



Continuum of Care 2.0

Leasing and Rental Assistance: Focus on Leasing



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Hello and welcome to the HUD Broadcast on Leasing and Rental Assistance with a focus on Leasing. This presentation will provide information on Leasing under the Continuum of Care Program.

While this broadcast provides a brief introduction on this topic, as always, we encourage you to seek complete information on the CoC Program regulation at 24 CFR 578.

Program Components

- PH - Permanent Housing
 - PSH - Permanent Supportive Housing
 - RRH - Rapid Rehousing
- TH - Transitional Housing
- SSO - Supportive Services Only
- HMIS - Homeless Management Information System
- HP - Homelessness Prevention



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To orient viewers to today's presentation, I'd like to start with a brief review of the program components that can be funded with the CoC Program, and the types of costs that are eligible to be supported within these components.

The CoC Program can be used to fund 5 program components: Permanent Housing, which encompasses both permanent supportive housing and rapid re-housing projects; Transitional Housing; Supportive Services Only; HMIS; and Homelessness Prevention. All CoC-funded projects must fit within the framework of one of these five program components.

Please note that Homeless Prevention is only available to High Performing Communities if they are approved by HUD.

Eligible Costs

- Acquisition, Rehabilitation & New Construction
- Leasing
- Operating
- HMIS
- Rental Assistance
- Supportive Services
- Project Administration



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The CoC Program interim rule also defines the eligible costs, or uses, of CoC Program funding, and the types of costs that are eligible within each program component. Today's conversation is focused on Leasing, one of the eligible cost categories, which can only be used under the permanent supportive housing, transitional housing and supportive services only program components.

Today's Broadcast will cover...

- Overview of Leasing
- Leasing and Occupancy Agreements
- Eligible Leasing Costs
- Leasing Requirements



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This broadcast will discuss leasing and occupancy agreements, eligible leasing costs, and some of the limitations related to leasing.

Definitions of Leasing and Rental Assistance

Leasing:

Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services.

Rental Assistance:

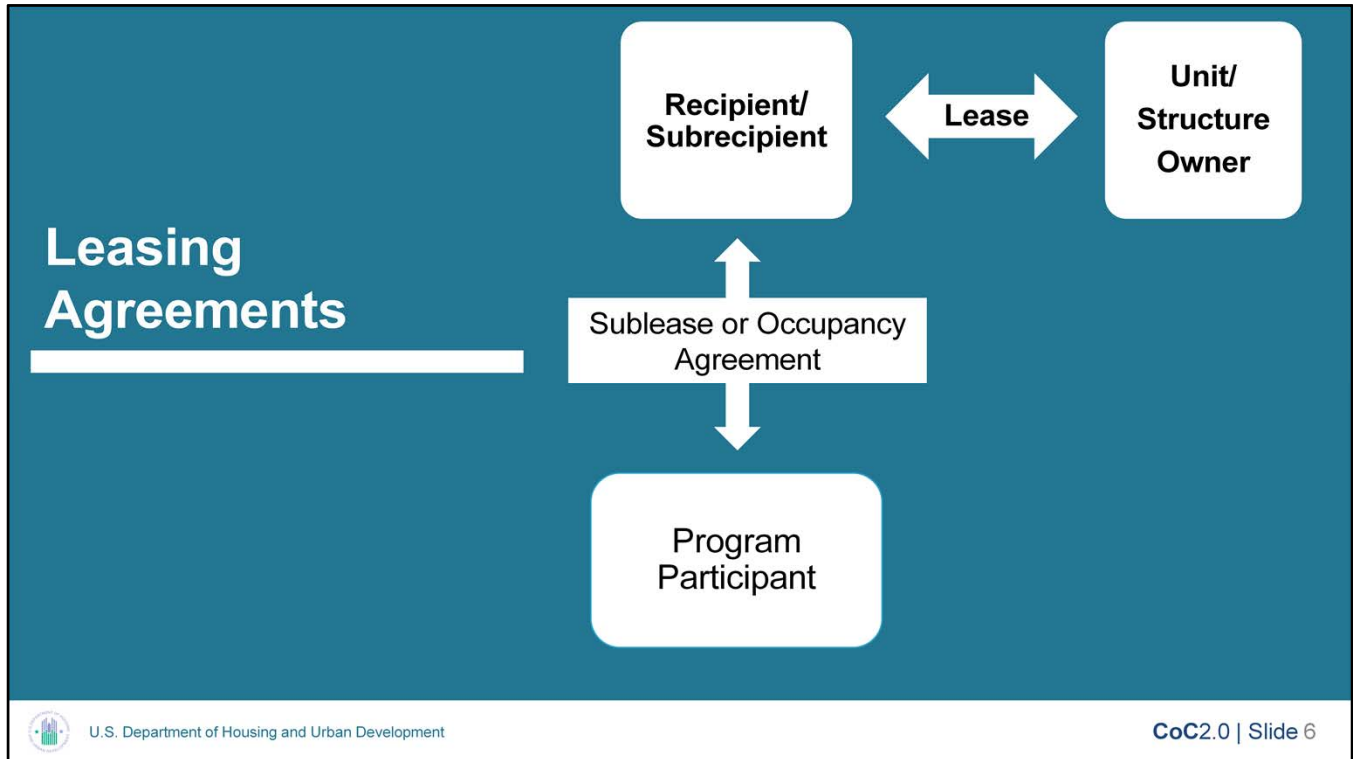
Provision of rental assistance to provide transitional or permanent housing to eligible persons.



