 - Cannot terminate tenancy or refuse to renew lease of tenant of HOME-ARP unit except for serious or repeated violations of lease terms/conditions, applicable Federal, State or local laws, other good cause
 - Cannot terminate tenancy or refuse to renew lease with qualifying household for inability to pay rent during compliance period
 - Must draw from capitalized operating cost assistance reserve or use ongoing operating cost assistance
 - If project does not receive operating cost assistance, PJ may provide HOME-ARP TBRA or supportive services



Tenant Protections: HOME-ARP Sponsor Master/Sublease

- PJ may permit housing sponsor to execute sublease or master lease with a project owner
 - HOME-ARP sponsor is nonprofit that provides housing or supportive services to qualifying households and facilitates leasing of HOME-ARP units or use of HOME-ARP TBRA
 - Only applicable to units restricted for occupancy by qualifying households
- HOME-ARP sponsor must sublease to qualifying household
- Sublease with the qualifying household must comply with HOME-ARP lease requirements including prohibited lease terms, termination of tenancy



Tenant Selection

- Qualifying households
 - On a project-by-project basis, PJ must determine whether owner must use:
 - CoC's Coordinated Entry
 - CoC's Coordinated Entry and other referral sources
 - Project-specific waitlist
 - Written agreement must specify tenant selection method owner must use
 - Any preferences among qualifying households must be disclosed in HOME-ARP allocation plan
- Low-income households
 - Must use project-specific waitlist to select households to occupy units restricted for occupancy by low-income households



Tenant Selection

- Project owner must adopt and follow written tenant selection policies and criteria that:
 - Limit eligibility to qualifying or low-income households
 - Preferences must comply with PJ preferences established in HOME-ARP allocation plan
 - Do not violate nondiscrimination requirements
 - If PJ requires use of project-specific waitlist, selection of households is conducted in chronological order insofar as is practicable
 - Do not exclude an applicant with Section 8 Housing Choice Voucher, an applicant participating in HOME, HOME-ARP or other Federal, state or local TBRA program
 - Complies with VAWA
 - Gives prompt written notification to any rejected applicant including grounds for rejection



Project Completion and Occupancy

- HOME-ARP rental projects must be completed within 4 years of project commitment
- Project completion means:
 - Construction is complete and all necessary title transfer requirements have been met
 - Project complies with all HOME-ARP requirements, including property standards
 - Final drawdown of HOME-ARP capital funds has been disbursed
- HOME-ARP units must be occupied by eligible qualifying or low-income households within 6 months of project completion
 - If not occupied, PJ must submit an occupancy plan to HUD
 - Must repay HOME-ARP funds invested in units not occupied within 12 months of completion



Minimum Compliance Period

- Minimum 15-year compliance period irrespective of amount of assistance or activity undertaken
 - PJ may impose longer compliance period but cannot provide operating cost assistance to cover deficits during extended compliance period
- If project-based rental Housing Assistance Payments (HAP)
 - Compliance period is greater of 15 years or the term of the HAP contract
- Must impose HOME-ARP rental requirements through deed restriction, covenants running with land, recorded legally-binding agreement restricting use, other mechanisms approved by HUD



Penalties for Noncompliance

- Must repay HOME-ARP funds invested in rental housing that is
 - Terminated prior to completion
 - Fails to comply with initial or ongoing requirements during the compliance period

Timing of Noncompliance or Termination	Required Repayment Amount
Up to year 10 of compliance period	100% of HOME-ARP investment
Years 11 through 15 of compliance period	Repayment reduced 20% for each year beyond year 10



Penalties for Noncompliance cont.

- Repayment not required if the following apply:
 - Project owner voluntarily or involuntarily sells/transfers,
 - HOME-ARP restrictions remain,
 - Project and new owner comply with all HOME-ARP requirements for duration of compliance period, and
 - HOME-ARP funds remaining in operating cost assistance reserve or reserve for replacement remain with the project and convey upon sale/transfer



PJ Oversight and Management

- PJ is responsible for day-to-day management and oversight of HOME-ARP
 - Diligent underwriting is required to serve qualifying populations and ensure long-term financial viability of HOME-ARP projects
 - Written agreements must be executed before disbursing HOME-ARP funds and must require compliance with HOME-ARP rental requirements
 - Project must comply with HOME-ARP property standards including ongoing property condition standards
 - No less than annually must monitor project operating cost assistance reserves to ensure reserves are appropriately sized
 - For projects with 10 or more units, at least annually must determine the continued financial viability of the housing and to the extent feasible, take action to correct problems





What's Next?

Upcoming Webinars

- HOME-ARP Tenant-based Rental Assistance, Supportive Services & Non-congregate
 - October 4, 2021, 2:00 to 3:30 pm (EDT)
- Program Administration & Nonprofit Operating Expenses
 - October 6, 2021, 2:00 to 3:30pm (EDT)
- Register on the HUD Exchange
 - <https://www.hudexchange.info/programs/home-arp/>



Resources

- Implementation Notice Fact Sheet
 - <https://www.hudexchange.info/resource/6480/home-arp-implementation-notice-fact-sheets/>
- For information on HOME-ARP including training, guidance, and TA products visit:
 - <https://www.hudexchange.info/programs/home-arp/>
- If you have questions:
 - HOME-ARP mailbox: HOMEARP@hud.gov
- Sign up for the HOME-ARP listserv:
 - [Go to www.hudexchange.info/](http://www.hudexchange.info/)
 - “Email Updates”





Thank you!