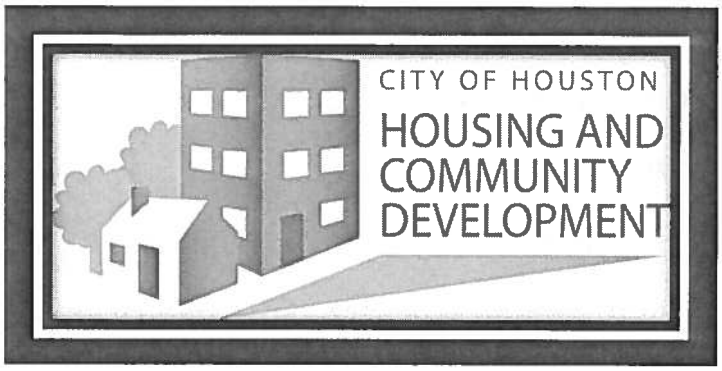

City of Houston – Housing and Community Development Department
HOPWA Policies and Procedures Manual

2016

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SECTION 1 – INTRODUCTION & OVERVIEW

This guide is intended to provide information to HOPWA staff and project sponsors in the City of Houston about the administration of the HOPWA program including guidance on eligible activities, program compliance, monitoring and reporting, and understanding the Department of Housing and Urban Development's (HUD's) overall intent and "spirit" for the program. Many situations may not be adequately addressed here, and City of Houston reserves the right to amend, alter, or grant incidental exceptions to all policies outlined when allowable.

This guide contains a basic overview of the HOPWA eligible activities and requirements, but it is not intended to replace any of the existing guidance produced by HUD.

The goal of HOPWA is to assist clients in achieving and maintaining housing stability so as to avoid/reduce homelessness and improve their access to, and engagement in, HIV care and treatment. HOPWA is designed to promote client housing stability and act as a bridge to long-term assistance programs, such as Section 8, or to self-sufficiency (when a client's health and financial situation allows him/her to maintain suitable housing without HOPWA or other financial assistance.) Participation in HOPWA is voluntary and conditional. HOPWA is needs-based and is not an entitlement program.

HOPWA funding is provided annually through Congress. Client assistance is subject to continued availability of funds.

SECTION 2 – PROGRAM DEFINITIONS

- ***HOPWA Formula Grantees*** are the entities that are the most populous unit of general local government in an eligible metropolitan statistical area (EMSA), and that has a Consolidated Plan prepared, submitted, and approved by HUD.
- ***Project Sponsors*** are non-profit organizations (including faith-based entities) or governmental agencies, targeting services to individuals living within the HUD designated EMSAs.
- ***Required Registrations***: Grantees, project sponsors and sub-recipients of federal funding are required to possess and report certain tax and business reporting numbers as required by federal agencies (ex HUD for HOPWA funding):
    - ***Tax ID Numbers (TINs)*** are used by the Internal Revenue Service (IRS) in the administration of tax laws and for the purpose of identifying personal entities. TIN or EIN numbers are required to be reported in the program year-end Consolidated Annual Performance and Evaluation Report (CAPER) or Annual Performance Report (APR) for all HOPWA grantees, project sponsors and sub-recipients.
    - ***Employer ID Numbers (EINs)*** are also federal tax identification numbers used by the IRS to identify business entities. EIN or TIN numbers are required to be reported in the program year-end Consolidated Annual Performance and Evaluation Report (CAPER) or Annual Performance Report (APR) for all HOPWA grantees, project sponsors and sub-recipients.
    - ***DUN and Bradstreet Numbers (D&B or DUNS)*** have been adopted by the Office of Management and Budget (OMB) as one way to keep track of how federal grant money is dispersed. DUNS stands for "data universal numbering system, and consist of nine digits. There is no charge for obtaining D&B numbers and for more information go to: http://fedgov.dnb.com/webform.
    - ***Central Contractor Registration Numbers (CCRs)*** are the primary registrant database for the U.S. Federal Government. The CCR database collects, validates, stores, and disseminates data in support of federal agency contracts and assistance awards. Both current and potential federal government registrants are required to register for a CCR in order to be awarded contracts by the federal government. Registrants must update or renew their registration at least once per year to maintain an active status. For more information go to: https://www.uscontractorregistration.com/.
- ***Acquired Immunodeficiency Syndrome (AIDS):*** or related diseases means the disease of Acquired Immunodeficiency Syndrome or any conditions arising from the etiologic agent for Acquired Immunodeficiency Syndrome, including infection with the Human Immunodeficiency Virus (HIV). It requires a medical diagnosis with positive test results (Repeatedly reactive enzyme immunoassay, Western blot or IFA, or rapid screening test), and/or a CD4+ cell count below 200 cells per micro-liter and/or CD4+ cells account for fewer than 15 percent of all lymphocytes and/or a diagnosis of one or more of the AIDS-defining illnesses.
- ***Administrative Costs***: Non service-related costs for general management, oversight, coordination, evaluation, and reporting. Project sponsor administrative costs are limited to 7% of the portion of the grant amount they receive.
- ***Beneficiary***: The one individual who makes the household eligible for HOPWA and all household/family members residing with the individual who also receive the benefit of HOPWA assistance. Households with more than one person with HIV count one person as the "individual" qualifying the household for assistance and all other additional persons with or without HIV as beneficiaries for the purposes of HOPWA reporting. State certified paid caregivers', and live-in aides' income is never counted as household income.

- ***Direct Program Costs:*** Direct costs are those costs which can be specifically identified with delivery of a particular project, service, or activity undertaken by a grantee or project sponsor to achieve an outcome intended by the funding program. However, a cost may not be assigned to an award as a direct cost if any other cost incurred for the same purpose.
- ***Disabling Condition*:** "A diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability, including the co-occurrence of two or more of these conditions." In addition, a disabling condition may limit an individual's ability to work or perform one or more activities of daily living. *An HIV/AIDS diagnosis is considered a disabling condition by HUD and the American with Disabilities Act, but not the Social Security Administration.*
- ***Duplicated Count:*** An individual/household that received more than one HOPWA service in the same project year, e.g. a client received both STRMU and TBRA or a client received both STRMU and Supportive Services.
- ***Eligible Individual***: A person with HIV or AIDS who meets the income eligibility criteria of at or below 50% Area Medium Income Guidelines, as defined by the Income-eligible definition.
- ***Emergency*:** A situation that is short-term in nature related to loss of income or HIV/AIDS, and one that the case manager has reason to believe will put the client at risk of becoming homeless.
- ***Eligible person*** means a person with acquired immunodeficiency syndrome or related diseases who are a low-income individual, as defined in this section, and the person's family. A person with AIDS or related diseases or a family member regardless of income is eligible to receive housing information services, as described in 574.300(b)(1). Any person living in proximity to a community residence is eligible to participate in that residence's community outreach and educational activities regarding AIDS or related diseases, as provided in 574.300(b)(9).
- ***Family:*** A family may be composed of two or more related persons. A person who is not a relative by blood or marriage can also be considered a family member if they are important to the care or well-being of a person with HIV and generally consider themselves as a couple or family. Unmarried couples can not present as a family in their personal lives, and roommates for the purposes of securing federal benefits. Neither can a roommate or a live-in aide change to that of being a family member after the death of a HOPWA client in order to receive survivor benefits.
- ***Family Unit:*** A household composed of an eligible HOPWA individual and 1 or more other persons/ beneficiaries residing with the eligible individual.
- ***HOPWA Client*:** A low-income person with HIV/AIDS who qualifies for and receives HOPWA-funded assistance.
- ***Household*:** Refers to a client and all other beneficiaries residing with that client. In situations where no other beneficiaries reside with the client, the client constitutes a household unto him/herself. Non-beneficiaries who reside in the shared unit are not part of the household.
- ***Housing Stability*:** See Appendix A of the HOPWA Quarterly Report for definitions of stable and unstable housing situations.
- ***Human Immunodeficiency Virus (HIV) Infection*:** an infection caused by a virus that infects the body and destroys portions of the immune system and is documented by a positive HIV test (Repeatedly reactive enzyme immunoassay, Western blot or IFA, or rapid screening test).

- ***Income-eligible*:** Any individual or family whose income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. Project Sponsors MUST use the current HUD Income Limits Table to determine HOPWA program eligibility.
- ***Low-income individual*** has the meaning given it in section 853(3) of the AIDS Housing Opportunity Act (42 U.S.C.12902).
- ***Nonprofit organization*** means any nonprofit organization (including a State or locally chartered, nonprofit organization) that: (1) Is organized under State or local laws; (2) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; (3) Has a functioning accounting system that is operated in accordance with generally accepted accounting principles, or has designated an entity that will maintain such an accounting system; and (4) Has among its purposes significant activities related to providing services or housing to persons with acquired immunodeficiency syndrome or related diseases.
- ***Non-HOPWA leveraged sources:*** Refers to cash resources separate from the HOPWA grant award, and may include: CDBG, HOME, ESG, SHP, S+C, SRO Mod Rehab, Housing Choice Vouchers (Section 8), PHA units, Supportive Housing for Persons with Disabilities/Elderly (Section 811/202), Low Income Housing Tax Credits (LIHTC), Historic Tax Credits, USDA Rural Housing Service, Ryan White programs, other federal programs at HHS, VA, DOL, etc., state funds, local government funds, and private philanthropy. While other HOPWA funds may be used in conjunction with this grant, the amounts are not counted as leveraged sources and performance is reported under the applicable HOPWA grant.
- ***Non-HOPWA supportive services:*** All other supportive services the HOPWA client receives related to HIV/AIDS and the client's well-being, including medical care, transportation, food, drug treatment, social services, etc.
- ***Outcome Assessed:*** The HOPWA assisted households who have been enabled to establish or better maintain a stable living environment in housing that is safe, decent, and sanitary (per the regulations at 24 CFR 574.310(b)), to reduce the risks of homelessness, and improve access to HIV treatment and other health care and support.
- ***Permanent Housing Placement (PHP)*:** Assistance for reasonable security deposits, not to exceed the amount equal to 2 months of rent, and related application fees and credit checks.
- ***Program Year:*** The HOPWA program year for the City of Houston is July 1 – June 30.
- ***Rehabilitation*** means the improvement or repair of an existing structure, or an addition to an existing structure that does not increase the floor area by more than 100 percent.
- ***Roommate*:** a roommate relationship is established for the purposes of sharing rent and utility bills in return for receiving a share of the space available. The applicant must identify those living in his or her home as either family or roommates at the time of application and at any subsequent renewals. This is not the same as a live-in aide who is compensated for providing care to the person with HIV. The status of a roommate or a live-in aide cannot change to that of being a family member after the death of a HOPWA client in order to receive survivor benefits.
- ***Short-term Rent, Mortgage, and Utility Assistance (STRMU):*** A housing subsidy for short-term rent, mortgage, and utility payments to prevent homelessness of the tenant or mortgagor of a dwelling. This program provides assistance for a period not to exceed 21 weeks (147 days) worth of assistance in any 52-week period. These payments are for eligible individuals and their household beneficiaries who are already in housing and who are at risk of becoming homeless.

