

Tenant Based Rental Assistance (TBRA) Program



Policies and Procedures

Approved City Council:
Approved HUD:



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These guidelines establish the policies and procedures governing the City of Orange HOME Tenant Based Rental Assistance (TBRA) Security Deposit Assistance Program. The program is designed to help income-eligible households secure safe, decent, and sanitary housing in the private rental market by providing one-time assistance with security deposits and utility deposits.

1. Background

The City of Orange receives its funding for the Tenant Based Rental Assistance (TBRA) Program from the United States Department of Housing and Urban Development (HUD) under the HOME Investment Partnerships program (HOME). The City is authorized by federal regulations to develop and operate HOME eligible housing programs for low-income households and families. The City must ensure compliance with federal laws, regulations, and notices, and must establish policies and procedures to ensure consistency in program operation and compliance with established regulations.

a. Purpose and Use

The attached program guidelines have been developed to facilitate the efficient and effective operation of the HOME TBRA Security deposit program for the City of Orange. The TBRA program will be administered by a contract entity, currently Neighborly Software. Funding for this program is provided under Title II of the National Affordable Housing Act (1990) through the HOME Investment Partnerships Program (HOME). The City sets-aside a portion of its HOME allocation to provide assistance to persons at-risk of, or currently experiencing homelessness, with the following preferences:

- Current resident of the City of Orange with the intention to remain in the City of Orange.
- Families with children under 12.
- Veterans with a valid DD-214 (honorable discharge); and
- Elderly persons 62+ years of age

b. Primary Objective

The primary objective of the TBRA program is to assist eligible applicants to secure safe, decent, and sanitary housing in the private rental market in the City of Orange. This program assists residents in need with the ability to access housing using security deposit assistance for rental housing. This will give households the ability to remain in the City of Orange while, at the same time, accessing more affordable move-in costs.

c. Equal Opportunity

The City of Orange's HOME TBRA Security Deposit program is a federally funded program through federal HOME Investment Partnership Funds. This is an equal opportunity program. The City does not discriminate based on race, color, ethnicity, or national origin, sex, religion, age, marital or familial status, sexual orientation, or disability in the provision of its services.

The program will comply with all applicable federal civil rights and fair housing laws, including the protections provided under the Violence Against Women Act (VAWA).



2. Definitions

- a. **AMI:** Annual Median Income is a group of charts that are prepared annually for all the Counties and metropolitan areas in the US. The charts document income levels for various federal programs. The charts are broken down into extremely low, very low income, low income, 80% of median, and median income.
- b. **Case Manager:** A case manager coordinates various services on behalf of an individual or family that needs assistance.
- c. **CFR:** The Code of Federal Regulations (CFR) is the codification of the general and permanent rules and regulations (sometimes called administrative law) published in the *Federal Register* by the executive departments and agencies of the federal government of the United States.
- d. **Elderly Participant:** Those persons 62+ years of age.
- e. **Disabled Participant:** Those persons as defined by 24 CFR 5.403, including individuals with a physical or mental impairment expected to be long term or that substantially limits one or more major life activities.
- f. **Family Obligations:** Formal document executed between the City and all adults living in the household. This contract spells out all the obligations that the City and the participant's household will be responsible to maintain the HOME TBRA security deposit.
- g. **FMR:** Fair Market Rent is a payment standard that is set for each county/metropolitan area in the nation that establishes a fair market rent for all rental units by bedroom size and unit type. The rent standard is calculated for the base rent and the average cost of utilities for modest rental housing units.
- h. **HAP:** Housing Assistance Payment is a contract between a tenant that is on a rental assistance program and the landlord that is providing a rental unit. The HAP contract spells out the terms of the agreement for the landlord to receive a monthly subsidy.
- i. **HCV:** The Housing Choice Voucher Program is a federally funded rental assistance program that provides "tenant-based" rental assistance so a tenant can move from one unit of qualified housing to another. The tenant pays at least 30% of their adjusted gross household income toward the rent and the voucher pays the balance of the rent up to HUD's Fair Market Rent established for the area.
- j. **HOME:** The HOME Investment Partnerships Program (HOME) is a type of United States Federal assistance provided by the U.S. Department of Housing and Urban Development (HUD) to Participating Jurisdictions in order to provide decent and affordable housing, particularly housing for extremely-low and very low-income Americans. It is the largest federal block grant to states and local



governments designed exclusively to create affordable housing for low-income families.

