

# HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA) Tenant-Based Rental Assistance Program Technical Assistance Guide

The purpose of the HOPWA Technical Assistance Guide (TA Guide) is to assist applicants in understanding the state-administered HOPWA program obligations and applying for funds through the Request for Application (RFA) process.

In addition to this TA Guide, HUD has developed the following reference materials to ensure proper HOPWA program development and administration. Applicants should utilize HUD resources and the TA Guide when developing and administering a HOPWA tenant-based rental assistance (TBRA) program.

- *HOPWA Rental Assistance Guidebook:*  
[HOPWA Rental Assistance Guidebook](#)
- *HOPWA Grantee Oversight and Resource Guide:*  
[HOPWA Oversight and Monitoring Guide](#).
- *HOPWA Financial Management For HOPWA Grantees Manual:*  
[HUD HOPWA Financial Management Online Training](#)
- *HOPWA Regulations:*  
[eCFR — Code of Federal Regulations](#).
- *The HUD Housing Choice Voucher Program:*  
[Housing Choice Voucher Program Guidebook - HUD](#).
- *HUD Income Limits Website:*  
[Income Limits | HUD USER](#)
- *HUD Fair Market Rents Website:*  
[Fair Market Rents | HUD USER](#)

## I. GENERAL HOPWA PROGRAM REQUIREMENTS

### A. Eligible Beneficiaries

HOPWA funds may only serve households meeting the following criteria:

- At least one person residing in the household has been diagnosed with HIV/AIDS;
- The person or household is homeless or at risk of becoming homeless;
- Is low-income, defined by HUD as households with income at or below 80% of the area median income (AMI), with adjustments for smaller and larger families.

Eligible single-person or family households may receive HOPWA housing assistance. HOPWA regulation defines a family as a household composed of two or more related persons, and includes a person or persons who are determined to be important to the care or well-being of the person living with HIV/AIDS (PLWHA).

## **B. Supportive Services**

All residents of HOPWA-assisted housing must receive adequate supportive services.

A HOPWA contractor is required to cooperate and coordinate with the relevant state and local government agencies responsible for supportive services in the contractor's service area. The selected contractor will also cooperate and coordinate with other public and private organizations and agencies providing supportive services.

Applicants of this RFA must submit a supportive service plan that provides, at a minimum:

- Names of proposed HIV/AIDS or other service organizations (including the applicant agency) and a description of the specific services they will offer the HOPWA-assisted participants.
- Actions to be taken to ensure: 1) access to services; and 2) a plan for providing care as resident's health status changes, or to readily accommodate transition to other types of housing or care.
- If applicant does not directly provide HIV/AIDS related supportive services, letters or draft agreements with local HIV/AIDS supportive service providers (including private and government organizations) ensuring that program participants will have access to the range of services needed, must be provided.

## **C. Confidentiality**

Staff working with HOPWA clients shall be regularly trained on confidentiality protections. Staff should be familiar with the use of basic confidentiality measures, including client consent forms, methods for securing paper and

electronic files, limiting computer access and other technology protections, and proper procedures for communicating sensitive information to other service providers.

Organizations are required to establish and maintain a policy to ensure the confidentiality of the individuals assisted. The confidentiality policy shall, at a minimum, address:

- How staff will gather, record, and store confidential information;
- The consent process for the release of confidential information;
- Protocols for responding to breaches of confidentiality;
- Standards contained in relevant state and federal laws, including Health Insurance Portability and Accountability Act compliance (if applicable), and HIV confidentiality statutes; and
- Privacy standards related to data collection and use of participant information for program reporting, such as AIDS Regional Information and Evaluation System (ARIES) or a Homeless Management Information System (HMIS).

HOPWA rental assistance programs require additional attention to confidentiality, especially related to interacting with landlords. Referencing the HOPWA program by name in rental documents or letters and forms used in the program may alert landlords and their agents of a renter's HIV status. Similarly, if the organization or program name references AIDS and is used in communication or on outside documents, the confidentiality of beneficiaries will be compromised. TBRA programs should use a generic program name and insulate rental assistance beneficiaries from exposure in all practical ways.

