HOME Monitoring Series

Tenant-Based Rental Assistance

Thursday, May 6, 2021

Monte Franke: Thanks, Paul. Hi, everybody. Monte here. Once again, you are probably used to hearing me. But for those of you who might be new today, I will be joined by actually Les will be doing the presentation, Les Warner, and Kris Richmond will be answering questions. So you'll likely hear from all three of us through the course of this webinar. Some of you might be new to the series today even though this is the 8th in the series on HOME Program Monitoring. And some of you only work on TBRA. So you probably have come across Kris and Les and me over the life of the program. Collectively, we've been working on it probably more than 75 years, which is why I may sound so tired. But we are happy to be talking to you today about TBRA.

TBRA, tenant based rental assistance, is the, as I mentioned, the 8th in this webinar series. HUD had updated the CPD monitoring handbook in 2019. The chapter on HOME was updated for changes in the rules and to revise it and to make it more straightforward. We are doing a series of 10 webinars to introduce those HUD monitoring exhibits so that you will know what HUD has to look for when they monitor you. We've overviewed monitoring and talked about general administration issues for the program. And we're now in the middle of a three-week series where Tuesdays are on homeowner activities and Thursdays are on rental activities. Again, today is TBRA. Next week, the last week, the fifth week of the series, Tuesday we'll do homeowner rehab, and Thursday to end the series, we'll be doing long-term rental compliance. We hope you can join us for those as those are topics or program activities that you work on.

What we're going to focus on today, though, is monitoring Exhibit 7-31. So, again, I said it's the CPD monitoring handbook and CPD is the Office of Community Planning and Development at HUD, which operates HOME and a number of other programs that you may work with. And chapter 7 is the HOME chapter. So 7-31 is the exhibit on TBRA. And we'll talk about that exhibit, the questions that are in it and how HUD will monitor you and what they'll be looking for in your files.

We'll also be talking about the policies and procedures that you'll need in addition to the documentation to show that you're complying. And these all apply whether you administer directly as the PJ or whether your TBRA Program is administered by a sub-recipient on your behalf. And you as the PJ would have to monitor them, and HUD would monitor collectively the two of you for compliance. We'll also be identifying some strategies for efficient administration of TBRA activities and recommend steps to prepare for HUD monitoring as we've done usually in the series.

Just to be clear, this is about the regular, standard TBRA Program activities. Some of you may be operating emergency TBRA Programs under suspensions and waivers from the COVID-19 pandemic. We will not be covering those emergency TBRA Programs for those exceptions that were granted for those emergency programs today. We would urge you to go back to the HUD website. If you go to the HOME Program landing page, you'll see under policies and guidance, you'll see sort of an orange own COVID-19 guidance link. Click on that and it'll take you to the memos that cover those waivers. And also you can link to webinars that were done last June to overview that. Today we'll be doing only the regular TBRA Program.

Given that we've got some people who may not have been on in earlier sessions and given that this is a rather unique topic, we'd like to ask you to respond to this poll. And Paul will be putting it up on the right-hand part of your screen. Please tell us how long you've been working on TBRA and hit the submit button in the lower right corner. He's only going to give you a few seconds to respond because we want to get on with the activity.

We'll let him compile, but as we acknowledge there are usually people with limited HOME experience and limited, in this case, TBRA experience. Usually we've had about a third of the people with less than a year's experience on the topic. And I just want to caution you or remind you that we are not teaching HOME basics in this webinar series. There is a Building HOME training series that's available to you online. And there are a number of other ways to get guidance and training from the HUD website. And if you need that background, you should be doing those trainings. We will cover requirements today, but we won't have time to explain them in any depth or detail.

I'll also encourage you once more to submit questions under the Q&A box in the right-hand side. And Kris and Les are in the background, and when Les takes over, I will be answering those questions to try to help you as best we can while the webinar continues. Or we'll follow up with HUD and try to get guidance down the road.

So with that I'm going to jump into the regulatory requirements. Most of you know that because of the acronym-itis [sic] I'm inflicted with, I tend to use acronyms and jargon a lot. And so just to be clear upfront, I've already introduced TBRA, tenant based rental assistance. I've already introduced CPD, the Office of Community Planning and Development. I'll use the phrase PJ for participating jurisdictions, which are the states and local governments that directly receive funding from HUD for the HOME Program. You'll see P&Ps listed there meaning policies and procedures.

IDIS will be referred to, the Integrated Disbursement and Information System. And we'll talk about a couple of the different rules that are in the Code of Federal Regulations, CFR, primarily 24 CFR, part 92, which is the HOME rule. I'll mention part 91 at the beginning here, which is the consolidated planning rule. We'll also mention at certain points 2 CFR part 200, which are the uniform administrative requirements for all federal grants including HOME. And those used to be known by most people as the OMB Circulars, but now they're in 2 CFR 200. You'll also see low income noted as LI. I think I've covered most of the acronyms upfront, but if you have questions along the way, post the question in case I used a phrase or an acronym or a jargon you don't understand.

