



Auburn – Lewiston Consortium

TENANT-BASED RENTAL ASSISTANCE (TBRA)

1 Tenant Based Rental Assistance (TBRA)

The procedures described herein are based on the current agreements between the City of Auburn, as lead entity of the Auburn-Lewiston HOME Consortium to provide TBRA using HOME funds and the cities of Lewiston and Auburn independently (Members). These requirements may be modified by future agreements, as long as the changes are in full compliance with the HOME Program Final Rule.

1.1 Eligible Activities & Costs

TBRA program funds may be used to provide:

- Security deposits

While the HOME rule permits administrative (admin) funds and certain project delivery costs to be paid in association with TBRA administration, current contract does not permit such use of HOME funds.

1.1.1 Ineligible Costs (Activities)

HOME TBRA funds may not be used for activities:

- To make commitments to specific owners for specific projects. Tenants must be free to use the assistance in any eligible unit.
- To prevent displacement of or provide relocation assistance to tenants as a result of activities other than the HOME Program.
- To provide TBRA to homeless persons for overnight or temporary shelter.
- To provide monthly rental assistance.
- To provide assistance outside of the cities of Auburn or Lewiston.

The assisted unit cannot be owned by a Housing Authority unless an exception is approved in writing by the Auburn Community Development Office (ACDO). In order to be considered for an exception, the request must, at a minimum, include the following information:

- An explanation why the exception is necessary/appropriate; and
- A rent reasonableness analysis 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.

1.2 TBRA Assistance

1.2.1 Rent Assistance Standard

The TBRA program is based on the premise that decent, safe, sanitary, and affordable housing can be obtained on the private market for very low to low-income families. The unit chosen by the family should not exceed HUD published Fair Market Rents (FMRs). A unit is determined to fall within the FMR of a specific area by adding the contract rent and the applicable utility allowance for the unit. For the purposes of the TBRA Security Deposit Program, the sum of both numbers cannot exceed the FMR of a unit. If the local housing authorities have adopted and been granted a community wide exception, then the rent standard may increase to no more than 120% FMR.

1.2.2 Security Deposit

The TBRA Security Deposit Programs may use funds to provide grants for security deposits associated with rental assistance provided by the Housing Authorities. The following criteria must be followed:

- Only the prospective tenant may apply for security deposit assistance;
- The security deposit is paid directly to the landlord;
- The security deposit may not exceed one month's contract rent for the unit. If the unit is furnished and/or a pet deposit is required, an additional ½ month's rent for either circumstance may be collected.
- The security deposit shall be used to provide compensation to the owner if the tenant, upon vacating, owes money for damages and unpaid rent in the unit.
- The assisted household may receive any security deposit refunded by the owner upon vacating the unit.

1.3 Marketing & Outreach

HOME rules require affirmative marketing for any program or project with 5 or more HOME assisted units. Consequently, the TBRA program must be affirmatively marketed in accordance with the City of Auburn Affirmative Marketing Plan.

HOME TBRA should be affirmatively marketed to all persons within the target population and/or special needs group. The marketing plan must address: (1) how the program will be announced (i.e., which media and other sources); (2) where 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 specified period); and (4) the method for taking applications (i.e., in person, by mail).

The willingness of owners to participate in the HOME TBRA program significantly affects the options and opportunities available to coupon 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 realtor associations are often effective outreach methods. Evidence of affirmative marketing will be documented and provided to the ACDO with each quarterly report.

1.4 Application for Rental Assistance

All applications must be in written form and must contain, at a minimum, information that enables the Members to determine household composition, income, eligibility and whether the applicant is a student.

Each application received must be reviewed for completeness and to determine if the applicant is eligible.

The Members will place all applicants who are apparently eligible on the waiting list pending verification of information provided.

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, correspondence, etc.

1.5 Selection of TBRA Recipients

The Security Deposit Program is designed to impose as little administrative costs to the Members as possible.

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 duplicative subsidies.

TBRA security deposit assistance may be provided only to families whose annual income does not exceed 60 percent of the median family income for the area, as determined and made available by HUD.

The Members must determine whether an applicant:

- Qualifies as a family;
- Is income-eligible

1.5.2 Annual Income

Income must be verified before assistance is provided. Income limits are established by household size and revised annually by the U. S. Department of Housing and Urban Development (HUD).

Household income under HOME-funded TBRA program must be calculated using the 1040 short form method. Only if the applicant does not file taxes would the Members utilize the definition of annual income at 24 CFR Part 5 (Section 8).

