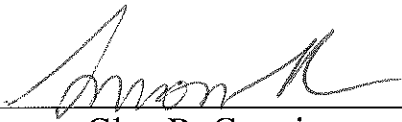


THE ATTACHED AGREEMENT HAS BEEN REVIEWED  
AND APPROVED AS TO FORM BY THE CITY  
ATTORNEY'S OFFICE AND WILL BE  
FORMALLY SIGNED UPON APPROVAL BY  
THE CITY COUNCIL

  
\_\_\_\_\_  
Glen R. Googins  
City Attorney

Dated: 7/8/15

HOME INVESTMENT PARTNERSHIPS PROGRAM  
CITY OF CHULA VISTA

TENANT BASED RENTAL ASSISTANCE PROGRAM &  
SECURITY DEPOSIT ASSISTANCE PROGRAM

BY AND BETWEEN THE CITY OF CHULA VISTA  
AND  
SOUTH BAY COMMUNITY SERVICES



**HOME Investment Partnerships Program  
City of Chula Vista**

**Tenant Based Rental Assistance Program &  
Security Deposit Assistance Program**

**By and between the  
City of Chula Vista  
And  
South Bay Community Services**

This Contract by and between the City of Chula Vista (hereinafter referred to as "City"), and the South Bay Community Services (hereinafter referred to as "Subrecipient") to administer a Tenant Based Rental Assistance and Security Deposit Program funded with HOME Investment Partnerships Program funds, is effective on July 15, 2015 ("Effective Date").

WITNESSETH:

WHEREAS, there has been enacted into law the HOME Act, Title II of the Cranston-Gonzalez National Affordable Housing Act, creating the HOME Investment Partnerships Program that provides funds to expand the supply of affordable housing for very low-income and low-income persons; and

WHEREAS, the City, is authorized to apply for and accept HOME Investment Partnership funds; and

WHEREAS, the City incorporated a Tenant Based Rental Assistance program described in Attachment "A" hereof (hereinafter referred to as the "Project") into the City's Community Development Block Grant/HOME Investment Partnership/Emergency Shelter Grant Annual Funding Plan which was submitted to the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, HUD has approved the City Annual Funding Plan for HOME Investment Partnerships funds, and

WHEREAS, the City Council via Resolution Number 2014-064 approved funding for a Tenant Based Rental Assistance Program described in Attachment "A" here of (hereinafter referred to as the "Project") on May 6, 2014; and

WHEREAS, it is the desire of the Subrecipient and the City that the project be implemented by the Subrecipient, and

WHEREAS, the Subrecipient shall undertake the same obligations to the City with respect to the Project in the City's aforesaid Annual Funding Plan for participation in the HOME Investment Partnerships Program;

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

- I. **TENANT BASED RENTAL ASSISTANCE PROGRAM:** The Subrecipient shall implement the scope of work ("Scope of Work") described in Attachment A, hereof fully and in accordance with the terms of the Annual Funding Plan approved by the City and submitted to HUD in application for funds to carry out the Project and the Certifications which were submitted concurrently with the Annual Funding Plan. The Annual Funding Plan and Certifications form is hereby incorporated by reference into this contract fully as if set forth herein.
  
- II. **WORK TO BE PERFORMED:** Subrecipient shall also undertake the same obligations to the City that the City has undertaken to HUD pursuant to said Annual Funding Plan and Certifications. The obligations undertaken by the Subrecipient include, but are not limited to, the obligation to comply with the current and most up-to-date version of each of the following:
  - A. Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. § 12704;
  - B. Regulations of the Department of Housing and Urban Development relating to HOME Investment Partnerships program (24 CFR 92.1, *et seq.*);
  - C. Regulations of the Department of Housing and Urban Development relating to environmental review procedures for the HOME Investment Partnerships program (24 CFR 92.352);
  - D. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d); Title VII of the Civil Rights Act of 1968 (Public Law 88-352); Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, 42 USC § 3601, *et seq.*); Section 109 of the Housing and Community Development Act of 1974; Executive Order 11246 (equal employment opportunity); Executive Order 11063 (non-discrimination), as amended by Executive Order 12259; and any HUD regulations heretofore issued or to be issued to implement these authorities relating to civil rights;

E. All section 3 covered contracts shall include the following clause (referred to as the "section 3 clause"):

i. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, [12 U.S.C. 1701u](#) (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

ii. The parties to this contract agree to comply with HUD's regulations in 24 CFR 135.1, *et seq.*, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

iii. The Subrecipient agrees to send to each labor organization or representative of workers with which the Subrecipient has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Subrecipient's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

iv. The Subrecipient agrees to include this section 3 clause in every subcontract subject to compliance with Part 135 regulations, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subSubrecipient is in violation of Part 135 regulations. The Subrecipient will not subcontract with any subSubrecipient where the Subrecipient has notice or knowledge that the subSubrecipient has been found in violation of the regulations in 24 CFR 135.1, *et seq.*

v. The Subrecipient will certify that any vacant employment positions, including training positions, that are filled (1) after the Subrecipient is selected but before the contract is executed, and (2) with persons other than those to whom the Part 135 regulations require employment opportunities to be directed, were not filled to circumvent the

Subrecipient's obligations under 24 CFR Part 135.

vi. Noncompliance with Part 135 regulations may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

vii. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act ([25 U.S.C. 450e](#)) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

- F. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 USC § 4601, *et seq.*, and regulations adopted to implement that Act in the 49 CFR Part 24;
- G. Office of Management and Budget ("OMB") Circular A-122 entitled "Cost Principles for Non-Profit Organizations"; OMB Circular A-133 entitled "Audits of States, Local Governments, and Non-Profit Organizations"; and OMB Circular A-110 entitled "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations".
- H. 24 CFR 92.503 concerning program income, repayments, and recaptured funds" of the HOME Regulations. Any program income earned by Subrecipient in carrying out the activities of this contract shall be returned to the City. Upon expiration of this agreement, Subrecipient shall transfer to the City any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds;
- I. 24 CFR 92.252 or 92.254, as applicable, concerning affordability provisions of the HUD regulations relating to the HOME Investment Partnerships Program. Repayment of any funds to the City is required if the housing does not meet the affordability requirements for the specified time period;
- J. The following laws and regulations relating to preservation of historic places: the National Historic Preservation Act of 1966 (Public Law

89-665); the Archaeological and Historical Preservation Act of 1974 (Public Law 93-291); and Executive Order 11593;

- K. The Labor Standards Regulations set forth in 24 CFR 92.354;
- L. Prevailing wage requirements as set forth in Labor Code Section 1720;
- M. The Hatch Act relating to the conduct of political activities (5 U.S.C. §§ 1502, *et. seq.*);
- N. The Flood Disaster Protection Act of 1974 (42 U.S.C. § 4106 and the implementing regulations in 44 CFR Parts 59-79);
- O. The Rehabilitation Act of 1973 (Public Law 92-112) as amended, including Section 504 which relates to nondiscrimination in federal programs and HUD Regulations set forth in 24 CFR Part 8;
- P. The Clean Air Act (42 U.S.C. § 7401, *et seq.*) and the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251, *et seq.*) and the regulations adopted pursuant thereto (40 CFR 6.100, *et seq.*);
- Q. The Drug-Free Workplace Act of 1988 (Public Law 100-690);
- R. The Lead-Based paint Poisoning Prevention Act, the Residential Lead-Base Paint Hazard Reduction Act of 1992, and implementing regulations at 24 CFR 35.80, *et seq.*;
- S. No member, officer or employee of the Subrecipient, or its designee or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct, or indirect, in any contract or subcontract, or the process thereof, for work to be performed in connection with the program assisted under the Grant, and that it shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification;
- T. The Subrecipient certifies, that in accordance with Section 319 of Public Law 101-121, to the best of his or her knowledge and belief that:
  - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a

member of Congress, an officer or employee of Congress, in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative contract.

ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative contract, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

- U. The Subrecipient will adopt an affirmative marketing plan in accordance with 24 CFR 92.351 if the housing being funded contains five or more units.
- V. The Architectural Barriers Act of 1968 (42 U.S.C. §§ 4151, et seq.);
- W. The bonding requirements described in 24 CFR 85.36 required for construction or facility improvement contracts or subcontracts that exceed the simplified acquisition threshold (defined at 41 U.S.C. 403(11)). These requirements are further described in Attachment B, if applicable, which is attached hereto and incorporated by reference.

III. **COMPLIANCE WITH LAWS:** Subrecipient shall comply with all applicable local, state, and federal laws, regulations, and ordinances when performing when performing the work required by this Subrecipient.

IV. **COMPENSATION:** City shall reimburse Subrecipient for the management and implementation of a rental assistance and security deposit assistance costs it incurs under this Contract, not to exceed a maximum reimbursement of **\$250,000.00**. Subrecipient shall not submit claims to the City nor shall City reimburse Subrecipient for costs for which Subrecipient is reimbursed from a source other than the funds allocated for work under this Contract.

V. **COMPENSATION SCHEDULE:** City shall pay Subrecipient monthly progress payments upon certification and submittal by Subrecipient of a statement of actual expenditures incurred, provided, however, that not more than 90% of the total agreed compensation will be paid during the performance of this Contract. The balance due shall be paid upon certification by Subrecipient that all of the required services have been completed. Payment by City is not to be construed as final in the event HUD disallows reimbursement

for the project or any portion thereof. The 10% retention will not apply to acquisition or service contracts.

VI. **EXPENDITURE STANDARD:** In order to insure effective administration and performance of approved HOME Investment Partnerships Grant Projects and to meet HUD performance standards, Subrecipient agrees that it shall expedite implementation of the project described herein.

VII. **TERM:** This contract shall commence when executed by the parties and shall continue in effect until terminated as provided herein or until Subrecipient has carried out all its obligations under the contract. Services of the Subrecipient shall start on the 15th day of July, 2015 and end on the 30<sup>th</sup> day of June of 2017. With City approval, the term of this Agreement and the provisions herein shall be extended to cover any additional time period needed to expend the project HOME funds.

VIII. **TERMINATION FOR CONVENIENCE:** The City may permit the agreement to be terminated for convenience in accordance with 24 CFR 85.44.

IX. **AUTOMATIC TERMINATION:** This Contract shall terminate at the discretion of the City if the United States Government terminates the HOME Investment Partnerships Grant Program or terminates the Project, which is the subject of this Contract, upon Subrecipient's satisfactory completion of the objectives set forth in the Scope of Work as determined by City, or that the City, in its sole and unfettered discretion, determines that United States Government funding of the project that is the subject of this Contract is insufficient to continue the project.