Let's go ahead and get started then on the regulatory requirements. Now, TBRA is one of the four fundamental or basic types of housing activities that can be done under the HOME Program. But to steal from the Sesame Street world, one of these things is not like the others. In this case, it's TBRA. While all our other HOME activities are really tied to units and often focused on development and eligible development cost, this is a very different thing, TBRA. It's about assisting tenants, and it's tied to the household, not to the unit. And it doesn't pay for traditional development costs but just pays for rent and the related tenant-paid utilities through the utility allowance, as well as possibly security deposits and utility deposits under certain circumstances.

So it's a more traditional rental subsidy program with some limitations based upon how the program was created in the HOME statute and rule.

The primary portion of the rule that you need to look at is 92.209. That's the tenant based rental assistance section of the HOME rule. And it will take you through those different things that you can provide and mention many of the things that we'll be talking about in the questions that we cover today.

Just remember that the assistance in this case, TBRA is tied to the household, not to a particular unit or project. The tenant who's assisted may choose to rent any unit in the jurisdiction that meets the PJ standards and maybe beyond if you opt for one of the provisions that allow you to make the assistance portable. But it is not a project-based assistance, can't be tied to your other HOME projects even though it can be used in your HOME projects.

As I mentioned, the primary rule section is 92.209, but there are other parts of the HOME rule that also come into play. And I'll be mentioning those as we go through the questions on the monitoring exhibit today. The key ones will be with income and income targeting, tenant protections, conflict of interest, the Violence Against Women Act requirements that will affect each individual project, and then the more generic or general sort of administrative requirements, which we covered in several sessions through this series on how you make a commitment, how IDIS is managed through setup and disbursement, and the requirement for written agreements, as well as for recordkeeping. So those are some of the rule sections you might see referenced. Every monitoring question in the exhibit has an indication of what particular rule is being referenced for that compliance determination.

This is a picture of the exhibit, although it's a much lengthier exhibit than we can fit onto the screen. There are 46 questions broken into 10 different program areas. It's exhibit 7-31 that we'll be talking from today. And you can see up here at the top where I'm sort of coloring it in with a purplish color now or a pink or purple, whatever you see, the exhibit question, particular question will be listed up in the upper right-hand corner of your slide because we won't be going through question by question. We, in fact, will be grouping questions and talking about topics so that we can get through all of those 46 questions efficiently with the time that we have available in this webinar.

And I mentioned there were 10 topic areas, and here's how we've grouped them for the presentation today. We're going to break the regulatory requirements into the three sections you see in the blue. First, I'll talk about participant selection and qualification and also about the delivery of assistance. And then we'll go into administration and monitoring. And after that we'll talk about some of the program design and operational considerations that really go beyond the regulatory requirements, sort of advice and best practices and things that we can suggest. And from there then we'll go into preparing for HUD monitoring, doing your self-assessment and showing you some tools that will be available to you, a very similar structure we've used throughout the series.

Let me now go into the overview of the requirements. And as we go in, once again, to let you know that the structure is similar as we've used in this series where we'll first in each of the topic areas cover the requirements and regulatory requirements on which the exhibit questions are based. We will then list some documentation requirements and talk about the things that need to be in your file to demonstrate compliance. Some of those are file documents. Some of them are policies and procedures. But we'll try to identify those for you as we go along, correlating them to each question or topic that we cover.

There'll be some times when HUD has to look at overall compliance of your program, as opposed to just an individual file compliance issue. And those things we call compliance reviews. You should understand that when HUD monitors you for TBRA, they will select a sample of tenant files and look through those files to see if all the compliance documentation is there to meet the requirements. But they also have to make some overall determinations for your program as to whether or not you're actually complying with all the requirements and you are uniformly applying those requirements across your program. So you'll always see a requirements and documentation in each of the topics and maybe a compliance review comment as well if it comes into play.

Now, the first two questions in the monitoring exhibit, again, we're talking about monitoring exhibit 7-31, run to the approval of the TBRA Program to be run by a PJ. And there's two things that we have to cover. One is that you've properly disclosed and certified and documented it in your consolidated plan or annual plan that you submitted or notified the public and submitted to HUD. And then secondly, we need to deal with the requirements for setting up your TBRA activities in IDIS. PJ may use HOME funds for TBRA only if it makes a certification about the inclusion of this type of assistance in the consolidated plan following the regs that 24 CFR part 91 and it also specifies the local market conditions that lead to the choice of that option. In other words, the first question focuses on did you properly disclose your determination that TBRA is justified as an expenditure of HOME funds and document the demographic basis for doing that and then submit the certifications that have to go along with that determination?

The second question then addresses the timing of TBRA activities and being set up in IDIS, which can only occur after written agreement or rental assistance contract has been executed to assist a household. And we don't have time to go into IDIS stuff today, but I'm going to urge you to take a look at HOME FACTS volume 9 number 1 or 9.1 there you see listed. The HOME FACTS are HUD's guidance documents that they put out on the IDIS system. This one 9.1 deals specifically with the setup, funding, and completing of TBRA activities in IDIS. If you want further guidance, HUD also did a webinar back in June 2020 when they covered the introduction of this particular HOME FACTS. But if you're involved in the setup of IDIS activities, I would urge you to look at that.