Annual income is the anticipated total income from all sources received by the family head and spouse (even if temporarily absent) and by each additional member of the family, including all net income derived from assets for the 12-month period following the effective date of income certification.

Annual income includes, but not limited to:

- The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips, and bonuses, and other compensation for personal services.
- The net income from operation of a business or profession.
- Interest, dividends, and other net income of any kind from real or personal property.
- The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including lump-sum payment from a delayed start of a periodic payment.
- Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay.
- Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling.

- All regular pay, special pay, and allowances of a member of the Armed Forces.

Annual income does not include the following:

- Income from employment of children (including foster children) under the age of 18 years.
- Payments received for the care of foster children.
- Lump-sum additions to family assets, such as inheritances, insurance payments, capital gains, and settlement for personal or property losses.
- Amounts received by the family that is specifically for, or in reimbursement of the cost of medical expenses for any family member.
- Income of a Live-in Aide.
- Amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid by the Government for use in meeting the costs of tuition, fees, books, equipment, materials, supplies, transportation, and miscellaneous personal expenses of the student.
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- Amounts received under training programs funded by HUD.
- Temporarily, nonrecurring or sporadic income (including gifts).
- If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period must be annualized.

1.5.2.1 Verification of Income

The Members must determine annual income by reviewing source documents for at least two months, evidencing annual income (for example, wage statement, interest statement, unemployment compensation) for the TBRA-assisted household.

Income and asset source documentation for new TBRA recipients is good for a six-month period. If a TBRA contract is not executed before the six months has expired, the household's income eligibility must be reviewed again before assistance may be provided.

It is the obligation of the Members to obtain complete information from applicants and thoroughly document the methods by which it has verified all pertinent information in the applicant's file.

1.5.4 Waiting List

After a family has been determined eligible for the TBRA program, the Members shall place the family on a waiting list in chronological order of completed application received.

The waiting list shall comply with 24 CFR Part 92.253(d). The waiting list should show the family's name, date and time of application, local preferences if applicable, and appropriate size of units in bedroom.

1.5.5 Written Notice of Rejection

If an applicant is rejected for the program, the Member must provide in writing the reason(s) for rejection and provide an administrative process for the applicant to appeal the determination.

1.5.6 Determination of Unit Size

The unit size designated shall be assigned in accordance with the following criteria:

- No more than two persons are required to occupy a bedroom;
- 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;
- Children of the same sex (regardless of age) and spouses must share the same bedroom for purpose of assigning the bedroom size on housing coupon;
- Unborn child may be considered for purpose of assigning the bedroom size on housing coupon.
- In some cases, however, the relationship, age, sex, health, or handicap of the family members may warrant the assignment of a larger unit size. Such flexibility is permissible to the extent the determinations are made on the basis of these factors. Such allowable determination should be fully documented in the applicant's file. For example, a two-bedroom unit may be used by a two-member family which consists of a single parent and child or by a couple who, due to medical reasons, must have separate bedrooms, as approved by the Member.
- 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.

1.6 Unit Approval

1.6.1 Eligible Units

The HOME TBRA program offers households great flexibility in selecting a housing unit. Households must be free to select the unit of their choice.

- Public or private: Units under the TBRA program may be publicly- or privately- owned. Publicly owned units include public housing, Section 811, Section 202, HOPE 6, Continuum of Care, and HOPWA.
- Combining security deposit assistance with another security deposit program: HOME TBRA security deposit assistance cannot be provided to a program participant who is receiving security deposit assistance through other public sources.
- Rents must be reasonable: Member must disapprove a lease if the Member determines the rent is not reasonable, based on rents that are charged for comparable unassisted rental units.
- HOME-funded units are OK: Households may select units developed or rehabilitated with HOME assistance. However, the subrecipient may not require the household to select a HOME unit as a condition of receiving TBRA. Households must be permitted to move out at the end of the HOME lease term, taking their TBRA assistance with them.
- Portability is not permitted. The program does not allow TBRA assistance to be used outside of the cities of Auburn or Lewiston.

1.6.2 Environmental Checklist

Based on 24 CFR 58.35(b), TBRA projects are Categorically Excluded Not Subject to 58.5. While the program as a whole was cleared, the Member must still complete an inspection prior to the execution

of a rental assistance contract, submit the checklist to the City of Auburn, and maintain a copy in the tenant file.