- k. **HQS/NSPIRE:** Housing Quality Standards inspection was developed by HUD to set a national minimum housing standard for many of the housing programs funded by the agency. Beginning October 1, 2024, Housing Quality Standards will be replaced by NSPIRE standards.
- l. **Rent Limits:** The official listing of maximum unit rents by bedroom size and type of building. The Payment Standard is broken down by city or geographic area.
- m. **SNAPS:** The Supplemental Nutrition Assistance Program (SNAP), formerly known as the Food Stamp program, provides financial assistance for purchasing food to low-income and no income people living in the U.S. It is a federal aid program, administered by the U.S. Department of Agriculture, though benefits are distributed by individual U.S. states.
- n. **SRO:** Single Room Occupancy. A single room occupancy (more commonly SRO, sometimes called single resident occupancy) is a multiple tenant building that houses one or two people in individual rooms (sometimes two rooms, or two rooms with a bathroom or half bathroom), or to the single room dwelling itself. SRO tenants typically share bathrooms and/or kitchens, while some SRO rooms may include kitchenettes, bathrooms, or half-baths. Although many are former hotels, SROs are primarily rented as permanent residences.
- o. **TANF:** Temporary Assistance for Needy Families (TANF) is one of the United States of America's federal assistance programs. It began on July 1, 1997, and succeeded the Aid to Families with Dependent Children (AFDC) program, providing cash assistance to indigent American families with dependent children through the United States Department of Health and Human Services. This cash benefit is often referred to simply as "welfare."
- p. **TBRA Security Deposit Grant:** The security deposit assistance will be made in the form of a grant. The terms and conditions of the grant will be set out in the TBRA Security Deposit Grant Agreement.

3. Eligibility and Preferences

HOME-eligible households referred by Continuum of Care providers for TBRA Security Deposit assistance are preferred but not required. Eligibility will be determined according to program requirements and local preference criteria outlined in Section 12.

In addition, the City has the current four (4) preferences. Preferences may be single or additive:

- Current residents of the City of Orange with the intention to continue residing in the City of Orange.
- Families with children under 12.
- Veterans with a valid DD-214 (honorable discharge); and
- Elderly persons 62+ of age



4. Income Limits

HOME TBRA is limited to households who are income eligible, which is here defined as being below 60% of median income by household size. Each year, 100% of the City's HOME TBRA funds will be used to assist households whose incomes do not exceed 60 percent of Area Median Income (AMI), as established annually by HUD. The area median income is adjusted for household size as defined by the federal HOME Income Limits, established every year by HUD.

Eligibility will be verified prior to entering an agreement to receive TBRA funds. If a tenant or tenant family with verified income is on a TBRA waitlist for more than three months, income eligibility will be re-verified by program staff prior to receiving assistance in order to ensure that they still meet income eligibility for the program.

5. Eligible Units

Tenants who receive assistance from the City of Orange's HOME TBRA can choose from any housing unit if that rental unit:

1. Meets HUD Housing Quality Standards (HQS), or a subsequent standard such as NSPIRE.
2. Has a rent that is reasonable when compared to similar unassisted units in the area ("rent reasonableness").
3. Complies with all applicable lead-based paint requirements for units built before 1978, including visual assessments, paint stabilization, and remediation when required.
4. Households may select units developed or rehabilitated with HOME assistance. However, the City may not, and will not, require TBRA assisted households to select a HOME unit as a condition of receiving TBRA.

6. Ineligible Units

1. TBRA may not be used to assist a resident owner of a cooperative or mutual housing unit when that resident is recognized by state law as a homeowner.
 - a. However, under the provisions of some cooperative or mutual housing agreements, the units are considered rental housing under state law. The residents of this rental housing may receive TBRA.
 - b. Under any circumstance, a tenant who rents from an owner of a cooperative or mutual housing unit may receive HOME TBRA.
2. HOME TBRA may not be used to prevent the displacement of tenants from projects assisted with Rental Rehabilitation Program funds.
3. PJs may not provide HOME TBRA to homeless persons for overnight or temporary shelter.
4. HOME TBRA may not duplicate existing rental assistance programs that



already reduce the tenant's rent payment to 30 percent of income. For example, if the household is already receiving assistance under the Section 8 Program, the household may not also receive assistance under a HOME TBRA program.