- ***Supportive Services***: Assistance for case management, basic telephone service, and provision of smoke detectors. Supportive Services may be provided in conjunction with HOPWA housing assistance or as a standalone service (Supportive Services Only).
- ***Tenant-based Rental Assistance (TBRA):*** A housing subsidy for tenant-based rental assistance, including assistance for shared housing arrangements. It assists Income-eligible clients and their beneficiaries with rent and utilities until they are able to secure affordable, stable housing. TBRA was previously known as Rental Assistance in Texas.
- ***Homeless:*** See: [24 CFR Part 91

SECTION 3 – PROGRAM PURPOSE, ADMINISTRATION AND OVERVIEW

The Housing Opportunities for Persons with AIDS (HOPWA) program provides housing assistance and related supportive services for low-income persons living with HIV/AIDS and their families. Since the program's inception in 1992, HOPWA has helped thousands of Americans with HIV/AIDS avoid homelessness and access medical and other care by addressing their housing needs.

Clients receive the support of a Housing Coordinator/Case Manager, whose primary responsibilities are to assess initial eligibility, provide housing information and referrals to community-based housing resources, coordinate housing planning activities with clients, enroll clients into the program and conduct periodic certifications, provide assistance to clients in understanding and completing leases and housing applications, and serve as a liaison between the client and landlord in lease negotiations and in cases where there are disputes. The Housing Coordinator also serves as a partner with the client and HIV case manager to ensure access to care and treatment services.

Clients are considered eligible for HOPWA Assistance, if they demonstrate through verifiable documentation that:

1. The applicant resides in the sponsor's service region.
2. The applicant has received a medical diagnosis of HIV or AIDS as defined by Centers for Disease Control.
3. The applicant is a citizen of the United States or legal immigrant.
4. The applicant is homeless or at risk for homelessness.
5. The applicant's household income does not exceed 80% of the median family income for the county or residence as determined by HUD annually.

Short-Term Rent, Mortgage & Utilities (STRMU)

Short-term rent, Mortgage and Utility (STRMU) Assistance is "needs-based," time limited, housing assistance designed to maintain stable living environments for households who are experiencing a financial crisis and potential loss of their housing arrangement. Used in connection with other HOPWA activities and other local, state, and federal resources, STRMU can lead to long-term solutions. STRMU can temporarily cover three types of payments for up to 21 weeks in a 52 week period. It can cover up to 100% of an overdue and ongoing rent, mortgage, or utility payment and is intended as a bridge to more permanent housing solutions. A sponsor should conduct individual housing assessments regularly and create housing plans with participants with the goal of promoting long-term housing stability.

Tenant-Based Rental Assistance (TBRA)
HOPWA rental assistance can take the form of facility-based housing assistance or tenant-based rental assistance (TBRA). For facility-based assistance, the HOPWA subsidy is attached to a specific building or unit; Community Residences use HOPWA monies as operating subsidies. Tenant-Based Rental Assistance is used to help participants obtain permanent housing in the private rental housing market that meets housing quality standards and is rent reasonable. The HOPWA subsidy works much like the Section 8 Housing Choice Voucher Program, paying the difference between the Fair Market Rent or "reasonable rent" and the tenant's portion of the rent based on their adjusted or gross income. HOPWA sponsors make rental payments directly to property owners.

Supportive Services
The range of supportive services that are eligible as activities under the HOPWA program is broad. Supportive Services may be provided either in conjunction with HOPWA housing assistance or as a stand-alone service. The following is a list of some types of Supportive Services: Education, employment assistance, legal, life skills management, outreach, transportation, health, mental health assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, personal assistance, nutritional services, intensive care when required, and assistance in gaining access to local, state, and federal government benefits and services

Given the flexibility around the use of HOPWA funds to design supportive services in connection with housing activities, it is important that the project sponsor carefully track details of these activities.

HOPWA project sponsors are also encouraged to develop community-wide strategies and form partnerships with multiple area nonprofit organizations such as the Coalition for Homeless, to meet the program goals of:

- **Maintaining housing stability**
- **Improving access to care and treatment**
- **Preventing homelessness**

Additionally, HOPWA assistance is designed to act as a bridge to other long-term assistance programs, such as Section 8 or public housing when a client's health and financial situation allows him/her to maintain suitable housing without HOPWA assistance. Therefore, every eligible HOPWA client should sign up for Section 8 housing or other public housing assistance.

AIDS HOUSING OPPORTUNITY ACT

HOPWA was created through the National Affordable Housing Act of 1990, and authorized by the AIDS Housing Opportunity Act of 1992. It provides state and local governments with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with AIDS and their families. HOPWA Regulations 24 CFR Part 574 were written based on the Act and provide the requirements and framework for the HOPWA Program.

HOPWA REGULATIONS

The HOPWA program rules in 24 Code of Federal Regulation (CFR) Part 574 provide the requirements and general standards for the HOPWA Program including information such as eligible activities, client eligibility, housing quality standards, standards regarding resident rent payments, administrative, and record keeping requirements as provided under the United States Housing Act of 1937.

OTHER APPLICABLE REGULATIONS

- **24CFR Part 5.609** are the HUD regulations defining the elements of a households annual income that must be counted in determining income eligibility for the HOPWA, Section 8, public housing, and other HUD-assisted housing programs serving persons with disabilities.
- **24CFR Part 5.611** are the HUD regulations requiring certain deductions be made to a household's gross annual income in order to arrive at a reasonable tenant rent payment in the HOPWA, Section 8, public housing, and other HUD-assisted housing programs serving persons with disabilities.
- **24CFR Part 5.617** are the HUD regulations requiring a disallowance of earned income by persons with disabilities residing in housing funded by HOPWA, Section 8, HOME and the Supportive Housing Program (SHP) upon returning to work after certain conditions have been met.
- **24CFR Part 58** are the HUD regulations requiring environmental reviews for a particular projects or activities funded by several HUD programs and for acquisition, rehabilitation, conversion, lease, repair, disposal, demolishing, or construct or property.
- **24 CFR Part 84** are the regulations for grants and agreements with institutions of higher, Hospitals, and other non-profits relating primarily to requirements for acquiring and disposing of goods and services purchased with federal funding, and the methods of documenting and accounting for those items.
- **24 CFR Part 35 and Part 574.635** are regulations for Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) and lead-based paint poisoning notification requirements.
- **24 CFR Part 574.625** relates to Conflict of Interest. Non-profit agencies should have policies in place that identify and handle real or potential conflicts of interest on the part of board members, staff persons, and other representatives of the organization, such as volunteers. HUD requires such a policy, which are often part of an organization's "code of conduct" for board, staff, and volunteers. It is advisable to have a copy signed by all members listed above on an annual basis.
- **24 CFR Part 570.611** also relates to conflict of interest. Project sponsors must assure that no person who is an employee, agent, consultant, officer, or elected or appointed official and who exercises or has exercised any functions or responsibilities with respect to the HOPWA program will be eligible for HOPWA assistance. Additionally, no person who may obtain a financial interest or benefit or have an interest in any contract, subcontract or agreement with the HOPWA program, either for himself or herself or for those with whom they have family or business ties will be eligible for HOPWA assistance during their tenure or for one year thereafter. The conflict of interest policy under the HOPWA regulations further stipulates that a conflict of interest exists for anyone in a position to participate in a decision making process or gain inside information about the HOPWA program; such individuals will not be eligible for HOPWA assistance.
- **Section 31** of the Federal Fire Prevention and Control Act of 1974 relates to Smoke alarm requirements.

OMB CIRCULARS

- **A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (11/19/1993)(further amended 09/30/1999, Relocated to 2 CFR, Part 215 (32 pages))** - This Circular applies to sub-awards made by State and local governments to organizations covered by this Circular. Federal agencies may apply the provisions of this Circular to commercial organizations, foreign governments, organizations under the jurisdiction of foreign governments, and international organizations.

- **A-122, Cost Principles for Non-Profit Organizations (05/10/2004), Relocated to 2 CFR, Part 230 -** This Circular establishes principles for determining costs of grants, contracts and other agreements with non-profit organizations. The principles are designed to provide that the Federal Government bear its fair share of costs except where restricted or prohibited by law. The principles do not attempt to prescribe the extent of cost sharing or matching on grants, contracts, or other agreements.
- **A-133, Audits of States, Local Governments, and Non-Profit Organizations (6/26/07)** - This Circular is issued pursuant to the Single Audit Act of1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156. It sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and non-profit organizations expending Federal awards.

For more information on OMB Circulars: https://www.whitehouse.gov/omb/circulars_default/

OTHER HOPWA GUIDANCE

- **Annual Formula Operating Instructions:**
  These annual instructions provide program specific guidance that must be used in conjunction with the standard procedures for HUD's grants management process, such as Consolidated Plan. In addition to previous guidance, HUD may include new information that must be considered an additional requirement for program compliance by project sponsors. Each year they may be found on the HUD HOPWA Home Page at: https://www.hudexchange.info/programs/hopwa/
- **HUD Notice CPD 03-05 for Manufactured Homes:**
  This notice provides guidance for the use of Housing Opportunities for Persons with AIDS (HOPWA) funds for tenant-based rental assistance (TBRA), short-term rent, mortgage, and/or utility assistance (STRMU) payments, or for move-in costs under permanent housing placement activities for eligible persons living in manufactured housing/mobile homes. Because HOPWA allows flexibility in its application HUD has determined that HOME Investment Partnerships Program (HOME) guidelines may be referenced to support the use of HOPWA funds for this purpose.
  http://www.hud.gov/offices/cpd/lawsregs/notices/2003/03-05.pdf .
- **HUD Notice CPD06-07: STRMU:**
  This guidance published on August 3, 2006 establishes standards for operating a the Short-term Rent, Mortgage and Utility assistance (STRMU) program, including requirements for needs-based assessments, methods of calculating weeks of assistance, criteria to follow when establishing capped amounts, and the grantees responsibility to ensure that project sponsors apply STRMU standards in a uniform, consistent, and non-discriminatory manner.
- **Consolidated Annual Performance and Evaluation Report – CAPER:**
  The CAPER provides annual performance reporting on client outputs and outcomes that enables an assessment of HOPWA grantee performance in achieving the housing stability outcome measure. The CAPER fulfills statutory and regulatory program reporting requirements and provides the grantee and HUD with the necessary information to assess the overall program performance and accomplishments against planned goals and objectives. HOPWA sponsors are required to submit a CAPER, and complete annual performance information for all activities undertaken during each program year in the IDIS, demonstrating coordination with other Consolidated Plan resources. HUD uses the CAPER to obtain essential information on grant activities, project sponsors, housing sites, units and households, and beneficiaries which includes racial and ethnic data on program participants.

