Municipal Building 625 52nd Street – Room 204	***HOME Program Commission Agenda***	**Wednesday, May 29, 2013 6:00 p.m.**
Alderman Curt Wilson - Chairman, Alderman Daniel Prozanski, Jr. - Vice Chairman, Alderman Anthony Kennedy, Alderman Tod Ohnstad, Ron Frederick and Anderson Lattimore		

Call to Order and Roll Call

Approval of Minutes from April 23, 2013

1. 2013 HOME Investment Partnerships Program Contract between the City of Kenosha and Kenosha Housing Authority.

Public Comments

Commissioner Comments

Staff Comments

Adjournment

Community Development & Inspections
625 52nd Street – Room 308
Kenosha, WI 53140
262.653.4030 phone / 262.653.4045 fax
www.kenosha.org

If you are disabled in need of assistance, please call 262.653.4030 at least 72 hours before this meeting.

Notice is hereby given that a majority of the members of the Common Council may be present at the meeting. Although this may constitute a quorum of the Common Council, the Council will not take any action at this meeting.

HOME PROGRAM COMMISSION
Minutes
April 23, 2013

MEMBERS PRESENT: Alderman Curt Wilson, Alderman Daniel Prozanski, Alderman Anthony Kennedy, Ronald Frederick and Anderson Lattimore

MEMBERS EXCUSED: Alderman Tod Ohnstad

STAFF PRESENT: Mike Maki, Tony Geliche and Jeffrey B. Labahn

Others Present: Donna Cook, Director and Lynn Elvetici, Deputy Director from the Housing Authority

The meeting was called to order at 6:05 p.m. by Alderman Wilson, roll call was taken.

A motion was made by Alderman Kennedy and seconded by Mr. Lattimore to approve the minutes from March 4, 2012. The motion passed. (Ayes 4; Noes 0)

1. **Resolution by the Finance Committee - To Amend the 2011, 2012 and 2013 Adopted Consolidated Plans - Annual Plans Regarding the HOME Program Description.**

Public hearing opened, no comments, public hearing closed.

Mr. Lattimore asked if the $160,000 of 2011 funds that must be committed to a project is still an accurate number, or has that changed? Mike Maki, Community Development Specialist, said it is a requirement from HUD that the 2011 Project Year funds are committed by June 30, 2013. We have used some of that money, so it is down to approximately $158,600. This amount fluctuates because as people repay their loans, that program income must be used before we can use the entitlement funds. We have also recaptured money from projects that didn't meet HUD standards. Mr. Maki noted that today we are proposing to change the 2011, 2012 and 2013 descriptions to add the Tenant-Based Rental Assistance (TBRA) activity. If approved today, Staff will publish a Public Notice for a 30 day comment period. After this period the proposal will be heard by the Common Council with any comments suggested. Staff anticipates we could help as many as 40 households.

Alderman Prozanski arrived.

Mr. Frederick asked what is the income eligibility to get the rental assistance? Mr. Maki said it is 50% of the County median income. It will vary depending on how many people are in the household. If they are eligible, they would find an apartment, the Housing Authority would then review the apartment. If approved, the applicant would pay 30% of the rent and we would provide the rest. Mr. Frederick suggested Staff offers a range of this median income requirement. I think this will be a question from the public.

Alderman Kennedy said if this is approved, it will move on to the Finance Committee. What is the amount of the tenant-based rental assistance? Mr. Maki said tonight we are proposing to change the 2011, 2012 and 2013 program descriptions only. We will come

back at a later meeting with a contract and the details. Alderman Kennedy thanked everyone for getting this project to this level. This change will help many people that are elderly and elderly with disabilities. Mr. Maki said the Housing Authority has certainly demonstrated that there is a need for this assistance, there are currently 159 people on the list that meet the criteria.

Alderman Wilson said Staff is expecting to assist 40 households, maybe more. Can you further explain? Mr. Maki said that 40 vouchers can be out at a time. If a slot opens because someone moves off the list, we could help someone else.

Alderman Prozanski asked how long an applicant could hold a voucher. Mr. Maki said they could have the voucher for up to two (2) years. At that time the voucher could be extended the City has available funds. Alderman Prozanski said you mentioned that 159 currently meet the criteria. Does that number include disabled, not elderly? Mr. Maki said no. Mr. Maki added that when we restrict the funds to certain people, we must demonstrate we have units available to meet those criteria. We can show we have enough interested people and the we have available units to assist Elderly people. Alderman Prozanski asked if this program would help a single mother with a disability? Lynn Elvetici, Deputy Director, Kenosha Housing Authority, said yes, if they meet the income limits.

Donna Cook, Director of Kenosha Housing Authority, said we took applications in 2009 and have 3,600 people on waiting list. We had such an overwhelming response that the list has been closed since 2009. Ms. Cook said they are in the process of purging or updating the list. We are sending a notification to their last known address and checking if they still need the assistance and meet the requirements.

A motion was made by Alderman Kennedy and seconded by Alderman Prozanski to approve the Amendment to 2011, 2012 and 2013 HOME Program Descriptions. The motion passed. (Ayes 5; Noes 0)

Public Comments

No public comments.

Commissioner Comments

No Commissioner comments

Staff Comments

Tony Geliche, Community Development Specialist, said in regards to Mr. Frederick's question, 50% of the County's median income for a household of two is $27,850.

A motion to adjourn was made by Alderman Prozanski and seconded by Alderman Kennedy. The motion passed. (Ayes 5; Noes 0) The meeting adjourned at 6:30 p.m.

Meeting Minutes Prepared by: Kay Schueffner, Community Development & Inspections

Community Development Division 625 52nd Street Kenosha, WI 53140 262.653.4030	HOME Program Commission FACT SHEET	May 29, 2013	Item 1 Page 1

2013 HOME Investment Partnerships Program Contract between the City of Kenosha and Kenosha Housing Authority.

ANALYSIS:

- The attached contract is a two-party contract between the KHA and the City of Kenosha to provide Tenant-based Rental Assistance (TBRA) for up to forty (40) households in the City of Kenosha through the KHA.

- TBRA is a rental subsidy that can be used to help individual households with rent and security deposits. It would be patterned after the Section 8 Program.

- The HOME Program Commission asked Staff to research the use of HOME funds for TBRA. Staff has worked with the Kenosha Housing Authority to provide documentation on the Elderly population on its Section 8 Waiting List. The Housing Authority has documented that there are 72 Elderly applicants with disabilities, and 87 Elderly applicants without disabilities on its waiting list. Elderly Veterans need to be documented, but will be done through an applicant verification and update process through the Housing Authority.

- The assistance would to be provided as follows:
  - First Priority - Elderly Veterans
  - Second Priority - Elderly persons with disabilities
  - Third Priority Elderly persons without disabilities who are currently on the Section 8 Waiting list.

  (Elderly, as defined by HUD, is age 62 and greater.)

- TBRA moves with the tenant and the level of subsidy varies based upon the household income. The maximum amount of rental assistance is the difference between thirty (30%) percent of the households adjusted monthly income and the rent limit. Rent limits are between $624 for an 1-bedroom unit, to $1,163 for a 3-bedroom unit.

- Tenants are provided a voucher and must search for their own unit. An HQS inspection is completed by the KHA and the rent subsidy is calculated for the unit. If the tenant desires a unit that rents higher than the rent limit for the unit type, the tenant pays the difference above the rent limit, in addition to their 30% share.

- Under the contract, TBRA will be provided to tenants who are fifty (50%) percent or below HUD's area median income. This would be $24,400 for 1 person, up to $45,950 for 6 persons.

- The City is required to commit HOME Entitlement funds within two (2) years of receiving its funds. At this time, the City is required to commit the remainder of its 2011 HOME funds by June 30, 2013 or the City will lose the ability to use the funds for HOME eligible activities.

- If the City has any Program Income (PI) Funds on hand, those funds must be used prior to any Entitlement funds. This requirement then increases the amount that the City must commit to a project. At this time, due to loan repayments, insurance proceeds and pending PI that the City will receive from the sale of City homes, the City needs to commit $400,000 to a project by June 30, 2013.

2013 HOME Investment Partnerships Program Contract between the City of Kenosha and Kenosha Housing Authority.

- Tenant-based Rental Assistance will allow the City to commit the required funds by June 30.
- The contract establishes that a maximum of $400,000.00 will be provided to the KHA to provide TBRA over a two (2) year time period. Additionally, the City will compensate the KHA for administrative costs used to run the program for the City, up to a maximum of $40,000.00 over the contract period.
- TBRA may only assist individual households for a maximum of two (2) years. Contracts can be renewed subject to the availability of HOME funds.

RECOMMENDATION:

A recommendation is made to approve the contract between the City of Kenosha and Kenosha Housing Authority to provide tenant based rental assistance.