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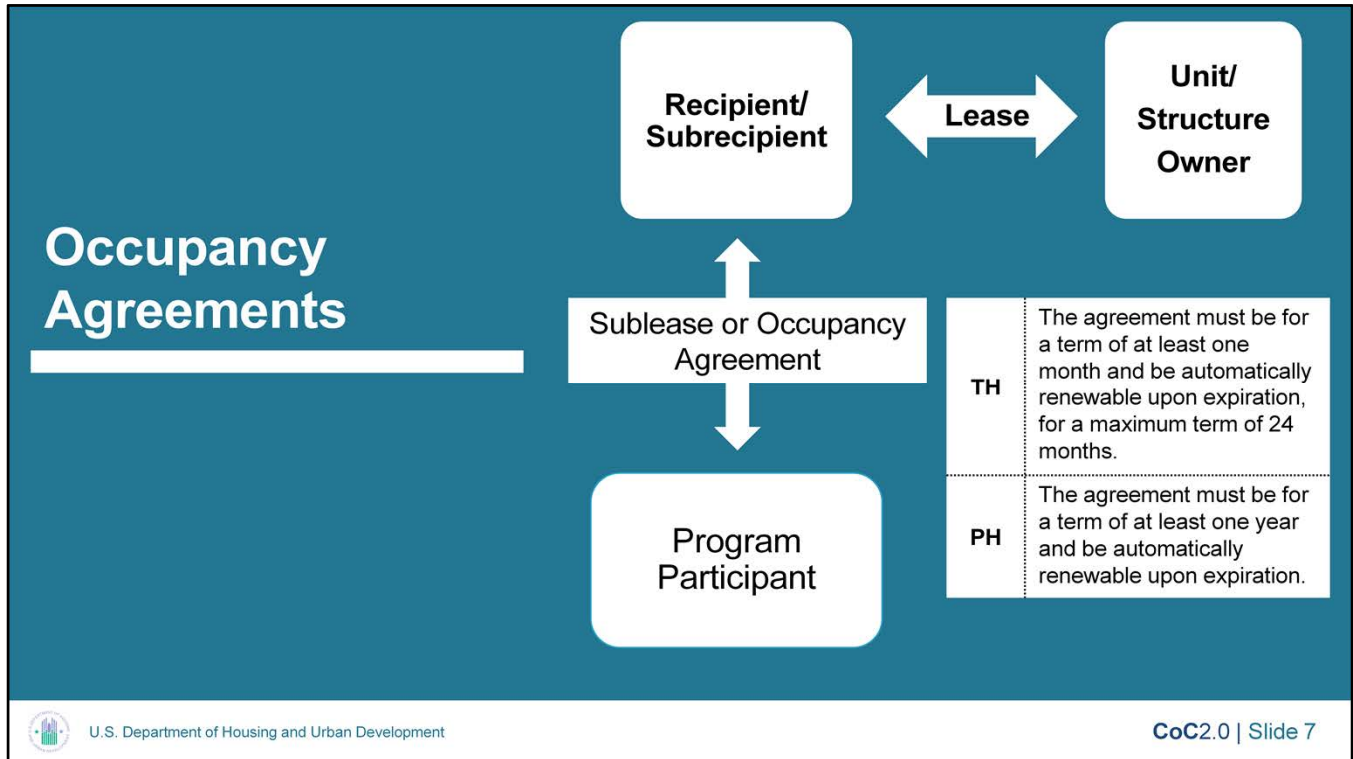
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Because we know there has been some confusion between leasing and rental assistance, let's just take a moment to look at the language in the law for both Leasing and Rental Assistance. If you look at the definitions, you will see that leasing is focused on property, and rental assistance is focused on persons. Leasing means the leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services. Rental assistance means the provision of rental assistance to provide transitional or permanent housing to eligible persons. When we had separate programs, and rental assistance was an eligible cost in Shelter Plus Care, and leasing was an eligible cost in the Supportive Housing Program, it was easy to keep these costs separated. Now that the programs have been combined into one CoC Program, we need to make clear how the distinction between these two eligible costs can be identified.