- **HOPWA Grantee Oversight Guide:**
  The HOPWA Grantee Oversight Guide provides HOPWA the sponsor and grantee with detailed guidance in fulfilling HOPWA grants management responsibilities. This guidance is a tool to be used by sponsors and the grantee in navigating responsibilities to achieve the HOPWA program's housing stability performance outcome measures of maintaining stable housing arrangements, reducing risks of homelessness, and improving access to care. Download the full guide (*Updated August 2010*) at:

  http://www.hudhre.info/documents/HOPWAOversightGuide_Aug2010.pdf.

- **HOPWA Financial Management Training:**
  This resource is an online, virtual gateway to help grantees and project sponsors acquire the knowledge and practical tools needed to implement effective financial management as a part of their daily routine and effective operation of the HOPWA program.
  http://www.hudhre.info/hopwa/index.cfm?do=viewHopwaFinancialTraining.

- **The Homelessness Resource Exchange: HUD HRE.info:**
  This website is HUD's one-stop shop for information and resources for providers who are assisting persons who are homeless or at risk of becoming homeless, and persons with HIV/AIDS. Most relevant resources related to the HOPWA program, plus other valuable supportive housing resources may be found at: http://www.hudhre.info.

SECTION 4 – ADMINISTRATIVE AGENCY/PROJECT SPONSER ROLES & RESPONSBILITIES

INTRODUCTION TO THE CITY OF HOUSTON HOPWA SERVICE AREAS

The City of Houston is HOPWA's Eligible Metropolitan Statistical Area (EMSA) which includes the following counties: Austin, Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller.

ADMINISTRATIVE EXPENSES

- Each project sponsor receiving amounts from grants made under this program may use not more than seven (7) percent of the amounts received for administrative costs.

NOTE: *Fee Prohibition*. HOPWA Regulation 24 CFR 574.430 prohibits grantees or project sponsors from charging fees for any housing or services to program participants. This refers to charging fees for services normally provided as part of the program design. Fees that may be charged are one-time charges by landlords for credit and rental history checks for housing applicants, and fees for family pets (not service animals). Additionally, programs may charge fees for activities such as additional meals or recreational activities (ex. movies or community events) in a program IF they are not mandatory – that is optional for clients to participate.

MONITORING

Ultimately, the grantee is responsible for all project activities and project sponsors funded with HOPWA, as well as responsible for ensuring that their respective project sponsors carry out activities in compliance with all applicable requirements in 24 CFR, Part 574.500(a). Effective management and oversight is fundamentally a collaborative process among the grantee, project sponsor, and HUD, with all entities working towards achieving

program goals. The primary objective is to establish a constructive relationship which allows the grantee, the project sponsor, and HUD to work together to manage limited resources and nurture quality housing programs for low-income individuals and families living with HIV/AIDS.

Ongoing oversight and performance assessments helps the grantee and the project sponsor ensure that projects are effective and that sponsors run them in compliance with program guidelines. With active oversight of performance, financial systems, and specific activities, the grantee can determine if a project is effectively meeting the housing-related needs of persons living with HIV and AIDS in a community. The grantee will perform two types of monitoring: desk monitoring where financial and other information may be reviewed via mail or by performing on-site monitoring visits.

Before an announced, on-site monitoring visit by the City of Houston, agencies should submit the following documentation: most recent financial audit, budget, balance sheet, job descriptions of key employees of the organization (i.e. Program Coordinator, Case Manager, Executive Director, Financial Manager), organizational chart, cash flow chart, income statement, accounting manual, and any other documentation the City of Houston may in the future deem necessary to successfully monitor Project Sponsors for HOPWA grant compliance.

When scheduled, representatives of the City of Houston will arrive to perform an on-site monitoring visit. Upon their arrival, an appropriate space will be provided by the Project Sponsors that allows for review of confidential client files, interviews with agency staff, and reviews of any documentation that was not provided prior to the monitoring visit. It should be noted that desk monitoring as well as on-site monitoring may be scheduled at any time to assure compliance.

Management assessment has a few key goals:

1. ***Ensures accountability:***

   Project monitoring can determine if a project sponsor is delivering housing and related services in compliance with the HOPWA program and other standard federal requirements. HOPWA funds are very flexible and can be used for a variety of activities. These activities come with standards designed to ensure that funds are used to support decent, affordable housing to eligible households in a cost-effective and efficient manner. Noncompliance with these standards can result in corrections and penalties, such as having to repay funds to the federal government, which would be costly for both grantees and sponsors. Active oversight between grantees and sponsors helps ensure that HOPWA dollars are being spent well.

2. ***Ensures effective and efficient use of resources:***

   HOPWA funds are typically spent by local non-profit organizations with close ties to the community, which is one of the strengths of the program. For many community organizations (small ones, especially), difficulties around infrastructure and capacity can sometimes arise and lead to issues with the timely use of funds, undertaking ineligible activities or inadequate documentation of activities. When organizations undergo staff changes, if staff is not well trained on program requirements or if they have unclear operational procedures, compliance problems can result. Oversight can help a grantee identify a sponsor's administrative strengths and weaknesses. Based on this, the grantee can request corrective action and provide technical assistance to the sponsor.

3. ***Helps assess response to community needs:***

   The nature of the HOPWA program allows grantees to target HOPWA activities in response to specific local needs. Many HOPWA projects address very particular needs within the community that have been

identified through community planning processes. Regular monitoring, including the remote review of performance reports and financial data along with on-site visits, helps grantees see if needs are being met, if performance is consistent with project plans and if resources should be redirected or restructured in some way.

SECTION 5 – ENSURING ACCESS TO THE HOPWA PROGRAM

FAIR HOUSING AND EQUAL OPPORTUNITY

Fair housing laws are civil rights laws that apply to housing. All housing providers, whether they are in the private, public or nonprofit housing sector, are required to follow fair housing laws. These laws cover the entire relationship between a housing provider and an applicant/resident/tenant from the time of the initial inquiry, through application and residency, to termination and move-out. During that time, any transaction or interaction can give rise to a claim of discrimination. Additionally, housing providers have an affirmative responsibility under the Fair Housing Act to help their disabled applicants or residents overcome barriers to obtaining or maintaining housing. The following individuals are **not** considered disabled under fair housing laws:

- Individuals with a temporary disability
- Individuals who are current illegal drug users
- Individuals who pose a direct threat

Unlike state landlord tenant laws that regulate the respective roles of landlords and tenants, fair housing laws prohibit differential treatment in housing transactions based on protected class-such as race, religion or sex. Fair housing laws are analogous to other civil rights laws in the areas of employment, education, and public accommodations.

Types of dwellings that are covered by Fair Housing Laws include:

- Apartments
- Condominiums, sold or rented
- Cooperatives
- Houses, sold or rented
- Rooming Houses
- Assisted Living Facilities
- Retirement Housing
- Mobile Home Parks
- Housing Construction Sites
- Vacant Lots
- All residential real estate transactions including: renting, leasing, selling, advertising, lending, insurance, appraisal, etc.

Fair Housing laws include a set of federal, state, and local statues and ordinances that protect all of us from illegal discrimination in housing, lending and homeowners' insurance. These laws include:

- ***The Federal Fair Housing Act of 1968 and 1988 Amendments (FHA)*** – Federal laws passed in 1968 and 1988 that prohibit discrimination in the sale, rental and financing of dwellings on the basis of race, color, religion and national origin. The 1988 amendments prohibit discrimination based on disability and familial status (the presence of children under 18 in a household). These amendments also

expanded the Justice Department's enforcement authority and established HUD's ability to bring actions on behalf of the victims of housing discrimination.

- ***Americans with Disabilities Act of 1990 (ADA)*** – Federal law that prohibits discrimination against persons with disabilities in all services, programs and activities made available by state and local governments (Title I) and in all buildings open to the public (Title III).

- ***Title IV of the Civil Rights Act of 1964*** – Federal law that prohibits all recipients of federal financial assistance from discriminating based on race, color or national origin.

- ***The Housing and Community Development Act of 1974*** – Federal law that prohibits recipients of federal funding from discriminating on the basis of sex or gender (42 USC 5309).

- ***Executive Order 13166: Limited English Proficiency*** – Federal mandate that requires recipients of federal financial assistance to provide "meaningful access" to applicants and beneficiaries of their programs who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English.

- ***Section 504 of the Rehabilitation Act of 1973*** – Federal law that prohibits discrimination against persons with disabilities in any program or service receiving federal financial assistance. In addition, this law requires providers to take additional steps to accommodate people with disabilities, such as paying for certain structural changes to increase the accessibility of housing and common areas.

Under fair housing laws, a policy or practice can be discriminatory even if the provider did not intend it to be. A policy that appears to be neutral and does not single out residents of a protected class can be considered discriminatory if it has a harsher impact on people who are in a protected class. For example, a "no tricycles anywhere in the complex" policy has a harsher impact on families with children.

Impermissible Rules - *(disparate impact)*	**Valid Rules - *(equal impact)***
No curry permitted in apartments *(disproportionate impact on South Asians)*	No grills allowed on balconies. *(equal impact on all residents)*
No tricycles on the grounds *(disproportionate impact on families with children)*	No bicycles, tricycles or other items obstructing walkways and access to common areas *(equal impact on all residents)*
No one can play outside *(disproportionate impact on families with children)*	Quiet Hours after 10pm *(equal impact on all residents)*

HARASSMENT

Housing providers have a legal responsibility to refrain from threatening, coercing, intimidating or harassing applicants and residents and to ensure that their employees refrain from such activities. In addition, providers have an affirmative duty to protect their residents from harassment from other residents on the basis of that individual's inclusion in a protected class. These prohibitions include one-on-one harassment as well as the creation of a hostile environment through general acts and comments. All housing providers should have a policy prohibiting such harassment and procedures in place to respond to violations of that policy. All efforts to

remedy resident-on-resident harassment should be fully documented. Providers who have failed to remedy resident-on-resident harassment have been found liable under fair housing laws for perpetuating a hostile housing environment.