Mike Maki, AICP, Community Development Specialist

Jeffrey B. Labahn, Director

/u2/acct/cp/ckays/1HOME PROG/2013/MAY29/fact-InvestPartProg-contract.odt

2013 Home Investment Partnerships Program Contract
Between The City of Kenosha
and
City of Kenosha Housing Authority

THIS CONTRACT "Contract" is entered into by and between the **CITY of Kenosha**, a municipal city of the State of Wisconsin, with offices at 625 52nd Street, Kenosha, hereinafter called the **"CITY"**, and **the City of Kenosha Housing Authority** a Wisconsin Public Housing Authority, with offices at 625-52nd Street, Room 98, Kenosha, hereinafter called the **"KHA".**

WHEREAS, the United States Government, through Section 92 of the National Affordable Housing Act of 1990, Title II, has created the Home Investment Partnerships Program (HOME), referred to herein as 24 CFR 92, which allows Entitlement Cities to elect to administer HOME activities through a Public Housing Authority, subject to certain conditions, and is incorporated herein by reference, as amended, in its entirety; and,

WHEREAS, the CITY has elected to administer the HOME Program, through the Department of Community Development & Inspection hereinafter called the "DEPARTMENT"; and,

WHEREAS, the KHA has submitted to the DEPARTMENT documentation on Elderly and Disabled applicants on its Housing Choice Voucher Waiting List, on reliance upon the representations set forth in the documentation, the CITY approves an award totaling **$400,000** of HOME funds to the KHA to be used for a HOME Program Tenant Based Rent Assistance Program; and,

WHEREAS, this Contract is distinguished from all previous contracts between the KHA and the CITY and contains the entire understanding between the parties;

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, the CITY and the KHA agree to the provisions set forth in the following pages which are in the General Contract Terms to include Attachments 1, 2, 3 and 4, thereto all of which are attached hereto and incorporated herein by reference.

GENERAL CONTRACT TERMS

1. Program Goals

The KHA agrees to accomplish the following HOME Goals:

A) Operate the HOME Tenant Based Rent Assistance (HOME TBRA) Program in accordance with the guidelines set forth in the Federal Register, 24 CFR Part 92, (HOME Investment Partnerships Program Final Rule), the U.S. Department of Housing and Urban Development Notice CPD 96-07, attached hereto as Attachment 4 (Guidance on Tenant-Based Rental Assistance under the HOME Program), and the KHA Section 8 Program Administrative Plan with the exceptions listed in this contract.

B) Screen prospective tenants for eligibility for the Program. KHA shall use 100% of the HOME funds to benefit households whose initial adjusted income is 50% or less of Kenosha County median income adjusted for family size.

2. Funding Schedule and Reimbursement

The HOME funds are to be allocated and committed according to the schedule and program

established in Attachment 1.

Instructions for HOME TBRA funding and administrative cost reimbursement associated with this Contract are listed in Attachment 2.

3. Compensation

A) In consideration of the KHA's satisfactory performance of the work required under this Agreement and the KHA's compliance with the terms of this Agreement, the CITY shall provide the KHA a total of **$400,000** in HOME funds. In addition, an administrative fee of $58 per leased unit shall be paid per month, not to exceed 10% of the funds drawn in each calendar year, or a maximum of $40,000 over the contract period. Such HOME funds shall be used by the KHA in accordance with the activities listed and budgeted on Attachment 1. Administrative funds will be disbursed for actual costs incurred in the administration of this contract. Documentation that supports the utilization of administrative funds must be maintained.

B) The KHA understands that this Agreement is funded in whole or in part by federal funds. In the unlikely event the federal funds supporting this Agreement become unavailable or are reduced, the CITY may terminate or amend this Agreement and will not be obligated to pay the KHA.

C) The KHA shall not anticipate future funding from the CITY beyond the duration of this Agreement and in no event shall this Agreement be construed as a commitment by CITY to expend funds beyond the termination of this Agreement.

4. Cash Management

The KHA will be responsible for requesting HOME funds from the Department using the forms and procedures provided by the Department. Disbursements may not be requested until needed for payment. Disbursements will be made only to the KHA. The KHA is responsible for the disbursements of funds to eligible rental housing providers and vendors.

5. Depositories for Program Funds

The KHA must establish a separate account in a local financial institution for the receipt, deposit, and disbursement of HOME TBRA Program funds from the CITY. The local account will also be used for the deposit and disbursement of repayments of HOME funds. Program income must be disbursed prior to requesting HOME funds from the CITY.

6. Program Income

HOME Program Income is the income received by the KHA that is directly generated from the use of HOME funds or matching contributions. Program income includes, for this project, HOME Program income would be derived from returned rent assistance payments.

The KHA must certify that all program income will be separately recorded and accounted. All program income must be budgeted and expended on HOME eligible projects in accordance with the HOME Program regulations (24 CFR Part 92). Any HOME Program Income funds must be expended first, prior to drawdown of any new HOME Program Entitlement funds, as defined in 24 CFR 92.500 and 24 CFR 92.503.

7. **Reversion of Funds and Assets**

All funds not expended or committed by the KHA pursuant to this Contract and approved by the DEPARTMENT for the services described in Attachment One shall be unavailable to KHA, unless specifically authorized by the DEPARTMENT Director.

Upon expiration of this Agreement, the KHA shall transfer to the CITY any HOME funds on hand at the time of expiration of said contract and any accounts receivable attributable to the use of HOME funds.

Should the KHA decide, following grant closeout, to discontinue using program income for HOME-eligible activities, the KHA agrees to return the program income balance and any additional income accrued to the CITY within thirty (30) working days from the end of each calendar year.

8. **Obligations of KHA**

A) All of the activities required by this Agreement shall be performed by personnel of the KHA, except that those services provided by a certified HQS Inspector may be contracted to a third party under the direct supervision of the KHA and in accordance with the terms of written contracts.

B) A certified Housing Quality Standards, (HQS), inspector will perform all initial, annual, and/or special unit inspections. Inspections shall be in accordance with guidelines provided in 24 CFR982.401.

C) The KHA will adhere to lead-based paint program requirements for all units. This requirement applies to tenants requesting security/utility deposits as well as to those applying for rental assistance coupons. During initial and periodic inspections, an inspector acting on the behalf of the KHA and trained in visual assessment for deteriorated paint surfaces in accordance with procedures established by HUD shall conduct a visual assessment of all painted surfaces in order to identify any deteriorated paint (24 CFR Part 35.1215 (a)(1). The visual assessment must take place as part of the initial and periodic inspections required by HUD (24 CFR Part 35, Sec. 92.209(i). TBRA funding cannot be provided until the unit passes the lead-based paint visual inspection.

D) If during the course of an annual or periodic inspection, the visual inspection reveals deteriorated lead-based paint, the owner shall stabilize each deteriorated paint surface in accordance with 24 CFR Part 35.1330(a) and (b). Such paint stabilization must be completed within 30 days of notification to the owner of the results of the visual assessment. Depending upon the scope of the work undertaken to stabilize the paint, and if necessary, the owner at his/her expense, is responsible for relocating the tenants to a comparable, safe, and sanitary dwelling free of lead-based paint while the work is taking place. Paint stabilization is considered complete when clearance is achieved in accordance with 24 CFR Part 35.1340. The owner shall provide a notice to occupants in accordance with 24 CFR 35.125(b)(1) and (c) describing the results of the clearance examination.

E) The KHA will provide lead-based paint disclosure information to all tenants and landlords. Optional blood level verification forms will be provided to tenants with children under age 6 who have selected units that were constructed prior to 1978. Addresses of tenants with children under age 6 living in pre-1978 structures will be provided to the Local Health Department quarterly. (Refer to 24 CFR 35.1225)

9. Agreements with Housing Providers

The KHA shall insure a written Housing Assistance Payment Agreement and a lease are executed with each assisted housing unit owner participating in HOME. Owner agrees to abide by the applicable terms set forth in the HOME Program TBRA Lease and Housing Assistance Payments Agreement and which will be in effect for the duration of each project's period of affordability.

10. Eligible Forms of Financial Assistance

Eligible forms of financial assistance are Tenant Based Rent Assistance utilizing the Section 8 Housing Choice Voucher program model, as well as security deposit assistance.

Security Deposit assistance may also be provided to participating households to help them secure an eligible housing unit to rent through the HOME TBRA Program.

11. Kenosha Housing Authority Section 8 Administrative Plan and Exceptions for the HOME TBRA Program

The KHA will administer and operate the HOME TBRA Program under their current administrative policy for the Section 8 Housing Choice Voucher Program with the following exceptions:

A) To implement its tenant selection policies for the HOME TBRA Program in a fair and orderly manner, the KHA will use its existing Section 8 Waiting List for preference for assistance through the HOME TBRA Program. Assistance through the HOME TBRA Program will be restricted to City of Kenosha residents and the following special needs Elderly groups that are currently on the Section 8 Waiting List. Elderly is defined by HUD as age 62 or greater.