1.6.3 Rent Reasonableness

The Member must certify all units assisted with TBRA are reasonable in relation to rents currently being charged for comparable units in the private unassisted market, and not in excess of rents currently being charged by the owner for comparable unassisted units.

The Member must document the basis for its rent reasonableness determination. Key components of a comparability analysis include:

- Location: In many markets location is the key determinant of housing price
- Size: Only units of comparable size (both in terms of number of bedrooms and square footage) should be used
- Utilities Included: Consider the type and fuel source of utilities
- Condition: Only units in similar condition should be compared
- Amenities: Consider such amenities as garage, appliances and lot size

It is not sufficient to approve a unit merely because its gross rent is within the applicable FMR limits.

1.6.4 Property and Occupancy Standards

Any TBRA assisted property must meet all applicable City housing codes and ordinances as well as the Section 8 Housing Quality Standards (HQS). Inspection to verify compliance with HQS and occupancy standards are made both at initial move-in and annually during the term of the TBRA assistance. A written inspection form must be signed and dated, and retained in the tenant file.

The Member must apply the occupancy standards that specify the number of bedrooms needed by households of various sizes and composition, as defined in Section 1.5.5.

The Member must also ensure that the landlord makes reasonable accommodations for the accessibility needs of the tenant.

1.6.4.1 Lead Based Paint

The TBRA program must adhere to Federal Regulation 24 CFR Part 35 that took effect January 2000 and amended in 2017.

- Tenants must receive the fact sheet “Ten Tips to Protect Children from Pesticide and Lead Poisonings around the Home” (EPA) and the pamphlet “Protect Your Family from Lead” (EPA) at the time of application.
- Tenants must receive the Elevated Blood Level form (tenant signature optional) and the Tenant Notice of Defect/Notice of Elevated Blood Level Above 15 ug form prior to move in.
- A lead disclosure notice must be provided to the tenant prior to lease signing.
- A sign off form indicating that the tenant has received the four documents must be in place in tenant files.
- Visual assessment of units built prior to 1978 must take place during the HQS inspection.

Exemptions include 0 bedroom units, SROs, and units exclusively for the elderly and disabled where children age 6 and under will not/do not occupy the unit.

- If deteriorated paint is identified in the visual assessment,
 - o Lead based paint stabilization/abatement procedures must take place at the expense of the owner within 30 days of notification to the owner (24 CFR Part 35.1330(a) and (b).)
 - o The owner of the unit must meet the requirements of paint stabilization as defined in 24 CFR Part 35.110. Paint stabilization must be conducted in accordance with procedures outlined at 24 CFR 1330(a) & (b). Owners must pay for stabilization and/or abatement procedures prior to move-in (or during occupancy). If the owner declines to provide stabilization, another unit must be selected.
 - o Owner must provide a copy of the clearance report performed in accordance with 24 CFR 35.1340 whenever paint stabilization is undertaken. Owner must provide tenant with a written notice of the results of the clearance exception (24 CFR 35.1215(c)).
- If lead based paint or deteriorated paint in non-exempt units is identified following move in and/or during an annual or periodic re-inspection, depending on the scope of the work to stabilize the paint, and if necessary, the owner is responsible for relocating the tenants to a comparable dwelling free of lead based paint hazards while the work is taking place.
- Owner must adopt procedures to ensure that on-going maintenance activities are conducted in accordance with 24 CFR 35.1355 during the term of assisted tenancy.
- Identification of the number of units built prior to 1978 and the number of children and pregnant women residing in each unit must be provided on TBRA tenant project set-up forms.
- At least quarterly, the PHA must attempt to obtain from the Maine Center for Disease Control the names and/or addresses of children of less than 6 years of age with an identified elevated blood lead level. At least quarterly, the designated party shall also report an updated list of the addresses of units receiving assistance under a tenant-based rental assistance program to the same public health department(s), except that the report(s) to the public health department(s) is not required if the health department states that it does not wish to receive such report. If it obtains names and addresses of elevated blood lead level children from the public health department(s), the PHA shall match information on cases of elevated blood lead levels with the names and addresses of families receiving tenant-based rental assistance, unless the public health department performs such a matching procedure.

1.6.5 Lease Approval

After a family finds a unit, which is suitable for its needs, it must submit a completed Request for Unit Approval, signed by both parties, to the Member along with a copy of the proposed lease, supplied by the owner/landlord.