So, obviously, the documentation that would support the answers to these questions is, number one, that you've done the proper disclosures and certifications and documentation in your consolidated plan and annual plan on TBRA and that written agreements that are executed and placed in the file were executed before the individual projects were set up in IDIS.

Next set of questions go into the selection of the participants or the beneficiaries of the tenant based rental assistance. There are two key requirements that the regs refer us to. And one is that we have written tenant selection policies and tenant selection criteria that govern the selection of tenants and also, in particular, if there are any preferences or priorities established as part of that tenant selection that those are clearly documented and then, secondly, that the tenant selection criteria and any preferences that are implemented are consistently applied across the program. So, obviously, the documentation for this would be that there is, in fact, written tenant selection policies for your TBRA Program, whether they are executed or implemented by you or by a subrecipient. And if there are preferences or priorities being used for the selection of tenants to receive TBRA that there's the supporting documentation to support those preferences.

The written procedures I should comment on is that -- should include not just only the priorities or preferences but also the procedures that will be followed and the handling of applicants, the intake, the processing, the placing on the waitlist procedures, the procedures for selection based on any preferences or priorities, and then a process for notification of the applicant, if they're rejected, the right to appeal. All those things should be covered in your written tenant selection policies.

With respect to the compliance review, the two specific questions that HUD has to answer is were individual tenants in the sample selected following the written tenant selection policies. And also there's a specific question that runs to student households. As you know, the 2013 rule clarified that student households were not eligible for home assistance if they met the definition of a student under the Part 5 rules, which is followed under the Section 8 program. So they want to make certain that you're not providing that assistance to student households that don't qualify under that definition.

These next two slides address special preferences or priorities. They may or may not apply to your TBRA Program. If they do, these questions will be looked at. And the determination will be made if you complied with what you've disclosed and whether you complied with all requirements. The first thing I want to talk about is preferences for persons with special needs or disabilities. It is permissible to have a program that has that preference. The requirements are that it would have to, obviously, be addressed in the tenant selection policies and the eligibility criteria laid out in those written tenant selection policies. And also the rule says that the PJ's policies must provide that services are not mandatory.

The documentation, if there are preferences that are addressing persons with special needs or disabilities, the documentation must support it both at the level of having the PJ's policy but also that they were applied to the individual tenants that you're documenting that that tenant has met the requirements as you've laid out in your policies and procedures. With respect to compliance review, HUD will be looking overall at your program if you do have a preference for special needs or disabilities that the preferences were consistently applied across all applicants and tenants and that each tenant household meets the special needs or disability eligibility criteria.

There are a few other options that you have in the program. They might not apply to your program, and if so, these questions will not be addressed. But you are permitted under 92.209 to operate a TBRA Program that's tied to a self-sufficiency program, as well as to be used for lease-purchase and also to allow the assistance to be portable. So to address each of those, a self-sufficiency program can incorporate TBRA into that program. The issue is that the assistance, which under TBRA is limited to 24 months but can be renewed if you commit future funding to it. The renewal of assistance can be conditioned under continued participation in the self-sufficiency program, but assistance cannot be terminated during an active contract if the household is not continuing to participate in the self-sufficiency program. So in other words, once they enter into a contract for a term for the assistance, they get to live out that term. It would be the renewal where you could take into account if they are failing to participate in the self-sufficiency program as was designed. And, obviously, the documentation there would be in the written agreement with the tenant or the contract.

For lease-purchase programs, we mentioned that lease-purchase is a permissible activity. And lease-purchase is permissible for up to 36 months. The sale is supposed to be consummated within the 36 months. Lease-purchase program can take advantage of TBRA assistance, but the TBRA assistance must be used for rent, not for a down payment. And the lease-purchase agreement, which I mentioned is limited to the 36 months, your TBRA assistance is listed as limited to 24 months. So if you wanted to do the full 36 months, it would be 24 months plus the 12-month renewal. Determination compliance for that would run to the rental assistance contract or written agreement with the tenant and also the lease-purchase agreement that governs the purchase conditions.

Then the other option that you have -- and, again, when I use the phrase option, I mean that you as a PJ have a choice whether or not to include it -- is portability. You can set up your program so that tenants can use your rental assistance outside of your jurisdiction, which is what we call in the rental assistance business portability. If you do allow portability, then they can take it elsewhere. If you do not allow portability, you should be documenting in the file that the unit that you are assisting stays within the jurisdiction.

Again, these are options, not requirements. These questions will be used if your program has selected any of those options.

Now let's move to income determinations. With respect to qualifying households, they need to be foremost low income, which is defined as 80 percent of area median income under the HOME Program. HUD publishes income limits annually once they receive the annual appropriation of funds from the congress. The FY21 income limits were, in fact, issued this week. So please, if you haven't already downloaded them from the HUD Exchange, you should go on and do that. But in addition to the 80 percent requirement for all tenant assisted households, there's also what we call the program rule. And the program rule states that each year the PJ must assist households at or below 60 percent of area median income for at least 90 percent of their rental and TBRA units. Effectively what this does is force most programs to be serving at 60 percent or below. And some even go to 50 percent or below. You do have the final 10 percent of your units either rental or TBRA that could go up to 80 percent. But at least 90 percent have to be initially at 60 percent or below. That's what we call the program rule.