1. Elderly Veteran household – First Priority

2. Elderly with disabilities household – Second Priority

3. Elderly (no disabilities) household – Third Priority

B) Households on the Kenosha Housing Authority's Section 8 Waiting List when selected for HOME-funded Tenant Based Rent Assistance must remain in their place on the waiting list while receiving the HOME Tenant Based Rent Assistance. If a Section 8 Voucher becomes available through turnover or additional Section 8 budget authority and the next eligible family on the KHA'S Section 8 waiting list is a HOME TBRA recipient, that family must be offered a Section 8 Voucher. The KHA should monitor openings on its Section 8 Waiting List on a monthly basis to offer Section 8 assistance to HOME TBRA recipients, when available.

C) All households receiving HOME Program Tenant Based Rent Assistance under this contract must reside in approved housing units located within the CITY of Kenosha boundary limits. No portability of HOME TBRA outside of the CITY of Kenosha will be allowed.

D) All households and individuals participating in the HOME TBRA Program shall be required to participate in the KHA's Self Sufficiency program as a condition of receiving assistance.

E) Security Deposit Assistance is an eligible activity under the HOME TBRA Program as described in the HOME Program Final Rule at 24 CFR 92.209.

The maximum security deposit assistance that may be provided is the equivalent of two (2) months rent for the unit.

F) HOME TBRA Program assistance may be provided to eligible households and individuals for up to 24 months.

G) HOME TBRA Housing Assistance Payment Contracts may not exceed 24 months. However, contracts may be extended based on availability of HOME or additional HOME funds being made available.

H) The lease between the landlord and tenant my not contain any prohibited lease terms per 24 CFR 92.253(b).

12. Project Property Standards

At a minimum, properties assisted through the HOME are subject to the following property standards:

A) Department of Housing and Urban Development Housing Quality Standards (HQS)

13. Environmental Review and Historic Preservation Review

The CITY will be responsible for compliance with Environmental Review and Historic Preservation reviews as required for the HOME Program. HOME Tenant Based Rental Assistance is categorically excluded activity not subject to an environmental review or compliance determination under 24 CFR 58.35(b) requirements. The CITY will document that the activity under this agreement is a categorical exclusion not subject to 24 CFR 58.35(b) authorities, and will document the CITY'S Environmental Review Records as such.

14. Nondiscrimination

A) In all hiring or employment made possible by or resulting from this Contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, religion, sex orientation, sex or national origin, and (2) affirmative action will be taken to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex orientation, sex or national origin. This requirement shall apply to, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. There shall be posted in conspicuous places available to employees and applicants for employment, notices required or to be provided by federal or state agencies involved, setting forth the provisions of the clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex orientation, sex or national origin.

B) No person in the United States shall, on the grounds of race, color, sex orientation, religion, sex or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Contract. The CITY and each employer will comply with all requirements imposed by or pursuant to the regulations of the appropriate federal agency effectuating Title VI of the Civil Rights Act of 1964.

C) The KHA will cause the foregoing provisions to be inserted in all subcontracts, if any, for any

work covered by this Contract, so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

15. Equal Opportunity and Affirmative Action

In connection with the performance of work under this contract, the KHA will comply with the fair housing and equal opportunity requirements contained in 24 CFR 92.350.

These include:

- Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and the regulations issued pursuant thereto (24 CFR 1)
- The Fair Housing Act (P.L. 100-430)
- The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973
- Executive Order 11063
- Executive Order 11246 and the regulations issued pursuant thereto (24 CFR 130 and 41 CFR 60)
- Section 3 of the Housing and Urban Development Act of 1968, as amended
- The KHA shall make efforts to encourage the use of minority and women-owned and locally-owned business enterprises in activities associated with HOME. The KHA shall keep records of the extent (number and dollar amount) of participation by minority and women-owned businesses, including owners, and assess the results of its efforts to encourage the use of these businesses as set forth in 24 CFR 92.350.
- All contracts of Ten Thousand Dollars ($10,000) or more require the submission of a written affirmative action plan.
- KHA with an annual work force of less than ten employees and/or local governments are excluded from this requirement. No later than 30 days after the award of the Contract, the written affirmative action plan shall be submitted to the CITY.
- The KHA shall adopt appropriate procedures as set forth in 24 CFR 92.350 and 9 2.351.

16. Audits, Reporting, and Record Keeping

Audits. The KHA shall comply with the single audit requirements of the U.S. Department of Housing and Urban Development, where required.

Reporting. The KHA agrees to submit all required forms and reports in a complete and timely manner as described in Attachment 4 and to comply with all other applicable regulations including 24 CFR 92.

Record Keeping. The KHA agrees to retain at a minimum, all records including, written agreements pertinent to the Program, required under 24 CFR 92.508 for a period of **five (5) years** after the period of rental assistance terminates except as laws and regulations may require

longer retention.

The KHA shall provide for full and timely disclosure of records and documents relating to the Program consistent with federal, state, and local laws. Documents related to the Program shall be made available at the KHA'S office during normal working hours for citizen review upon request.

The Department, the Inspector General of HUD, the Comptroller of the United States, or any other duly authorized representative shall have access to all books, accounts, records, files, and other papers or properties of the KHA pertaining to the use of the Program funds.

17. Conflict of Interest

The KHA agrees to comply with conflict of interest rules as set forth in 24 CFR 92.356.

18. Administration

The KHA is responsible for ensuring that HOME Program Funds are administered in accordance with all federal requirements, applicable OMB Circulars, federal and state laws and this Contract in effect for the duration of each project's period of affordability.

19. Amendments

This Contract may be amended only by written agreement between the CITY and the KHA. A variance in the attachments is permissible subject to the discretion of the City.

20. Adjustment to Funding

The CITY, based on a reasonable judgment reserves the right to have sole authority to adjust any part of or all fund allocation levels at any time.

All allocations under this Contract are subject to the continued availability of funding from the appropriate source.

21. Contract Termination

This Contract shall terminate upon the KHA fulfilling all obligations under this Contract. Termination of this Contract does not relieve KHA from the obligations stated in Sections 6 and 7 of this Contract relating to Program Income and the Reversion of Funds and Assets.

22. Indemnification

The KHA agrees that it shall be solely responsible for all administrative monitoring and enforcement responsibilities under applicable HUD regulations, and this Contract, and that it indemnifies and holds the CITY and the Department harmless from any resulting legal or administrative actions, lawsuits, and liability resulting from this Contract, or any other CITY or Department representations or actions regarding this project. The KHA and the CITY agree that for any acts performed or omitted to be performed under or arising out of the Contract, no officer, employee, or agent of the CITY shall be subject to any personal liability.

23. Captions and Terms

The captions used in this Contract are inserted only as a matter of convenience and for reference

and in no way define, limit, or describe the scope or intent of this Contract. Terms used but not specifically defined herein shall have the meaning specified in the HUD regulations and related documents.

24. Partial Invalidity of Contract

Should any part, term, or provision of this Contract be decided by a court to be invalid, unenforceable, illegal, or in conflict with any law, the validity, legality, and enforceability of the remaining portions shall not be affected or impaired.

25. Attachments

All attachments to this Contract are incorporated as if fully set forth herein.

26. Notices

All notices, demands, or requests required or permitted under this Contract shall be in writing for the parties and delivered either by hand or certified mail, receipt requested, to the addresses listed below. Notices shall be effective as of the date of delivery, if by hand, or mailing, if by certified mail, return receipt requested.

To the CITY: Director
Department of Community Development & Inspection
CITY of Kenosha
625 52nd Street, Room 308
Kenosha, WI 53140

To the KHA: Executive Director
Kenosha Housing Authority of the CITY of Kenosha
625-52nd Street, Room 98
Kenosha, WI 53140

CITY OF KENOSHA, A MUNICIPAL CORPORATION

By: _____ Date: _____
Keith G. Bosman, Mayor

By: _____ Date: _____
Debra L. Salas, CITY Clerk/Treasurer

KHA, CITY OF KENOSHA HOUSING AUTHORITY

By: _____ Date: _____
Shawnelle L. Gross, Chairman

By: _____ Date: _____
Donna Cook, Executive Director/Secretary

27. Authority

CITY enters into this Contact by authorization of action taken by its Common Council on the ____ day of June, 2013.

KHA enters into this Contract by authorization of action taken by its Board of Directors on the ____ day of May, 2013.

ATTACHMENT ONE

1. The purpose of the HOME Program funding under this contract is to provide the KHA with funding to administer a HOME Program Tenant Based Rent Assistance Program in accordance with the following rules and regulations:

   A) The U.S. Department of Housing and Urban Development HOME Investment Partnerships Program Final Rule at 24 CFR Part 92; and

   B) The U.S. Department of Housing and Urban Development Notice CPD 96-07 (Guidance on Tenant-Based Rental Assistance under the HOME Program); and

   C) The CITY of Kenosha Housing Authority Section 8 Program Administrative Plan with the exceptions listed in this contract.