- a. However, the household may still receive HOME TBRA Security Deposit assistance only if there is no other (Section 8/Housing Voucher) assistance program available.

5. The intent of TBRA funds is meant to temporarily assist families and individuals to obtain self-sufficiency and not to make mortgage payments. Therefore, rent-to-own leases, in which monthly rental assistance payments are used as mortgage payment, are not permissible. Landlords cannot be related to the participant or any other member of the household. This includes parents, grandparents, aunts, uncles, or blood relatives. Exceptions to this rule may be granted on a case-by-case basis where the tenant has very special housing needs and the only way to accommodate these needs is through a family member or relative providing the rental unit. This process must be fully disclosed to the City and its Contractor, Neighborly, for review and approval. The applicant and their Case Manager must present the request, in writing, explaining the situation.

7. Prohibition Against Duplicate Assistance

Participating households cannot receive TBRA, including security deposit assistance, if they are receiving assistance under another federal, state, or local program IF the HOME subsidy would result in duplicate subsidies.

8. Ineligible Uses of TBRA Assistance

TBRA assistance cannot be used in the following instances:

1. TBRA assistance cannot make commitments to specific owners for specific units/projects. Tenants must be free to use assistance in any eligible unit.
2. TBRA assistance cannot 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.
3. TBRA assistance cannot pay cost overruns, such as late fees.
4. TBRA assistance cannot prevent displacement of or provide relocation assistance to tenants as a result of activities other than the HOME Program.
5. TBRA assistance cannot provide TBRA to homeless persons for overnight or temporary shelter. The HOME TBRA security deposit assistance must enable the homeless person to rent a transitional or permanent housing unit that meets Housing Quality Standards (HQS) or subsequent standard, such as NSPIRE.

9. Support Services

The City of Orange does not require participation in supportive services as a condition of receiving TBRA security deposit assistance. However, the City encourages households to connect with local service providers that may assist with housing stability, employment, health services, or other supportive resources.



Applicants may apply for TBRA assistance directly through the City or its Contractor, or they may be referred by an approved social service provider, including City or County service agencies, nonprofit service providers, or healthcare-based programs such as CalAIM.

Referrals from service providers are encouraged but not required for program eligibility.

10. Determining Income and Allowances

The City of Orange, and Neighborly, will use the HUD Technical Guide for Determining Income and Allowances for the HOME Program and HUD 24 CFR Part 5, Subpart F for determining annual household income for all program participants.

11. Household Identifications

Every household member is required to provide two pieces of identification (both adults and children). Acceptable forms of identification include birth certificates, social security cards, state issued IDs, and driver's licenses. Copies of these identifications will be kept in the tenant's file. Photo IDs are required for all adult members of the household. For those experiencing homelessness, alternative documentation may be accepted where standard identification is unavailable.

12. Residency Requirement

Preference may be given to applicants who are current residents of the City of Orange and intend to remain within the City.

The City recognizes that individuals and families experiencing housing instability may need to relocate in order to secure safe and stable housing. Therefore, applicants who are not currently residing in the City of Orange may still be eligible for assistance if they are seeking to secure housing within the City. The City will administer this preference in a manner consistent with all applicable federal and state fair housing laws, including protections for survivors under the Violence Against Women Act (VAWA).

Special consideration may be provided to applicants who are:

- Experiencing homelessness
- At risk of homelessness
- Fleeing domestic violence, dating violence, sexual assault, or stalking
- Referred through a Continuum of Care or other service provider assisting vulnerable households

All applicants receiving assistance must ultimately secure an eligible rental unit located within the City of Orange.



13. Security Deposits - Special Provisions

HOME TBRA funds may be used to provide security deposit assistance for eligible participants to enable access to safe, decent, and sanitary housing in the private rental market. The maximum security deposit assistance provided under this program shall not exceed one month's contract rent or the maximum security deposit allowed under California law, whichever is lower.

Security deposits will be paid directly by the City, or its Contractor, to the landlord or property manager on behalf of the participant.

Security deposit assistance is provided with the understanding that the funds remain HOME program funds. Any portion of the security deposit refunded by the landlord at the termination of the tenancy must be returned to the City of Orange. Returned funds will be recorded as HOME program income and must be used for other eligible HOME activities in accordance with 24 CFR 92.503.

Participants must agree, as a condition of assistance, that any security deposit refund issued by the landlord will be made payable to the City or its Contractor.