X. **TERMINATION OF CONTRACT FOR CAUSE:**

In accordance with 24 CFR Part 85.43, if Subrecipient fails to fulfill in a timely and proper manner its obligations under this contract to undertake, conduct or perform the Project identified in this Contract, or if Subrecipient violates any state laws or regulations or local ordinances or regulations applicable to implementation of the Project, or if Subrecipient violates any provisions of this contract, City shall have the right to terminate this contract by giving at least ten (10) days' written notice to Subrecipient of the effective date of termination. Even if City terminates the Agreement, Subrecipient shall remain liable to City for all damages sustained by Subrecipient due to Subrecipient's failure to fulfill any provisions of this Contract, and City may withhold any reimbursement payments from Subrecipient for the purpose of set-off until the exact amount of damages due to City from Subrecipient is determined. Subrecipient hereby expressly waives any and all claims for damages for compensation arising under this contract except as set forth in this section in the event of such termination.

XI. **CONTRACT ADMINISTRATION:** The City Manager of the City of Chula Vista, shall administer this Contract on behalf of the City. The Executive Director of South Bay Community Services shall administer this contract on behalf of the Subrecipient. Within a reasonable time after the City makes a request, Subrecipient shall give the City progress



reports or other documentation as required by the City's Administrator to audit Subrecipient's performance of this Contract.

XII. **RECORDS AND REPORTS:** The Subrecipient shall maintain records and make such reports as required by the City's Administrator, to enable the City to analyze Subrecipient's project. All records of the Subrecipient related to this Contract or work performed under this Contract shall be open and available for inspection by HUD and/or City auditors during normal business hours.

XIII. **RETENTION:** The Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of five (5) years after the final draw and all reporting, and until the submission of Grantee's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

XIV. **DATA:** The Subrecipient shall maintain data demonstrating eligibility (low-moderate income data) for Tenant Based Rental Assistance applicants and participants. Such data shall include, but not be amount of assistance, eligibility, waiting list, work performed, and a description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

XV. **DISCLOSURE:** The Subrecipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the state of Federal law privacy laws unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian. Subrecipient shall have applicant signed a City release of information (Attachment H).

XVI. **QUARTERLY REPORTS/ANNUAL REPORT**

Subrecipient shall provide the City with a quarterly report, submitted no later than fifteen (15) days after the last day of the previous quarter, which includes a narrative of the services provided, progress towards meeting the timeline goals stated in the contract, and an itemized accounting of the expenditures of HOME funds during the previous quarter. Failure to submit quarterly reports in a timely manner will result in withholding of HOME funds until the report has been submitted.

- Quarterly Performance Report due dates are: October 16, January 15, and April 16
- Annual Performance Report (CAPER) due date is: July 16

XVII. **INDEMNIFICATION:** City shall not be liable for, and Subrecipient shall defend and indemnify City and its officers, agents, employees and volunteers against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (collectively, Claims), which arise out of or are in any way connected with the work covered by this Contract arising either directly or indirectly from any act, error, omission or negligence of Subrecipient or its officers, employees, agents, Subrecipients, licensees or servants, including without limitation, Claims caused by the concurrent act, error, omission or negligence, whether active or passive, of City, and/or its agents, officers, employees or volunteers. However, Subrecipient shall have no obligation to defend or indemnify City from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence or willful misconduct of City or its agents or employees.

Subrecipient and its successors, assigns, and guarantors, if any, jointly and severally agree to indemnify, defend (with counsel selected by City) reimburse and hold City and its officers, employees and agents harmless from any claims, judgments, damages, penalties, fines, costs, liabilities (including sums paid in settlement of claims) or loss, including attorneys' fees, consultants' fees, and experts' fees which arise during or after the contract term for any losses incurred in connection with investigation of site conditions, or any cleanup, remedial, removal or restoration work required by any hazardous materials laws because of the presence of hazardous materials, in the soil, ground water or soil vapors on the premises, and the release or discharge of hazardous materials by Subrecipient during the course of any alteration or improvements of the Premises by Subrecipient, unless hazardous materials are present solely as a result of the gross negligence or willful misconduct of City, its officers, employees or agents. The indemnification provided by this section shall also specifically cover costs incurred in responding to:

- a. Hazardous materials present or suspected to be present in the soil, ground water to or under the Property before the Commencement date;
- b. Hazardous materials that migrate, flow, percolate, diffuse, or in any way move on to or under the Property following the Commencement Date; or
- c. Hazardous materials present on or under the Property as a result of any discharge, release, dumping, spilling (accidental or otherwise), onto the Property during or after the Term of this contract by any person, corporation, partnership or entity other than City.

The foregoing indemnities shall survive the expiration or termination of the contract any or any transfer of all or any portion of the Premises, or of any interest in this contract and shall be governed by the laws of the State of California.

XVIII. **AUDIT COSTS:** Subrecipient shall reimburse City for all costs incurred to investigate and audit Subrecipient's performance of its duties under the Contract if Subrecipient is subsequently found to have violated the terms of the Contract. Reimbursement shall include all direct and indirect expenditures incurred to conduct the investigation or audit. City may deduct all such costs from any amount due Subrecipient under this Contract.

XIX **ENTIRE CONTRACT:** This contract constitutes the entire agreement of the parties and supersedes any previous oral or written understandings or contracts related to the matters covered herein.

XX **MODIFICATION:** This contract may not be modified except by written amendment executed by each party.

XXI **ACKNOWLEDGEMENT OF FUNDING:** Subrecipient shall identify the City of Chula Vista as the source of funding, or, if applicable, one of the sources of funding in public announcements that are made regarding the project. Acknowledgement of the City's funding role, for example, should be included in publicity materials related to the project. In addition, Subrecipient agrees that the City shall be apprised of any special events linked to the project so that a review can be made on what role, if any, the City would assume.

XXII **NO WAIVER:** No failure, inaction, neglect or delay by City in exercising any of its rights under this Contract shall operate as a waiver, forfeiture or abandonment of such rights or any other rights under this Contract.

XXIII **CONFLICT OF INTEREST:** In the procurement of supplies, equipment, construction, and services by Subrecipients and Sub Subrecipients, the conflict of interest provisions, Attachment O of OMB Circular A-110 and 24 CFR 85.36, respectively, shall apply. In all cases not governed by the provisions of said circular and regulation, the provisions of subsection (B) and 24 CFR 92.356 (b) shall apply.

- A. No member of the governing body, officers or employee of the Subrecipient, or its designees or agents, or any other person who exercises any functions or responsibilities with respect to the program assisted by this Agreement during his tenure or for one year thereafter, shall have any direct interest in any contract or subcontract, or the proceeds thereof, for the work to be performed in connection with the program.
- B. No employee, officer or agent of the Subrecipient shall participate in the selection, award, or administration of a contract supported by HOME if a conflict-of-interest, either real or apparent, would be involved.
- C. The Subrecipient shall incorporate, or cause to be incorporated in all third party agreements, a provision prohibiting such interest pursuant to the purpose of this Section.

D. Subrecipient must maintain written standards of conduct governing the award and administration of contracts. At a minimum, these standards must:

- Require that no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict would be involved. Such a conflict would arise when any of the following parties has a financial or other interest in the firm selected for an award:
  - The employee, officer, or agent of the Subrecipient;
  - Any member of an employee's office's or agent's immediate family;
  - An employee's, agent's, or officer's partner; or
  - Any organization which employs or is about to employ any of the above.
- Require that employees, agents, and officers of the Subrecipient neither solicit nor accept gratuities, favors, or anything of value from subSubrecipients, or parties of subagreements. However, Subrecipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.
- Provide for disciplinary actions to be applied for any violations of such standards by employees, agents or officers of the Subrecipient.

XXIV. **EQUAL OPPORTUNITY**: The Subrecipient agrees to comply with all the requirements relating to fair employment practices, to the extent applicable and shall cause the foregoing provision to be inserted in all contracts with third parties for any work covered by this Agreement so that such provisions will be binding upon such third parties. Subrecipient will conduct and administer the grant in conformity with 24 CFR 92.350.

XXV. **LOBBYING**: The undersigned certifies, to the best of his or her knowledge and belief that:

1. No appropriated federal funds have been paid, or will be paid, by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer

or employee of any agency, a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit *Disclosure Form to Report Lobbying* (Standard Form-LLL), in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

XXVI **WAIVER OF ENFORCEMENT:** No waiver by the City of the right to enforce any provision of this Agreement shall be deemed a waiver of the right to enforce each and all the provisions hereof.

XXVII **REVISIONS AND AMENDMENTS AND APPROVALS**

- A. Any changes to this Agreement shall constitute an amendment.
- B. The Subrecipient shall not expand, enhance, commingle or add to the scope of the program, covered by the Agreement.
- C. Amendments of the terms of this Agreement shall not become effective unless reduced to writing, numbered, agreed to and signed by the City and the duly authorized representative of the Subrecipient.

XXVIII **NOTICE:** Any notice of notices required or permitted to be given pursuant to this Contract shall be personally served by the party giving notice or shall be served by certified mail, postage prepaid, addressed to:

SUBRECIPIENT:  
South Bay Community Services  
Attn: President and CEO  
430 F Street  
Chula Vista, CA 91910

CITY:  
City of Chula Vista-Development Services  
Attn: Housing Manager  
276 Fourth Avenue  
Chula Vista, CA 91910

[Signature Page to Follow]

**SIGNATURE PAGE**

IN WITNESS WHEREOF, the Subrecipient and City have executed this contract as of the date first written above.