In addition, there's the income definition requirement that you can use under 90.203 either what we call the Part 5 method or some of you call the Section 8 income definition or the IRS 1040 method. You can select either definition, but use of the definition must be consistent across your TBRA Program, and it must be documented. Now, obviously, most TBRA Programs use the Part 5 method to be consistent with Section 8 housing choice vouchers and other tenant based rental assistance programs. But I do need to disclose that you have the option of either one or the other. They key is that it needs to be consistently applied across the program, not vary by tenant.

And finally, you must have procedures that document the requirements or the steps that you will follow for both the initial determination of income eligibility and the annual re-determination while they're receiving TBRA assistance. Unlike the homebuyer activities and homeowner activities that we've discussed in other sessions, on the rental side and TBRA side, we're talking about annual re-determinations of income during the assistance period.

Now, the documentation that you need, obviously, the key documents are going to be the tenant's application, the source documentation that they provide, the verifications that you collect, and the calculations that you do to determine that the household meets that particular definition. There's like a series of nine questions in the monitoring exhibit that address file documentation for income, that households have to be low income. They have to meet the currently applicable income limits. They have to have been determined under an allowable definition of income that takes into account the income that is included or excluded from that definition. The two month source documentation applies to TBRA tenants as it does to all beneficiaries of home activities. The income of all household members needs to be projected for the coming year. The income must be determined as eligible within six months of the commitment of assistance. And it needs to be re-determined annually.

Those are all covered in these questions. So HUD will sample the files. They'll look to see if individual tenant files meet all those requirements. And then across the program for a compliance review, they'll look to see if you've consistently used one definition, presumably Part 5 in most cases, in your TBRA Program and whether those income projection procedures are consistently applied across the tenants that are assisted.

There's also the property standards requirement. As most of you know, in the HOME Program, one of our cornerstone issues is that households need to be in decent, safe, sanitary, accessible, affordable housing when they are assisted. And property standards do apply to TBRA. Now for those of you who were on Tuesday's call where we said HQS is no longer used in other parts of the program, the Section 8 housing quality standards, HQS, still do apply to TBRA activities, but that is the only activity type in the HOME Program that continues to use Section 8 HQS. Those are minimum criteria. You can have higher standards that you apply to your program. The units must be inspected at initial lease [ph] and pass those standards, and they must be re-inspected annually during the term of assistance.

So the documentation that HUD will be looking for was did you document that the HQS inspection was conducted and that the unit met those requirements by the time the lease was executed and if the TBRA assistance exists for more than one year that there was an annual re-inspection conducted to determine that compliance. The other thing that's listed in there is lead paint. Lead paint would apply to a pre-'78 rental unit, pre-1978 unit that has not already been determined to be lead paint free. And the requirements are in 24 CFR Part 35, and it's subpart M requirements that apply to any tenant based rental assistance that would start at 35.1200. So make sure that you have the standards in there and procedures in place to do the visual assessments and the paint maintenance and ongoing maintenance required by those standards for pre-1978 properties, as I mentioned.

Now, one of the things that we have provided to you up in the top of your screen is a -- it's one of the tabs up at the top. It's the handout that covers the property standards for home assisted housing, but it covers all the different types of housing. And we don't have time in these seminars to go through all the requirements in the property standards. So we urge you to download that -- it was with the materials that you could download for today's webinar and the other sessions -- and use those to make certain that your property standards do meet the requirements of 92.251 B. And then make certain you have those inspection reports signed and dated and in the file so that you show that you are determining annual compliance with those requirements.

Now we turn to the dollars, the TBRA subsidy. Questions 28 to 36 are a series of questions that focus on how you determine the subsidy amount to be paid for each tenant. And those are covered by your policies and your procedures. The amount of rental assistance is determined individually for each household that's assisted based on a number of standards and calculations. And those calculations need to be documented in the file.

Some of the key requirements in your policies and procedures are that your TBRA Program has to have a rent standard, which is how much the maximum rent that you will pay by unit type and size, usually established on either the Housing Choice Voucher Program or another method approved by HUD and usually falls between 90 and 110 percent of the fair market rent of the Housing Choice Voucher Program for existing properties. You also have to have a procedure for determining that the rent is reasonable. The phrase is rent reasonableness in TBRA Programs. And you have to determine the tenant contribution, which is how much the tenant pays towards the rent. It's supposed to be based on 30 percent of adjusted income. Notice that I said adjusted, not gross income. So you use the traditional Section 8 type adjustments to income to determine 30 percent of that adjusted income. And then the program has a minimum tenant required contribution as well, a minimum monthly dollar amount or amount that a tenant has to pay.