REASONABLE ACCOMMODATION

There are times when an individual is unable to move into, or remain in, housing because of circumstances related to a disability. In these cases, the applicant or resident may request that the housing provider make an exception to a standard policy, procedure, rule or eligibility criteria so that he or she is able to move into, or remain in, the housing. This is called a reasonable accommodation request. To show that a reasonable accommodation is necessary, there must be an identifiable relationship or nexus, between the problem the individual is encountering, the individual's disability, and the accommodation requested.

All applicants and new residents should be notified in writing of their right to request a reasonable accommodation. In addition to a written notice to applicants or language in the lease, such notification should also be given verbally because some individuals may have limited reading skills, cognitive limitations, language barriers, etc. Residents receiving a notice of termination should be notified again of their right to request a reasonable accommodation. Providers may not require that the request be made in a specific format. A request does not have to be in writing and any RA forms that the provider gives to the resident are to benefit, not burden, the resident. Providers, however, are permitted to request verification of an individual's disability.

There should be a standardized procedure for reviewing RA requests. All reasonable accommodation requests must be considered in a timely manner and evaluated on a case-by-case basis. Some requests will demand immediate attention and ten days would be too long. Other requests could require the housing provider to assess feasibility and the extent of a possible financial and administrative burden and could legitimately take as long as several weeks. If the provider has reasons to reject a request, the provider should consult with the individual making the request to see if another strategy would also work. Recommended steps for addressing Reasonable Accommodation requests are:

Step 1. Applicant or resident approaches housing provider to request a reasonable accommodation or modification. Be alert for requests that do not use the words "reasonable accommodation" but request some sort of action or waiver of a requirement because of a disability.

Step 2. Provider may require verification of the disability and necessity of accommodation or modification from a qualified individual. The qualified individual may be a physician, nurse practitioner, physician's assistant, psychologist, counselor, clinic, care giver, or other qualified professional. If the disability is obvious, no verification should be required; it would represent an unnecessary extra step for the individual.

Step 3. All reasonable accommodation requests should be considered on a case-by-case basis. Identify which staff reviews the requests.

Step 4. The provider must respond in a timely manner. If the response is a denial of the accommodation or modification, the provider may want to have a person in a supervisory position review and approve the denial before it is communicated to the individual.

Step 5. If the provider denies the request, the provider should make a proposal for another way to accommodate the individual. An approach which opens a dialogue is suggested.

Step 6. If no mutually acceptable solution is developed, the individual should be notified of any appeal procedures.

Step 7. Follow procedures to notify the housing provider and the Board of Directors of the denial

Step 8. All information related to the reasonable accommodation or modification request should be well documented and retained on file. Logs should be kept legibly and documents should be maintained for at least two years, as a denied reasonable accommodation request or other alleged discriminatory act can be challenged up to two years after the date of denial.

Step 9. All information related to the request must remain confidential. Housing providers are not permitted to ask about disabilities beyond what is required to establish the existence of a disability and the efficacy of the requested accommodation or modification to address the barrier caused by the disability. Providers are not permitted to share information about disabilities without a signed voluntary release of information.

Step 10. Be sure all documents related to management plans, asset management procedures, and Board of Directors' oversight policies include information relevant to handling reasonable accommodation/modification requests.

ACCOMMODATING JUSTIFIED ABSENCES FROM ASSISTED HOUSING

HOPWA recognizes that clients may, from time to time, experience extended hospital stays. The Program also strongly encourages clients to seek appropriate substance abuse and/or mental health treatment that may require clients to enter into residential substance abuse or mental health treatment facilities.

Grantees should set a policy regarding length of absence from a subsidized HOPWA unit. Standard acceptable timeframes for absence from a Tenant-based Rental Assistance, or other long-term housing unit is a period of thirty (30) to sixty (60) days. To accommodate persons in need of extended hospitalization or residential treatment, programs should consider a Reasonable Accommodation request for longer absences (up to one hundred twenty (120) days) with appropriate documentation from a qualified professional verifying hospitalization or residential treatment.

Clients must also notify the landlord of the approved absence and continue to pay his or her portion of the rent while absent to ensure that the landlord does not move to evict on the basis of abandonment. If the client anticipates a change in income due to treatment (i.e. treatment program fees), the client may ask, as a reasonable accommodation, for an adjustment to program rent during the period of treatment. The Program will require documentation of fees from the treatment facility.

REASONABLE MODIFICATIONS

Housing providers may be required to provide residents with reasonable modifications (physical changes to their living units) and to provide reasonable accommodations (exceptions to standard policies, procedures, rules or application criteria to enable disabled persons to live in the housing). Fair housing laws require that a disabled individual who needs to physically modify his or her housing (for example installing grab bars, a visual doorbell, etc.) be permitted to do so provided that there is a relationship or nexus between the problem the individual is encountering, the individual's disability, and the physical modification.

A housing provider may condition permission for a modification on the resident providing reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained.

Payment: If the housing provider receives federal funding, Section 504 of the Rehabilitation Act of 1973 applies and the provider is required to pay for the modification, unless the housing provider can establish that it

would impose an undue financial and administrative burden or require a fundamental alteration in the nature of the provider's program. Housing providers not subject to Section 504 may, where reasonable, impose a condition that when vacating the unit, the resident will restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. However, the housing provider should not require the resident to restore the unit to the previous condition if the modification benefits the property or is needed by another resident.

A housing provider may not require increased security deposits from persons with disabilities. However, where it is necessary in order to ensure that funds will be available to pay for restorations at the end of tenancy, the Fair Housing Act allows the owner to negotiate as part of a restoration agreement a provision requiring that the resident pay into an interest-bearing escrow account a sum not to exceed the costs of the restorations. The interest on the account must accrue to the benefit of the resident.

Determining Whether a Reasonable Accommodation/Modification Request is Reasonable:
Housing providers are required to consider all requests and grant them unless they are not "reasonable." Determining reasonableness does not mean the provider can second guess the resident's need for an accommodation. A provider is permitted to contact the qualified individual who has established the resident's need for an accommodation, if necessary, to verify his or her qualifications or to confirm that the qualified individual has deemed the resident's accommodation necessary.

Denial of a Request for Reasonable Accommodation/Modification:
Providers should be aware that refusing to grant a reasonable accommodation request for a reason other than those listed below is **illegal**. A housing provider can deny a reasonable accommodation request for any or all of the following reasons:

(1) ***No "Nexus" or Connection Exists*** - The request is not made by (or on the behalf of) an individual with a disability or the need for the accommodation is not related to the disability;

(2) ***Granting the Request Would Impose an Undue Financial and Administrative Burden*** - This could mean that the provider lacks the resources/staff capacity to make the accommodation or can show the accommodation would interfere with the right to quiet enjoyment of other residents who live in the housing.

(3) ***Granting the Request Would Result in a Fundamental Alteration to the Program***

(4) ***The Individual Poses a Direct Threat to Staff or Residents*** and Granting the Request would not Eliminate or Significantly Reduce the Threat.

SECTION 6 – DATA COLLECTION & REPORTING REQUIREMENTS

FEDERAL AND STATE REQUIREMENTS

Federal and State laws that relate to the protection of protected health information including but not limited to, the privacy provisions of the Health Insurance Portability and Accountability Act (HIPAA). HOPWA confidentiality requirements are set forth under the HUD regulations, 24 CFR 574.440. Client names, unique personal identifying codes and other individual information on documents must be kept confidential, as required by the HOPWA regulations. States and localities may have additional regulations regarding confidentiality requirements in addition to HOPWA, and there may be exceptions to client disclosure as required by local law.

AGENCY POLICIES AND INFORMING CLIENTS OF CONFIDENTIALITY RIGHTS

Project Sponsors are required to have written confidentiality policies and to assure confidentiality of client names, information, and records as it relates to his or her HIV-status, AIDS diagnosis, general medical history, mental health and/or substance use history. The sponsor's confidentiality policy should, 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
- Privacy standards related to data collection and use of participant information for program reporting, such as HMIS

Access to client records should always be restricted to HOPWA program staff with the "need to know" in the present time, knowledge of the client's HIV status is permitted through a release of information, and if the employee or agent must have access to the client's information in order to properly perform their normal job functions.

Written policies should inform clients about their rights to confidentiality, and disclose that all information contained in their file is confidential; employees or program funders with access to information about the client are bound by confidentiality guidelines and will not disclose this information without prior written consent.

RELEASE OF INFORMATION

All information obtained in connection with the examination, care, or services provided to any client shall not be disclosed without the client's signed consent. Prior to exchanging information with any other agency or entity, HOPWA Project Sponsors must first secure a specific signed release of information identifying particular individuals or organizations. General blanket releases are not allowed, and project sponsors should update the release on file in accordance with local Ryan White or case management standards, but at least annually. In the absence of specific written authorization, no information identifying an individual's HIV status may be disclosed by the HOPWA Project Sponsor to ANY individual or organization. An original signed and dated copy must be maintained in the client file.

Clients have the right to give consent freely and voluntarily; however, the client should be informed that HOPWA assistance is contingent upon the consent to the disclosure of his or her HIV/AIDS status and household income to the case manager.

SECURE COMMUNICATIONS

Particular care must be taken to assure confidentiality by having the project sponsor's correspondence, envelopes, and checks to landlords, utilities, etc., not reveal that the client is receiving assistance due to HIV/AIDS. This can be accomplished by establishing a checking account for the provision of HOPWA assistance using a neutral account name such as "Housing Fund" or "Assistance Fund." No material which directly discloses a client's name and HIV/AIDS status, or indirectly by identifying the client as a HOPWA applicant or client, should be transmitted by email unless the client expressly consents to such a transmission, and fax transmissions of information should be allowed by using a confidential fax machine only. Personal client concerns or situations should never be discussed where other persons might overhear the conversation (i.e. public areas).

STORAGE OF CLIENT RECORDS

Client records must be stored in a locked drawer or cabinet and maintained in a central, secure area with controlled access; including during working hours. A client file, or materials intended for a client's case record, must never be left on a desk, even with the door locked, when there is no authorized staff person present. Personal client concerns should never be discussed where other persons might overhear the conversation (i.e. public areas). Agencies must create and maintain policies about creating unique identifiers, rather than utilizing client names, and specific policies for case managers removing client files from the office during home visits to ensure that records are not lost, and that they are maintained securely. Records must be stored for at least five years.

CLIENT ACCESS TO PERSONAL RECORDS

Upon written request, HOPWA clients should have access to review their records and case file content. A private location should be provided to the client for this purpose within the agency. Clients should not be allowed to remove their case file from the agency; however, they may be granted photo copies of file contents upon request.

CONFIDENTIALITY REQUIREMENTS UPON CLIENT DEATH

Upon the death of a client it may be necessary to inform associates/family regarding the client death on a need to know basis. Under no circumstances will the program disclose protected health information or any information regarding the cause of death, unless mandated by state or local laws.