**CITY OF CHULA VISTA**

\_\_\_\_\_  
Gary Halbert  
City of Chula Vista City Manager

**APPROVED AS TO FORM**

\_\_\_\_\_  
Glen R. Googins  
City Attorney

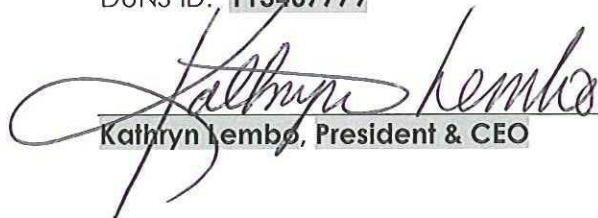
**ATTEST**

\_\_\_\_\_  
Donna Norris, City Clerk

**SUBRECIPIENT**

Employer Federal ID: **952693142**

DUNS ID: **113407779**

  
\_\_\_\_\_  
**Kathryn Lembo, President & CEO**



## **Attachments to Agreement**

Attachment A – Scope of Work

Attachment B – Insurance Requirements

Attachment C – HUD Income Limits

Attachment D – Disclosure Form

Attachment E- CPD Notice Guidance on Tenant-Based Rental Assistance under the HOME Program

Attachment F- Sample Monthly Payment Authorization form

Attachment G- HOME Set up Form

Attachment H- City Release of Information



## ATTACHMENT A

### SCOPE OF SERVICES

1. The Subrecipient agrees to work with the City to locate and assist up to 13 low income households earning less than 60% of the Area Median income who live in the City of Chula Vista. Project shall be implemented in accordance with the provisions contained in the Federal Act, the most recent HOME Program regulations (24 CFR Part 92) and this Agreement. Subrecipient responsibilities include but are not limited to:
  - a) Providing approximately 13 HOME Tenant Based Rental Assistance (TBRA) Vouchers for an initial 12 months, which may be renewed for an additional 6 months, in accordance with Title 24, Code of Federal Regulations Section 92.209, and the City of Chula Vista's Tenant Based Rental Assistance Program Administrative Plan (TBRA-AP);
  - b) Security deposit assistance (up to 1 month's rent) to City of Chula Vista HOME TBRA eligible families in accordance with the TBRA-AP;
  - c) Counsel prospective tenants regarding landlord/tenant responsibilities, methods of locating suitable units and equal housing opportunity laws;
  - d) Maintain a waiting list and administer the HOME TBRA program as stated in CPD Notice 96-07 Guidance of Tenant-Based Rental Assistance under the HOME Program (Attachment E), Building HOME Chapter 7, HOME Final Rule, and 24 CFR part 92;
  - e) Calculate and determine eligibility using the United States Department of Housing and Urban Development's Technical Guide for Determining Income and Allowances for the HOME Program;
  - f) Provide financial literacy, and other self-sufficiency services to families receiving TBRA assistance; and

- g) Conduct Annual Eligibility Recertifications. Annual Inspections will also be required.
2. The City and/or the City's monitoring agents will monitor the performance of the Subrecipient as it relates to this Agreement on a periodic basis. City may request quarterly meetings.
  3. For each fiscal year, at 100 percent of Eligible Households assisted through HOME TBRA must be at or below 60 percent of area median income, adjusted for family size.
    - a) Eligibility is determined by comparing the household's anticipated gross annual income for the next twelve months to the income limits for the appropriate household size. (The definition of annual income as defined in Section 8 of the United States Housing Act of 1937.) Verification of income should be completed in accordance with the rule of the Section 8 Housing Choice Voucher Program.
    - b) Written certification of income eligibility must be obtained prior to occupancy. If applicants or household members that are being assisted have given false information and do not meet their family obligations, the Subrecipient must notify the City and rental assistance must be terminated.
    - c) Eligible Households who receive assistance under this Agreement must be currently on a waiting list for a Section 8 Housing Choice Voucher Program and must be transitioned from the HOME TBRA program to the Section 8 program if a Housing Choice Voucher becomes available to them.
    - d) Eligible Households who receive assistance under this Agreement must be currently on a waiting list for Public Housing and Affordable Housing.
    - e) Eligible Households must participate in family-self sufficiency services and develop a housing plan.
  4. No TBRA application shall be accepted by the Subrecipient after expiration of this contract unless otherwise extended in writing by the City, but in no event will the contract be extended beyond an additional one year.
  5. The Subrecipient is responsible for obtaining the following documentation for each Eligible Household applying to receive TBRA:
    - a) Tenant Income, asset, and criminal history certification. If applicant discloses violent or drug related criminal history, further research may be needed to determine eligibility).

- b) Signed HOME Coupon (voucher)
  - c) Request for Tenancy Approval (original)
  - d) Conduct a Rent Reasonableness certification; and
  - e) Signed Lease and Lease Addendum (copy).
6. Rental assistance under this program is **not** portable and is available to Eligible Households to rent the unit of their choice in the City of Chula Vista provided it does not already receive any form of rental assistance. The assistance is conditioned upon eligibility, issuance of a voucher, Housing Quality Standards Inspection, the execution of a Lease Addendum between the landlord/owner and the Eligible Household, and a Housing Assistance Payment contract between the landlord/owner and the City of Chula Vista.
  7. The Subrecipient will transmit to the City a Monthly Payment Authorization form (Attachment F), authorizing payment for all Eligible Households. Households that are subsequently determined to be ineligible or who have served notice they have vacated must be removed from the next monthly submittal. Subrecipient must notify the City within 10 days in the event that a tenant moves out of a TBRA assisted unit.
  8. The Subrecipient will apply its stated method of continued program participation, including annual income certification and unit inspections, as documented in their Tenant Based Rental Assistance Program Administrative Plan. If Income exceeds 60% of Area Median Income at recertification, assistance must be terminated.
  9. Assisted units may be publicly or privately owned; however, units covered under a project-based rental assistance agreement or Public Housing Authority units are not eligible.
  10. The City must perform initial and annual on-site inspections of rental housing occupied by tenants receiving HOME-assisted TBRA to determine compliance with property standards for 24 CFR Part 92.251. The City will be required to inspect units at initial occupancy and certify that the unit meets minimum HUD Housing Quality Standards (HQS). The City's Housing Assistance Payments (HAP) will not begin until the unit has passed a HQS inspection and the unit has been approved by the City of Chula Vista.
  11. The Subrecipient shall execute a Housing Assistance Payment contract with the landlord. In addition, the Subrecipient shall obtain a copy of

the signed lease agreement and Lease Addendum executed between the landlord and the tenant.

12. The Subrecipient shall maintain a waiting list of families and a written tenant selection policies and criteria that provide housing to low and very low-income families that is consistent with the City's Consolidated Plan. During the term of the contract, the preferences established by the Subrecipient must be consistent with the purpose of providing assistance to very low and low-income families and the TBRA-AP. The waiting list shall be used to fill openings based on their priority status and chronological place on the waiting list.
13. The term of the lease between the tenant and the owner must be at least for one year, unless both mutually agree in writing. The subsidy payments to the landlord under the HOME TBRA program shall not exceed 12 months from the date of initial occupancy and in no event exceed the actual period of occupancy, if less than 12 months. The tenant shall be solely responsible for any damages caused by breaching the lease that exceed the security deposit.
14. Rental assistance calculations must be prorated during the initial month. Leases should begin on the first day actual tenant occupancy. The City shall not be held responsible for paying the rent if the resident chooses to move into the unit prior to City approval.
15. Certain lease provisions are prohibited under the Regulations. These provisions are contained in the Lease Addendum which shall be executed by the landlord and tenant.
16. The amount of rental assistance paid on behalf of an Eligible Household is limited to the difference between the established rent for the unit and thirty percent (30%) of the Eligible Household's gross monthly income.

Example: \$500 rent and \$12,000 annual gross income would require a subsidy of:  $(\$12,000/12 \text{ months}) \times .30 = \$300$  (tenant payment) \$500 rent minus \$300 tenant payment = \$200 monthly subsidy Exclusions are permissible when calculating income, (e.g., dependents, disability, elderly, and child care).

Utility allowances are permissible when calculating rent.

17. Applicants whose subsidy calculations are less than \$ *100.00* per month are not eligible to receive TBRA.
18. Applicant's and Participant's minimum rent is \$100.00.
19. Subrecipient will develop and provide each participant with a Tenant Handbook (i.e. Family Obligations) outlining the participant's responsibilities.
20. Match- As with all HOME Activities, TBRA program expenditures require a 25% non-federal local match. City will provide the required matching funds.
21. The Subrecipient shall use the Housing Choice Voucher Model for calculating rental subsidies. The maximum amount that the HOME TBRA program may pay to assist any given household is the difference between 30 percent of the household's adjusted monthly income and the lower of the contract rent or payment standard. The payment standard is lesser of the County of San Diego's Payment Standard or the Fair Market Rent (100%). For the initial lease for the unit, the family's share (total family contribution) cannot exceed 40% of the family's monthly adjusted income (including exempt income). The minimum tenant payment is \$100.00.
22. Issues not covered in this agreement are to be handled in accordance with HUD 24 CFR Part 92, HOME Investment Partnerships Program Final Rule, Community Planning and Development Notice 96-07 (CPD Notice 96-07), and HUD's Technical Guide for Determining Income and Allowances for the HOME Program.

- A. ESTIMATED TIME SCHEDULE: Subrecipient will make all good faith and reasonable efforts to implement the project in compliance with the following estimated implementation schedule, or earlier:

**June 30, 2017**

- B. ESTIMATED BUDGET: Subrecipient shall make all good faith and reasonable efforts to complete the work under this Contract within the following estimated budget. In no case shall Subrecipient be entitled to, nor shall CITY reimburse Subrecipient, for more than **\$250,000** for work performed under this Contract.

- Tenant Based Rental Assistance

- Security Deposit Assistance (limited to one-month rent per family)

In addition to the required quarterly reports identified in Section XVI of this **CONTRACT**, the Subrecipient shall document eligibility mentioned above to ensure that those served are at or below 60 percent of the Area Median Income as established by the U.S. Department of Housing and Urban Development (HUD). This information is to be collected and compiled and kept for (5) years, and shall be submitted to the City of Chula Vista upon receipt of a written request and at the time of any monitoring of project records.



## ATTACHMENT B

### #1

## INSURANCE REQUIREMENTS FOR SUBRECIPIENTS

Subrecipient must procure insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work under the contract and the results of that work by the Subrecipient, his agents, representatives, employees or subSubrecipients and provide documentation of same prior to commencement of work. The insurance must be maintained for the duration of the contract.

#### V. Minimum Scope of Insurance

Coverage must be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG0001)
2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, code1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

#### VI. Minimum Limits of Insurance

Subrecipient must maintain limits no less than:

1. General Liability: **\$1,000,000** per occurrence for bodily injury, personal injury and property damage. (Including operations, products and completed operations, as applicable.) If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit.
2. Automobile Liability: **\$1,000,000** per accident for bodily injury and property damage.

3. Workers' Compensation	<b>Statutory</b>
Employer's Liability:	<b>\$1,000,000</b> each accident
	<b>\$1,000,000</b> disease-policy limit
	<b>\$1,000,000</b> disease-each employee

### **Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer will reduce or eliminate such deductibles or self-insured retentions as they pertain to the City, its officers, officials, employees and volunteers; or the Subrecipient will provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

### ***Other Insurance Provisions***

The general liability, automobile liability, and where appropriate, the worker's compensation policies are to contain, or be endorsed to contain, the following provisions:

1. ***The City of Chula Vista, its officers, officials, employees, agents, and volunteers are to be named as additional insureds with respect to liability arising out of automobiles*** owned, leased, hired or borrowed by or on behalf of the Subrecipient, where applicable, and, with respect to liability arising out of work or operations performed by or on behalf of the Subrecipient including providing materials, parts or equipment furnished in connection with such work or operations. ***The general liability additional insured coverage must be provided in the form of an endorsement to the Subrecipient's insurance using ISO CG 2010 (11/85) or its equivalent. Specifically, the endorsement must not exclude Products / Completed Operations coverage.***
2. The ***Subrecipient's insurance coverage must be primary insurance as it pertains to the City***, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers is wholly separate from the insurance of the Subrecipient and in no way relieves the Subrecipient from its responsibility to provide insurance.
3. Each insurance policy required by this clause must be endorsed to state that ***coverage will not be canceled by either party, except after thirty (30) days' prior written notice to the City*** by certified mail, return receipt requested.
4. ***Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured*** in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.