Many people think of leasing and rental assistance as synonymous; however, leasing as a concept is fundamentally different from rental assistance. In projects that receive leasing, the recipient contracts for the space from a landowner, and therefore is primarily responsible for the housing or office space, if it's being contracted to provide supportive services.

In projects that receive rental assistance, the program participant executes a lease directly with the landowner.



Once the program participant is identified for the housing, the recipient executes an occupancy agreement with the program participant to formalize the participant's rights in the housing, and to specify program expectations regarding continued occupancy in the housing. Occupancy agreement requirements vary depending on whether the housing is transitional or permanent.

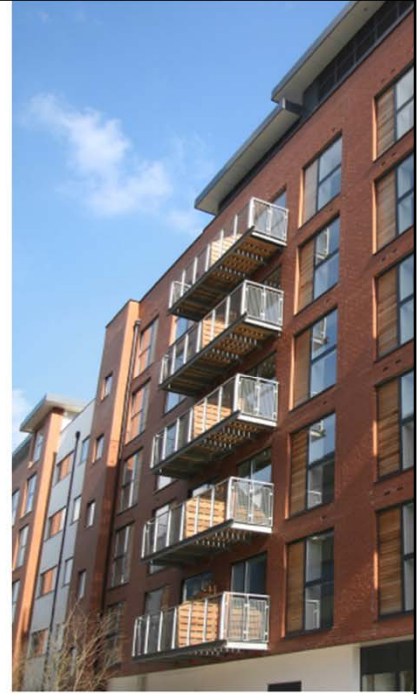
For transitional housing, the agreement must be for a term of at least a month and be automatically renewable upon expiration, for a maximum term of 24 months. For permanent housing, the agreement must be for a term of at least one year and be automatically renewable upon expiration.

Leases may be a new element for some projects. Projects should begin utilizing leases upon attrition. If there is a problem with meeting this requirement, recipients should talk with their local Field Office for guidance. There are also sample leases and occupancy agreements on the OneCPD Resource Exchange.