PROGRAM REPORTING

The HOPWA program helps beneficiaries improve their health by providing stable housing as a basis for increased participation in comprehensive care. Program achievements are measured though performance reports submitted annually by program grantees.

The collection and reporting of performance data can be a challenge for grantees and sponsors of all sizes. The evaluation of this information can help inform corrective action that will enhance stable housing support for HOPWA beneficiaries. Public and private funding sources often require detailed performance reports using data sets and reporting formats, and reporting schedules that are not easily coordinated. Even so, performance reports are the most basic tool for the grantee to assess a sponsor's success. For sound HOPWA program management it is important that the sponsor provide the grantee with reports that fully and accurately reflect its work.

Sponsors have until January 31st each year to submit their completed CAPER to the City of Houston.

The timely receipt of reports from the sponsor is important to the grantee so that the grantee can meet its own reporting requirements. The timely reporting of performance data is important to HUD so that it can understand the HOPWA program's overall performance, evaluate and plan program action, and report the program's successes to Congress and the public. Overall, the process of reporting data by the project sponsor to the grantee and the grantee to HUD is an opportunity for the grantee to evaluate the sponsor's success in achieving program goals.

HUD measures HOPWA performance based on achievement of both program housing **outputs** and program client **outcomes**.

- ***Outputs*** are units of service provided, such as the number of households receiving rental assistance or case management.
- ***Outcomes*** measure the changes that might result from a person or household having received HOPWA assistance, such as an increase in housing stability. HUD expects grantees and sponsors to show the outcomes that result from their HOPWA activities.

Problems with untimely submission of complete and reliable reports may indicate other problems with the sponsor, including staff turnover, poor administration, or insufficient staff training. Whether a sponsor is meeting their performance goals is a good indicator of the overall success of a program. Many factors contribute to how well a sponsor meets its goals, and not all of these will be in the sponsor's control. However, exploring unexpected outcomes gives the grantee and the sponsor both an opportunity to improve HOPWA services and change a program's activities or methods.

REIMBURSEMENT POLICIES

Request for Payments or Reimbursements are due by Project Sponsor in accordance to each contract, typically that is the 20th day of each calendar month during the term of the Contract for the eligible costs incurred and paid during the preceding calendar month. The reimbursement requests shall include invoices, on forms provided by the City, and any other documentation reasonably requested by the Department. Reimbursement requests shall be subject to the approval of the Department. Payment shall be made on a reimbursement request within twenty (20) working days of the date submitted to the Department. Payment shall be in the amount determined by the Department to be allowable under the contract between Project Sponsor and the City, as well as the contract between the City and HUD. Notification of ineligible costs will be submitted to each project sponsor.

Reimbursements of all funds adhere to Housing and Community Development Department Contract Payables Policy and Procedures (Policy No. 5-1-1), Department's internal policies.

TOOLS

HOPWA Performance Profiles. HUD has also developed grantee performance profiles to share performance data with HOPWA stakeholders and the public. The performance profiles provide an overview of how funds have been used and what outcomes have been achieved. Performance profile reports may be accessed at: http://www.hudhre.info/hopwa/index.cfm?do=viewHopwaRptsSelect

SECTION 7 – DETERMINING ELIGIBLITY

APPLICATION AND ASSESSMENT

HOPWA housing and services is a "needs-based" program, rather than a federal entitlement, and it is the responsibility of the project sponsor to conduct a thorough assessment of each client's needs and strive to serve those most in need. Some agencies use acuity scales or rating scales to determine those with highest need in order to prioritize limited funding. Examples might include prioritizing homeless families or individuals, or those who are medically fragile, or those with the lowest incomes

ASSESSMENT PROCESS

Assessing the need for housing and identifying an appropriate housing intervention is the key purpose to housing case management and advocacy. The assessment process is critical in identifying the immediate needs

of the client in order to stabilize them and allow for longer term planning. During the initial assessment and certification appointment the case manager should follow these basic guidelines:

a) Verify the client's current household composition.

b) Verify client's total household annual income and secure proof /written documentation.

c) Confirm the client's HIV/AIDS status by verifying documentation of a positive HIV test and/or a diagnosis of HIV/AIDS and related illnesses by a health care professional (i.e. doctor, nurse practitioner, physician's assistant, OR a testing site representative who is authorized to cite the client's HIV/AIDS status and provide appropriate test result documents).

d) Secure a signed and specific release of information (ROI) form from all adult household members.

e) Secure a completed and signed Client Participation Agreement.

f) If documentation is missing, the case manager should give the client a specific period, such as fifteen (15) days in which to deliver the documentation. If a follow-up appointment is necessary it should be scheduled at that time.

g) Address immediate need for shelter, food, clothing, or healthcare

h) Identify potential client barriers to finding or maintaining stable housing.

i) Work in collaboration with all other service providers involved with the client to assure support linkages and develop a preliminary Client Housing Stability Plan.

NOTE: The sequence of steps in the process of determining applicant eligibility may vary and multiple actions may occur simultaneously. Project sponsors should ensure that there are appropriate procedures in establishing and documenting applicant eligibility.

Prior to any HOPWA services being provided there are two basic criteria for program eligibility:

1. Household must have at least one person who has HIV (Human Immunodeficiency Virus) or AIDS (Acquired Immunodeficiency Syndrome). This includes households where the only eligible person is a minor.
2. Total household gross income must be less than 50 percent of the Area Median Income Guidelines (AMI) as defined by HUD.

It is critical that sponsors must have adequate signed releases of information from HOPWA participants that allow them to obtain and store this documentation. As part of a private medical record, such information is highly confidential and protected by federal state and local laws that govern HIV status.

After the assessment and certification has been completed, and the client has been accepted for HOPWA services, the case manager should create/or maintain all documentation in an orderly manner in a confidential client file.

Client File Setup:

A client's HOPWA file should be assigned, by the sponsor; a unique identifying number for confidentiality purposes located on or within the file AND should also include within it the following tabs:

- *Release of Information*
- *Program Service Agreement*
- *HIV Verification*

- *Demographics*: a document(s) which contains information in regards to family size, client location, date of first contact, date assistance started, and type of assistance given.
- *Income*: Income Worksheet/Verification of No Income, client's income source documentation, gross annual income worksheet, income exclusion list, expense verification form, earned income disregard (if applicable), Housing Information: Landlord Rental Agreement, eviction notice (if applicable), rent reasonableness comparison, Fair Market Rent/Utility Allowance charts (if applicable), and housing/case management plan.
- *Recertification*
- *Safety*: smoke detector certification, lead based pain acknowledgment, housing inspection form, tenant inspection checklist (if applicable)
- *Grievance/Termination:* the sponsor's policies must be signed and dated by the client.
- *Miscellaneous:* any case notes or other pertinent client information.

The tabs in client files are by no means limited to the ones listed above. Each client and their file are unique and every effort should be made to keep everything logically organized and separated.

For a more exhaustive list of HUD approved, HOPWA forms that should be found in clients' files see, the following link: (http://www.hudhre.info/index.cfm?do=viewhopwaprgmadmintoolkit).

HIV Verification:

All participant files must contain documentation that verifies their medical eligibility to receive HOPWA assistance. Acceptable medical documentation of HIV status includes:

- A signed and dated statement of HIV infection signed by a physician, certified healthcare worker such as a physician's assistant, or advanced nurse practitioner, or HIV testing site representative
- A hospital discharge summary that documents HIV positive status
- A laboratory report indicating a positive HIV test (Repeatedly reactive enzyme immunoassay, Western blot or IFA, or rapid screening test).
- Social Security Administration records indicating the nature of a disability determination

Declaration of Household Status and Household Types:

At the time of initial HOPWA program enrollment and certification, and subsequent re-certifications, the eligible applicant, if living with other occupants must declare the nature of the relationship(s) as either a family unit, plutonic roommates sharing housing, or as a live-in-aide. Some project sponsors like to have the applicant sign and date a statement to this effect, but this is optional. Any change in household status thereafter should be reported to the client's case manager within 15 days, and ongoing HOPWA assistance following the change in household status may be subject to project sponsor approval. Intentional misrepresentation of household status (a material fact used in making a determination as to the client's eligibility to receive services) is fraudulent and may result in termination.

HOPWA recognizes the diversity in households in which persons with HIV/AIDS reside. The following helps govern the types of households in which an eligible client may reside:

1. Eligible Person Living Alone

A household consisting of an eligible person living alone may apply for assistance based on the applicant's total income. When the applicant is an eligible person living alone, his/her total income is counted in determining financial eligibility; and the total housing costs are counted in determining the amount of allowable assistance.

2. Eligible Person Living in a Family Unit

Under HOPWA regulations, the definition for family is: ***"A household composed of two (2) or more related persons. Persons in a family may be related by ties of blood, marriage, or other legal sanctions. A person who is not a relative by blood, marriage, or other legal sanction may be considered a family member if they are important to the care and well-being of the eligible person with HIV/AIDS."*** People who fit this definition generally meet one or more of the following criteria:

a) They are an intimate partner of the eligible person, regardless of gender or marital status. They have mutually agreed with the eligible person that they will support each other financially, emotionally, and/or spiritually

b) They assist the eligible person in maintaining physical and/or mental health, yet do not live with the eligible person solely for this purpose

c) They are a *minor or are an elderly dependent (i.e. legal guardianship of a member of the household)

*An adult with custodial authority for a minor who is the HIV and income eligible must accompany the eligible minor to the intake, screening, and case management appointments. In such a case the "head of the household" is considered the custodial adult.

Eligible persons may not rent from family members. Clients may not rent a property or room from a relative or family member under HOPWA assistance. Regulations state that rental assistance cannot be approved for a "unit if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family."

HOPWA does not permit couples to present as roommates for the purpose of securing federal housing benefits if the couple presents as a family in their personal life.

3. Eligible Person Living with a Roommate – Shared Housing

A roommate relationship is established for the purposes of sharing housing costs (mortgage, rent and/or utility bills) in exchange for a share of the space available in the living unit. When the applicant is an individual with a roommate(s), this is classified as shared housing. In the case where two (2) or more unrelated persons live together as roommates, the individual(s) not eligible for HOPWA assistance will not receive any compensation as a result of the housing assistance awarded to the eligible person.

Clients living in group homes and other institutional settings are also classified as living in shared housing. Persons living in group homes or another institutional setting may qualify for HOPWA assistance if rent is being charged for the unit and the unit is not subsidized by another program for the same costs as HOPWA pays. All adult roommates must have verifiable proof of residency in the HOPWA-assisted unit and be listed on the lease or rental agreement as approved by the landlord to live there; however **only** the HOPWA-eligible person's income is counted when assessing income eligibility. Rent and utilities must be prorated among roommates.