5. Subrecipient's insurer will provide a ***Waiver of Subrogation*** in favor of the City for each required policy providing coverage during the life of this contract.

#### **Acceptability of Insurers**

***Insurance is to be placed with licensed insurers admitted to transact business in the State of California with a current A.M. Best's rating of no less than A V.*** If insurance is placed with a surplus lines insurer, insurer must be listed on the State of California List of Eligible Surplus Lines Insurers (LESLI) with a current A.M. Best's rating of no less than A X. Exception may be made for the State Compensation Fund when not specifically rated.

#### **Verification of Coverage**

Subrecipient shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on insurance industry forms, provided those endorsements conform to the contract requirements.

***All certificates and endorsements are to be received and approved by the City before work commences.*** The City reserves the right to require, at any time, complete, certified copies of all required insurance policies, including endorsements evidencing the coverage required by these specifications.

#### **SubSubrecipients**

Subrecipient must include all sub-contractors as insureds under its policies or furnish separate certificates and endorsements for each sub-contractors. All coverage for sub-contractors are subject to all of the requirements included in these specifications.

ATTACHMENT C

HUD INCOME LIMITS 2015-CITY OF CHULA VISTA

2015 San Diego County Median Income Limits by Household Size			
Family Size	(60% of AMI)	(50% of AMI)	(30% of AMI)
1	\$ 34,020.00	\$ 28,350.00	\$ 17,050.00
2	\$ 38,880.00	\$ 32,400.00	\$ 19,450.00
3	\$ 43,740.00	\$ 36,450.00	\$ 21,900.00
4	\$ 48,600.00	\$ 40,500.00	\$ 24,300.00
5	\$ 52,500.00	\$ 43,750.00	\$ 26,250.00
6	\$ 56,400.00	\$ 47,000.00	\$ 28,200.00
7	\$ 60,300.00	\$ 50,250.00	\$ 30,150.00
8	\$ 64,200.00	\$ 53,500.00	\$ 32,100.00



**ATTACHMENT D**  
**Disclosure Statement**

Pursuant to Council Policy 1001-01, prior to any action upon matters that will require discretionary action by the Council, Planning Commission and all other official bodies of the City, a statement of disclosure of certain ownership of financial interests, payments, or campaign contributions for a City of Chula Vista election must be filed. The following information must be disclosed:

1. List the names of all persons having a financial interest in the project that is the subject of the application or the contract. e.g., owner, applicant, Subrecipient, sub-contractor, material supplier.

South Bay Community Services  
\_\_\_\_\_  
\_\_\_\_\_

2. If any person\* identified pursuant to (1) above is a corporation or partnership, list the names of all individuals with a \$2000 investment in the business (corporation/partnership) entity.

N/A  
\_\_\_\_\_  
\_\_\_\_\_

3. If any person\* identified pursuant to (1) above is a non-profit organization or trust, list the names of any person serving as director of the non-profit organization or as trustee or beneficiary or trustor of the trust.

Kathryn Lembo  
\_\_\_\_\_  
\_\_\_\_\_

4. Please identify every person, including any agents, employees, consultants, or independent Subrecipients you have assigned to represent you before the City in this matter.

Dina Chavez  
Omar Calleros  
\_\_\_\_\_  
\_\_\_\_\_

5. Has any person\* associated with this contract had any financial dealings with an official\*\* of the City of Chula Vista as it relates to this contract within the past 12 months? Yes \_\_\_ No X

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If Yes, briefly describe the nature of the financial interest the official\*\* may have in this contract.

N/A  
\_\_\_\_\_  
\_\_\_\_\_

6. Have you made a contribution of more than \$250 within the past twelve (12) months to a current member of the Chula Vista City Council? No X Yes \_\_\_ If yes, which Council member?

N/A  
\_\_\_\_\_

7. Have you provided more than \$340 (or an item of equivalent) to an official\*\* of the City of Chula Vista in the past twelve (12) months? (This includes being a source of income, money to retire a legal debt, gift, loan, etc.) Yes \_\_\_ No X

If Yes, which official\*\* and what was the nature of item provided?

NA  
\_\_\_\_\_

Date: 7/7/15

  
Signature of Subrecipient/Applicant

Kathie Lembo  
Print or type name of  
Subrecipient/Applicant

\* Person is defined as: any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, any other county, city, municipality, district, or other political subdivision, -or any other group or combination acting as a unit.

\*\* Official includes, but is not limited to: Mayor, Council member, Planning Commissioner, Member of a board, commission, or committee of the City, employee, or staff members.

**ATTACHMENT E**

U.S. Department of Housing and Urban Development  
Community Planning and Development

Special Attention of:

Notice CPD 96-07

All Secretary's Representatives

All State/Area Coordinators

Regional Directors for CPD

CPD Division Directors

All HOME Coordinators

All HOME Participating Jurisdictions

Issued: November 1, 1996

Expires: November 1, 1997

Cross References: 24 CFR 92.209

Subject: Guidance on Tenant-Based Rental Assistance under the HOME Program.

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DGHP: Distribution: W-3-1

## 1. PURPOSE

This notice outlines the basic requirements for using HOME funds for a tenant-based rental assistance (TBRA) program. The Department will also issue a model program that expands upon this notice. The purpose of the model will be to assist State and local participating jurisdictions (PJs) with basic decisions regarding TBRA program design and operation.

The Department has exercised its discretion based on the statute to make the TBRA program, as described in recent regulations and this notice, flexible and responsive to local market conditions and housing needs. The current regulations may not address all the design or operational considerations. As a result, some PJs may wish to structure TBRA programs in a manner that is not entirely consistent with HOME regulations. In some instances, it may be possible to waive certain regulatory requirements, if statutory flexibility exists and the PJ can demonstrate good cause for the request.

## II. BACKGROUND

TBRA was first authorized under section 212 of the Cranston-Gonzalez National Affordable Housing Act (NAHA). HUD implemented the basic requirements for using HOME funds for TBRA through publication of interim regulations at [24 CFR Part 92](#) on December 16, 1991. TBRA programs directly assist individual low-income families by making up the difference between actual housing costs and what a family can afford to pay. Tenants are free to select any standard unit, whether or not it is HOME-assisted.

In October, 1992, the initial TBRA provisions were amended by section 220 of the Housing and Community Development Act (HCDA) of 1992. HCDA made two significant amendments. First, it eliminated the provision that required PJs to use the local Section 8 waiting list to determine who would receive assistance. Instead, PJs were permitted to select tenants in accordance with written tenant selection policies and criteria that provide housing to low and very low-income families and were reasonably related to the Federal preferences. Second, it permitted PJs to administer programs that provide only security deposit assistance, rather than requiring that security deposits only be provided in the context of an ongoing rental assistance program. These statutory revisions have been incorporated by interim rules published in the Federal Register on December 22, 1992 and June 23, 1993.

HUD also implemented regulatory changes to provide PJs greater flexibility in administering TBRA programs. Publication of a rule on April 19, 1994 made it possible for a PJ to establish its own payment standard based on local market conditions and a determination of rent reasonableness. The rule further clarified the term "reasonably related to Federal preferences" and permitted a PJ's non-Federal contributions to a TBRA program that is not HOME-funded, other than contributions for administrative costs, to count as match for the HOME

Program. A rule published on July 12, 1995 provided information on using HOME TBRA to assist special needs populations.

On January 26, 1996, the Balanced Budget Downpayment Act, I, suspended the Federal preferences applicable to public housing admissions and the Section 8 voucher and certificate programs for Fiscal Year 1996 (which ended on September 30, 1996). HUD's FY 1997 appropriation act extended this suspension through Fiscal Year 1997, which ends on September 30, 1997. During Fiscal Year 1997, public housing authorities are authorized to establish their own preferences. These local preferences may be established after opportunity for public notice and comment and must be consistent with the jurisdiction's Consolidated Plan. The temporary suspension of the Federal preferences extends to the selection criteria for TBRA programs funded by HOME.

### III. SUSPENSION OF FEDERAL PREFERENCES

As described in the previous section of this notice, the Federal preference requirements applicable to HOME-funded TBRA programs have been suspended for the remainder of Fiscal Year 1997. The effect of this suspension is to permit a PJ to establish and provide TBRA based entirely on a locally-established system of written tenant selection criteria that is consistent with its Consolidated Plan. During this time period, the preferences established by the PJ must be consistent with the purposes of providing assistance to very low- and low-income families. However, locally-established preferences will not be required to be reasonably related to the Federal preferences.

For a PJ that is currently administering a TBRA program, the effect of this suspension may be simply to permit it to alter the order in which families on the waiting list are selected, based upon its system of preferences. Alternately, a PJ may wish to fundamentally change its TBRA program by establishing a preference system very different than the one it currently administers. For a PJ that is in the process of designing a TBRA program, this suspension may affect its program design and tenant selection system.

The current suspension is temporary. Legislative action will be necessary to extend the suspension beyond September 30, 1997 or to make it permanent. Before making any changes to an existing or proposed TBRA program, a PJ should consider whether it could easily bring its program back into conformance with the law if the suspension terminates.

This notice assumes that the Federal preference suspension will continue on a provisional basis. However, because the suspension may not be in effect beyond September 30, 1997, it also outlines the requirements that would apply to HOME TBRA programs should the suspension not be extended or made permanent. At the time that this Notice was published, the Congress was considering rescinding the Housing Act of 1937 which contains the Federal preference requirements.

Should Congress take such action, it would eliminate the need for the PJ's written tenant selection criteria to be reasonably related to Federal preferences. Each PJ would be free to establish tenant selection criteria based solely on the needs identified in its Consolidated Plan.

#### IV. ELIGIBLE ACTIVITIES

##### A. Eligible Uses

HOME TBRA can be used to undertake one or a combination of the following activities:

Free-standing rental assistance. A PJ may administer a rental assistance program to assist low- and very low-income families. These freestanding programs are similar to the Section 8 certificate and voucher programs in that tenants choose their housing within guidelines established by the PJ.