Eligible Costs - Leasing

Funds may be used to pay up to 100% of the FMR for rent on:

- structure for PSH or TH or for space to provide supportive services for program participants
- individual units to be used for PSH or TH



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Now, let's talk about eligible leasing costs. CoC Program funds may be used to lease a structure to provide permanent housing, transitional housing or stand-alone supportive services. Leasing funds may also be used to pay rent for individual units to be used for transitional or permanent housing.

Leasing Rent Limits for Units

- Rent Reasonableness
- Fair Market Rent (FMR)

Relationship Between FMR and Rent Reasonableness (Scenarios)

| | 1-Bedroom Housing Unit | 2-Bedroom Housing Unit | 3-Bedroom Housing Unit |
|-------------------------------|------------------------|------------------------|------------------------|
| Reasonable Rent | \$600 | \$1,050 | \$1,450 |
| Fair Market Rent | \$575 | \$1,100 | \$1,450 |
| Allowable Rent Payment | \$575 | \$1,050 | \$1,450 |

Although CoC Program leasing funds cannot pay above the FMR for a unit, recipients and subrecipients can use non-CoC funds to help pay for those housing costs above the FMR.



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Recipients and subrecipients may use leasing funds to pay up to 100% of the cost of rent on a structure, as long as rent amounts are at or below Fair Market Rents and rents are determined reasonable when compared with comparable rent amounts within the community. Rents paid with CoC Program funds for individual units may not ever exceed the FMR; however, recipients and subrecipients are not prohibited from using other funds to pay rent amounts in excess of FMRs, though hopefully that will not be necessary. FMRs are published annually in the Federal Register and are available on HUD's website. The published FMRs are gross rent estimates, and include rent and the cost of necessary utilities (except telephone).

Please take note that in some communities the reasonable rent may exceed the FMR. In these cases, FMR is the ceiling for the amount of CoC Program leasing funds that can be used to rent a unit. Conversely, in some communities the FMR may be higher than the reasonable rent. In these communities, the reasonable rent rate is the ceiling for the amount of CoC Program leasing funds that can be used on a property. Use of CoC Program leasing funds is capped at the lower of rent reasonableness or FMR amounts.

The table on this slide shows three scenarios to illustrate these rules. In the case of the 1-bedroom unit, the reasonable rent has been determined to be \$600. The FMR is \$575. Therefore the recipient can only spend up to \$575 out of its CoC leasing budget. The \$25 difference can be paid from other resources.

Leasing Rent Limits for Structures

- Rent Reasonableness
- No FMR for Structures



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There is no FMR limitation for structures. Recipients will use rent reasonableness to determine the rents for structures. For example, a project might be using leasing costs to pay for leasing a day-care center for homeless participants. As long as the rent for the center is reasonable, leasing funds may be used.

Other Eligible Leasing Costs

- Security deposits
 - Up to two months' rent
- First and/or last month's rent of an individual unit



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In addition to covering direct rent costs, recipients and subrecipients can use leasing funds to pay landlords up to two months rent as a security deposit, or to pay first and/or last month's rent for an individual unit.

While all of these costs were eligible under the Supportive Housing Program previously, the advance payment of last month's rent was considered a supportive services cost to assist people to move from TH to PH (and security deposits were equal to only one-month's rent). Therefore, you may need to move funds between budget line items at the time of renewal to account for this distinction.



Leasing Vacant Units

Recipient or subrecipient may pay rent on vacant units until a new program participant moves in