- For example, if a client has two (2) roommates and is residing in a three (3) bedroom rental unit, the rental portion subject to assistance under the HOPWA program would be the lesser amount of one-third (1/3) of either the

- (a) actual asking rent by the landlord, (including utility allowance permitted for the unit type and size) or
- (b) the HOPWA program's rent/payment standard for a three-bedroom apartment (including utility allowance permitted for the unit type and size)

If more than one person in a roommate relationship is eligible for HOPWA assistance, each must apply separately based on individual income and prorated housing costs.

4. Household with a Live-in Aide

A live-in aide compensated for providing care to the eligible person with HIV/AIDS, or another disabled or elderly member of the eligible person's family, is not be considered a family member or a roommate. A live-in aide is defined as a person who resides with a disabled or elderly person who meets all three of the following criteria:

1. Is determined to be essential to the care and well-being of the person(s)
2. Is not obligated to support the person(s)
3. Would not be living in the unit except to provide necessary supportive services

They are entitled to a separate bedroom in a HOPWA housing subsidy situation.

A Family Member Cannot Be Considered a Live-in Aide. A family member cannot be considered a live-in aide, even if that person is the sole caregiver to the other.

Proof of Live-in Aide Status:

In order to declare a person as a live-in aide, not subject to income verification as a member of the family unit or treatment as a roommate, the applicant must certify that such person's services are being provided through a service contract and supported by the following documentation:

- The live-in aide is qualified to provide the needed care documented by copy of state licensing or certification or, in absence of such documentation, certification by the aide's employer and physician that the aide is qualified to provide needed care.
- The live-in aide was not part of the household prior to the need for such care arising.
- There is no other reason for the aide to reside in the unit than to provide such care (documented by a copy of the contract for services through a third party).
- The aide and the client maintain separate finances (documented by the aide and client through bank statements). Such certification, and supporting documentation, should be submitted to the Housing Coordinator for review and formal approval.

Income Verification:

HOPWA regulations require the total income of all household members (except where referenced above) be counted in determining financial eligibility (with certain exceptions referenced below). The total household income cannot exceed 80% of the Area Median Income (AMI) as determined by HUD, which is considered "low-income." HOPWA rental subsidies also consider the total housing costs when determining the amount of allowable assistance and/or client rental payment portion.

HUD sets AMI levels for households in communities across the country; these numbers vary significantly depending on the economy of the area. HUD AMIs are calculated annually for individual localities and

organized by number of persons in the household. In calculating eligibility, the entire household income must be taken into account, not just the income of the HOPWA eligible person. This data is updated annually and can be found at: http://www.huduser.org/datasets/il.html

The project sponsor should collect and maintain income verification for all adult members of a household as determined by regulations 24CFR Part 5.609. If an adult member of a household has no verifiable income, the project sponsor must have the person sign and date a statement stating that they have no income.

- Ideally, income documentation should be less than 90 days old, based on the date of eligibility determination. In cases where income is consistent with the previous year, tax return forms may be used as one form of verification.
- Income is generally annualized over a 12 month period to take into consideration part-time or seasonal work or employment with fluctuation in wages.
- Eligibility must be re-assessed and re-certified at least annually, taking into account changes in household income or changes in composition.
- In cases of part time or seasonal employment, re-assessment can be required more often, such as quarterly or bi-annually.
- Need for short-term rent mortgage or utility assistance should involve assessment of the current income and expenses for the household each month a request for assistance is made.

NOTE: Income verification methods follow those outlined for the Housing Choice Voucher Program and can be found at: http://www.hud.gov/offices/pih/publications/notices/04/verifguidance.pdf

Citizenship Considerations:

HOPWA regulations are silent in regards to serving households with members who are not documented U.S. citizens; however, other associated federal guidance prohibits governmental agencies and public housing authorities from providing federal housing assistance to those applicants who do not have eligible immigration status. The guidance **does permit** non-profit charitable organizations and religious entities to provide housing and services without inquiring about citizenship status, nor requiring verification of citizenship.

A mixed family is eligible for prorated assistance for housing by a governmental agency or public housing authority. Prorated assistance is a calculation of subsidy based on the number of members in the household who are citizens or have eligible immigration status.

Consideration in Serving Ex-Offenders:

HOPWA regulations are silent in regards to serving ex-offenders or clients with criminal histories; however, HUD has a priority to keep households residing in federally subsidized housing, including HOPWA, safe and free from crime. There are other associated federal guidance that prohibits governmental agencies and public housing authorities from providing federal housing assistance to two groups of applicants:

1. Those who have ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing
2. Those who are subject to a lifetime registration requirement under a state sex offender registration program.

Issues and Barriers to Housing Stability:
Case managers should be sensitive to, and attempt to proactively recognize, issues that could lead to or are causing a client's housing instability. Housing case managers will work in collaboration with all other service providers (as deemed necessary) involved with the client to identify potential issues and barriers relating to individual client's housing stability throughout their program participation. If housing and medical or care case managers are not one and the same, HIV case managers perform in-depth psychosocial assessments, which include the development of a care plan aside from the housing plan, related to the disease, mental health and/or substance abuse and the provision of such related care and treatment. They can provide the housing case manager with information about client-related factors that may become a barrier to the client's housing stability. Some examples of issues or barriers might include:

- Failure to make timely housing-related payments
- Poor money management skills
- Deteriorating health such as HIV-related fatigue and dementia,
- Untreated or under-treated mental illness
- Lack of life skills for independent living
- Disruptive behavior resulting in loss or damage to property and disturbance of neighbors.
- Family violence histories
- Criminal histories
- Lack of credit
- Lack of documentation of U.S. citizenship or legal residency status (for most federal benefits)

WAITING LISTS

Project sponsors should ensure that if they keep a waiting list for HOPWA housing and/or services that they create and maintain a written policy that is in compliance with Fair Housing Guidelines **(See Section 5)** and administered equally to all applicants. HOPWA does not prescribe a particular method; however, it is preferable that the method selected ensures that applicants with the greatest need get housed first; therefore, it is imperative that case manager(s) accurately represent the client's living situation acuity to assure that those in immediate crisis are served first. Examples of waiting list policies might include:

- Date/time listing in the order fully completed applications and verification are received
- Periodic lottery style drawings
- Establishing acuity scales such as:

Acuity Level #1	**Acuity Level #2**	**Acuity Level #3 - Highest**
☐ Formerly independent family or individual temporarily residing with family or friends – projected time allowed to stay > 30 days	☐ Formerly independent family or individual temporarily residing with family or friends but must leave within the next 30 days	☐ Homeless, (living in emergency shelter, car, on street/camping, etc.) or medically fragile

☐ Housing is in jeopardy due to projected financial strain (>30 days); needs assistance with rent/ utilities to maintain housing	☐ Housing is in jeopardy due to immediate projected financial strain (<30 days); needs assistance with rent/utilities to maintain or find new housing	☐ Home uninhabitable due to health and/or safety hazards
☐ Living in long-term (>1 mo.) transitional rental housing.	☐ Living in temporary (<1 mo.) transitional shelter	☐ Eviction notice received (72 hours or less)
☐ Client incarcerated (release date >3 mo.)	☐ Client incarcerated (release date <3 mo.)	
	☐ Eviction notice received (<30 days)	

Policies should not include "holding" positions on the wait list in anticipation of life changes that could qualify clients in the future.

Applicants and case managers should regularly update the referral at any time based on the client's current housing situation. If the case manager determines that a client on the wait list no longer requires HOPWA assistance or no longer qualifies for HOPWA assistance, they would withdraw the client's referral to the wait list. It is imperative that all parties involved with the applicants care be notified prior to removing a client from the wait list.

Once an opening becomes available, the next applicant from the waiting list will be contacted. Case managers might want to notify the top two or three applicants on the waiting list of their status to assist in planning for the upcoming move. It is recommended to review and verify the applicant's status at least every 6 months to ensure they are still in need of the housing/service and that their contact information is updated.

Housing Stability Plans:
As with all HOPWA assistance, the sponsor should use individual housing service plans that assess the participant's resources, establish long-term goals, and link the participant to other support resources.

SECTION 8 – SHORT-TERM RENT, MORTGAGE & UTILITIES (STRMU)

Short-term Rent, Mortgage, and Utility (STRMU) Assistance is "needs-based" time-limited housing assistance designed to prevent homelessness and increase housing stability for clients with an emergency need due to loss of income or health-related issues. Used in connection with other HOPWA activities and other local, state and federal resources, STRMU assistance can for a period of up to 21 weeks in any 52-week period. STRMU goals should involve efforts to restore a client's self-sufficiency and develop independence from housing support. Need for STRMU (or other HOPWA) assistance should be evaluated regularly, as required by 24 CFR 574.500. STRMU payments are intended to create only a temporary solution for an unstable living arrangement and should be connected to a long-term housing stability plan for maintaining the household. Housing stability plans must be updated regularly.

NOTE: STRMU payments cannot be made to an individual or household that is already receiving monthly rental assistance through HOPWA or another federal, state, or local housing subsidy program.

Eligible STRMU Expenses:

1. Rent
2. Mortgage
3. Utilities (excluding telephone, Internet service, or cable/satellite dish)

- Costs must be reasonable and represent actual housing and utility costs.
- The amount of assistance provided is not limited to Fair Market Rents or "reasonable rent" limits; however reasonable housing costs should be discussed if stability in housing is a barrier.
- Unlike other forms of HOPWA assistance, tenants are not required (but encouraged) to pay a portion of their income towards the rent or mortgage payment. If they are able, program participants should pay a portion of their housing costs as any portion paid by the tenant does not count against the 21-week STRMU benefit ceiling.
- Late fees and other penalties may be paid if, in the event of nonpayment, the household is at risk of eviction or loss of housing.
- All payments must be third party, not directly to program participant.

Ineligible STRMU Expenses:

- Security deposits and first month's rent (these are Permanent Housing Placement activities)
- Moving assistance
- Household supplies and furnishings
- Telephone expenses
- Unit repairs or damages
- Personal needs

Eligibility Criteria:

In addition to HIV and income eligibility, applicants must meet the following additional criteria in order to receive STRMU assistance:

- Program participant must be currently housed because assistance is provided to help renters and homeowners remain in their current place of residence. **(Homeless individuals are not eligible).**
- Program participant must be able to document that he/she has a legal right to occupy premises and/or has responsibility for the utility and/or rent or mortgage payment(s).
- Clients must demonstrate that they do not have the resources to meet rent, mortgage, or utility payments and are at risk of homelessness.
- Clients must demonstrate how they plan to make future adjustments or changes to ensure their housing stability once the STRMU assistance is no longer available.