2. The HOME TBRA project funds under this contract are awarded in the amount of $400,000.00 for Project expenses, and $58 per leased unit per month (not to exceed 10% of the funds drawn in each calendar year) for Administrative expenses through March 31, 2016.

3. The HOME TBRA under this contract funds shall be committed for up to forty (40) specific Tenant Based Rental Assistance Projects projects by March 31, 2014, and disbursed by March 31, 2016.

4. HOME TBRA funds may be provided under a rental assistance contract for an eligible household for up to twenty-four (24) months, but may be renewed, subject to availability of HOME TBRA funds. For the HOME TBRA Program the KHA will use a twelve (12) month rental assistance contract, which may be renewed based upon availability of HOME TBRA funds.

5. HOME TBRA funds under this contract may also be used to provide Security Deposit Assistance to participating eligible households receiving HOME TBRA. The HOME Security Deposit Assistance is intended to help program participants secure an eligible housing unit and is limited to the amount of two (2) months rent for the unit to be assisted under the HOME TBRA Program.

6. HOME TBRA programs cannot provide assistance for ineligible assistance and/or damage claims.

7. The KHA understands that client cannot be receiving rental assistance elsewhere. For example, a client that receives TBRA cannot receive project-based rental assistance also.

8. The HOME TBRA Program must only be used for eligible housing units within the boundaries of the CITY of Kenosha. No portability of HOME TBRA is allowed.

ATTACHMENT TWO

City of Kenosha
HOME Tenant-Based Rental Assistance (TBRA)
Program Guidelines

1. GENERAL PROGRAM INFORMATION:

The City of Kenosha has allocated HOME Program funding to support a HOME Tenant-Based Rental Assistance (HOME TBRA) Housing Assistance Program for households meeting the Eligibility Requirements identified below.

2. ELIGIBLE HOUSEHOLDS/TARGET POPULATION:

Eligible households for the HOME TBRA program must have adjusted household income below 50% of Kenosha County Median income adjusted for their family size.

Additionally, assistance through the HOME TBRA Program will be restricted to City of Kenosha residents and the following special needs groups that are currently on the Section 8 Waiting List:

A. Elderly with disabilities household;

B. Elderly Veteran household; and

C. Elderly (no disabilities) household

3. GRANTEE ACTION PLAN:

The local Grantee Agency will be responsible for completing a Grantee Action Plan ("Plan") that is responsive to local needs and priorities and that establishes appropriate affirmative outreach, referral and participant selection policies. The Plan must be submitted in the format prescribed by City of Kenosha.

To ensure compliance with HOME rules and regulations, the Plan requires City of Kenosha approval **prior to implementation**. Once approved, amendments to the Plan can be initiated by the Grantee, but must be submitted to and approved in writing by, City of Kenosha **prior to implementation**.

4. PARTICIPANT ELIGIBILITY CERTIFICATION BY GRANTEE:

In order to receive HOME TBRA funds, the Grantee must commit to providing continuing outreach and Self Sufficiency program support to the participating households to support success in achieving and maintaining housing stability within a two-year period.

5. GENERAL ADMINISTRATIVE STRUCTURE:

A. The Grantees program must provide and document appropriate supportive services and administrative support to administer the HOME TBRA funds.

B. The Grantee will maintain primary responsibility for all issues of consumer management, housing placement, tenant-landlord relations, housing unit initial and annual inspections, assurance of all necessary certifications/verifications and program accountability and documentation.

C. The Grantee will have a written Memorandum of Understanding with other service providers pertinent to provision of long-term support for tenants when that support is essential to the implementation of the Grantee Plan.

6. ADMINISTRATIVE COSTS:

HOME funds may be used to pay for reasonable planning and administrative expenses associated with operating a TBRA program. Such expenses are subject to the HOME 10 percent (10%) limitation on administrative costs.

General management, oversight, and coordination are administrative costs. They include staff salaries, wages and other costs related to executing HOME TBRA activities.

Other examples of eligible administrative costs:

- Data collection/reporting
- Program planning
- Form development

7. INCOME LIMITS, DEFINITION OF ANNUAL / ADJUSTED INCOME AND VERIFICATION REQUIREMENTS:

A. Income limits are established by household size and revised annually by the U. S. Department of Housing and Urban Development (HUD). In order to be eligible, program participants' total Gross Annual Income must be at or below the applicable income limit as defined by Grantee.

B. Income must be verified with a third party before assistance is provided and re-examined at least annually thereafter. Gross and Adjusted Annual Income are calculated using the Section 8 definitions of income and allowances.

1. Income Limit at Admission: Household Gross Annual Income must be at or below 50 percent of the area median income.

2. Income Limit after Admission: Assistance must be terminated if the household's Gross Annual Income goes above 80 percent (Lower Income Limit) of the area median income at the end of one year of participation. The owner and the family must receive at least 30 days written notice of the termination.

8. FAMILY CONTRIBUTION, MINIMUM FAMILY CONTRIBUTION AND MAXIMUM TBRA SUBSIDY:

A. ***Family Contribution:*** Participating households must pay 30% of Adjusted Monthly Income towards rent and utilities.

B. ***Minimum Family Contribution:*** Zero (i.e., family reports no income – 30% x $0 = $0)

C. ***Maximum TBRA Subsidy:*** The TBRA subsidy may not exceed the difference between the established HOME Rent Standard and Family Contribution identified above. The HOME Rent Standard is the same as the KHA's Section 8 Housing Choice Voucher Program Payment Standard.

9. OUTREACH TO ELIGIBLE HOUSEHOLDS:

The Grantee will utilize its existing Section 8 Waiting List for TBRA. At such time as when all Eligible Households, as defined in Section 2, are exhausted, the Grantee shall implement the following outreach policy.

The Grantee has an obligation to ensure that information about the program reaches the broadest possible range of potentially qualified applicants. To further fair housing objectives, the Grantee should identify those households 'least likely to apply' and determine what special outreach activities will ensure that this population is fully informed about the program.

HOME TBRA must be affirmatively marketed to all qualifying members of the target population and/or special needs group identified in the Plan. To ensure that program access is not limited to a particular facility's or program's clients, the Grantee's marketing approach must be included in the Plan and must address: (1) *how* the program will be announced (i.e., identify specific outreach and marketing strategies); (2) *where and for how long* applications will be taken (i.e., at one site or more); (3) *when* applications will be accepted (i.e., daily, during normal working hours or extended hours, for a specific time period, etc.); and (4) the method for taking applications (i.e., in person, by mail).

10. WRITTEN TENANT SELECTION POLICY:

Each Grantee must have a written tenant selection policy that clearly specifies how families will be selected to receive assistance. The tenant selection policy must be clearly identified in the Plan. Participation (admission to the waiting list and receipt of program benefits) may be restricted to persons/households who are residents within the grantee's identified target population so long as basic fair housing requirements are met.

If admission is restricted (targeted), the assistance must be available to all persons who fall into the target population identified in the Plan. **Access to the waiting list and subsequent rental assistance cannot be limited to a particular service**

provider agency or service program. It can, however, be targeted to a particular category or class (i.e., households participating in transitional housing, homeless households, Family Self Sufficiency Program services, etc.). Although participants may be required to obtain services required to live independently, they must be free to choose where those services are provided.

Requiring Continued Participation in Support Services:

If HOME TBRA Housing Assistance is targeted to participants requiring support services (i.e., Family Self Sufficiency Program, Case management, Mental Health or AODA services etc.), continued participation in those services may be a condition for continued receipt of HOME TBRA assistance if it is:

1. Stated in the Grantee Action Plan, Tenant Selection Plan and any other such program and marketing materials;

2. Directly related to the strategy for serving persons with special needs;

3. Applied to all participants (depending on their needs); and

4. Stated in any agreement between the program and the participant.

11. USING A WAITING LIST:

The demand for rental assistance is far greater than available resources. The Grantee will maintain the names of all applicants who are apparently eligible on the waiting list. As a result, a waiting list must be maintained to ensure that households are selected for assistance in a fair and equitable manner. Applicants who are determined ineligible must be notified in writing of this decision and offered the opportunity to appeal the decision (see section entitled 'Denying and Terminating Assistance' below for more details).

The Grantee has several options regarding maintenance of the waiting list. Therefore, the Grantee Action Plan must identify how the waiting list will be created, if reopened, and maintained. Identified below are several options the Grantee may want to consider when establishing its waiting list procedures:

1. Order in which assistance is offered (i.e., approved preference selection policy based on aggregate needs, local residency preference, first come-first served; lottery, etc.)

2. Length and time of waiting list (i.e., maintain list for a fixed period of time such as 6 months and then start over; accept applications for a fixed period of time and do not open again until all eligible applicants receive assistance; continuously take applications; etc.)

3. Severity or intensity of need

The Grantee must document the date on which assistance was offered to all

households to verify that the order of selection is consistent with the waiting list. The offer date must be recorded and placed in the applicant's file.