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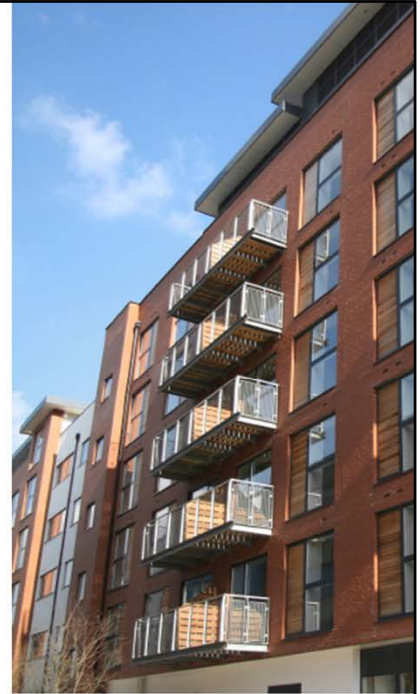
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Many recipients have submitted questions to the CoC Program Virtual Help Desk asking whether vacancy payments are eligible as a leasing cost. The recipient must abide by the terms of the lease. Therefore, if the lease is for a year, then they must pay for a year regardless of whether the unit is occupied. If the lease is written in such a way that it ends when a client leaves, then they may not pay rent when a program participant is not living in the unit. In general, you can pay vacancy payments, but you must be in compliance with the lease agreement.

Since leases are in the recipient or subrecipient's name, the recipient is liable for paying the rent even if a leased unit is unoccupied. Therefore, recipients and subrecipients may continue to pay rent to owners even when vacant until a new program participant moves into the unit.

Limitations on Ownership of Units

- Leasing funds *cannot* be used to lease units or structures owned by the recipient, subrecipient, or their parent, subsidiary or affiliated organization.
- HUD has the authority to grant an exception to the ownership for good cause.



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We'd like to finish the broadcast today with a discussion of some of the other requirements associated with CoC Program leasing funds.

First, leasing funds cannot be used to lease units or structures owned by the recipient, subrecipient, or their parent, subsidiary or affiliated organization. However, HUD has the authority to grant an exception to the ownership clause for good cause, and the way to demonstrate good cause is described in detail in the regulation.

Occupancy Charges

- Imposition of charge is optional, but if recipient or subrecipient chooses to charge an occupancy charge:
- **Must treat all participants the same**
- **Process for determining amount of charge must be clearly outlined**
- **Must follow specific calculation procedures to ensure not overcharged**



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Second, recipients and subrecipients may choose to impose an occupancy charge based on a portion of the program participant's income, but they do not have to. If these charges are imposed, the recipient or subrecipient must:

- Treat all program participants the same;
- Ensure the process for determining the amount is clearly outline; and
- Follow specific calculation procedures to make sure the program participant is not overcharged.

Occupancy Charges

Recipients are not required to charge program participants an occupancy charge. Can choose to impose occupancy charge equal to no more than the highest of:

- 30 percent of the family's monthly adjusted income;
- 10 percent of the family's monthly gross income; or
- The portion of the family's welfare assistance, if any, that is designated for the payment of rent.



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If occupancy charges are imposed, they may not exceed the highest of:

- 30% of the family's monthly adjusted income (adjustment factors include allowances and deductions for disabled household members, medical expenses, childcare expenses, etc.);
- 10% of the family's monthly gross income; or
- Portion of welfare payments specifically designated by the public welfare agency to meet the family's housing costs.

It is important to realize that any occupancy charges collected from program participants are considered program income. As such, these funds must be retained by the recipient or subrecipient, committed to the project, and be used to cover any eligible costs in the CoC Program, not just the costs identified in the project budget.

Program Fees

- Recipients and subrecipients are not allowed to charge program fees
- No fee may be imposed except an occupancy charge



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At its simplest, a program fee is any fee assessed by a recipient or subrecipient other than rent or an occupancy charge. For leasing projects, recipients and subrecipients are not allowed to charge program fees, even if they elect not to impose an occupancy charge.

Some examples of disallowed program fees to program participants would be laundry or cleaning services, child care, transportation, or case management.

This new requirement may require some existing projects to restructure their program policies and project budget. Recipients should work with their local field office to examine projects on a case-by-case basis to ensure compliance with the CoC Program interim rule.

Again, NO other charges can be imposed other than rent or occupancy charge.