Documentation of Need: The goal of HOPWA STRMU assistance is to provide **short-term** "needs-based" interventions that help maintain stable living environments for households who are experiencing a financial crisis and the potential loss of their housing arrangement. It is not intended to provide regular monthly relief to households in situations that are not financially manageable under normal circumstances. If a household is living in a unit that is not normally affordable for them, then access to long-term rental assistance (HOPWA or

other) would be a better solution than STRMU assistance. The documentation of need for STRMU assistance has a few key elements, summarized below, but consult CPD Notice 06-07 for more detail on standards.

Examples of "Emergency Need" leading to eviction, foreclosure, or utilities shut-off may include:

- Applicant experiences a sudden loss of income due to changes in health
- Applicant has lost employment and has not yet been found eligible for SSDI
- Applicant's household loses a source of income when family composition changes
- Applicant faces extraordinary and unexpected out of pocket health care costs

Ineligible Reasons for Need include, but are not limited to:

- Credit card debt for expenditures of a personal nature such as vacations, holiday gifts, and home-furnishings, personal grooming, pets etc.
- Automobile repairs or payments (unless essential for regular employment or full-time education, and where public transportation is inadequate)
- Payment of child support or alimony
- Payment of telephone, cell phone, or internet bill
- Payment of tickets, fines, or restitution
- Payment of personal loans or other financial obligations, other than rent, mortgage, or utilities

Acceptable Forms of Documentation for Costs include, but are not limited to:

- **Rental payments:** *Lease or rental agreement or late payment notice.* Program participants must be named tenant under a valid lease/rental agreement or referenced in lease as occupant of the premises
- **Mortgage payments:** *Mortgage statement, deed of trust, title insurance policy etc.* Program participants must demonstrate that he/she is owner of mortgaged property.
- **Utility payments:** *Utility bill or late payment notice.* Program participants must have an account in their name or proof of responsibility to make utility payments (copies of money orders, cancelled checks, receipts).

NOTE: An eviction notice or default/shut-off notice in the case of overdue utility payments is not required as the sole proof of need. Case managers can call landlords and utility companies or verify via the Internet that balances are outstanding for their clients. These actions must be thoroughly documented in the client files.

Time Limitations and Caps on Payments:

In accordance with HOPWA regulations, project sponsors may not exceed the regulatory limit for assistance of 21 weeks out of a 52-week period for STRMU. Additionally, project sponsors must ensure that all households assisted with STRMU are treated equally and because not all households will require the full amount/full period of assistance allowable, due diligence will be necessary to determine and track the actual amount necessary for an eligible household to maintain their housing.

SECTION 9 – TENANT BASED RENTAL ASSISTANCE (TBRA)

Tenant-based rental assistance is a rental subsidy used to help participants obtain permanent housing, including shared-leased housing in the private rental housing market that meets housing quality standards and is rent reasonable. Working much like the Section 8 Housing Choice Voucher Program, HOPWA tenant-based assistance pays the difference between the Fair Market Rent or "reasonable rent" and the tenant's portion of the rent. With TBRA, the HOPWA project sponsor makes rental payments directly to property owners. The HOPWA subsidy covers a portion of the full rent; the tenant also pays a portion based on their gross income or adjusted income, as described in detail below. Reasonable security deposits for HOPWA TBRA clients can be provided as a Permanent Housing Placement service, which is a separate HOPWA activity described in more detail below. **Late and reconnect fees are not allowable under TBRA.**

Although HUD considers HOPWA TBRA to be permanent housing, many sponsors utilize it as a long-term "transitional" program until households (if eligible) can secure Housing Choice Voucher (Section 8) housing or other affordable stable housing; therefore, allowing more HIV positive households to be served. Generally in those cases, failure to accept an offer of the Housing Choice Voucher program (Section 8) or other affordable stable housing may result in termination of HOPWA assistance, or return to the bottom of the waiting list. However, project sponsors may waive this requirement if they are able to demonstrate appropriate justification as to why acceptance of the housing would be detrimental to the client's health and well-being or other reasonable accommodation needs.

In order to monitor a tenant-based rental assistance program fully, site visits to multiple locations are necessary, since monitoring TBRA relies on the inspection of units at least annually and home visits provide a perspective on clients' housing stability that is not evident through office visits.

FMRs and Rent Payment Standards:

HUD requires HOPWA TBRA to utilize the Fair Market Rent (FMR) standards or the Housing Choice Voucher Payment (HCVP) standard in setting limits on the total amount of rent and utility allowance that a client can pay when renting a unit from private landlords in the community. The FMR amounts are based on the average amount of money that a given property would command, if it were open for leasing at the moment. The FMRs are determined and published annually by HUD for each city and county in the U.S. and updated annually. Grantees and project sponsors must take care to use the most current standards. They can be found online at http://www.huduser.org/datasets/fmr.html.

NOTE: Remember that FMRs, HCVP standards (Housing Choice Voucher Programs), or Rent Reasonable standards are the total amount a client can pay for a unit including the rent amount AND the local utility allowance amount (discussed below) for the unit size and type, per the local PHA utility allowance schedule. Therefore, it is important for case managers to provide the client with a current utility allowance schedule prior to searching for a new unit so that they can determine if the unit falls within the allowable total rental amount.

Rent Reasonableness:

In addition to the rent payment standards, HOPWA regulation 24 CFR 574.320(a)(3) requires that "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 rent currently being charged by the owner for comparable unassisted units." In order to meet HUD's Rent Reasonableness requirement, Project Sponsors must document that staff has made efforts to determine that the rent requested by the landlord is reasonable. Rent reasonableness tests must be conducted on every unit receiving TBRA assistance before assistance is provided and must be documented on the Rent Reasonable Form and maintained in the client file.

Reasonableness of the rent is determined by comparing the proposed unit with other similar, but unassisted units in the private market, taking into account the location, size, type, and age of the units and the amenities and utilities provided by the owners.

- **Size:** Units will be compared based on similar number of bedrooms, bathrooms, and square footage
- **Type:** Units will be compared to similar units (ex. house to house, duplex to duplex, etc.)
- **Amenities:** The amenities must be similar (ex. garage, appliances, decks/patios, yard, etc.)
- **Location**: The location of comparable units is determined by looking at units within the same general area (ex. within the same complex, street, subdivision or zip code). This is done in order to find the most comparable unit closest to the subject unit.

There are three (3) ways in which Project Sponsors can determine rent reasonableness:

1. Complete the Rent Reasonableness Checklist and Certification for each TBRA assisted unit. This form needs to be completed and signed by a staff member and maintained in the client's file.

2. Create a local housing spreadsheet comparing a variety of units across the service area. Proposed units will be compared with similar units on the chart that are located within the same area (by neighborhood or zip code). This spreadsheet would contain information regarding the unit size, number of bedrooms, type of construction, amenities, approximate age of building and utilities provided. The information can be obtained from units listed in the real estate multiple-listing service, newspapers, apartment locating agencies and publications, the local housing authority, as well as lease information submitted by landlords. This database must be updated regularly to ensure the most current information is utilized to compare rent reasonableness. Some local housing authorities will share their rent reasonable information with local non-profits.

3. Utilize the online service for Rent Reasonableness from Go Section 8. Fees for this service do apply. For more information, go to www.GoSection8.com.

4. Sponsors may also work with local Public Housing Authorities to obtain lists of rent reasonableness for their respective areas.

To qualify as "reasonable," the proposed unit's gross rent (including rent and utility allowance) cannot be more than 10% above the average gross rent of a minimum of two (2) comparable units (or the average of the units by area if using the local housing spreadsheet). Documentation of rent reasonableness must be included in the client files to ensure that efforts have been made to comply with this requirement.

Tenant Rent Payment:

Each household that receives HOPWA TBRA assistance must pay a portion of their income for rent, including utilities. The tenant's payment is calculated based on total household income, regardless of the total lease or rent amount for a housing unit. The portion that the HOPWA program pays is the difference between the tenant's payment portion and the total approved contract rent for the unit (according to the lease agreement with the property owner).

There are three key steps for determining a household's portion of rent payment:

1. Calculation of gross and adjusted household income
2. Calculation of tenant rent payment (based on income)
3. Calculation of the utility allowance credit (if applicable) resulting in the final HOPWA subsidy payment amount

HOPWA income eligibility and rent calculation regulations refer to portions of HUD Regulations 24 CFR Part 5 that are also used by the Housing Choice Voucher Program (HCVP) or Section 8 program; however, it is important to note that there are some differences between the two programs and caution should be used in transferring procedures from one program to the other. The method described below applies to the HOPWA program. HOPWA participant rent payments must be the highest of three amounts:

1. 10% of gross household income (gross household income is the total of all pre-tax income received by all household members, including earnings from income-producing assets).
2. 30% of the family's monthly-adjusted income (adjusted income is figured using the list of income inclusions and exclusions detailed in HUD regulations 24 CFR 5.609, 5.611 and 5.617.
3. Amounts received households receiving welfare assistance from a public agency, with a part of the payments specifically designated for housing costs (adjusted in accordance with the family's actual housing costs).

The HOPWA project sponsor must pay the balance of the rent up to the lesser of the contract (lease or rental agreement) rent or the most current Fair Market Rent (FMR) value, and reasonable rent for comparable units in the area. Any documentation used to determine TBRA assistance must be maintained in the client's file. HOPWA funds must not be given directly to a client.

Utilities with TBRA:

Unless utilities costs are paid by the landlord as part of the rent/lease amount, clients are expected to establish accounts with the local utility company and pay the entire monthly costs for usage. However, when utilities are **not included** in the rent and the client is billed directly for usage by the utility company, an allowance or credit for reasonable consumption must be subtracted from the client's rent payment portion (the higher of 10% of monthly gross income or 30% of the monthly adjusted income). The utility allowance amounts or credits are established locally by the Public Housing Authority (PHA) based on local utility rates and updated annually. Grantees and project sponsors should contact the PHA in their areas to obtain the most current Utility Allowance Schedule for use in the computation of the client's rent payment.

NOTE: It's important to remind clients that the utility allowance credit for their out-of-pocket utility costs is deducted from their portion of the rent payment to the landlord; therefore, they are responsible for paying the full utility bill each month directly to the utility company, and budget accordingly. In rare cases, after the utility allowance is credited, the tenant rent portion may result in a negative amount -

meaning that the project sponsor must refund that amount each month to the tenant OR pay it directly to the utility company on the client's behalf. Associated HUD Regulation 24 CFR 982.514(b) states that, if paid directly to the utility, the project sponsor must notify the household in writing of the amount paid to the utility on their behalf and maintain documentation in the client file.