14. Pet Deposits

HOME TBRA funds, including security deposit assistance, cannot be used to pay pet deposits. The tenant will have to use their own funds to pay a pet deposit.

15. Service Animals

A service animal is not considered a pet. Any applicant that has a service animal or expects to acquire one during the time they will be assisted by the HOME TBRA security deposit assistance program will have to provide certification from a medical doctor or a psychologist that the animal is acting in the capacity of a service animal. In most cases, a landlord cannot charge a pet deposit for a service animal. The tenant is responsible for any damage done to the rental unit by the service animal.

16. Utility Deposits

HOME TBRA funds may also be used to provide assistance for required utility deposits necessary to establish utility service for an approved rental unit. Utility deposit assistance may be provided in conjunction with security deposit assistance

Eligible utility services may include:

- Electricity
- Natural gas
- Water
- Sewer
- Trash collection



Utility deposit assistance is limited to a maximum grant of \$500 per household and is available only one time per participating household.

Utility deposits will be paid directly to the utility provider on behalf of the participant upon submission of documentation verifying the required deposit amount and confirmation that the utility account will be established for the rental unit.

Because these funds are HOME program funds, any refund of the utility deposit issued after service termination must be returned to the City of Orange. These returned funds will be treated as HOME program income and used for eligible HOME activities in accordance with 24 CFR 92.503. Participants receiving assistance must acknowledge this requirement and agree to cooperate with the City and its Contractor to ensure that any refunded utility deposits are returned to the City.

17. Utilities

If the participant is leasing a rental unit where they will be responsible for paying for the utility service, they must bring the City, or its Contractor, written verification that the participant can connect the service in their name prior to moving into the rental unit. It is important that the head of household, co-head of household, or another adult living in the household will have utility service connected in their name. The City, or its Contractor, will not permit utility service to be connected in a minor child's name or any other person that is not a member of the household. If these provisions cannot be met, then the City, or its Contractor, will require that the participant secure a rental unit that has all utilities paid by the landlord.

18. Non-Refundable 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. A cleaning fee, for example, does not negate the obligation of the tenant to maintain the unit in a normal sanitary manner. These non-refundable fees or charges are separate items from the security deposit and, as such, are not covered by the security and utility deposit provisions above.

19. Inventory Checklists and Major Tenant Responsibilities Regarding Security Deposits

In order to protect the deposit and assure its return upon moving out (whether or not program funds are used), the City, or its Contractor, will assist the household to understand their responsibilities as summarized below:

1. Complete an Inventory Checklist at the start of occupancy (within seven days of move 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 the participant 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.

20. Re-certification

Recertification does not apply to HOME TBRA security deposit assistance programs only.

21. Occupancy Standards

The City, or its Contractor, occupancy standards are based on the following table:

Rental Assisted Unit Bedroom Size	Number of Persons	
	Minimum	Maximum
1	1	2
2	2	4
3	3	6
4	5	8

In addition, household composition is considered, and unit size is also based on the following:

Unit Size	Family Composition
1	1 adult or 2 adults (couple)
2	2 adults of the same or opposite sex living together in a non-conjugal relationship
2	1 adult and 1 child
2	2 adults (couple) and 1 child of any age
2	1 adult and 2 same-sex children
2	1 adult or a couple and 2 opposite sex children, both under 6 years of age

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3	1 adult or a couple and 2 opposite sex children when one child is at least 6 years of age
3	1 adult and 3 same sex children or opposite sex children all under 6 years of age
3	2 adults (couple) and 3 children



3	1 adult or a couple and 4 children (either all the same sex or any combination) where 2 children of the opposite sex will not share a bedroom unless both are under the age of 6
4	1 adult or a couple and 4 children, 3 of the same sex and 1 of the opposite sex, when all children are at least 6 years of age
4	1 adult or a couple and 5 to 7 children, providing children do not have to share a bedroom with the parent(s) <u>or</u> with a child of the opposite sex when either is over the age of 6 years

22. Tenant Selection

The City of Orange will maintain a waitlist for the HOME TBRA program. The City will partner with its continuum of care partners to ensure that eligible households experiencing homelessness or at risk of homelessness are identified, screened for eligibility, and assisted in being placed on the waitlist. All tenant selection activities will comply with applicable HOME regulations and fair housing requirements. Questions related to the Tenant Selection and Outreach Strategy should be directed to the Housing Manager.