Effect of HOME TBRA on Households Status on Section 8 Waiting List: The HOME statute requires that HOME TBRA recipients who have also applied for Section 8 assistance (either project or tenant based) retain, for the purpose of the Section 8 waiting list, any tenant selection preference for which they qualified at the time HOME TBRA was provided. This policy enables households to receive HOME TBRA without jeopardizing the opportunity to receive Section 8 assistance.

Households on the Kenosha Housing Authority's Section 8 Waiting List when selected for HOME TBRA Program must remain in their place on the waiting list while receiving the HOME TBRA.

12. PROHIBITION AGAINST DUPLICATIVE RENTAL ASSISTANCE:

Participating households cannot receive HOME TBRA if they are receiving rental assistance under another Federal, state or local rental assistance program **IF** the HOME subsidy would result in duplication of subsidies. However, if another rental subsidy program does not provide assistance sufficient to lower a tenant's rental payment to 30 percent of their monthly adjusted income, HOME TBRA could be provided as supplemental assistance to further reduce the tenant's rent payment to 30 percent of monthly adjusted income.

13. INELIGIBLE USES OF TBRA ASSISTANCE:

TBRA **cannot** be used to:

- Make commitments to specific owners for specific units/projects. Tenants must be free to use the assistance in any eligible unit;
- Assist resident owners of cooperative housing that qualifies as home ownership housing. TBRA may, however, be used by a tenant who is renting from a cooperative unit owner;
- Prevent displacement of, or provide relocation assistance to, tenants as a result of activities other than the HOME Program.
- Provide TBRA 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) and City of Kenosha Property Maintenance Code Standards.

14. RENTAL UNITS OWNED BY GRANTEE OR SUB-GRANTEE (i.e. Other Participating Program Partner):

The assisted unit **cannot** be owned by the Grantee or other partner agencies **unless an exception is approved in writing by City of Kenosha**. In order to be considered for an exception, the Grantee must submit a written request to City of Kenosha. The request must, at a minimum, include the following information:

- An explanation why the exception is necessary/appropriate; **and**

- A rent reasonableness analysis on a form prescribed by City of Kenosha to demonstrate cost effectiveness; **and**
- Documentation of adequate outreach to owners so as not to limit access; **and**
- Assurance that occupancy of the unit is not a 'requirement' placed on the participating household and that they have a free choice of units.

15. RENT STANDARDS:

1). Payment Standards

HOME Payment Standards are per HUD Notice: CPD 96-07.

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 Grantee adopts its rent standard amount.

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 Grantee adopts its rent standard amount.

For not more than 20% of the total number of units assisted in their TBRA program, the Grantee 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 (10%).

2). Contractor and Tenant Rent Contributions

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

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

16. UTILITY ALLOWANCE SCHEDULE – ADJUSTING FOR TENANT-PAID UTILITIES:

Utility Allowance Schedules are used to estimate the average cost of utilities for typical types of housing (single family, duplex/townhouse, apartment, etc.) and for various utilities (natural gas, propane, electricity, etc.). Telephone and cable/dish TV are not considered utilities for this purpose.

The household's contribution is intended to cover both rent and utilities. If all utilities are included in the rent, the household's entire contribution goes to the owner. However, this is rarely the case. Most tenants are responsible for payment of at least some utilities and in some instances may receive a Utility Reimbursement.

Grantee Utility Allowance Schedule:

1. Use local Public Housing Agency's Section 8 HOME Program TBRA Voucher Program Utility Schedule.

Below are two examples (with and without a Utility Reimbursement):

Example #1 – No Utility Reimbursement

Assumptions:

Monthly Adjusted Income = $1000
Total Tenant Contribution = $300 ($1000 X .30)
Rent for Unit = $575
Utility Allowance = $75 (gas & electricity)
Gross Rent = $650 ($575 + $75) – Note this is higher than the Rent Standard
Rent Standard = $600
Maximum Subsidy = $300 ($600 Rent Standard - $300 Total Tenant Contribution)

Calculating Subsidy Payment:

$600 - Lesser of Rent Standard or Gross Rent
($300) – Total Tenant Contribution (30% of Monthly Adjusted Income)
$300 - Subsidy Payment

Calculating Tenant Rent to Owner:

$575 – Rent to Owner
($300) – Subsidy Payment
$275 – **Tenant Rent to Owner

****Note:** Tenant is also responsible for paying gas and electricity

Example #2 – Includes a Utility Reimbursement to Tenant

If the Gross Rent (Rent to Owner + Utility Allowance) for the unit is less that the Rent Standard **AND** the Total Tenant Contribution is less than the Utility Allowance, a Utility Reimbursement may occur (NOTE: both of these conditions must exist in order to have a Utility Reimbursement).

Assumptions:

Monthly Adjusted Income = $167
Total Tenant Contribution = $50 ($167 X .30) – Note this is less than the Utility Allow.
Rent for Unit = $500
Utility Allowance = $75 (gas & electricity)
Gross Rent = $575 ($500 + $75) – Note this is less than the Rent Standard
Rent Standard = $600
Maximum Subsidy = $550 ($600 Rent Standard - $50 Total Tenant Contribution)

Calculating Subsidy Payment:

$575 - Lesser of Rent Standard or Gross Rent
($ 50) – Total Tenant Contribution (30% of Monthly Adjusted Income)
$525 - Total Subsidy Payment (TSP)

($500) – Rent to Owner (If Less than TSP Balance is UR to Tenant)
$ 25 – Utility Reimbursement to Tenant

Calculating Tenant Rent to Owner:

$500 – Rent to Owner
($500) – Subsidy Payment to Owner (Lesser of Rent to Owner or TSP)
$ 0 – Tenant Rent to Owner

Tenant is responsible for paying gas and electricity and will receive $25/month toward the expense.

17. OUTREACH TO PROSPECTIVE OWNERS:

The willingness of owners to participate in the HOME TBRA program significantly affects the options and opportunities available to HOME Program TBRA Voucher holders. Grantees should conduct outreach to owners of rental property to stimulate their interest in the program. Mailing program notices to owners using tax or PHA records as sources, and participating in meetings of owner and landlord associations are often effective outreach methods.

Many owners will use the Section 8 program as their frame of reference. Grantee staff should be prepared to describe how the HOME TBRA program is similar to, and different from, the Section 8 Program.

18. UTILITY DEPOSITS:

Utility deposit assistance may be provided in conjunction with the TBRA or a security deposit program.

19. STATE AND LOCAL RENTAL LAWS:

As an advocate for participating households, the Grantee must have a thorough understanding of state and local rental laws. A copy of ATCP 134 Residential Rental Practices is attached for your information.

The booklet entitled "*The Wisconsin Way, A Guide for Landlords and Tenants*", is designed to provide a basic explanation of what happens when a rental agreement is made. It serves as a helpful and informative reference tool concerning the rights and responsibilities of both the tenant and owner. A copy of "*The Wisconsin Way*" *Guide* is provided to each Grantee for their information and use.

20. NONREFUNDABLE FEES, SECURITY DEPOSITS AND INVENTORY CHECKLISTS:

A. ***Nonrefundable Fees.***

Nonrefundable fees **cannot** be paid from TBRA program funds.

There may be charges in addition to the security deposit at the time tenancy begins. These charges may be reasonable and nonrefundable, such as a cleaning charge or fee for wall washing, carpet cleaning, drapery cleaning, etc. A cleaning fee does not negate the obligation of the tenant to maintain the unit in a normal sanitary manner. These nonrefundable fees or charges are separate items from the security deposit and, as such, are not covered by the security deposit law.

B. ***Using Program Funds to Pay for Security Deposits*.**

TBRA funds **may be** used to provide security deposit payments. A security deposit may be provided only **once** to any participating household. Whether or not the deposit is paid by the household or from program funds, **the deposit must be returned to the tenant**.

The Grantee must identify its specific policies regarding payment of security deposits in its Plan submitted to, and approved by, City of Kenosha. The Grantee's policy must provide for consistent treatment of all program participants (i.e., cannot be based on individual need – must either provide for all households or no households).

C. ***General Information on Security Deposits*.**

A security deposit includes any money the tenant gives the owner beyond the first month's rent (except for specifically stated nonrefundable fees), whether or not the owner defines the money as a security deposit. Wisconsin law does not limit the amount of a security deposit. Anything paid to the landlord over one month's rent is considered to be a security deposit.

The Administrative Rule ATCP 134.06 is quite specific about the procedures governing deposits. This law assigns tenant and owner responsibilities the moment the lease is signed or a unit is occupied; knowing and following the procedures from the start prevents misunderstandings. It is important that the Grantee fully understands and assists the tenant in following the required procedures.)