#### **D. Environmental Requirements**

Compliance with environmental review regulation contained in *24 CFR Part 58 of the National Environmental Policy Act (NEPA)* is a condition of receiving HOPWA funds. HOPWA funds will not be fully committed until OA has completed an environmental review or assessment.

The level of environmental review depends upon the type of program being proposed. Most non-physical activities are not subject to environmental review requirements, and are considered categorically excluded from National Environmental Protection Agency requirements. These activities include information services; the development of studies and testing; TBRA; supportive services; operating expenses; technical assistance; and administrative expenses.

## E. Reporting Requirements

HUD requires the collection and reporting of specific performance outcomes and demographic information. OA requires submission of this data on the *HOPWA Progress Report (HPR)* form, which is provided by OA through a Management Memorandum and/or posting to OA's website.

OA reports data to HUD in a *Consolidated Annual Performance and Evaluation Report (CAPER)* through HUD's Integrated Disbursement and Information System (IDIS).

HPRs include **cumulative data** and are due to OA as follows:

Mid-Year	November 1, 2013 to December 31, 2013	January 31, 2014
Final Report	July 1, 2013 – June 30, 2014	July 15, 2014
Mid-Year	July 1, 2014 – December 31, 2014	January 31, 2015
Final Report	July 1, 2014 – June 30, 2015	July 15, 2015
Mid-Year	July 1, 2015 – December 31, 2015	January 31, 2016
Final Report	July 1, 2015 – June 30, 2016	July 15, 2016

The cumulative reports shall contain the following minimum data set:

- Performance goals per program year;
- Overall accomplishments and barriers encountered;
- Information on the contracting agency and each subcontracting agency including, but not limited to: name, address, Data Universal Numbering System number, Employer Identification Number/Tax Identification Number, contract amount, Congressional district, area served, and organizational status, such as non-profit, faith-based or "grassroots";
- HOPWA funds budgeted and expended to date;
- Amount of other funds used in conjunction with HOPWA funded activities;
- Sites and units of housing and households served with HOPWA funds and non-HOPWA funds in conjunction with HOPWA activities;
- Beneficiary information for participants and all family members, including HIV/AIDS status, age, gender, household income, race, and ethnicity;
- Living situation of eligible beneficiary upon entering program and housing destination upon exit of the program or end of program year; and
- Performance output and outcomes demonstrating improvements in eligible beneficiary's housing stability, access to HIV treatment/other healthcare and support, and reduced risk of homelessness.

### Additional Reporting Requirements

- ARIES

ARIES is a centralized HIV/AIDS client management system that allows for coordination of client services and provides comprehensive data for program reporting and monitoring. HOPWA intake and assessment screens are available in ARIES, and HOPWA reporting capabilities will be available in 2013 for ARIES users. All HOPWA contractors shall utilize ARIES for HOPWA.

- HMIS

Pursuant to federal requirements, agencies that receive HOPWA funding and target homeless persons are required to participate in their local HMIS. Other agencies that target persons living with HIV/AIDS and periodically assist homeless HIV/AIDS beneficiaries are encouraged to participate in their local HMIS.

## II. HOPWA TBRA PROGRAM REQUIREMENTS

TBRA pays the difference between the HUD published *Fair Market Rent (FMR)* or “rent reasonable” rent and the tenant’s portion of the rent. Through TBRA, the HOPWA contractor makes rental subsidy payments directly to property owners or property management agencies.

HOPWA income eligibility and rent calculation regulations refer to portions of *24 CFR Part 5* that are used by the *Housing Choice Voucher Program (HCVP)*. However, it is important to note that there are basic differences between how HCVP and HOPWA rents are calculated, and caution should be used in transferring procedures from one program to the other. When the two program requirements differ, HOPWA rent subsidy and rent calculation standards take precedence.

Since program funding is only available through the end of the Agreement, housing is considered permanent housing but the TBRA rental subsidy is temporary. As a temporary program, beneficiaries must be informed of the time limit through a program participation agreement. Pursuing a more permanent housing subsidy or affordable unit should be a goal in every beneficiary’s Individual Housing and Service Plan. The TBRA program should place emphasis on moving beneficiaries towards other non-HOPWA funded permanent housing when practical. Beneficiaries must be informed that TBRA will terminate within a certain time period (e.g., 60 or 90 days) after receiving notification of a more permanent rental subsidy such as a Housing Choice Voucher. For more detailed guidance on developing a program participation agreement, refer to *Chapter 5* of the *HOPWA Rental Assistance Guidebook* at: [HOPWA Rental Assistance Guidebook](#).