And then the monthly TBRA assistance or rental subsidy is calculated as being the difference between the rent standard that you apply and what you calculate to be the tenant contribution. Obviously, there's a lot of calculations that need to be documented in this. So the documentation requirements start first with your program policies that establish the rent standard and the minimum tenant contribution. And then you have to have in the file the calculation of the home subsidy amount and the tenant contribution. And those need to be supported by your determination of the adjusted income, 30 percent of adjusted income calculation. And in addition, if you happen to have elected to provide security deposit assistance as well, the security deposit assistance can be no more than two months' rent. So that will be checked as well if you happen to provide security deposit assistance.

Now, the home rule, as we've said several times throughout this series, requires everybody in the food chain, every organization and ultimate beneficiary needs to have a written agreement that meets the HOME requirements in 92.504. For the TBRA Program, we may be talking about one or two different documents because the TBRA Program gives you some options as to how you execute a rental assistance contact, which is the contract that says how much the TRA subsidy amount is going to be, the term, and the requirements to comply.

Now, that can be executed between the PJ and the property owner, can also be executed between the PJ and the tenant if you're paying to the tenant rather than to the owner, or it can be a three-party contract signed by the PJ, the owner, and the tenant. Three-party contracts become a more standard thing because that way we cover the requirement that everybody have a written agreement. If you choose to have a rental assistance contract only between the PJ and the owner, a separate own written agreement would be required with the tenant so that they know what their requirements and obligations are under the rule.

Now, the contract must have certain provisions in it, and some of those provisions include the amount of assistance, the term that it will be provided, that it begins on the first day of the lease, in other words, the lease and the rental assistance contract initiate on the same day, that the rent reasonableness standards [inaudible] have been made, that the unit has to initially meet and annually meet the HQS and inspection requirements of the PJ. And it also has to contain the tenant protections that are stated in 92.253. Those all need to be provisions within the contract. The contract needs to be signed by all parties, dated by all parties and in the file for review. As I mentioned, if your rental assistance contract is only with the owner, you would have to have a separate written agreement that the tenant has signed indicating their obligations.

Now, in terms of the compliance review, one additional thing, again, that would only come up if you had a self-sufficiency program, they would have to look at the contract to make sure it complied with those requirements and policies you had for your self-sufficiency program.

In addition to the rental assistance contract and possibly the written agreement with the tenant if it's separate, there is also the requirement for a lease. Every tenant assisted under HOME has to have a lease. They have to have the protections that are listed in 92.253. That's that list of about a dozen items that cannot be included in a lease where essentially it's asking the tenant to give up certain rights in advance. So these are phrased the tenant protections. There's also requirements in 92.253 that reflect the statutory requirement that to terminate a lease requires at least 30 days' notice. Your state and local law may require more, but there must be a minimum of 30 days. Those protections need to be reflected in the lease. And also there needs to be -- the PJ needs to review and approve the lease. Sometimes the lease provisions are, in fact, handled by a lease addendum rather than the core lease itself. But the PJ must make certain that the lease has all the required provisions.

So the documentation, obviously, that we're talking about here would be the lease itself. And you would want to have evidence in the file that the lease includes all the protections that I just discussed, that it has the VAWA lease addendum that's been in effect since 2016 and continues to be in effect for the HOME Program. It's part of the HOME rule that the lease needs to be for one year or an agreed upon term between the landlord and the tenant and has all those various lease provisions that I have already mentioned. So having evidence of the lease, a compliant lease and that you have reviewed and approved it in the file will be the focus of HUD's review of this.

There's a few other administrative requirements that I'll quickly cover. Cost eligibility, obviously the major cost of this program is the TBRA subsidy that's being paid out, the rental assistance or security deposit or utility deposit assistance that's being provided. But there are also the administrative costs of administering a TBRA Program that you, the PJ, or your subrecipient may be incurring.

Most of your administrative cost is charged to admin and must be eligible under 92.207. But HUD also has since 2013 permitted the tenant eligibility determinations and the inspections to be also charged -- or instead of being charged to admin, being charged as a project delivery cost. Those get added to the project cost as you set up the project. And so you need to make certain that any cost that you're charging do comply with those provisions in 92.207 either as admin or as project delivery. And the project delivery is limited to those two things that are now permitted.

If you are using a contractor to administer the TBRA Program -- and we covered this in webinar 4 when we went into oversight of program partners. You may remember that the subrecipient category is a nonprofit or a public entity that you've selected to administer the program, and they're subject to all of your rules.

While a contractor generally would be a private entity that is administering some of your activity on your behalf, and one of the requirements that we mention that pertain to contractors is that if you, the PJ, select a contractor rather than a subrecipient, it's subject to the procurement rules in 2 CFR 200. And so we are going to mention here and remind you that the use of the contractor, if you selected a contractor, make sure you document the procurement that was conducted and that you have a written agreement, as we covered in webinar 4.

Now, I should mention that when we look at the contractor provisions, there are other monitoring exhibits that come into play. And it can bring up those exhibits that I have listed there. You'll want to refer to those as well to make certain and go back and review the webinar 4 guidance on that. We're not going to cover it again today. And it only applies if you have, in fact, procured a contractor to administer the program, not a subrecipient or if you do the program yourself as the PJ.