Special purpose programs. Within limitations described in Section VII, E of this notice, PJs can use TBRA to support a variety of local goals including self-sufficiency and homeownership initiatives and assistance to special populations.

- o Self-sufficiency programs. PJs may require HOME TBRA recipients to participate in self-sufficiency programs as a condition of assistance. However, such conditions may not be placed on tenants living in a HOME-assisted project who receive TBRA as relocation assistance.
- o Homebuyer programs. HOME TBRA may assist a tenant, who has been identified as a potential low-income homebuyer through a lease-purchase agreement, with monthly rental payments for a period up to 36 months.<sup>1</sup> While the HOME TBRA payment cannot be used to create equity, all or a portion of the homebuyer's monthly contribution toward housing expenses may be set aside for this purpose. If a PJ determines that a tenant has met the lease-purchase criteria and is ready to assume ownership, HOME funds may be provided for downpayment assistance.
- o Targeted Populations. PJs may establish local preferences for special needs groups in a broad, community-wide TBRA program or may design a program that exclusively serves one or more special needs groups.

Anti-displacement assistance. TBRA can be used to minimize displacement associated with HOME-funded activities. TBRA can be

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<sup>1</sup> HOME TBRA may not exceed 24 months but may be renewed at the PJ's discretion.



provided to income-eligible tenants who live in units that will be acquired, demolished or rehabilitated with HOME funds. Existing tenants in HOME-assisted projects who receive TBRA may remain in the project or move to another suitable unit. These tenants may be assisted with TBRA regardless of whether the PJ administers a broader TBRA program and are not required to meet written tenant selection policies and criteria.<sup>2</sup>

Security and utility deposit assistance. PJs may provide security deposit assistance to tenants regardless of whether the PJ is providing ongoing tenant-based rental assistance. Utility deposit assistance may be provided only in conjunction with a TBRA program or a security deposit program.

#### B. Ineligible Uses

HOME TBRA funds cannot be used for the following:

- o to assist resident owners of cooperative housing that qualifies as homeownership housing (cooperative and mutual housing may qualify as either rental or owner-occupied housing under the HOME Program, depending upon the provisions of the agreement applying to the unit). TBRA may, however, be used by a tenant who is renting from a cooperative unit owner;
- o to prevent the displacement of tenants from projects assisted with Rental Rehabilitation Program funds under 24 CFR 511. (See [24 CFR 92.214](#));
- o to provide TBRA vouchers to homeless persons for overnight or temporary shelter. The HOME TBRA subsidy must be sufficient to enable the homeless person to rent a transitional or permanent housing unit that meets Housing Quality Standards (HQS).

#### V. PROGRAM ADMINISTRATION

Certification - To establish a TBRA program, a PJ must certify in its Consolidated Plan that TBRA is an essential part of its approved housing strategy and that market conditions in the locality make TBRA a viable option. This means that an assessment of market factors has been

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<sup>2</sup> The 1992 HCDA amendments require the PJ to certify in its Consolidated Plan that it has a Residential Anti-displacement and Relocation Plan for the HOME Program equivalent to the Plan required for the Community Development Block Grant (CDBG) Program.

undertaken and, because there is an ample supply of housing, a TBRA program is an effective way to expand affordable housing opportunities in the community.

Program Operation - A PJ may administer its TBRA program or contract administrative functions out to another entity, such as a local public housing agency (PHA), another public or private agency, or a nonprofit organization. In deciding whether to administer its program or contract out, the PJ should consider its TBRA program design. If its TBRA program will be modeled after the Section 8 certificate or voucher programs or uses the Section 8 waiting list, it may be administratively simpler to contract with the PHA. Alternately, if the program will use an independent waiting list or target special populations, it may be preferable for the PJ or another entity to administer the TBRA program.

A PJ that is an urban county or consortium may establish a TBRA program that is limited to a single or multiple jurisdictions, but does not encompass the entire PJ. For instance, one local government participating in a consortium may administer a TBRA program in its jurisdiction.

It should be noted that the provision of TBRA is not an eligible Community Housing Development Organization (CHDO) set-aside activity. If a PJ selects a CHDO to administer its TBRA program, the CHDO is acting as a subrecipient and general HOME program funds (not CHDO set-aside funds) must be used.

Administrative Costs - HOME funds may be used to pay for reasonable planning and administrative expenses associated with operating a TBRA program, regardless of what entity operates the program. Such expenses are limited by the ten percent cap on administrative costs. TBRA administrative costs are not considered "project soft costs" under [24 CFR 92.206\(b\)](#).

Match - As with all HOME activities, TBRA program expenditures require a 25% local match. A PJ may count non-Federal funds that it contributes to its HOME TBRA program as a matching contribution. It may also count as match any funds it contributes to a TBRA program which does not use HOME funds but meets the HOME Program requirements (see [24 CFR 92.219\(b\)\(1\)](#)). HOME funds expended for TBRA may be matched with funds from any eligible match source, not just TBRA-related contributions. Payment of costs associated with administration of a TBRA program does not count as match.

TBRA Project Set-Up - To access funds, information concerning the project must first be provided through the HOME Cash and Management Information System (C/MI), or the Integrated Data and Information System (IDIS), which is replacing the C/MI. Until a PJ has been converted to IDIS, all TBRA projects set up through the C/MI system should be reported on Form HUD-40095. Each TBRA project may include several hundred individual households. Once a TBRA project has been

set up, the PJ may add families to the project for up to 6 months. The TBRA set-up form requires each tenant's Social Security number and certain demographic information.

The set-up of TBRA projects in IDIS is similar to the set-up in the HOME C/MI. However, there is neither a limitation on the number of households that can be included in a single project (referred to as an activity in IDIS) nor a time limit for adding families to the project.

Drawing Down Funds - As with all HOME funds, TBRA funds drawn from the U.S. Treasury must be expended within 15 days. Thus, draws may not be made for TBRA on a quarterly basis.

## VI. TENANT SELECTION

### A. Income Eligibility/Verification

HOME funds can only be used to assist low-income families with incomes at or below 80% of area median income as determined by HUD. In addition, for each fiscal year's HOME allocation, 90% of the families assisted with HOME funds for TBRA and other rental activities must have incomes which are at or below 60% of area median income (see [24 CFR 92.216](#)).

The PJ must determine the income and eligibility of all proposed beneficiaries before the TBRA contract is signed. The HOME final rule, which was published on September 16, 1996, amended the income definition to permit PJs to choose from among three definitions of income (the Section 8 definition, the U.S. Census long form definition, and the IRS definition of adjusted gross income). A PJ that chooses the Section 8 definition of income for its TBRA program should follow the procedures outlined in the Technical Guide for Determining Income and Allowances for the HOME Program, which HUD issued in May, 1994. In addition, PJs should note that a rule published on April 5, 1996 added nine exclusions to the definition of income applicable to HOME TBRA programs. That definition was subsequently moved to 24 CFR 5.609 by a regulation published on October 18, 1996. (See the Appendix to this notice for a list of the nine additional exclusions). PJs opting for the IRS or Census definitions must adhere to the instructions developed by those agencies for calculating income.

In accordance with the Section 8 program rule at 24 CFR 982.352(c)(6), Section 8 rental assistance voucher and certificate holders cannot also receive TBRA under the HOME Program because the two programs would provide duplicative subsidies. HOME TBRA recipients who are offered a Section 8 voucher or certificate must relinquish HOME assistance, if they wish to accept the Section 8 assistance. Similarly, a family currently receiving Section 8 rental assistance may not accept HOME TBRA without relinquishing

the Section 8 assistance. However, a Section 8 rental assistance recipient @a receive HOME-funded security deposit and utility deposit assistance.

Similarly, a family cannot receive HOME TBRA if they are receiving rental assistance under another Federal program (e.g., Section 521 of the Housing Act of 1949 provided through the Rural Housing Service) or a State or local rental assistance program, if the HOME subsidy would result in duplicative subsidies to the family. [NOTE: Some State and local rental assistance programs do not provide assistance in amounts sufficient to lower a tenant's rental payment to 30 percent of income. In such cases, HOME TBRA could be provided as supplemental assistance to further reduce the tenant's rent payment to 30 percent of income.] In addition, HOME TBRA should not be provided to a family who proposes to rent a unit that receives project-based rental assistance through Federal, State or local programs, if the HOME assistance would provide a duplicative subsidy.

Income and eligibility determinations for a newly-participating tenant remain valid for up to six months. Income eligibility criteria must be met, regardless of the type of TBRA program the PJ will administer (i.e., anti-displacement, security deposit, or freestanding). Special needs populations are not presumed to be low-income.

The PJ (or TBRA administrator) must reexamine family income, size, and composition at least annually. The family's contribution toward rent may need to be adjusted as a result of the annual income reexamination. Although not required by the HOME regulations, the PJ may require families to report changes in income that occur between annual income examinations.

Because HOME funds may only be used to assist families with incomes at or below 80% of area median income, assistance to tenants whose incomes rise above 80% of area median income must be terminated after the PJ gives reasonable notice to tenant and owner. Since the PJ normally would make any required payment adjustment or contract termination at the end of the rental lease period, it should time the income recertification process so that tenants whose assistance will be terminated or whose required contributions toward rent will be increased can be given reasonable notice of the change. In determining what period constitutes reasonable notice, the PJ should consult both State law and common practice in the area.

## B. Tenant Selection Criteria

### Scenario 1: Under the Federal Preference Suspension

The HOME Program rule requires that PJs select tenants in accordance with written tenant selection policies and criteria. These policies and criteria must be consistent with the purpose of providing housing to very low- and low-income families. Under the temporary suspension of the Federal preferences in effect until September 30, 1997, PJs may establish their own preference systems for selecting families for rental assistance.

The locally-established preference system must be consistent with the priorities established in the Consolidated Plan.

The Federal preference suspension applies to PHAs administering Section 8 rental assistance, as well as to PJs administering HOME TBRA. A PHA and a PJ administering rental assistance in the same jurisdiction are not required to use the same preference system. However, HUD encourages entities providing assistance to families within the same jurisdiction to coordinate their efforts to the greatest extent possible.

#### Scenario 2: Elimination of the Housing Act of 1937

Should Congress rescind the Housing Act of 1937, there would no longer be any Federal preferences for admission to public housing and Section 8 assistance. Consequently, PJs would no longer be required to establish preferences for their TBRA programs that are reasonably related to the Federal preferences. Each PJ administering a TBRA program would establish a written tenant selection system consistent with the needs identified in its Consolidated Plan.