Utilities

FMR in each community assumes the inclusion of all necessary utilities (except telephone)

If rent includes utilities:

- CoC Program leasing funds can be used to pay for entire rent of the unit up to the FMR
- If participants are expected to pay for utilities, a utility allowance must be applied to occupancy charge calculation.



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The last point we want to discuss about leasing is how projects should consider and pay for utilities.

Whether or not utilities are included in the rent is a factor in determining the amount that can be paid for rent, and the amount that the participant can contribute towards the occupancy charge. The FMR in each community assumes the inclusion of all necessary utilities, except telephone.

It is the expectation that owners charging a unit rent equal to the FMR would include utilities in the rent. In this case, the recipient/subrecipient can use leasing funds to pay the entire rent for that unit and may also choose to charge program participants an occupancy charge.

Utilities

FMR in each community assumes the inclusion of all necessary utilities (except telephone)

If rent does not include utilities:

- Leasing funds cannot be used to pay for utilities
- Participants can be required to pay for the utilities
- A utility allowance may be provided when calculating occupancy charges
- CoC Program operating funds may be used to pay for utilities that are not included in rent



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If the recipient leases a structure or unit that **does not include utilities in the rent**, the recipient cannot pay for these utilities out of its leasing budget. The recipient/subrecipient can require the program participants to pay for the utilities, and provide a utility allowance when calculating the participant occupancy charge.

Alternatively, the recipient/subrecipient could use CoC Program operating funds or other sources to pay the utilities. In the case when a recipient is leasing space to deliver supportive services, utilities are eligible as a supportive services cost because they are part of the cost associated with delivering the services.

Leasing

| LEASING | |
|--|---|
| Eligible Cost for CoC Program Component | <ul style="list-style-type: none"> • Transitional Housing • Permanent Housing: PSH • Supportive Services |
| Model of Assistance | <ul style="list-style-type: none"> • Leasing structures, portion of buildings, or individual units |
| Length of assistance | <ul style="list-style-type: none"> • TH: up to 24 months • PH: no limit |
| Who leases the units | Lease between recipient/subrecipient and owner. Sublease or occupancy agreement with program participant |
| Unit rent | May not exceed rent reasonableness amount or FMR, whichever is lower |
| Vacancy payment | No, but can pay rent until a new participant moves in |
| Security deposits | Up to equivalent of 2 months of rent |
| Last month's rent | Up to equivalent of 1 month of rent. Advanced payment allowed |
| Property Damage | No |



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To ensure that all viewers are clear on the key opportunities and requirements of leasing, we'd like to close by summarizing the key features of leasing.

- Leasing is an eligible cost under Transitional Housing, Permanent Housing including Permanent Supportive Housing and Supportive Services Only.
- In leasing, the recipient leases the unit or structure.
- The CoC Program-funded portion of the rent is capped at the lower of FMR or rent reasonableness rates.
- In leasing, recipients may continue to make leasing payments on behalf of a program participant that is institutionalized for a brief period, not to exceed 90 days for each occurrence.
- Leasing funds may be used to fund security deposits and last month's rent, but not property damage.



How to ask questions to HUD

You can obtain additional information or assistance by going to [OneCPD Resource Exchange](#) and searching the [Resource Library](#), checking out [Training & Events and News](#), using [Ask a Question](#) or [requesting technical assistance](#).



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Thank you for attending today's broadcast on Leasing and Rental Assistance with a focus on leasing. This broadcast provided information on leasing and occupancy agreements, eligible costs and limitations related to leasing. Please refer to the related leasing and rental assistance training materials that are provided on the HUD Homelessness Resource Exchange and the OneCPD Resource Exchange. In the event that you have a specific question, please contact your Field Office or submit a question to the Ask-A-Question section of www.oneCPD.info

As a reminder, this broadcast provided a brief introduction on this topic, as always, we encourage you to seek complete information on the CoC Program regulation at 24 CFR 578.



Thank you.

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