The other thing then that's required is, of course, the general requirement to retain records for at least five years after the assistance terminates or the program terminates depending upon how long the assistance contracts run and whether you renew or continue the program. So it's a general five-year requirement for HOME.

With that, I'd like to pause and to ask you to take a moment and Paul's going to put up a poll in just a moment. It's just a little knowledge check here to see if you're following along. And when it comes up on the right-hand side, if you can make a selection and then hit the submit button. We'll do a little check on whether you know the HOME rules for TBRA. And as we do that, I'm also going to begin to hand over the controls to Les.

Paul: All right. We will be closing the poll shortly. Make sure that once you selected your answer, you click the submit button so that way your answer is actually recorded in the poll.

Monte Franke: Les and Kris, while we're waiting, have there been any questions posted that you think we should address now on what I've covered so far?

Les Warner: You have done such a thorough job that we've had really limited number of questions that have come through. Of the ones I dealt with, I don't know that there are any that need to be covered. Kris, anything you want to add to that? Kris, you might be on mute.

Monte Franke: Well, maybe, Les, I put everybody to sleep including Kris, huh?

[LAUGHTER]

Les Warner: It looks like the poll results are in.

Monte Franke: Yeah. It looks like most people answered C, the subsidy amount varies by household based on several standards, and this is, in fact, the correct answer. So I'm very pleased to see those results because most of you go that right. Les, I think the ball should be handed to you now.

Les Warner: Yeah. It looks like I'm in charge here. This is great. Thanks, Monte.

Monte Franke: Okay. Thank you.

Les Warner: So, Monte's done a great job of walking through not only the regulations, but because we have exhibit questions that are related to some of the program design choices or options that you have, we've actually identified some of those things that we're going to be talking about within the program design consideration. But the thing I would really point out here is that part of monitoring is kind of stepping back and looking at the TBRA Program and seeing how it's going. Monte talked a bit about as part of the con plan that you're laying out what those local market needs are and designing your program based on that. So this is really an opportunity to think about am I hitting those targets. Am I making the sort of impact? Is this an efficient and effective way to be able to do that? And so this is really a great chance to be able to evaluate some of those design decisions that you made in the beginning. And you may, over time, need to be tweaking some of those decisions. You may need to be updating the policies and procedures to try to have a better system being able to operate your program.

So when we look at program targeting -- and really under TBRA we have quite a bit more opportunity to be able to target how those resources are going to be using. And we know that we have to work within the limits of TBRA. So we know that it's a 24-month limit of assistance, but it can be renewed. So we could essentially be assisting the same group of eligible households for a long period of time. We also know that we have the program rule, which is requiring that 90 percent of the households both in rental and TBRA be at 60 percent or below. Now, for many folks, this is not -- particularly under TBRA -- is not a difficult target to hit because oftentimes, I think folks have really targeted their use of their TBRA fund significantly lower oftentimes than that threshold of 60 percent. But that's one of the limitations that you have in place. And then, of course, you've got limited dollars. And so there's a lot of competition with how am I going to --

with the allocation that I receive, how much of these other eligible activities am I going to do other than TBRA?

So in the use of TBRA and what you've identified within your con plan, you've laid out what those local market conditions are and why you've chosen to set aside TBRA funds. So you've set a goal on what you're hoping to do with these funds and the impact on the targeting that you're looking at. So as part of that, you would've laid out how your program was going to operate and who you were attempting to serve.

So as Monte mentioned, you might be doing a self-sufficiency program. You might be pairing your TBRA funds with lease-purchase. You also might be, you know, looking at, gee, I've got folks that are transitioning out of homelessness and we're trying to get them into independent, affordable housing. In your local market, getting folks in that early period transitioned and stabilized may be the key here to making the most impact within your market.

It might be that as you look at your local market that the thing that's keeping folks from being able to access affordable housing is that they can't come up with the two months of security deposit that might be needed for them to actually enter into units that are available. So it's thinking about what are those targets, how is that working, am I really having the impact that I would like and then thinking about do I need to make any changes to those particular program options that I've chosen in that targeting that's part of that.

One of the things I will just mention, as I mentioned this back that we have a 24-month limit, but this can be renewed. But some programs have thought about, well, I want to -- kind of making the most effective use of my funds, I may want to have some kind of an exit strategy. So I may be assisting for up to 24 months, but maybe my hope is that we have either through a self-sufficiency or other programs, we're seeing these tenants now be able to sustain without needing an ongoing rent subsidy.

Maybe they're on the waiting list for a voucher program. And so with the idea that we may be perhaps want to make sure that with the amount that we have available that we have a way to move those households into self-sufficiency and be able to help the next group. So that's part of the evaluation of who are we serving. Is this what we had intended?

As part of that, I think Monte mentioned about the fact that the PJ could run a TBRA Program themselves directly. We oftentimes see where we have a state recipient or a subrecipient that's going to operate that program. But we also have the ability to contract this out and have a contractor going through the procurement process, operate that program on our behalf. So part of that evaluation process as part of our monitoring is looking to see how is that program administration working.