#### Scenario 3: Federal Preference Requirements In Effect (suspended through 9/30/97)

PJs that operate TBRA programs must select tenants in accordance with written tenant selection policies and criteria. The policies and criteria must be consistent with the purpose of providing housing to very low- and low-income families and be reasonably related to preference rules established under section 6(c)(4)(A) of the U.S. Housing Act of 1937.

The term "reasonably related to Federal preference rules" means that at least 50% of the families assisted must qualify for one of the three Federal preferences. Those Federal preferences are:

- o families living in substandard housing, including families that are homeless or living in a shelter for homeless families;
- o families paying more than 50% of family income (gross) for rent; or
- o families involuntarily displaced at the time they are seeking TBRA assistance.

PJs may rank the Federal preferences to serve those families they deem most in need. For instance, a PJ may give preference to families who are involuntarily displaced over those living in substandard housing. In addition, the PJ may rank the definitional elements of each Federal preference to reflect its own priorities.

Section 6(c)(4)(A) of the Housing Act of 1937 requires that PHA's prohibit any individual or family evicted from public housing or assisted under

Section 8 because of drug-related criminal activity from having a preference for three years, unless the evicted tenant successfully completes a rehabilitation program approved by the agency. Each PJ should determine whether this or a similar policy is appropriate for its HOME TBRA program.

The PJ may establish local preferences for assisting the 50% of families who are not required to qualify for a Federal preference. Local preferences must be established in writing and respond to local housing needs and priorities.

Examples of local preferences that might be provided include preferences for families who:

- o have veteran's status;
- o lack adequate housing and whose children eventually may be proposed for placement in foster care as a result. (These families are usually identified by local agencies that are involved in providing for children's welfare);
- o are members of special needs populations, such as battered spouses, persons with AIDS, senior citizens or those with disabilities.

In establishing local preferences, PJs must consider how specific preferences will impact fair housing efforts in its community. The local preferences must not result in discrimination against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. In monitoring a PJ's fair housing efforts, HUD's Office of Fair Housing and Equal Opportunity will consider both the intent and the effect of local preference rules.

#### C. Waiting Lists

To implement its tenant selection policies for an ongoing TBRA program in a fair and orderly manner, a PJ must use a waiting list for families applying for TBRA. The PJ may choose to use a Section 8 waiting list that covers the jurisdiction or may establish a separate waiting list for HOME TBRA applicants. In determining which list to use, the PJ will need to consider the following factors:

- o The preferences established by the PHA and how those preferences compare with the Pj's priorities for assistance. If the PHA has adopted its own preferences as permitted under the temporary suspension of Federal preferences, the PJ should examine those preferences. If the suspension is terminated or the PHA has chosen not to establish its own preference system, the PJ should examine both the local preferences established by the PHA and the manner in which it prioritizes the Federal preferences. If the

PHA's preference system will not result in assistance being provided to the subpopulations that the PJ deems most in need, the PJ should consider establishing a separate HOME TBRA waiting list.

- o The length of the PHA's Section 8 waiting list and the turnover rate of vouchers and certificates. In communities where the existing Section 8 waiting list is very long and the unavailability of new or turnover resources results in long periods on the waiting list, a PJ's priority may be to provide interim assistance to families who are currently on the Section 8 waiting list. In these instances, the PJ will adopt the Section 8 waiting list and use HOME TBRA to supplement the existing Section 8 program.
- o The PJs preferred program design. If the PJ wishes to administer a TBRA program that closely resembles the Section 8 voucher or certificate program and finds the PHA's preference system acceptable, it may wish to adopt the Section 8 waiting list (and, perhaps, to contract with the PHA as the administering agent) for simplicity's sake. However, if the PJ wishes to implement a program that is very different from the Section 8 programs, there may be no advantage in adopting the Section 8 waiting list.
- o The Pj's capacity and preference with respect to an administering agent. If the PJ plans to administer the TBRA program itself or to contract out with a capable nonprofit organization, it will have flexibility with respect to choosing a waiting list for its program. However, if the PJ lacks capacity to administer the program and chooses to contract with a PHA, it may have little choice but to adopt the PHA waiting list. The PHA may be reluctant to take on the added responsibility of establishing and maintaining a separate waiting list and administering selection criteria that are very different from its existing program.

#### D. Section 8 Availability

The HOME statute requires that families who receive HOME TBRA and are also on the Section 8 waiting list continue to qualify for Section 8 assistance to the same extent as they did before they received the HOME TBRA. Consequently, when the Federal preferences are in force, the PHA must carefully document how an applicant for HOME assistance who is also on the Section 8 waiting list meets Federal preference requirements at the time HOME assistance is provided to preserve the applicant's qualification to receive future Section 8 assistance. If a Section 8 voucher or certificate becomes available through turnover or additional budget authority and the next eligible family on the Section 8 waiting list is a HOME TBRA recipient, that family must be offered a Section 8 voucher or certificate. The PJ and PHA should develop a procedure for offering Section 8 assistance to HOME TBRA recipients who become eligible for a voucher or certificate at regular intervals (e.g., monthly, quarterly, or less frequently, depending on average turnover of vouchers and certificates).

Under the current suspension of Federal preferences, the PJ should document how the HOME TBRA recipient meets Federal preference requirements and, if the PHA has adopted a local preference system, the local preference requirements. This will permit the PJ to determine a HOME TBRA recipient's initial eligibility for Section 8 under the Federal preference system if the suspension lapses.

Should legislation permanently eliminate the Federal preferences, the HOME Program requirement that HOME TBRA recipients maintain their place and status on the Section 8 waiting list would also be eliminated. However, HOME TBRA is often a temporary resource for a low-income family. Consequently, the PJ should coordinate with the local PHA so that the PHA's policies do not disqualify applicants who come to the top of Section 8 waiting list because they are currently receiving HOME TBRA.

#### E. Assisting Special Needs Populations

HOME TBRA may be used to assist special needs populations regardless of whether the Federal preference suspension is in effect. This can be done in one of two ways:

- o General TBRA Program. A PJ administering a community-wide TBRA program may establish a local preference for persons with special needs (e.g., persons with disabilities) or for a specific category of individuals with special needs (e.g., chronically mentally ill individuals). A preference may be provided for persons with a particular type of special need, if the specific category of need is identified in the PJ's consolidated plan as having unmet need and the preference is needed to narrow the gap in benefits and services received by such persons.

In conjunction with the TBRA, the PJ may offer non-mandatory services appropriate for persons with a particular disability. The nature of these services should be identified in consultation with persons with special needs residing in the community. Generally, TBRA and related services should be made available to all persons with disabilities who can benefit from such services.

- o TBRA Program for Persons with Special Needs. A PJ may establish a TBRA category of special needs or disabilities. The PJ may accomplish this simply by limiting eligibility for assistance to special needs groups it wishes to target. If the Federal preference rules are in effect, then 50% of the individuals assisted must qualify or would qualify in the near future for a Federal preference. As with a general TBRA program, the PJ may provide appropriate, non-mandatory social services in conjunction with the TBRA. TBRA may be provided exclusively to persons with a particular type of special need, if the specific category of need is identified in the PJ's consolidated plan as having unmet need and the preference is needed to narrow the gap in benefits and services received by such persons.



## VII. PROGRAM REQUIREMENTS

### A. Rent Requirements

#### Payment Standards

Each PJ administering a TBRA program must establish a payment standard for units of each available bedroom size. This standard is intended to represent the rent and utility costs of moderately priced units that meet the Section 8 Housing Quality Standards (HQS) in the jurisdiction. It is important that the PJ establish its payment standard carefully. A standard that is set too low in comparison to the market will result in assisted families experiencing difficulty in finding housing. A payment standard that is set too high will result in excessive subsidies and fewer families being assisted.

A PJ may determine its HOME payment standard in one of two ways:

- 1) The PJ may develop a standard based on documented local market conditions.
- 2) To conform more closely to PHA rent standards, the PJ may adhere to the following:
  - o For each unit size, the rent standard may not be less than 80% of the published Section 8 Existing Housing fair market rent (FMR) in effect when the PJ adopts its rent standard amount.
  - o For each unit size, the rent standard may not be more than the FMR or HUD-approved community-wide exception rent (discussed below) in effect when the PJ adopts its rent standard amount.
  - o For not more than 20% of the total number of units assisted in their TBRA program, a PJ may approve, on a unit-by-unit basis, a subsidy based on a rent standard that exceeds the applicable FMR by up to ten percent.

NOTE: The PJ must disapprove a lease if the rent is not reasonable, based on rents that are charged for comparable unassisted rental units.

### Community-wide Exception Rents

Under certain circumstances, HUD approves maximum gross rents for the Section 8 Certificate Program for units in a designated municipality, county or similar locality that are higher than the FMR (see 24 CFR, 882.106(a)(3)). These rents, generally referred to as community-wide exception rents, may equal up to 120% of the FMR applicable to the entire jurisdiction.

The PJ may use HUD-approved exception rents in lieu of the FMR to establish the rent standard for HOME TBRA. HOME does not require that a PJ provide additional rationale for adopting exception rents.

### TBRA in HOME-Assisted Units

Rents in HOME-assisted units must meet the requirements of 24 CFR 92.252. When a family that receives HOME TBRA resides in a HOME-assisted unit, the maximum rental assistance subsidy is the difference between the HOME rent and 30% of the family's adjusted monthly income.

### PJ and Tenant Rent Contributions

The maximum amount of subsidy the PJ may provide to a family is the difference between 30% of the family's monthly adjusted income and the payment standard established by the PJ for the size of unit the family will occupy. The PJ's contribution toward rent may vary each year because the family moves, the rent on the unit increases or decreases, or the family's income changes.

The PJ also must establish a minimum tenant rent contribution. If the PJ is assisting a tenant with a very low-income, that contribution may be minimal.

If a PJ contracts with a PHA to operate its program, it may wish to adopt the Section 8 housing certificate or voucher program rules. Under the certificate program, families pay a specified percentage of their income for housing, usually 30%, and a limit is set on what the owner can charge for rent. Housing vouchers assume that the family will pay 30% of adjusted income, but do not limit the amount an owner can charge for rent. Vouchers limit only the subsidy amount and, therefore, a family may pay more than 30% of its income for rent. A tenant's contribution to rent may change each year as a result of changes in adjusted family income. HUD generally publishes area median incomes in January.

### Rent Increases and Decreases

The owner may adjust the rent levels as leases are renewed. They must be reviewed and approved by the PJ. HUD generally publishes FMRs in late September.

## B. Terms of Assistance

Unlike the Section 8 programs which make payments to the landlord, HOME TBRA payments may be made either to the unit owner or the tenant. The term of the rental assistance contract must begin on the first day of the lease. For a rental assistance contract between the PJ and an owner, the term of the contract must end upon termination of the lease. If a PJ makes payments directly to the family, that agreement need not end upon termination of the lease, but no payments may be made after termination of the lease until the family enters into a new lease.