To qualify for assistance an applicant must meet the following general requirements:

1. Household income must fall at or below 60% of AMI. Applicants must secure an eligible rental unit located within the City of Orange.
2. The applicant and all adult members of the applicant's household must sign and agree to the program's terms and conditions.
3. All household members must provide two (2) forms of valid identification.
4. No member of the household shall be or is subject to a lifetime registration requirement under a State sex offender registration program.
5. No member of the household has been evicted from federally assisted housing for drug-related criminal activity within the last three years (unless they have completed a supervised drug rehabilitation program).
6. Anyone the PHA has reasonable cause to believe is currently engaging in illegal drug use.
7. No member of the household has been convicted of the manufacturing or the sales of methamphetamine on federal property.
8. Applicants on a waitlist are required to update their contact information while their name is on the waitlist.

When the number of eligible applicants exceeds available funding, the City or its Contractor will maintain a waiting list. Applications will be placed on the waiting list in the order they are received and determined eligible.

Applicants selected from the waiting list will be prioritized according to the local



preferences described below. If multiple applicants share the same preference category, selection will be made based on the date and time the completed application was received.

23. Local Preferences

The Housing Manager may give an applicant preference once their name is on the waitlist due to severe emergency situations where the applicant or member of the applicant's household has a medical or emergency situation that warrants them being moved to the top of the waitlist.

Applicants on the waitlist will be prioritized based on the following local preferences:

1. Current residents of the City of Orange who intend to remain in the City.
2. Applicants experiencing homelessness or at risk of homelessness.
3. Applicants fleeing domestic violence, dating violence, sexual assault, or stalking.
4. Applicants referred through a Continuum of Care or other approved service provider.

Within each category, applicants will be placed on the waitlist based on the date and time their completed application was received.

24. Conflict of Interest

The City of Orange will comply with the conflict of interest provisions of the HOME Investment Partnerships Program regulations at 24 CFR 92.356. No employee, officer, elected official, or agent of the City or its Contractor who exercises or has exercised any functions or responsibilities with respect to HOME activities, or who is in a position to participate in a decision-making process or gain inside information regarding these activities, may obtain a financial interest or benefit from the program. Any potential conflict must be disclosed and may require a written exception from HUD.

25. Key Processing Steps for Initial Program Start Up

Step 1: Marketing and Outreach Activities

- a. Public Announcement of Program.
- b. Outreach to Referring Agencies and to Eligible Households.
- c. Outreach to Prospective Owners.

Step 2: Accept Applications

- a. All applications must be in writing on a form prescribed by the City or its Contractor. The application includes information that enables the City or its Contractor to determine household income and eligibility.
- b. Each application received must be reviewed for completeness and to determine if the applicant is eligible. Neighborly, the City's contractor, may elect to fully determine eligibility at the time the household makes application, or make the determination when the household is drawn from the waitlist.
- c. If an applicant is determined to be ineligible, they will be notified in writing. The written notice will 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.



- d. A tenant file will be created for each application. This file will ultimately contain the application, documentation of the household's eligibility, copies of program forms, unit information, correspondence, etc.

Step 3: Determine Eligibility

Applicants are selected from the waiting list in the order established by the City's contractor, based on its adopted preferences. 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.
- b. The household's *size and composition*. This enables the Contractor to determine the unit size for which the household qualifies.
- c. Household income and adjustments to income. This enables the Contractor to determine if the household is income eligible. Verification of the information provided by the household can be accomplished through a variety of sources and documents.

Step 4: Issue Approval for Deposit Assistance

The issuance of approval authorizes the amount and timing of deposit assistance. The issuance involves working directly with the applicant on finalizing the required documents, getting signatures, and having a counseling session to brief the household on the rights, amounts, and responsibilities and obligations of assistance. The briefing will cover:

- a. Roles and responsibilities of the applicant, household members, owner, and the City's Contractor.
- b. Security deposit policy, including how much may be charged, who pays, and who receives any refund.
- c. Issuance Period and Extension Policies, and what happens in the event the lease is not executed and/or the family fails to take possession of the unit, including events such as failure to provide required appliances and to have utilities turned on in the tenant (participant's) name.
- d. Role of HQS/NSPIRE standards in unit approval and procedures for submitting the rental unit information form.
- e. Households should be counseled against signing any lease or moving into a unit until the unit has been approved by the City's contractor.
- f. Lead-Based Paint information.
- g. Prohibited Lease Provisions/Lease Addendum
- h. Fair housing information, including any search assistance that may be available, and the process for filing a complaint in the case of discrimination.