The following elements of the HOPWA regulations must be incorporated into a TBRA program.

## A. Housing Quality Standards

*24 CFR Part 574.310(b)*

Prior to residency, each unit assisted with HOPWA funds must meet the applicable *Housing Quality Standards (HQS)*. Except for variations resulting from the application of HUD-approved local standards, HQS includes standards relating to structural soundness, space, security, access, interior air quality, water supply, thermal environment, electrical, food preparation, refuse disposal, and sanitary conditions of the unit. HOPWA regulations provide additional information regarding HQS, and detailed information may be obtained from HUD or OA. HOPWA-assisted units must be inspected periodically to determine ongoing compliance with HQS.

## B. Lead Based Paint and Fire Safety

Housing units subsidized with HOPWA funds must be in compliance with federal regulations concerning lead based paint and fire safety as set forth in the *Lead Based Paint Poisoning Prevention Act of 1973 and the Fire Administration Authorization Act of 1992*. Rental assistance documentation should include information on lead-based paint and smoke detectors that incorporate the provisions of the federal regulations.

## C. Resident Rent Payment

*24 CFR Part 574.310(d)*

HOPWA regulations require that persons receiving rental assistance under this program must pay as rent, including utilities, an amount which is the **highest** of:

- Option 1 – 10% of monthly annual income (annual income before adjustments, divided by 12).
- Option 2 – 30% of monthly adjusted income.
- Option 3 - Welfare payment specifically designated to meet housing costs.

Except for unusual circumstances, 30% of monthly adjusted income will be higher than 10% of monthly annual income. In most cases, the resident rent contribution will be 30% of adjusted income. HOPWA requires that residents pay the amount calculated regardless of the rent of the unit (as long as housing cost for the unit meet the rent standard and rent reasonableness requirements noted in Section D – F below).

In a few areas across the country, the agency administering *Temporary Assistance to Needy Families (TANF)* designates a portion of welfare payments for rent. Contractors may check with the TANF agency to verify if

the rent designation is made for this jurisdiction.

<http://www.co.fresno.ca.us/DepartmentPage.aspx?id=6146>

Below is a sample of how to calculate the maximum resident rent payment:

<b>Example: Calculating Resident Rent Contribution</b>	
<b>Option 1: \$2,056 X .10 (10 percent) =</b> Calculate Annual Income and Monthly Income <ul style="list-style-type: none"> <li>• Adult 1 - \$600/month X 12 = \$7,200</li> <li>• Adult 2 – 24 hours/week x \$14/hour = \$336/week = \$336 X 52 = \$17,472</li> <li>• Dependent 1: \$80/week – excluded under 18 years of age</li> <li>• Total Annual Income: \$7,200 + \$17,472 = \$24,672</li> <li>• Monthly Income: \$24,672/12 = \$2,056</li> </ul>	<b>\$206</b>
<b>Option 2: \$1,983 X .30 (30 percent) =</b> Calculate Adjusted Income and Monthly Adjusted Income <ul style="list-style-type: none"> <li>• Disabled adjustment: \$400</li> <li>• Dependent Adjustment: \$480</li> <li>• Total Adjusted Income: \$24,672 (annual income) less \$800 (adjustments) = \$23,792</li> <li>• Monthly Adjusted Income = \$23,792/12 = \$1,983</li> </ul>	<b>\$595</b>
<b>Option 3: Not applicable</b> Calculate welfare payment designated for housing	<b>\$0</b>
<b>Resident Rent Calculation = highest of the three options</b> (Resident rent contribution is the amount the beneficiary pays towards the rent in the lease or rental agreement and all basic utilities (paid by the resident in addition to the lease))	<b>\$595</b>