If we're doing it in-house, do we have adequate capacity? Is that an efficient way for us to continue to operate that program? Or might it make sense to look at what alternative delivery methods might be for that? If we're working with a partner, part of our monitoring is to evaluate whether that is an effective partnership and whether that's something that ought to continue. So this also is then thinking about administrative budgets and resources, making sure that the way we've designed our program and the way it's being implemented is effective, it's an efficient use of our funds.

So Monte mentioned this earlier. If we have an outside entity that's running the TBRA Program, the PJ itself is still needing to, of course, provide monitoring and oversight for that entity. They're also going to be dealing with IDIS and setting up and reporting on who has been assisted. And Monte also mentioned, again, about contractors and making sure that the appropriate procurement requirements are being followed as part of that.

So some of the administrative considerations that you need to think about as part of this evaluation process, Monte mentioned the HOME FACTS volume 9 number 1, which was issued in May of 2020. And this walks you through the IDIS setup process. And it's going to be different whether this is administered internally by the PJ itself or a state recipient, subrecipient, or a contractor. And then there are also options on whether you set up each individual household or you're setting up an overall program. There will be some PJs that will have multiple TBRA Programs. They may have one that's set up specifically in conjunction with lease-purchase, another that is targeted specifically toward one sector of the population. So there's some considerations to thinking about how to most effectively and efficiently operate the program.

Monte talked about the property standards requirement and the fact that we are going to at initial occupancy and then annually we're going to be inspecting those properties. So we need to make sure that we have inspectors that are in place doing those timely inspections but also that they have the appropriate training and credentials not only to complete the HQS portion of that inspection but also we mentioned the lead safe housing rule. So tenant based rental assistance falls under subpart M of the lead safe housing rule. And so that requires a visual assessment. And Kris is going to put in the chat -- or if there is an online training for visual assessors. So we need to make sure that we had appropriate trained staff as part of that.

Under project delivery costs, Monte mentioned that there was a change with the 2013 rule. And so PJs may need to think about have I actually chosen to take advantage of the fact that income determinations and inspections which are being done on an annual basis? Are those being charged up as project delivery costs versus coming out of our admin funding? And that may help with making the budget go further, particularly your admin funds, which can be a little precious for folks.

Monte mentioned about the lease requirements and making sure that we don't have any of the prohibited requirements. But we also need to make sure that that lease is in place for everyone who is benefiting from the TBRA fund. So in this case, we have funds that are going to both the tenant to subsidize -- they're assisting the tenant to make that more affordable, but we also have the owner of the property is going to be receiving funding. And so we need to have both parties included in that contract.

So you need to be making a decision about will that be a three-party contract, or in a lot of cases, we will have one contract between the PJ and the landlord and then a separate contract or written agreement with the individual tenant. These are all design considerations that need to be included.

And all of these would be addressed within your policies and procedures. And all of this would be part of the PJs oversight and evaluation as part of this. So obviously, HUD's going to be evaluating for compliance with the regulations and may make some suggestions about the efficiency of your program. But for the PJ, this is really the opportunity to think about am I really effectively using these funds and do I need to make some changes or adjustments based on what I'm seeing through this process.

So as part of preparing for the HUD monitoring, first thing I would be doing is looking at these exhibits. And kind of the whole point of this training is to have you be familiar with what HUD will be using as their standard on evaluating your program and whether it is in compliance. So looking through knowing what these exhibit questions will be, thinking about the documentation that we've been calling out that's going to be required to be able to effectively answer any of these questions within the exhibit is really sort of a starting point to think about your systems and making sure things are in place.

So in preparing for the HUD monitoring, making sure that all of the needed reports and things are in place, so the IDIS reports, making sure that they are current and up to date, in this case, making sure that the income limits that are being used are in place, making sure that the written agreements are in place. If we have any past monitoring findings or issues that have been raised, making sure that -- HUD's going to be looking at those. They'll also be looking at citizen input and then, of course, focusing on the exhibits themselves.

So for the self-assessment, it makes sense for the PJ to go through its policies and procedures, make sure that they are current, that they incorporate all of these requirements and essentially that there's an implementation plan in place for all of these required elements, along with the program design decisions that the PJ has done and then to take a look at the documentation that you have in place.

So in each of these compliance requirements, Monte's been not only calling out the regulation itself but then talking about what should we expect to see within that file. So as part of the self-assessment, the PJ needs to go back and do some sampling much like HUD is going to do when they are looking at those particular files and making sure that the systems that you have in place are adequate and complete and that they're actually being used by not only your internal staff but it may be your external partners as part of that.

So as part of that pre-monitoring self-assessment, looking at your written agreements, your policies and procedures, looking at the regulatory limits and requirements. So we talked about income eligibility, the program rule being in place, how you are calculating the level of assistance for those households and having the appropriate documentation in file, so doing an assessment to make sure those things are in place.

Under program performance, then looking to see what's in IDIS. I mean, essentially that's what HUD, along with your sampling of files is going to determine what's the status of your program, who is being served, what's the level of assistance. So making sure that the IDIS information is correct, that it is up to date and then looking at that, you know, this is what we laid out within the on plan, these are the goals that we set versus what's our actual production on that.