D. ***Inventory Checklists and Major Tenant Responsibilities Regarding Security Deposits*:**

In order to protect the deposit and assure its return (whether or not program funds are used), the Grantee should assist the household to understand their responsibilities as summarized below:

1. Complete an Inventory Checklist at the start of occupancy (within seven days of moving in);
2. Give the owner a forwarding address within four days after moving out. If the tenant does not do this, the right to an itemized list of damages from the owner is forfeited. However, this requirement only applies if the owner has informed the tenant of this requirement in writing within 14 days after the tenant has moved in;

3. Respond **in writing**, if he or she disputes the charges against the security deposit within 7 days of receipt of notice. It is a good practice to retain some type of proof of mailing.
4. Has a right to the refund of the security deposit if the owner does not send a list of damages within 30 days from the end of occupancy and does not file the case within 45 days from the end of occupancy.

21. GRANTEE LEASE REVIEW:

The Grantee must review the owner's lease to assure that it does not include any prohibited lease provisions. The easiest way to accomplish this is to use the required Lease Addendum that nullifies any such provisions that exist in the owner's lease. This eliminates the need for an in-depth legal review of the owner's lease. In addition, the Lease Addendum includes key HOME program requirements that are not routinely included in private sector leases. To this end, the Lease Addendum provided by City of Kenosha is required for all HOME TBRA-assisted units. The lease under the HOME TBRA may not contain any of the following terms per 24 CFR 92.253(b) listed below:

1. 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.

2. 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.

3. 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.

4. Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant.

5. 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.

6. Agreement by the tenant to waive any right to a trial by jury.

7. 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.

8. 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.

22. TERM OF LEASE:

A. ***Minimum Lease Term:*** The initial term of the assisted lease should be for not less than 1 year or 12 months **(unless by mutual agreement between the tenant and owner)**.

B. ***Maximum Lease Term:*** No more than 2 years or 24 months.

C. ***Notice to Terminate:*** The Lease Agreement must require at least 30 days written notice to terminate.

23. TERM OF HOUSING ASSISTANCE CONTRACT (Maximum Allowable Term is Two (2) Years or Twenty-Four (24) Months:

The term of the TBRA Housing Assistance Contract (the Contract) runs in conjunction with the term of the Lease (cannot exceed 2 years or 24 months). The Contract automatically terminates on the last day of the term of the Lease. The Lease and Contract term may be renewed based on the availability of funds but must end no later than the end date on the HOME TBRA Contract between the Grantee and City of Kenosha. If a Grantee continues to administer a TBRA program and has available funds, assistance on behalf of an individual household **can be extended** under subsequent contracts.

24. TERMINATION OF TENANCY:

The Owner may evict the Tenant following applicable state and local laws.

City of Kenosha has established the following minimum standards outlining when participating owners may terminate tenancy or refuse to renew a new lease. These minimum standards are included in the Lease Addendum to the Lease Agreement between the owner and participant and the corresponding Housing Assistance Contract between the owner and the Grantee.

During the term of the lease, the owner may only terminate the tenancy because of:

a. Serious or repeated violation of the lease;
b. Violation of Federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the unit and the premises;
c. Criminal activity; or
d. Other good cause.

Owners must comply with all state and local laws. **Other requirements should only be imposed if the Grantee has a specific reason for intervening in the tenant-landlord relationship**. For example, since TBRA assistance is being used in conjunction with some other program (i.e., self-sufficiency, life-skills, etc.) in which the Grantee is providing additional counseling or support, the Grantee may want to consider requiring the owner to notify the Grantee **BEFORE** taking any termination action. At a minimum, the owner must provide the tenant with at least 30 days' written

notice of the termination. The owner must notify the Grantee in writing when eviction proceedings are begun. This may be done by providing the Grantee with a copy of the required notice to the tenant.

The Grantee's Plan must identify how termination of tenancy will affect the participant's TBRA assistance. For example, if the household is evicted for cause, the Grantee's policy must identify whether assistance will also be terminated or whether the tenant may receive assistance in another unit.

25. ELIGIBLE UNITS:

TBRA participants may select units that are privately-owned. TBRA may 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 (see 'Prohibition Against Duplicative Subsidy' above for more details). Under certain circumstances, City of Kenosha may approve an exception allowing the participant to self-select a unit owned by the Grantee or other participating agency. (See 'Rental Units Owned by Agency Participating in the Continuum' above for more details.)

26. RENT REASONABLENESS:

TBRA assisted units must rent for a reasonable amount, compared to rents charged for comparable, unassisted units. Grantees must document the basis for their rent reasonableness determinations on a form prescribed by City of Kenosha. The prescribed form provides a rent analysis for three (3) comparable unassisted units. Key components of a comparability analysis include:

a. Location in Community: In many markets location is the key determinant of housing price (i.e., good/safe neighborhood, close to schools/bus routes, etc.).
b. Size: Only units of comparable size (both in terms of number of bedrooms and square footage) should be used.
c. Rent for Unit: Amount of rent being charged by owner
d. Utilities Included: Consider the type and fuel source of utilities.
e. Condition: Only units in similar condition should be compared.
f. Amenities: Consider such amenities as garage, appliances and lot size.

27. HOUSING QUALITY STANDARDS (HQS) & CITY OF KENOSHA PROPERTY MAINTENANCE CODE REQUIREMENTS:

TBRA assisted units must meet Section 8 Housing Quality Standards (HQS) and City of Kenosha Property Maintenance Code requirements. The unit must pass an HQS/Property Maintenance Code Inspection prior to the effective date of the initial Housing Assistance Contract and corresponding lease executed and annually during the length of the TBRA assistance.

If a unit fails to pass an HQS/Property Maintenance Code inspection, the owner must

be notified in writing of the specific deficiencies and the necessary corrective action. Owners should be given a reasonable period of time (i.e., 24 hours for emergency conditions or 30 days for less serious conditions) to correct the deficiencies.

28. OCCUPANCY STANDARDS/SUBSIDY ISSUANCE SIZE DETERMINATION:

City of Kenosha has developed occupancy standards that comply with HQS requirements and specify how the number of bedrooms needed by the household will be determined as related to both: (1) determining the appropriateness of the actual unit size; and (2) calculating amount of TBRA rental assistance. **The following basic standards can be modified to take into consideration specific household composition and circumstances (i.e., pending child custody cases, chronic illnesses, family member who is absent most of the time, etc.).**

A. ***General Issuance Size/Occupancy Standard Policy (i.e., criteria used to determine size of Housing HOME Program TBRA Voucher and adequacy of actual unit):***

1. No more than two persons are required (or should) occupy a bedroom;
2. Persons of different generations (i.e., grandparents, parents, children), persons of the opposite sex (other than spouses/couples) and unrelated adults are not required to share a bedroom;
3. Children of the same sex (regardless of age) and couples living as husband and wife (whether or not legally married) must share the same bedroom for purpose of assigning the bedroom size on housing HOME Program TBRA Voucher;
4. Unborn child may be considered for purpose of assigning the bedroom size on housing HOME Program TBRA Voucher.
5. A live-in care attendant who is not a member of the family is not required to share a bedroom with another household member.
6. Individual medical problems (i.e., chronic illness) sometimes require either separate bedroom for household members who would otherwise be required to share a bedroom or an extra bedroom to store medical equipment. (Note: Documentation supporting the larger sized unit and related subsidy is required.)
7. In most instances, a bedroom is not provided for a family member who will be absent most of the time, such as a member who is away in the military. A larger size Housing HOME Program TBRA Voucher may be issued for an absent family member if individual circumstances warrant.

B. Occupancy standards are used to provide consistent criteria for determining the unit size for which the household is eligible and thus, the amount of assistance to be provided. Fair housing rules permit a household to select smaller units that do not create seriously overcrowded conditions. Participants may also select larger units at their own expense (i.e., TBRA subsidy will not cover the increased cost of a larger unit). In addition to the number of bedrooms, both the size of the unit and the size of the bedrooms should be considered when evaluating the individual circumstances of the family.

C. The Grantee must annually re-examine the TBRA household's size and composition to determine whether its circumstances have changed. A

household whose size or composition has changed may be required to find a unit that is suitable to its current circumstances.

29. IMPACT OF ACTUAL UNIT SIZE ON THE SUBSIDY CALCULATION:

The Rent Standard used to calculate the housing assistance payment is based on the **LESSER OF** the actual unit size or the size of the Housing HOME Program TBRA Voucher issued to the household. In other words:

A. ***Undersized Units:*** If a family elects to occupy a unit that is **smaller** than the size listed on their Housing HOME Program TBRA Voucher, the following provisions apply:

1. The Rent Standard is based on the **actual** unit size (i.e. # of bedrooms)
2. The utility allowance is based on the **actual** unit size (i.e., # of bedrooms)

B. ***Oversized Units:*** If a family elects to occupy a unit that is **larger** that the size listed on their Housing HOME Program TBRA Voucher, the following provisions apply:

1. The Rent Standard is based on the **Housing HOME Program TBRA Voucher eligibility/issuance size** (i.e., size of unit household is eligible for based on above occupancy standards)
2. The Utility Allowance is based on the **actual** unit size (i.e., # of bedrooms)

30. SUMMARY KEY PROCESSING STEPS FOR INITIAL LEASE-UP:

Step 1: Marketing and Outreach Activities

A. Public Announcement of Program (if Waiting List is open).
B. Outreach to Eligible Households.
C. Outreach to Prospective Owners.