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. The submission of this document triggers the inspection, deposit negotiations and review of the owner's lease.

- a. Housing Quality Standards: Each unit must be inspected to confirm that it



meets HQS or NSPIRE if after October 1, 2024. If the unit initially fails HQS, the owner may be given a reasonable amount of time to correct deficiencies, or the participant may elect to look for another unit.

- b. 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.
- c. Lease Review: The City, or its Contractor, must review the owner's lease to assure that it does not include any of the prohibited lease provisions. The Lease Addendum provided by the City is required for all HOME TBRA-assisted units, including security deposit assistance.
- d. Final Subsidy Calculation: Once the unit has been approved, a final subsidy calculation is required to determine the amount and type of deposit assistance.

Step 6: Contract/Lease Execution

The Lease Agreement and Lease Addendum are executed by and between the tenant and owner only. At this time, The City's Contractor can provide the security deposit on behalf of the participant and any necessary final corrections can be made to the security documents ("loan") executed by the participant and the City/Contractor.

26. Eligibility and Income Calculations

As previously stated, the City's Contractor, Neighborly, will determine annual household income in accordance with HOME regulations at 24 CFR 92.203, which require the use of income definitions set forth in 24 CFR Part 5 (Section 8 definition of annual income). Neighborly will also follow guidance provided in HUD's Technical Guide for Determining Income and Allowances under the HOME Program. Income will be verified in the following ways:

1. Third Party Verifications: Request for written income verification from the tenant's employer or other income source; must be pre-approved by the applicant.
2. Review of Documents: Documents include but are not limited to benefit award letters, pay stubs, bank statements, and income tax returns.
3. Self-Certification: This is the least preferred method but may be used if no other sources are available.

27. Approving Rental Unit and Lease

Once the participant has located a unit and the owner has agreed to participate, the household and the landlord jointly submit the Request for Unit Approval. The processing staff are available to discuss the program with prospective landlords to answer questions and review the rental documents and procedures for the provision of security deposit assistance. Units identified by the program participant must be acceptable under the TBRA HOME guidelines. The following guidelines apply:

1. Rent Reasonableness

The subsidized rent and unsubsidized rents charged for comparable units are similar. Neighborly will use the Rent Reasonable checklist provided by HUD. Rental



units that are found to be out of compliance with the HUD Rent Reasonableness standards will be rejected, and the applicant will be asked to identify another suitable rental unit. The City or its Contractor will maintain documentation supporting rent reasonableness determinations in the participant file, including information on at least three comparable unassisted rental units and the factors used in determining comparability, such as location, unit size, condition, amenities, and utilities.

2. Housing Conditions

HQS/NSPIRE will be applied to all units assisted with HOME TBRA funds. Enforcement of local codes may be applied in addition to HQS standards.

Contractor staff will schedule initial inspections, including a lead visual assessment, with landlords upon receiving and approving a completed and signed Request for Unit Approval from the participant and landlord. The Contractor will schedule the inspection with the landlord. Landlords will be notified in writing of the inspection violations. If the landlord is not willing to correct the violations cited and to make the unit ready for move-in in a reasonable amount of time, the participant will be given a new Landlord packet and be asked to look for another rental unit. The HOME Program regulation requires that all units assisted with HOME funds meet HQS/NSPIRE standards.

For HOME TBRA Security Deposit assistance only, annual HQS/NSPIRE inspection standards do not apply.

3. Size Requirement

The City's program will use the Occupancy Standards in determining unit size for each household. Occupancy Standards are found in Section 20.

4. Lease Approval

The lease must comply with all the requirements in 24 CFR 92.253 (Tenant and Participants Protection).

Prohibited lease terms. The lease may not contain any of the following provisions:

(1) *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;

(2) *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;

(3) *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;

(4) *Waiver of notice.* Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;



(5) *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;

(6) *Waiver of a jury trial.* Agreement by the tenant to waive any right to a trial by jury;

(7) *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;

(8) *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; and

(9) *Mandatory supportive services.* Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

Once a unit meets City code and HQS/NSPIRE, the landlord must provide a copy of the proposed lease to the City's Contractor, who will review the lease to assure that it does not include any of the prohibited lease provisions as outlined in 24 CFR Part 92 and 92.253(b).