#### D. Utility Allowance

If the resident is paying utility costs such as gas, electricity, water, garbage, or sewer, contractors may deduct a utility allowance from the resident base rent calculation. A utility allowance should be based upon average costs of a particular utility in a particular type and size of unit. *Public Housing Authorities (PHA)* maintain and update annually a schedule of utility allowances for their locale. The following is a link to the *Fresno PHA* webpage to obtain utility allowance schedules: <http://www2.hafresno.org/>

Below is an example of a utility allowance deduction:

Resident Base Rent Calculation (from table above)	\$595
Less Utility allowance based on PHA Utility Allowance Schedule	-\$85
Equals resident's rent contribution to landlord	\$510

**E. Maximum Rent Subsidy**

*24 CFR Part 574.320(a)(1)*

The amount of HOPWA funds used to pay monthly assistance for an eligible person may not exceed the difference between:

- The lower of the rent standard or reasonable rent for the unit; and
- The resident’s rent payment calculated under *Section 24 CFR 574.310(d)*.

The following table describes how to calculate the maximum rent subsidy. Fictitious rent payment standards and reasonable rents have been used in the example.

<b>Example: Calculate HOPWA Subsidy Amount</b>	
Rent Payment Standard for a 2 bedroom unit for this locale per public housing authority	\$960
Rent reasonable determination based on other comparable units in the area	\$825
<b>Lower = the Reasonable Rent in this case</b>	<b>\$825</b>
Resident’s rent on lease agreement	<b>\$825</b>
Resident’s rent contribution to landlord (from previous table)	\$510
HOPWA Rent Subsidy = lease rent minus resident rent contribution (\$825-\$510)	<b>\$315</b>

HUD only provides subsidies to families living in appropriately-sized units. The goal is to subsidize the smallest sized unit possible without creating overcrowding. The HOPWA contractor may adopt the local housing authority subsidy standards for its HCVP to ensure compliance with all applicable fair housing laws.

**F. Rent Standard**

*24 CFR Part 574.320(a)(2)*

The rent standard shall be no more than the published *Section 8 Fair Market Rents (FMR)* for Fresno County (or the HUD approved community-wide exception rent). However on a unit by unit basis, OA may approve an increased amount by up to 10% for up to 20% of the units assisted.

The following is the link to HUD’s *Fair Market Rent Documentation*: [FMR Documentation | HUD USER](#).

## G. Rent Reasonableness

*24 CFR Part 574.320(a)(3)*

The rent charged for a unit must be reasonable in relation to rents currently being charged for comparable units in the private unassisted market and must not be in excess of rents currently being charged by the owner for comparable unassisted units.

## H. Leases and Housing Payment Contracts

TBRA involves the use of a lease or rental agreement between the owner and the tenant, with standard provisions, such as the requirement that the lease or agreement term be at least one year. A shorter term may be allowed if it would improve the housing opportunity for the tenant and such shorter term is the prevailing local market practice.

In addition to the tenant/owner lease or rental agreement, the contractor must have a program participation agreement with the landlord/property owner defining the responsibilities of the contractor and the landlord. A sample rental assistance landlord contract is provided in the *HOPWA Rental Assistance Guidebook*:

[HOPWA Rental Assistance Guidebook](#)

## I. Termination of Assistance

*24 CFR Part 574.310(e)*

Contractor must establish a beneficiary rights and responsibilities statement, grievance and appeals procedures, and program termination policies, and ensure that beneficiaries are aware and acknowledge receipt of the procedures.

The termination policy should include at a minimum the following:

Death: Surviving family members may continue to receive housing assistance and/or supportive services for a grace period of up to one year following the death of the family member with HIV/AIDS (OA recommends the grace period be no less than 60 days for TBRA).

Violation of requirements: Beneficiaries may be terminated from the program for failing to meet program or occupancy requirements, including:

1. Non-compliance with conditions of occupancy
2. Income-eligibility
3. Fraud

The contractor must ensure that:

- Supportive services are provided so that beneficiary assistance is terminated in only the most severe cases;
- Beneficiary case files include documentation of supportive services offered;
- The beneficiary rights and responsibilities statement is adhered to;
- A HOPWA termination form is completed and a copy is given to the beneficiary;
- A formal written process is developed which allows for due process. The process must include, at a minimum:
  - Written notice with a clear statement of reasons for termination;
  - Allowance for review and rebuttal by tenant; and
  - Prompt written notice of final decision.