Step 2: Accept Applications

A. All Applications must be in writing on a form prescribed by City of Kenosha. The application includes information that enables the Grantee to determine household income and eligibility.

B. If long waiting lists are anticipated, Grantees may elect to use a short form of the application to accept a preliminary application. Using this method, potentially eligible applicants are placed on the waiting list based upon the preliminary application. Nearer the time that an applicant would be selected from the list, the City of Kenosha form Application is completed, and more current information is used to verify eligibility.

C. Each Application received must be reviewed for completeness and to determine if the applicant is obviously ineligible. Grantees may elect to fully determine eligibility at the time the household makes application. However, it is rare that households bring or provide sufficient documentation to confirm eligibility at the time of application.

Generally speaking, Grantees will place the names of all applicants who are determined eligible on the waiting list

D. If an applicant is determined to be ineligible, they must be notified in writing. The written notice must identify the reason(s) the household is ineligible and state that the applicant has 10 days from the date of the notice to request an informal review of the decision.

E. A tenant file must be created for each application. This file will ultimately contain the application, documentation of the household's eligibility, copies of program forms, unit information (lease/assistance contract, HQS Inspection) correspondence, etc.

Step 3: Determine Eligibility

Applicants are selected from the waiting list in the order established by the Grantee's Tenant Selection policy. To determine a household's eligibility, the Grantee must verify:

A. The household's *eligibility status*. Eligibility is not always verified at the time of application, but it must be verified before the household receives assistance. If the applicant does not meet the eligibility criteria, the applicant's name is removed from the waiting list. If the applicant is determined ineligible, they must be notified in writing. The notice must identify the reason the applicant is ineligible and offer the opportunity for an informal review of the decision.

B. The household's *size and composition*. This enables the Grantee to determine the unit size for which the household qualifies.

C. Household *income and adjustments* to income. This enables the Grantee to determine if the household is income eligible, and to calculate the subsidy amount for which the household qualifies.

Verification of the information provided by the household can be accomplished through a variety of sources and documents. See Policy Bulletin #11 and Addendum #1 thereto for more details regarding income verification requirements.

Step 4: Issue Housing HOME Program TBRA Voucher

The issuance of a HOME Program TBRA Voucher authorizes the household to begin the search for housing. The HOME Program TBRA Voucher is generally issued in person, during a counseling session with the household, often called the "TBRA Briefing."

THE HOME TBRA Briefing: The purpose of the briefing is to ensure that the household (1) understands its responsibilities, as well as those of the Grantee and the owner; and (2) has sufficient guidance to make an informed choice of housing. The briefing must cover:

a. **Roles and responsibilities** of the tenant, owner and Grantee.

b. **Limitations on the rent** the owner may charge (i.e., a description of rent reasonableness), including how utility allowances are used in this determination.

c. **Subsidy calculations**, including how the Grantee and tenant shares will be calculated.

d. **Security deposit policy**, including how much may be charged, who pays, and who receives any refund.

e. **Housing HOME Program TBRA Voucher Issuance Period and Extension Policies**.

f. **Guidance on selecting a unit**, including HQS requirements and procedures for submitting the Request for Lease Approval/Rental Unit Information form. Families should be counseled against signing any lease until the Grantee has approved the unit.

g. **Lead-Based Paint** information.

h. **Fair housing information**, including any search assistance that may be available, and the process for filing a complaint in the case of discrimination. The Grantee should consider maintaining a list of available properties to assist households in their search. However, if such a list is provided, the Grantee must make it clear that the HOME Program TBRA Voucher Holder is free to choose units other than those on the list.

i. **Prohibited Lease Provisions/Lease Addendum**

Step 5: Unit/Lease Approval

Once the household has located a unit and the owner has agreed to participate, the household and the owner jointly submit the Request for Unit Approval/Rental Unit Information form. This form provides essential information about the property (bedroom size, utility combination, proposed rent, ownership information). The submission of this document triggers the Grantee's inspection, rent negotiations and review of the owner's lease.

Housing Quality Inspection: Each unit must be inspected to confirm that it meets Section 8 HQS. If the unit initially fails HQS, the owner may be given a reasonable amount of time to correct deficiencies, or the HOME Program TBRA Voucher Holder may elect to look for another unit. A Housing Assistance Contract with an owner must not be executed until the owner has made all repairs. (An exception may be made for corrections to defective exterior paint during the winter in climates where the weather makes this impossible.) The results of each inspection must be recorded on an inspection form prescribed by City of Kenosha and retained in the participant file.

Rent Determination: The rent for each must be determined to be reasonable when

compared to comparable, unassisted units. See above for key components of Rent Reasonable determination.

Lease Review: The Grantee must review the owner's lease to assure that it does not include any of the prohibited lease provisions. The Lease Addendum provided by City of Kenosha is required for all HOME TBRA-assisted units.

Final Subsidy Calculation: Once the unit has been approved, a final subsidy calculation is required to determine the tenant's share and assistance amount.

Step 6: Contract/Lease Execution

The Lease Agreement and Lease Addendum are executed by and between the tenant and owner only. The Rental Assistance Contract is executed by and between the owner and Grantee on behalf of the tenant. Each Rental Assistance Contract should begin on the first of the month whenever possible.

Step 7: Initiation of Payments

Setup in IDIS : The TBRA Program is set up in the Integrated Disbursement and Information System (IDIS) by the City of Kenosha. The TBRA Program is set up as one project, similar to a multi-family building, with up to 99 tenants listed under a single project.

Drawing Down Funds: As with all HOME funds, TBRA funds drawn down from City of Kenosha must be expended within 15 days. Draws must be at least monthly to cover rental assistance payments.

Owner Acknowledgment: Many Grantees include special endorsement language on owner checks in which the owner acknowledges receipt of the funds, certifies that the payments received are correct and commits to return any excess amounts paid.

Financial Records: Grantees must maintain their financial records in such a manner that is easily possible to summarize subsidy amounts provided by household and owner. Grantees must report to the Internal Revenue Service annually the amount of rental income paid to owners.

31. DENYING AND TERMINATING ASSISTANCE:

The purpose of informal review procedures is to resolve applicant/participant disputes with the Grantee without legal action and, if applicable, to correct errors. In most circumstances when a decision affects eligibility or assistance, families must be notified of their right to an informal review.

The term 'applicant' refers to a household who is applying for or whose name is on the waiting list; or whose name has been 'pulled' from the waiting list but a Housing Assistance Contract has never been entered on their behalf. The term 'participant' refers to a household whose Housing HOME Program TBRA Voucher has been under contract at least once and is still active.

A. ***Denial of Assistance (applies to Applicants only) may include any or all of the following:***

1. Refusal to place the applicant's name on a waiting list;
2. Refusal to issue a Housing HOME Program TBRA Voucher when the applicant's name reaches the top of the waiting list;
3. Withdrawal of a Housing HOME Program TBRA Voucher;
4. Refusal to enter into a Housing Assistance Contract or approval an owner's lease; and
5. Refusal to process requests to transfer Housing HOME Program TBRA Voucher to alternative location inside the City of Kenosha.

B. ***Termination of Assistance (applies to Participants only) may include any or all of the following:***

1. Refusal to enter into a new Housing Assistance Contract or approve an owner's lease;
2. Refusal to issue a Housing HOME Program TBRA Voucher;
3. Terminating an existing Housing Assistance Contract; and
4. Refusal to process requests to transfer Housing HOME Program TBRA Voucher to alternative location inside the City of Kenosha.

32. INFORMAL REVIEW PROCEDURES:

The Grantee must give applicants/participants a written notice of denial/termination that provides the specific reason(s) for the action and states that the household has 10 days from the date of the notice to request an informal review. All informal reviews must be conducted by any person or persons designated by the Grantee, other than a person who made or approved the decision under review or a subordinate of this person. The review process should be consistent with the Grantee's appeal process for other programs administered by the Grantee and must be included in the Action Plan.

A. ***Most Common Reasons for Denial/Termination:***

1. Household does not meet established target population eligibility criteria;
2. Household income exceeds the income limit or Total Tenant Contribution exceeds the Rent Standard;
3. Applicant/participant did not respond to requests for information;
4. Applicant has a history of violent criminal activity or drug related criminal activity;
5. Applicant has a delinquent debt from a previous housing assistance program;
6. Failure to comply with a family participation contract;
7. Request to transfer HOME TBRA voucher outside of City of Kenosha.