28. Rent Reasonableness

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

1. **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.).
2. **Size:** Only units of comparable size (both in terms of number of bedrooms and square footage) should be used.
3. **Rent for Unit:** Amount of rent being charged by owner.
4. **Utilities Included:** Consider the type and fuel source of utilities.
5. **Condition:** Only units in similar condition should be compared.
6. **Amenities:** Consider such amenities as garage, appliances, and lot size.

29. Execution of Lease, and Lease Addendum Once the unit has been verified to have passed and the lease has been reviewed and approved, the tenant and landlord can execute the lease and lease addendum, providing an original copy to the City's Contractor (Neighborly). The HOME deposit assistance will not go into effect until the unit passes HQS and all above referenced documents are signed and returned, providing, of course, that deposit assistance can be processed concurrently with lease and lease addendum execution where that is possible.



30. Annual Lease and Reexamination Activities These do not apply to the HOME TBRA Security Deposit only program. However, all Violence Against Women Act (VAWA) protections, including the VAWA lease addendum, continue to apply to all assisted households.

31. On-Going Program Responsibilities On-going Contractor program responsibilities include:

1. Perform program duties, such as processing applications, maintaining files, processing deposit returns.
2. Take referrals from authorized referral agencies, such as City or County social services, or through CalAIM when that program is available.
3. Maintaining a wait list when the number of applicants exceeds available funding. If the wait list time to be served exceeds two (2) years, the wait list may be closed through a public process.
4. Monitor the state of the wait list. When the list is less than two (2) years long, use the appropriate public process to reopen list if it has been closed.
5. Maintain records in accordance with federal and state records retention requirements, answer correspondence, assist the City, auditors, and program monitors as required.

32. Lease Enforcement and Termination of Tenancy

Neither the City, nor its contractors are a party to the tenant/landlord lease and will not be obligated to enforce or intervene in a tenant/landlord dispute and is not a party to any eviction process.

33. Due Process

The City or its Contractor will work with program participants who are experiencing problems that may threaten their housing stability. Participants are expected to observe and abide by all the rules of the TBRA program; when a participant or a member of the participant's household violates one or more of these rules, there are two levels of review that can apply, depending on the situation.

1. HUD Requirement for Due Process

HUD regulations at 24 CFR 92.209 and 24 CFR 92.253 requires "due process" be given to any participant whose rental assistance has been terminated because of program rule violations. Due process must consist of, at a minimum, the following steps as stated in the regulation:

- a. Written notice to the participant containing a clear statement of the reason for termination.
- b. A review of the decision, in which the participant is given the opportunity to present written or oral objection before a person other than the person (or a subordinate of the person) who made or approved the termination decision; and
- c. Prompt written notice of the final decision to the participant.



2. Informal Hearings

Based on the above, The City's Contractor, Neighborly, has a procedure whereby a participant who has been denied assistance or had the assistance terminated can appeal the termination. The following steps are required to initiate and conduct the informal hearing.

- a. The participant must submit a written request requesting an appeal of the household's termination from assistance. Normally the participant responds by filling out a form that is attached to or is a part of the letter sent informing the participant of the termination.
- b. On receiving a written request for an appeal and the informal hearing is scheduled. staff person responsible for initiating the termination is mandatory. All other relevant persons, who may include the participant's case manager, the landlord and any other persons who have first-hand knowledge or documentation of the issues involved – witnesses, in other words - are invited. The participant may be represented by legal counsel at his or her own expense and may bring up to two additional persons to act as witnesses.
- c. Paragraph (2) of the HUD regulation establishing the due process requirement requires that an impartial person preside over the informal hearing. An impartial person is unfamiliar with the participant personally, has no prior knowledge of the issues that lead to the termination, and has no personal interest in seeing it resolved one way or another. This person is known as the Hearing Officer.
- d. The Hearing Officer will preside by examining all written and electronic documentation, hearing the testimony of all witnesses, and making the final decision on the appeal. The role of the staff person processing the file/assistance is to facilitate the presentation of evidence and to show how it was determined that termination was the appropriate step. The staff person will provide an agenda for the informal hearing and provide access to relevant records to everyone present at the meeting. Witnesses present will be called upon by the person presiding to present evidence.
- e. The presiding person should attempt to render a decision while the participant is still in attendance. If this is not feasible, the decision must be issued within five working days, and a letter will be sent to the participant documenting the final decision. The hearing decision is final and there are no further appeals process available.