TBRA agreements may not exceed 24 months. However, the PJ, at its discretion, may renew a TBRA agreement.

## C. Lease Requirements

The term of the lease between a tenant and the owner must be for not less than one year, unless another term is mutually agreed upon by the tenant and the owner.

The lease may not contain any of the following terms (see 24 CFR 92.253(b)):

- o agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease.
- o agreement by the tenant that the owner may take, hold or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. In that case, the owner may dispose of this personal property in accordance with state law.
- o agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or the failure to act, whether intentional or negligent.
- o agreement of the tenant that the owner may institute a lawsuit without notice to the tenant.
- o agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense or before a court decision on the rights of the parties.
- o agreement by the tenant to waive any right to a trial by jury.

- o agreement by the tenant to waive the tenant's right to appeal or to otherwise challenge in court a decision in connection with the lease.
- o agreement by the tenant to pay attorney fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

#### D. Termination of Tenancy

The PJ must develop standards outlining when unit owners may terminate tenancy or refuse to renew a lease in its TBRA program. These standards must be established in writing and be included in the lease between the owner and the TBRA recipient and/or, if appropriate, the TBRA agreement between the PJ and tenant. The PJ should address the permissible grounds for termination or tenancy/refusal to renew and establish notification requirements for these actions. Please note that the requirement for 30 days notice for termination of tenancy/refusal to renew in HOME-assisted units does not apply to owners of units occupied by HOME TBRA recipients.

#### E. Portability

The PJ may require tenants to use their TBRA within the PJ or may establish a portability policy, allowing use of TBRA outside of the jurisdiction. The experience of many PHAs using portable housing vouchers has been that most tenants move to nearby jurisdictions, usually only across city or county lines.

If a PJ permits portability, it must develop procedures to satisfy HOME TBRA requirements at a distance. Unless it limits portability to contiguous jurisdictions, it may be impractical for the PJ to attempt to oversee the program itself. Thus, it may wish to make arrangements with a government agency or PHA in the jurisdiction to which the family is moving to administer the TBRA or to use a subrecipient or contractor to do so. Requirements that the PJ should consider in establishing a portability policy include the need to:

- o initially and annually inspect units occupied by TBRA families;
- o execute necessary documents with the family and the owner; and
- o make monthly rent payments and/or security deposit payments on behalf of the PJ to the owner and/or utility companies.

## F. Eligible Units

The PJ must establish occupancy standards that will be used to determine the unit size (i.e., number of bedrooms) that TBRA families of various sizes and composition will be permitted to occupy. The PJ's standards for occupancy must be at least as stringent as those set out in the Section 8 Housing Quality Standards (HQS). At the time that it is approved for TBRA, the family should be counseled regarding the size of the unit for which it is approved, whether it will be permitted to select a unit that is larger or smaller than the approved unit size and what the consequences of such a decision will be with respect to the family's monthly contribution toward rent. The PJ may refer the TBRA family to suitable units. However, the PJ must inform the family that it is not obligated to select a referral unit.

Rental units are selected by the tenant, and:

- o may be owned by the PJ, a PHA or another public entity or be privately owned housing;
- o may include units developed or rehabilitated with HOME assistance;
- o may be transitional housing units, if the lease terms meet the minimum lease requirements;
- o must not be units receiving public or Indian housing assistance, any Section 8 rent subsidies, or any other Federal, State or local subsidy that provides a duplicative subsidy to the HOME TBRA recipient or the unit which they propose to rent; and
- o if part of a cooperative, must be rented from the owner of the cooperative unit. HOME TBRA cannot be used to pay cooperative shares if the cooperative membership is considered ownership under HOME.

In conjunction with the annual reexamination of income, the PJ must reexamine the TBRA family's size and composition to determine whether its circumstances have changed. Depending upon the occupancy requirements established by the PJ, a family whose size or composition has changed may be required to find a unit that is suitable to its current circumstances.

Housing occupied by a family receiving TBRA must meet Section 8 HQS. The housing must meet both the performance and acceptability requirements outlined at 24 CFR 982.401. PJs may request waivers to permit specific variations on HQS. Examples that may justify deviations include local climatic or geological conditions or local codes. The PJ must inspect units selected by families receiving TBRA to determine whether they

meet HQS before authorizing their initial rental and, thereafter, must inspect the units annually. The owner must maintain the premises in compliance with all applicable housing quality standards and local code requirements throughout the period of the TBRA family's occupancy.

#### G. Self-Sufficiency Programs

PJs administering a freestanding TBRA program may require HOME TBRA recipients to participate in self-sufficiency programs as a condition of assistance. All terms and conditions of participation should be clearly spelled out in the written agreement between the tenant and the PJ.

During the term of the TBRA contract, the PJ may not withdraw rental assistance based on the tenant's failure to continue participation in the program without providing proper notice in accordance with the standards the PJ established in the TBRA agreement. Because it may prove administratively simpler, PJs considering conditioning rental assistance on participation in such programs may wish to limit the term of assistance to a short period of time (e.g., 6 or 12 months) rather than attempting to terminate assistance for noncompliance during the contract term. In such instances, TBRA participants should be assured that the assistance will be renewed if the conditions established by the PJ are met.

#### H. Making the Payments

Unlike the Section 8 program, which requires that subsidy payments be made directly to the owner, a PJ using HOME TBRA funds may provide monthly payments to the tenant directly or to the owner on behalf of the tenant.

Paying tenants directly may eliminate paperwork and save staff time because no contract between the PJ and owner is necessary. The PJ must, however, examine the lease to make certain it does not contain prohibited lease terms and inspect the unit. A "real-world" tenant-owner market relationship, in which tenants pay owners, results. If the PJ makes payments directly to tenants, the contract should include provisions to recoup HOME funds for nonpayment of rent.

If the PJ decides to pay owners directly, the PJ has the advantage of negotiating the rent. Also, paying the owner directly may encourage private owners to participate because they will receive at least a partial rent payment from the PJ each month. If a PHA administers the program for the PJ, this procedure may be preferable because Section 8 payments are made only to owners. Consequently, the HOME TBRA payments can be easily integrated into the PHA's financial management system, resulting in lower front-end and processing costs.

The PJ also may choose to reimburse tenants for rent paid to the owner. However, this may not be practical because families may not have the money up-front to make their entire rent payment.

## I. Utility Deposits

The PJ may pay utility deposits for tenants who are also participating in a TBRA program or a security deposit program. Deposits may be made for utilities authorized under the Section 8 utility allowance (such as electric, gas, water and trash). Deposits for services incidental to housing, such as telephone service and cable television, cannot be paid with HOME funds.

The PJ may make the utility deposit available to the family as a loan or grant or may make payment directly to the utility company. If offered as a grant, the tenant may keep any remaining funds when the family departs from the unit. If offered as a loan, the PJ must make arrangements with the tenant or utility company to return any remaining funds to it. Returned funds are treated as program income and must be reinvested in other HOME-eligible activities (see 24 CFR 92.503(b)). In determining whether to grant or loan these funds, the PJ should consider the time and effort involved in collecting any remaining funds from the tenant or utility company.

## VIII. SECURITY DEPOSIT PROGRAM

TBRA may be used for security deposits, regardless of whether the tenant is receiving ongoing rental assistance. For a security deposit program:

- o the relevant state or, local definition of "security deposit" in the jurisdiction where the unit is located applies.
- o the maximum amount of HOME funds that may be provided for a security deposit is the equivalent of two months rent for the unit.
- o only the prospective tenant, not the unit owner, may apply for HOME security deposit assistance.
- o all of the above TBRA requirements apply except for the term of assistance and maximum subsidy amount.
- o the lease associated with the security deposit may not contain the prohibited lease provisions outlined in Section VII, C, of this notice and must be in effect for at least one year unless there is mutual agreement between landlord and tenant.
- o payment may be made to the tenant or the landlord.

The PJ may provide security deposits as either a grant or a loan. If offered as a grant, the tenant may keep any remaining funds when the family leaves the unit. If the PJ lends the funds, it must arrange for the tenant or owner to return the funds. If the unit owner subtracts funds from the security deposit to cover damages, the PJ may accept the remaining balance as repayment or require the tenant to repay the entire amount. This requirement should be set out in the written agreement between the PJ and the tenant. In determining whether to grant or loan these funds, the PJ should consider the time and effort involved in collecting any remaining security deposit funds from the tenant or owner after the tenant leaves the unit. Returned security deposit funds are treated as program income and must be reinvested in HOME-eligible activities (see [24 CFR 92.503\(b\)](#)).



APPENDIX: Exclusions from Income Under Section 8 Income Definition

Annual income does not include the following:

- 1) Resident service stipends of less than \$200 per month (e.g., fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and resident management).
- 2) Adoption assistance payments.
- 3) The full amount of student financial assistance paid directly to the student or to the educational institution.
- 4) Earned income of full-time students age 18 years or older.
- 5) Payments received for the care of foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).
- 6) State or local employment training programs and training of resident management staff.
- 7) State tax rent credits and rebates for property taxes paid on a dwelling unit.
- 8) Homecare payments made by a State agency to families that have developmentally disabled children or adult family members living at home.
- 9) Deferred periodic payments of Social Security. Supplemental Income payments and Social Security payments received in a lump sum.

Source: 24 CFR 5.609(c).



# Tenant Based Rental Assistance (TBRA) Set Up Form HOME Program

Check the appropriate box: <input type="checkbox"/> Original Submission <input type="checkbox"/> Change Owner's Address <input type="checkbox"/> Revision	Name and Phone Number of Person Completing Form:
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**A. General and Activity Information.**

1. Name of Participant:	2. County Code:	3. IDIS Activity ID Number:	4. Activity Name:

**Set Up Activity**

**B. Objective and Outcome.**

1. Objective (enter code): (2) (1) Create suitable living environment (2) Provide decent affordable housing (3) Create economic opportunities	2. Outcome (enter code): (2) (1) Availability/accessibility (2) Affordability (3) Sustainability
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**C. Household Characteristics.** (Refer to code below where applicable) **Assisting more than 8 tenants? Make copies of this page for additional space.**

Last Name	# of Bdrms	Sec Dep	Monthly Rent			Household					Tenant Contract			
			Tenant Monthly Rent	TBRA Monthly Rent	Total Monthly Rent	% Med	Hispanic? Y/N	Race	Size	Type	Paid To O=Owner T=Tenant	New? Y/N	Months (1 to 24)	

D. Total/Subtotal of HOME Funds Requested: \$

## E. TBRA Units

### Number of TBRA Units:

Designated for the homeless:

Of those the number designated for the chronically homeless:

Was this activity carried out by a faith-based organization (Y/N)?