B. ***Informal Review Required for Decisions Concerning:***

1. →Denial of listing on waiting list;

2. →Refusal to issue a Housing HOME Program TBRA Voucher;
3. →Refusal to sign Housing Assistance Contract (i.e., denial of participation);
4. →Determination of household's annual or adjusted income, and application of such income to compute the Total Tenant Contribution, tenant rent to owner and assistance payment;
5. →Determination of appropriate Utility Allowance (if any);
6. →Determination of Housing HOME Program TBRA Voucher size;
7. →Determination to deny the household's request for a unit size exception;
8. →Decision to terminate a participant's assistance for **ANY** reason;

C. *Informal Review Not Required for Decisions Concerning:*

1. →Establishment of utility allowances;
2. →Housing HOME Program TBRA Voucher issuance period expires;
3. →Determination to deny an extension or suspension of the Housing HOME Program TBRA Voucher;
4. →Determination not to approve a unit or lease;
5. →Determination that an assisted unit does not comply with HQS. Includes HQS violations due to family size (i.e., unit is too small);
6. →Determination to exercise or not to exercise any right or remedy against the owner under a Housing Assistance Contract;
7. →Discretionary administrative decision such as the establishment of Rent Standards;
8. →Determination that requested unit is outside the City of Kenosha.

33. ONGOING PROGRAM ADMINISTRATION:

A. Annual Housing Quality Standards (HQS) Unit Inspections

All units assisted with TBRA funds must meet HQS. Each unit under contract must be inspected at least annually to assure all HQS requirements are met. The unit may also be inspected as a result of complaints initiated by the owner or tenant.

If a unit fails to pass an inspection, the owner must be notified in writing of the specific deficiencies and the necessary corrective action. Owners should be given a reasonable period of time (i.e., 24 hours for emergency conditions or 30 days for less serious conditions) to correct the deficiencies. If the owner fails to make the needed corrections, the Grantee has several options. The Grantee may: (1) with adequate notice to the owner and household, terminate the HOME Rental Assistance Contract and require the household to move to another location in order to continue to receive assistance. The Grantee may also temporarily suspend its payments until the owner remedies the HQS deficiencies. (Note: If this second approach is taken, the tenant should be encouraged to continue to pay its share of the rent in order to prevent eviction.).

B. Interim Eligibility Determinations

The family is advised to notify the Program Administrator of all changes in income and family composition. If this occurs, the following procedures apply:

1. ***Increases in Family Income:*** If the family reports a increase in income, an interim recertification must be completed. The increase in tenant payment and subsequent decrease in assistance payment must take effect the first month following verification of the increase. Both the owner and tenant must be notified in writing of the change in the payment structure.

2. ***Decreases in Family Income:*** If the family reports a decrease in income, an interim recertification must be completed. The decrease in tenant payment and subsequent increase in assistance payment must take effect the first month following verification of the decrease. Both the owner and tenant must be notified in writing of the change in the payment structure.

C. Annual Eligibility Determinations

Each household's eligibility to participate in the program and its share of the rent must be confirmed annually. The Re-examine process should begin 90-120 days in advance of the household's one year anniversary date to assure that the process is completed on time and that adequate notice is given to both the owner and tenant of changes in the household's eligibility or share of the rent. (State law requires at least 30 days notice of any rent increases to the tenant.)

If a household's income is enough that they pay all the rent and not assistance payment is generated, the household can remain on the program at 0 assistance for up to 6 months.

D. Processing Requests for Rent Increases

Typically owners offer leases that specify the rent for one year. Therefore, unless the initial rent negotiations were for the two-year period (very unlikely because this would also mean a two-year lease), most owners will request a rent increase at the end of the first year of the contract. The Addendum to Lease requires at least 60 days written notice to increase the rent. This allows the Grantee enough time to review and approve the requested increase (determine that the proposed rent is reasonable in comparison to rents charged for other comparable, unassisted units) **AND** provide the tenant with the required 30 days written notice.

E. Moves and Termination of Tenancy

Tenant may elect to move to another unit as permitted by the lease. The TBRA Rental Assistance Contract contains provisions that terminate the Grantee's agreement with the owner when the household moves out. To assure that TBRA subsidies are not paid on units no longer occupied by an eligible tenant, the lease agreement must require that the household provide **a minimum** of 30 days written notice of their plans to relocate to both the owner and Grantee.

A tenant who wishes to move may be issued another Housing HOME Program TBRA Voucher following the procedures used to issue the original HOME Program TBRA Voucher.

F. Updating Policies and Procedures

Key operating procedures will be reviewed at least annually to determine if revisions are necessary. At a minimum, City of Kenosha, in conjunction with the Grantee, will assess the appropriateness of the Rent Standard and Utility Allowance schedules.

G. Monitoring Performance:

City of Kenosha will monitor ongoing progress and implementation of the program to assure that the regulatory and statutory requirements are met, and to assess program outcomes. Some key performance indicators that will be considered are identified below:

→***Budget vs. Actual Spending:*** Since the initial estimate of funding required is based upon estimates, close monitoring of actual expenditures is essential. If participating households have incomes that are lower than expected, the number of families assisted may need to be reduced.

→***On Time Payments:*** One of the Grantee's most important functions is making sure that rent checks are distributed on schedule because late checks can reduce the credibility of the program with owners willing to rent to those receiving HOME TBRA.

Grantee will not be expected to use their own funds to cover rent funds or administrative funds. City of Kenosha will use disbursement system that provides requests payments in advance of the assistance being used for program participants.

→ ***Outreach and Success Rates:*** Grantees should analyze participant success rates and make use of the results to determine if aspects of program design should be changed to improve the success rate.

→ ***Administrative Efficiency:*** Grantees should review the length of time that various aspects of the TBRA program take, including the time between initial application and HOME Program TBRA Voucher issuance, and between HOME Program TBRA Voucher issuance and lease-up.

While many factors can affect these time frames, this information can give clues about ways to improve the administrative efficiency of the program. For example, if the time between HOME Program TBRA Voucher issuance and lease-up is lengthy, it could be attributable to slow HQS monitoring procedures, poor communication with property owners, or slow paperwork processing, all of which are with the program administrator's control.

→ ***Turnover:*** High turnover could indicate that at one extreme that owners are quitting the program out of frustration and the family subsequently leaves the program. At the other extreme, it may be that families are becoming self-sufficient. The Grantee should examine the reasons for turnover in the program.

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

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

Check the appropriate box: ☐ Original Submission ☐ Change Owner's Address ☐ Revision	Name and Phone Number of Person Completing Form:

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. Outcome (enter code): _____
(1) Create suitable living environment	(1) Availability/accessibility
(2) Provide decent affordable housing	(2) Affordability
(3) Create economic opportunities	(3) Sustainability

C. Household Characteristics. (Refer to code below where applicable) **Assisting more than 8 tenants? Make copies of this page for additional space.**

			Monthly Rent			Household					Tenant Contract		
Last Name	# of Bdrms	Sec Dep	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.

ATTACHMENT FOUR

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.

TABLE OF CONTENTS

I.	PURPOSE	2
II.	BACKGROUND	2
III.	SUSPENSION OF FEDERAL PREFERENCES	3
IV.	ELIGIBLE ACTIVITIES	4
V.	PROGRAM ADMINISTRATION	5
VI.	TENANT SELECTION	7
VII.	PROGRAM REQUIREMENTS	12
VIII.	SECURITY DEPOSIT PROGRAM	19
APP.	SECTION 8 INCOME DEFINITION -- ADDITIONAL EXCLUSIONS	21

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.

- 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.

- 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. [1] 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.

- 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

[1] 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. [2]

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:

- 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;

- to prevent the displacement of tenants from projects assisted with Rental Rehabilitation Program funds under 24 CFR 511. (See 24 CFR 92.214);

- 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

[2] 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/M1. 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:

- families living in substandard housing, including families that are homeless or living in a shelter for homeless families;
- families paying more than 50% of family income (gross) for rent; or
- 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:

- have veteran's status;
- 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);
- 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:

- 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.

- 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.

- 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.

- 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:

- 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.

- 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:

   - 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.

   - 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.

   - 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)):

- 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.

- 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.

- 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.

- agreement of the tenant that the owner may institute a lawsuit without notice to the tenant.

- 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.

- agreement by the tenant to waive any right to a trial by jury.

- 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.

- 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:

- initially and annually inspect units occupied by TBRA families;

- execute necessary documents with the family and the owner; and

- 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:

- may be owned by the PJ, a PHA or another public entity or be privately owned housing;
- may include units developed or rehabilitated with HOME assistance;
- may be transitional housing units, if the lease terms meet the minimum lease requirements;
- 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
- 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:

- the relevant state or, local definition of "security deposit" in the jurisdiction where the unit is located applies.
- the maximum amount of HOME funds that may be provided for a security deposit is the equivalent of two months rent for the unit.
- only the prospective tenant, not the unit owner, may apply for HOME security deposit assistance.
- all of the above TBRA requirements apply except for the term of assistance and maximum subsidy amount.
- 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.
- 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).