3. Termination from Assistance Without Hearing or Due Process

Some actions by program participants can result in automatic termination from assistance without the need for a hearing or due process. Generally, these situations involve the participant's absence from the assisted unit, either because of long-term incarceration or because the participant has abandoned the unit voluntarily without giving notice.



34. Portability and Moving

There is no portability of HOME TBRA security deposit assistance outside the City of Orange..

35. Program Monitoring and Evaluation

The City or a subcontractor will conduct periodic and annual examination of the HOME TBRA program to ensure program compliance to these program policies and procedures and to ensure compliance with HOME regulations. Staff will conduct compliance monitoring and will issue reports and findings to the Director. Compliance monitoring reviews will be focused on the following areas:

1. Compliance with policies set forth in this document, including but not limited to:
 - i. Accuracy of rent calculations
 - ii. Organization of participants file and timing of annual recertification
 - iii. Documentation and accuracy of calculating household income and income derived from assets.
 - iv. Accuracy of Contractor billings to HOME
 - v. Accuracy of security and utility deposits
 - vi. Soundness of Rent Reasonableness surveys
2. Compliance with local, state, and federal, fair housing laws and ordinances, including landlord discrimination complaints and Fair Housing violations.

Record Retention: The City of Orange and its Contractor will maintain program records in accordance with the HOME Investment Partnerships Program recordkeeping requirements under 24 CFR 92.508. Records related to program administration and participant eligibility will be retained for the period required by federal regulations and will be made available for review by the City, auditors, and the U.S. Department of Housing and Urban Development upon request.

36. Live-In Aid Requirements

The City and its Contractor has adopted the following guidelines related to live-in aides:

1. Definition of Live-in Aide: HUD 24 CFR 5.403
A person who resides with one or more elderly persons or nearly elderly persons or persons with disabilities and who:
 - a. Is determined to be essential to the care and well-being of the persons.
 - b. Is not obligated for the support of the persons; and
 - c. Would not be living in the unit except to provide the necessary supportive services.
 - d.



2. Essential Care

A medical doctor, psychiatrist, or a non-medical agency that provides services to people with disabilities, such as a Center for Independent Living, will have to provide written documentation that the TBRA participant needs the services of a live-in aide. The recommendations should be from a professional that is familiar with the participant and have direct medical or professional experience in the areas related to the participant's disability. The written documentation needs to define:

- a. the duration of the services (short-term or long-term care), and
- b. level of daily care that the person with a disability needs to be able to live in an independent apartment or home setting (i.e. hours of care needed in a 24- hour period), and
- c. skill level of live-in aide (i.e. any specialized medical certification or training needed by the live-in aide to meet the needs of the participant)
- d. The written documentation needs to be on official letterhead from the medical professional or agency making the recommendation. The documentation needs to be dated within 60 days from the date that the services of the live-in aide will be required. The documentation should also give full contact information if there are questions concerning the recommendations.

3. Determining the Residence of the Live-in Aide

The City requires that the services of the live-in aid must be at an "arm's-length transaction" between the participant and the live-in aide. The aide must not have been a member of the participant's household prior to becoming the personal care aide.

4. Relatives as Live-In Aides

A person that was or is a member of the participant's household does not qualify as a live-in aide. If the participant wants to engage the services of a relative, the City requires that the participant certify that:

- a. The live-in aide is qualified to provide the needed care.
- b. The live-in aide was not part of the household prior to the participant enrolling in the TBRA program.
- c. There is no other reason for the aide to reside in the unit other than to care for the participant (i.e. the individual can demonstrate they have a previous residence they left in good standing).
- d. The aide and the participant will maintain separate finances.

If a participant has a family member or member of the participant's current household that wishes to provide services for the TBRA participant and the family member does not meet the live-in aide requirements outlined above, this family member can be part of the household, but their income will be counted as part of the household income.

38. Lead-Based Paint

The program will ensure compliance by conducting both an HQS and a Lead-Based Paint visual assessment of units identified by applicants in their Request for Tenancy Approval.



The Lead-Based Paint inspection will consist of a visual assessment for deteriorated paint (cracking, scaling, peeling, or chipping paint as well as visible dust, debris and paint chips) and will include verification that the owner has stabilized each deteriorated paint surface in accordance with §35.1330(a) and §35.1330(b) before occupancy of a vacant dwelling unit.