#### **J. Beneficiary Application Process**

Establish and implement an application-based beneficiary intake process to ensure that eligible HOPWA beneficiaries and their families will be served.

#### **K. Waiting List**

Establish and maintain a waiting list of applicants based on date and time of application or other method approved by OA. Ensure that all eligible applicants are notified of the waiting list process.

#### **L. Housing Service Plans**

Develop an ongoing assessment of housing assistance and supportive services required by the beneficiaries (e.g., Individual Housing and Service Plans), including an annual assessment of their housing situation, and appropriate determination of rental subsidies or other support. The Individual Housing and Service Plan should include sufficient outcome information to allow contractor to report the annual results in the HPR under beneficiary outcome goals of achieving stable housing, reducing risk of homelessness, and improving access to healthcare and other support.

#### **M. Annual Recertification**

Annual recertification of beneficiaries participating in the TBRA program is required. Recertification includes income eligibility, rent payment calculation and a unit inspection. In addition to annual recertification, beneficiaries may request interim rental adjustments based on increases or decreases in income.

To ensure that beneficiaries are recertified in a timely manner, as required under federal HOPWA regulations, the recertification and the unit inspection process should commence 90 days prior to the annual deadline.

#### **N. Fee Prohibition**

Contractor shall not charge any fee, except rent, to any eligible person for housing or services provided by HOPWA.

### **III. OTHER FEDERAL REQUIREMENTS**

#### **A. Fair Housing and Equal Opportunity**

##### **1. Affirmative Outreach**

Contractor must adopt affirmative outreach procedures to ensure that all persons who qualify for assistance, regardless of race, color, religion, gender, age, national origin, familial status, sexual orientation, or disability, know of the availability of the HOPWA program, including facilities and services accessible to persons with a disability. Contractor must maintain evidence of implementation of the procedures.

Program fact sheets, notices of the TBRA program application process, and all other program information must be available to all applicants.

##### **2. Fair Housing**

Contractor must comply with fair housing requirements including all applicable provisions of the *Americans with Disabilities Act (Title 42, United States Code Sections 12101–12213)* and implementing regulations 28, *CFR, Part 35* (states and local government grantees) and *Part 36* (public accommodations and requirements for certain types of short-term housing assistance).

Contractor shall use the HUD equal opportunity slogan or logo on all outreach materials, requests for proposals, advertising, employment bulletins, educational information, or information related to HOPWA expenditures. Refer to the following Web site: [Equal Housing Opportunity Graphics for Printing – HUD](#)

#### **B. Flood Insurance Protection**

No property to be assisted with HOPWA funds may be located in an area that has been identified by the *Federal Emergency Management Agency (FEMA)* as having special flood hazards, unless:

- The community in which the area is situated is participating in the National Flood Insurance Program and the regulations thereunder; or less than one year has passed since FEMA notification regarding such hazards; and
- The applicant will ensure that flood insurance on the structure is obtained in compliance with the *Flood Disaster Protection Act of 1973*.

### **C. Applicability of Office of Management Budget (OMB) Circulars**

HOPWA regulations require contractors to comply with the policies, guidelines, and requirements of *24, CFR, Part 85* (codified pursuant to *OMB Circular No. A-102* and *OMB Circular No. A-87*) with respect to acceptance and use of funds under the program by states and units of general local government, including public agencies, and *Circular Numbers A-110 and A-122* with respect to the acceptance and use of funds under the HOPWA program by private non-profit entities.

### **D. Record Keeping**

Records must be maintained for a four-year period to document program compliance. Contractors must maintain current and accurate data on the race and ethnicity of program participants.

### **E. Audit**

Contractors are subject to federal audit requirements.

### **F. Conflict of interest**

Contractor must comply with *HOPWA regulation 24 CFR Part 574.625* regarding conflict of interest.

### **G. Displacement, Relocation, and Property Acquisition**

In instances when a person, business, or nonprofit organization is displaced as a result of a HOPWA-funded project, contractors must comply with applicable federal relocation laws. Refer to *HOPWA regulation 24 CFR Part 574.630* for detailed information.