#### # of Bdrms

0 – SRO/Efficiency  
1 – 1 bedroom  
2 – 2 bedrooms  
3 – 3 bedrooms  
4 – 4 bedrooms  
5 – 5 or more bedrooms

#### Household % of Med

1 – 0 to 30%  
2 – 30+ to 50%  
3 – 50+ to 60%  
4 – 60+ to 80%

#### Household Race

11 – White  
12 – Black/African American  
13 – Asian  
14 – American Indian/Alaska Native  
15 – Native Hawaiian/Other Pacific Islander  
16 – American Indian/Alaska Native & White  
17 – Asian & White  
18 – Black/African American & White  
19 – American Indian/Alaska Native & Black/African American  
20 – Other multi-racial

#### Household Size

1 – 1 person  
2 – 2 persons  
3 – 3 persons  
4 – 4 persons  
5 – 5 persons  
6 – 6 persons  
7 – 7 persons  
8 – 8 or more persons

#### Household Type

1 – Single, non-elderly  
2 – Elderly  
3 – Single parent  
4 – Two parents  
5 – Other

# Instructions for Completing the Tenant-Based Rental Assistance Set-up Report HOME Program

Read the instructions for each item carefully before completing the form.

**Applicability.** The purpose of this report is to assist with the collection of information to be entered into IDIS. This report is to be completed for each TBRA activity set-up in IDIS. A single activity may include up to 99 tenants. For centralized State projects, the tenants must be in the same county.

**Timing.** Data is to be entered into IDIS before funds may be drawn down for the activity. An amended set-up report should be completed to increase or decrease HOME funding for the activity.

## A. General and Activity Information.

1. **Name of Participant.** Enter the name of the participating jurisdiction or the agency administering the TBRA activity.
2. **County Code.** Enter the county code of the agency administering this HOME activity.
3. **IDIS Activity ID Number.** Enter the activity number assigned by IDIS.
4. **Activity Name.** Enter the name designated to the activity. The blank boxes may be used for internal tracking purposes.

## B. Objective and Outcome:

**Objective.** Enter the code of the objective that best describes the purpose of the activity. If a code is not entered in IDIS, the system will default the answer to "2" – Decent affordable housing.

1. **Suitable living environments.** Applies to activities that benefit communities, families, or individuals by addressing issues in their living environment.
2. **Decent affordable housing.** Applies to housing activities that meet individual family or community needs. This objective should not be used for activities where housing is an element of a larger effort.
3. **Creating economic opportunities.** Applies to activities related to economic development, commercial revitalization, and job creation.

**Outcome.** Enter code of the outcome that best describes the benefits resulting from the activity. If a code is not entered in IDIS, the system will default the answer to "2" – Affordability.

1. **Availability/accessibility.** Applies to activities that make services, infrastructure, housing, and shelter available and accessible. Note that accessibility does not refer only to physical barriers.
2. **Affordability.** Applies to activities that provide affordability in a variety of ways. It can include the creation or maintenance of affordable housing, basic infrastructure hookups, or services such as transportation or day care.
3. **Sustainability.** Applies to activities that promote livable or viable communities and neighborhoods by providing services or by removing slums or blighted areas.

## C. Household Characteristics.

Complete one line for each tenant receiving tenant-based rental assistance from the HOME Program.

**Tenant's Last Name.** Enter the tenant's last name if the name is 5 letters or less. Enter the first five letters of the last name if the name is more than five letters or a unique file identification number.

**# of Bdrms.** Enter 0 for a single room occupancy (SRO) unit or for an efficiency unit, 1 for 1 bedroom, 2 for 2 bedrooms, 3 for 3 bedrooms, 4 for 4 bedrooms, and 5 for 5 or more bedrooms.

**Sec Dep.** Enter the amount of HOME funds to be paid to the tenant or owner as a security deposit payment (to the nearest dollar).

**Tenant Monthly Rent.** Enter the actual rent, including utilities, to be paid by the tenant at the time of activity completion (to the nearest dollar). If the rent includes utilities, or, if the rent includes partial utilities, e.g., heat, but not electricity, these utility costs must be added to the rent. Compute utility costs for the area (and in the case of partial

utilities, compute costs for utilities excluded from the rent), by using the utility allowance schedule produced by the local Public Housing Authority (PHA).

**TBRA Monthly Rent.** Enter the amount of HOME funds to be paid to the tenant or owner as a rent subsidy payment, including any utility allowances (to the nearest dollar).

**Total Monthly Rent.** The total monthly rent is automatically calculated by IDIS.

**Household % of Med.** For each household assisted with HOME funds, enter one code only based on the following definitions:

1. **0 to 30%** refers to a household whose annual income is at or below 30 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families.
2. **30+ to 50%** refers to a household whose annual income exceeds 30 percent and does not exceed 50 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families.
3. **50+ to 60%** refers to a household whose annual income exceeds 50 percent and does not exceed 60 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families.
4. **60+ to 80%** refers to a household whose annual income exceeds 60 percent and does not exceed 80 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families.

**Household Hispanic? Y/N.** For each household assisted with HOME funds, enter the ethnicity of the head of household as either "Y" for Hispanic or Latino or "N" for not Hispanic nor Latino. Hispanic or Latino ethnicity is defined as a person of Cuban, Mexican, Puerto Rican, South/Central American, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."

**Household Race.** For each household assisted with HOME funds, enter one code only based on the following definitions:

11. **White.** A person having origins in any of the original peoples of Europe, North Africa or the Middle East.
12. **Black/African American.** A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."
13. **Asian.** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.
14. **American Indian or Alaska Native.** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains affiliation or community attachment.
15. **Native Hawaiian or Other Pacific Islander.** A person having origins in any of the original people of Hawaii, Guam, Samoa or other Pacific Islands.
16. **American Indian/Alaska Native & White.** A person having these multiple race heritages as defined above.
17. **Asian & White.** A person having these multiple race heritages as defined above.
18. **Black/African American & White.** A person having these multiple race heritages as defined above.
19. **American Indian or Alaska Native & Black or African American.** A person having these multiple race heritages as defined above.
20. **Other multi-racial.** For reporting individual responses that are not included in any of the other categories listed above.

**Household Size.** Enter the appropriate number of persons in the household: 1, 2, 3, 4, 5, 6, 7, or 8 (for households of more than 8, enter 8).

**Household Type.** For each household assisted with HOME funds, enter one code only based on the following definitions:

1. **Single, non-elderly.** One-person household in which the person is not elderly.
2. **Elderly.** One or two person household with a person at least 62 years of age.
3. **Single parent.** A single parent household with a dependent child or children (18 years old or younger).
4. **Two parents.** A two-parent household with a dependent child or children (18 years old or younger).
5. **Other.** Any household not included in the above 4 definitions, including two or more unrelated individuals.

**Tenant Contract Paid To.** Enter an O, if the TBRA Monthly Rent will be paid to the Owner. Enter a T, if it will be paid to the Tenant.

**Tenant Contract New?** Enter a Y, if the tenant is newly assisted. Enter an N, if the tenant's assistance is being renewed.

**Tenant Contract Months.** Enter the number of months in the contract with the tenant. Valid entries are 1 to 24.

**D. Total/Subtotal of HOME Funds Requested.**

Enter the total amount of HOME funds requested for the activity. This amount includes the TBRA Monthly Rent for each tenant multiplied by the Tenant Contract Months. It also includes the security deposit amount for each tenant, if requested.

**E. TBRA: Units**

**Number of TBRA units designated for the homeless.** Of the total number of TBRA units in the activity, enter the number designated for the homeless. Homeless is defined as (1) an individual or family who lacks fixed, regular, and adequate nighttime residence; or (2) An individual or family who has a primary nighttime residence that is: (a) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); (b) an institution that provides a temporary residence for individuals intended to be institutionalized; or (c) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

**Of those, the number designated for the chronically homeless.** Of the number of units designated for the homeless, enter the number designated for the chronically homeless. A chronically homeless person is defined as an unaccompanied homeless individual with a disabling condition who has either: (1) been continuously homeless for a year or more, or (2) has had at least four episodes of homelessness in the past three years. A disabling condition is defined as a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability. For the purpose of determining chronically homelessness, a homeless person an unaccompanied individual sleeping in a place not meant for human habitation or in an emergency homeless shelter.

Note: IDIS will default to zero if units are not entered in these fields.

**Faith-based Organization. Was this activity carried out by a faith-based organization (y/N)?** Enter "Y" if it is known or if the organization declares itself to be a faith-based organization. If not, enter "N".

Note: IDIS will enter the default answer of "N" if an answer is not typed in the field.



## AUTHORIZATION FOR RELEASE OF INFORMATION

Each household member 18 years or older must read and sign an Authorization Form for Release of Information. A separate form is included in this package for each adult. If you need additional Authorization forms, please contact the City of Chula Vista Development Services-Housing Division.

I, \_\_\_\_\_ (legal name), do hereby authorize any agencies, offices, groups organizations or business firms to release to the CITY OF CHULA VISTA any information or materials which are deemed necessary to complete and verify my application for participation and/or to maintain my continued assistance under the HOME TBRA Program, and/or Low-Income Housing Programs. The information needed may include verification or inquiries regarding my identity, household members, employment and income, assets, allowances or preferences I have claimed, and residency. These organizations are to include, but are not limited to: financial institutions; Employment Security Commission; educational institutions; past or present employers; Social Security Administration; welfare and food stamps agencies; Veteran’s Administration, court clerks; utility companies; Workmen’s Compensation Payers; public and private retirement systems; law enforcement agencies; medical facilities and credit providers.

I understand that the Department of Housing and Urban Development (HUD) and/or the CITY OF CHULA VISTA (City) may utilize third parties to verify information and other computer matching programs in order to verify the information supplied on my application or recertification. It is understood and agreed that this authorization or the information obtained with its use may be given to and used by HUD and/or City in the administration and enforcement of program rules and regulations and that HUD and/or City may in the course of its duties obtain such information from other Federal State or local agencies, including State Employment Security Agencies; Department of Defense; Office of Personnel Management; the Social Security Administration; and State welfare and food stamp agencies. If there is a discrepancy between the information provided by the above sources and the information that I have provided, I understand that City may take action to terminate my benefits and will require the repayment of benefits I was not eligible to receive.

*It is with my understanding and consent that a photocopy of this authorization may be used for the purposes stated above. This authorization is valid for two years from the date of my signature.*

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Address City State Zip

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Social Security Number Date of Birth Telephone Number

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Signature Date Signed