And then for monitoring and evaluation, looking at your own systems and monitoring both internally and also of your partners, looking at prior monitoring that you've had from HUD but also the monitoring that you've done with your partners and how those have been resolved. We've mentioned about citizen comments, media coverage, those sorts of things get incorporated within that HUD monitoring. But also looking at your staffing and, in some cases, if you've had turnover, making sure that staff skills are appropriate and adequate. We mentioned things such as needing to have that visual assessor and the HQS inspector have appropriate training, how important it is that income is calculated correctly and the calculation of subsidy. So looking at how are those systems working. Are there some training? Are there some things that need to be done as part of that?

If you're looking at that just before the monitoring occurs, it may be too late to change those things, but at least you would be able to identify where you had some compliance issues and be prepared to talk about the steps that you are implementing to be able to resolve those weaknesses within your program.

So let's finish up by talking about some of the resources that are available as part of this. So we've been specifically talking about exhibit 7-31, which is the TBRA exhibit. But we've also mentioned as we went along a couple of these other exhibits relating to procurement. And so depending on what we're looking at, we might be looking at some additional exhibits as part of that.

There is on the HUD Exchange a TBRA page. And so for each of these monitoring webinars, we're kind of helping lead you to the most appropriate spot to be able to pull up additional resources that you would need. So the TBRA landing page is where you would find some of the information about TBRA, training, sort of the go-to spot for that. And if you're not familiar with that, I would recommend that as sort of a starting point on that.

Particularly when Monte was talking about things like the calculation of the level of assistance, if you are newer to the HOME Program or you need a refresher, the Building HOME Online Training is going to be, I think, useful for you. There are some samples of calculating that level of assistance that are included in the TBRA section of the Building HOME Training. And as we've been mentioning, there are a few -- I think there are three required sections of Building HOME that you must take first. And then it opens up to the rest of the Building HOME Training, and there is a section specifically on TBRA. If you're not familiar with that, I would really recommend that you utilize that.

Also, here's the reference that we mentioned about a couple of times for guidance about setting up your tenant based rental assistance activities or programs within IDIS. And there's a specific link here to go directly to that document. And this is one that's relatively new, May of 2020. So some of you might not have seen this and been familiar with that.

So before we go to our closing slides here, Monte or Kris, are there any questions that have come up since then that we ought to revisit before we close out today's session?

Monte Franke: Les, I want to go back to something that I started with and it triggered for me again when you showed the HOME page and the TBRA link. If you hit the TBRA link, one of the links within that it says emergency TBRA. I want to be real clear that that guidance that we are providing you under emergency TBRA was designed around the COVID-19 waivers and suspensions and, therefore, a number of the things that I addressed today are not included in those documents.

So, yes, there's a toolkit there. There's a lot of sample agreements and checklists and things like that that were prepared. They are relevant to emergency TBRA under the covid-19 waivers. They may be applicable if you choose to do tenant based rental assistance under HOME ARP, under the American Rescue Plan. But please don't think that the products that exist there are products that cover all of the requirements for a regular TBRA Program.

Les Warner: Great. I think that's a very good cautionary note.

Monte Franke: Yeah. Another thing, a question that just came in and I can answer it more quickly hopefully just for everybody here. I mentioned that HOME and you also referred to it, that the HOME rule originally required all TBRA admin costs to be charged to the admin pot of money. But with the 2013 rule, HUD did permit the income determinations and the inspections to be charged as a project delivery cost. So look at the amended rule. The question that I got referred to a CPD notice from 2006 but that is outdated in that regard as a result of the 2013 rule change. There are just those two activities that can be charged as project delivery rather than charged as admin.

Les Warner: Great. And I noticed that we have a question in about can TBRA funds be used to cover the cost of case management services. So as we mentioned, the project delivery costs are restricted just to the rent subsidy itself and then your annual inspection and your income recertification. So that's as far as you essentially can go with that.

All right, so just as a reminder, so we are amazingly kind of working our way through our webinars. And next week are going to be our final two sessions. So on Tuesday, the homeowner rehabilitation session will be covered, and I think that's Kris and I. And then long-term compliance on rental will be on Thursday. And so for those of you that have joined us today but might have missed any of these sessions that you see on this chart, I think everyone needs to take the initial Understanding Monitoring, which introduces a lot of the concepts that relate to all of the monitoring requirements.

But then I think based on the type of function that you have, probably most folks should also be doing the general administration session. If you missed any of those, those all will be posted. Last time I looked, only the Understanding Monitoring session had been posted there. It usually takes just a couple of weeks for those to be posted onto the HUD Exchange website. So if you're looking for a session and it is not there yet, just be a little patient, and those will all be posted for you and will be a resource for you.

I think with that, unless Kris or Monte have anything else, I think we can give folks back a little bit of their time. And we would encourage you -- we thank you for the participation for today and encourage you to consider joining us next week for Homeowner Rehabilitation and the Long-term Rental Compliance and Monitoring sessions also. Thanks, everybody.

(END)