The Member shall review the request to determine if the owner is eligible, if the unit is eligible, if the lease complies with the program requirements in 92.253 governing prohibited and required lease provisions, and if the lease complies with state and local laws.

The lease must contain certain required provisions which include the tenant and the Member shares of the rent, the landlord's responsibility for maintenance and services, any utilities and appliances which the owner will provide, the condition necessary for eviction, the prohibition against discrimination, and the amount of security deposit.

The lease may not contain any of the following provisions:

- Agreement to be sued. 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.
- Treatment of property. 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. The owner may dispose of this personal property in accordance with state law.
- Excusing owner from responsibility. Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent.
- Waiver of notice. Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant.
- Waiver of legal proceedings. 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.
- Waiver of a jury trial. Agreement by the tenant to waive any right to a trial by jury.
- Waiver of right to appeal court decision. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.
- Tenant chargeable with cost of legal actions regardless of outcome. Agreement by the tenant to pay attorney's 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.

The Member will also provide the required VAWA lease addendum.

The lease between a tenant and an owner of rental housing assisted with TBRA funds must be for not less than one year in programs that are not participating in self-sufficiency programs.

The owner may not terminate the tenancy or refuse to renew the lease of the tenant except for serious or repeated violation of the terms and conditions of the lease; for violations of applicable federal, state, or local law; or for other good cause.

Any termination or refusal to renew must be preceded by not less than 30 day notice by the owner specifying the grounds for the action. Rent increases are also subject to 30 day notice.

1.7 Execution of Rental Assistance Payment Contract

After a Request for Unit Approval has been approved, the Member must prepare the Rental Assistance Contract for execution by the owner and the Member, and execution of the lease between the family and the owner. No security deposit will be paid until the contract has been executed.

The Member must retain a copy of the contract and lease in the family's file.

1.7.1 Project Set-up

Upon completion of all requirements of the above, the Member shall submit a completed Project Set-up of the Project in IDIS. Each Member will be responsible for management of the program in IDIS.

1.7.2 Payment Request

Upon receiving an activity number for a family, the Member must submit a funds requisition to obtain funds for the family's rental assistance. Monthly requests will be submitted, but up to 2 months of rent (plus any approved security and/or utility deposits) may be requested with ACDO approval.

The Member must maintain their financial records in such a manner that is easily possible to summarize subsidy amounts provided by household and owner.

1.8 Recordkeeping & Reporting

The Member is responsible for ensuring that TBRA funds are used in accordance with all program requirements of 24 CFR Part 92, and for documenting compliance. The Member must establish and maintain sufficient records to enable the City of Auburn to determine whether the activities have met the requirements of the TBRA program.

1.8.1 Tenant Records

Recordkeeping and Record Retention requirements must be in compliance with 24 CFR 92.508. For TBRA projects, records must be retained for five years after the period of rental assistance ends or from the time the project is closed, whichever is longer.

The tenant files shall contain, but are not limited to, the following:

- Original application with income and demographic information for each household member;
- Income verifications, along with source documentation;
- Annual release of information forms;
- Completed HQS inspection form for the unit;
- Lead based paint disclosure forms to indicate receipt of required pamphlets and required tenant notification forms prior to move-in.
- Descriptions of any required paint stabilization activities, clearance reports and required tenant notifications.
- Annual adjusted income worksheet and other related documents;
- Total Security Deposit Payment;
- Rental Assistance Payments Contract and Lease Agreement; and,
- Project Set-up and Project Closeout (IDIS).

Any tenant must give permission for the City of Auburn to review records to determine program compliance prior to receiving assistance.

1.8.2 Compliance Monitoring

ACDO staff will review all progress reports and will monitor the Members TBRA program annually according to the requirements of 24 CFR 92.504(a). During a compliance visit:

- Inspections of randomly selected units will occur
- Administrative and financial procedures and files will be reviewed;
- TBRA tenant files will be randomly reviewed.

A compliance follow-up report will be mailed to the grantee.

Should the follow-up report include findings/concerns, the grantee must respond in writing within thirty days regarding remediation of the findings and compliance with federal regulations and City of Auburn policies and procedures.

City of Auburn reserves the right to terminate agreements and recapture funds:

- If funds are not committed and/or expended by the dates referenced in the funding agreement, or if the project substantially changes after the funding commitment.
- If the program is no longer feasible or is not progressing timely so that the imposed deadlines will be met, funds may be recaptured.
- If the Member becomes suspended or debarred.

Other bases for termination and recapture are included in the subrecipient agreement.