Earned Income Disregard:

24 CFR 574 5.617 requires Earned Income Disregard (EID) in certain situations. EID is an important incentive for disabled persons receiving HOPWA TBRA or facility-based housing. The purpose is to assist persons with disabilities in obtaining and retaining employment as an important step toward economic self-sufficiency. The "Earned Income Disregard" allows qualified individuals and families to keep more of their **earned income from employment** for a period of up to two years if they meet one of three (3) tests. Annual income increases as a result of:

1. Employment of a family member with disabilities and who was previously unemployed for one or more years; or
2. Earnings by a family member with disabilities from participation in an economic self-sufficiency or job training program; or
3. Increased employment earnings of a family member with disabilities while receiving, or within six months after receiving, welfare assistance worth at least $500.

EID becomes effective after the client has moved into HOPWA-assisted housing, where their qualifying income is considered the "base" income. If they meet one of the three (3) tests above, and the case manager is notified of the increase in income, EID will allow 100% of the earned income above the base income to be disregarded for a period of 12 months after the start date of the employment resulting in the increase. For increased earnings that continue beyond 12 months, EID permits a continued disregard of 50% of earnings above the base for another 12 months for a total of 48 months of increased earnings disregarded prior to counting the additional employment income towards an increase in tenant rent payment. Also, the 24 months of EID disregard can be spread out over 48 consecutive months allowing the client to start and stop work, if necessary, such as someone who may only have periodic or seasonal work. Once the 48 month period has expired, the EID disregard is no longer eligible, regardless of how many months of EID were provided during that time.

NOTE: EID does not apply to all of the new earned income. For example, a person receiving SSI or SSDI may receive an increase in benefits or regular income from other non-employment sources. This income will be counted towards the tenant rent payment portion because it is not a result for employment that met one of the three EID tests.

HOPWA HOUSING HABITABILITY STANDARDS:

All HOPWA-assisted housing must meet both state and local housing standards and HUD's habitability standards as outlined in 24 CFR Part 574.310(b). Housing supported by HOPWA funds must, at a minimum, meet the following federal HOPWA Housing Habitability Standards set forth below:

- **Structure and Materials:** The structures must be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the residents from hazards. If the unit is a manufactured home, it must rest upon a suitable permanent or non-permanent foundation.

- **Access:** The housing must be accessible and capable of being utilized without unauthorized use of other private properties. Structures must provide alternate means of egress in case of fire.
- **Space and Security:** Each resident must be afforded adequate space and security for themselves and their belongings. An acceptable place to sleep must be provided for each resident.
- **Interior Air Quality:** Every room or space must be provided with natural or mechanical ventilation. Structures must be free of pollutants in the air at levels that threaten the health of residents.
- **Water Supply:** The water supply must be free from contamination at levels that threaten the health of individuals. If the unit is a manufactured home, it must be connected to permanent utility hook-ups.
- **Thermal Environment:** The housing must have adequate heating and/or cooling facilities in proper operating condition.
- **Illumination and Electricity:** The housing must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of residents. Sufficient electrical sources must be provided to permit use of essential electrical appliances while assuring safety from fire. If the unit is a manufactured home, it must be connected to permanent utility hook-ups.
- **Food Preparation and Refuse Disposal:** All food preparation areas must contain suitable space and equipment to store, prepare and serve food in a sanitary manner.
- **Sanitary Condition:** The housing and any equipment must be maintained in sanitary condition.
- **Lead-based Paint:** If the structure was built prior to 1978, and there is a child under the age of six or a pregnant woman who will reside on the property, and the building has a defective paint surface inside or outside the structure, the unit cannot be approved until the defective surface is repaired in accordance with 24 CFR Part 35. Defective paint surface means: the paint is cracking, scaling, chipping, peeling or loose. If after testing lead is found present, the surface must be abated and repaired in accordance to the above regulation. During the housing inspection the case managers must furnish the client with a copy of the pamphlet "*Protect Your Family from Lead in Your Home*" (see **http://www.epa.gov/lead/pubs/leadpdfe.pdf**). The client should sign a statement certifying that they received the pamphlet.
- **Smoke Detectors:** The HOPWA program must comply with the Fire Administration Authorization Act of 1992 (P.L. 102-522) (**http://fire.nist.gov/bfrlpubs/fire95/PDF/f95067.pdf**). All rental units are required to have a functioning smoke detector that must be provided by the landlord, local fire department, or leveraged source. Smoke detectors must be installed in accordance with NFPA 74, or more stringent local policies, as applicable. Existing units must contain a single or a multiple station smoke detector; there must be one located outside each sleeping area and on each level. It can be battery operated or hard wired; clearly audible or interconnected. Accommodations must be made for individuals with sensory impairments.

Prior to HOPWA funds being provided for a housing unit, project sponsors must certify that it meets these standards. The inspection can be performed by a case manager without a requirement for specialized training, or an outside entity qualified to do inspections. The case manager or other designee must make a home visit to determine the overall suitability of the rental property and certify that it meets the standards listed on the Habitability forms. The TBRA unit must be re-inspected and re-certified at least annually when the client's income eligibility is re-certified for HOPWA assistance, in addition to when the client moves to a new residence.

Landlords or property managers are responsible for curing all violations found at the initial inspection. In the event that the unit fails inspection, a written notification should be delivered to the client and landlord with a copy of the written inspection report. The notification informs the landlord that a re-inspection will be scheduled no later than thirty (30) days from the date of the notice and that all reported violations need to be corrected by that date. If after 60 days, the unit does not pass inspection and the case manager has attempted repeated communication with the landlord, the case manager should assist the client in beginning seeking more suitable housing elsewhere and the HOPWA subsidy payments stopped. A general rule is that no more than three inspections (the move-in inspection and two re-inspections within thirty days if necessary) need to be undertaken by the case manager.

- **Client Request for Inspection** - A client may request an inspection at any time through their case manager if they have a complaint about housing conditions. Clients should be instructed not to move out of a unit due to the landlord's failure to make repairs without first having consulted with the case manager regarding local landlord-tenant laws. If conditions pose a safety risk to the household, the case manager or their designee should perform an inspection within five business days. In the event that a client is required to move due to the condition of the housing unit and the landlord, not the tenant, is responsible for necessary repairs to ensure habitability of the unit, guidance this process should be sought from a local housing counseling agency or legal entity to ensure compliance with the law.
- **Grantee or Project Sponsor Request for Inspection** - At any time during the period of HOPWA TBRA assistance the grantee or project sponsor may conduct an inspection of the unit based on their own impressions or concerns and complaints from the landlord, neighbors, case manager, parole officer or other source with knowledge of the clients housing stability. Care should be taken by the agency to comply with local landlord-tenant law regarding legal notification to client/tenant prior to entering the unit.

Occupancy Standards:

- HUD will only provide rental subsidies to households living in appropriately-sized units. The goal is to subsidize the smallest sized unit possible without creating overcrowding. The amount of TBRA a project sponsor pays the landlord on behalf of the applicant is based on the number of bedrooms for which the household is eligible and the actual number of bedrooms in the unit. HUD does permit other rooms in a unit to be used as sleeping areas and project sponsors should follow the approved policy for sleeping areas used by their local public housing authority (PHA).

Local Public Housing Authorities establish their own HUD-approved subsidy standards, generally in accordance with the following criteria:

(1) The unit size assigned should not require more than two persons to occupy the same bedroom, except that a very small child (less than 2 years of age) may share a one-bedroom unit with a single parent.

(2) The unit size assigned should not require persons of opposite sex other than husband and wife to occupy the same bedroom with the exception of infants and very young children.

(3) 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 verified by their physician and approved by the project sponsor. These principles result in the following standards:

NUMBER OF BEDROOMS		
Number of Bedrooms	Minimum Number of Persons in Household	Maximum Number of Persons in Household
0	1	1
1	1	2
2	2	4
3	3	6
4	6	8
5	8	10

- **Exceptions to Occupancy Standards -** The criteria and standards prescribed for the determination of a household's unit should apply to the vast majority of clients and their families. In some cases, however, the relationship, age, sex, health, or handicap of the individual/family members warrant the assignment of a larger unit size than that which would result from strict application of the criteria. Any determinations that do not strictly apply to the criteria must be fully documented in the applicant's case file.

  There are also occasional circumstances (ex. an area where the market rate rents are much lower than the FMR or HCVP payment standard) when a household might occupy a unit larger than specified by the subsidy standards, but in such instances, the rent for the larger unit must be at or below the payment standard of the appropriately-sized unit. If the larger unit rent amount were to increase above the smaller unit subsidy standard, the client would be required to move to a smaller unit within the allowable payment standard.

- **Renting From Family Members** – Federal Regulation 24CFR 982.306 (d) prohibits public housing authorities (PHA) from allowing clients to rent from family members; this includes a parent, child, grandparent, grandchild, sister, or brother of any member of the family, **unless** the Public Housing Authority determines that approving the unit would provide reasonable accommodation (see **http://www.hud.gov/offices/fheo/library/huddojstatement.pdf)** for a family member who is a person with disabilities. This same regulation applies to the HOPWA program. If a client needs the care and support for their illness from a family member whose income may be low, but slightly above 80% AMI when including the client's income, an exception to this rule and a Reasonable Accommodation request may be made through the grantee and the local HUD Field Office. In this situation, the family's income is not counted in determining eligibility for the TBRA subsidy payment and the client's rent payment portion is calculated based on the pro-rata share of the total bedrooms in the unit **(see Shared Leased Housing)**; however, a written rental agreement from the family must be obtained and maintained in the client file for documentation purposes.

NOTE: Project sponsors must not confuse renting from relatives with residing with relatives. Residing with any number or configuration of relatives is allowable, as long as the eligible total household income meets the HOPWA income guidelines of at or below 50% AMI.

Shared Leased Housing:

HOPWA Regulations allow for shared-lease housing, which can be an economical living arrangement for people. Unlike family or partner relationships, roommate scenarios consist of plutonic relationships established for the purpose of sharing rent and utility bills in return for receiving a share of the space available. Participation in shared housing arrangements is voluntary. ***Unmarried partners are treated the same as family members and are prohibited from identifying as roommates for the purpose of securing federal housing benefits.*** At the time of application and at any subsequent renewal the client must identify those living in their home as either family or roommate. Some project sponsors require the HOPWA applicants to sign a statement to this effect for maintenance in the client file. With respect to shared housing arrangements, the rent charged for the HOPWA assisted person shall be in relation to the size of the private space for that assisted person in comparison to other private space in the shared unit, excluding common space. The tenant rent calculation is done by taking the applicable Payment Standard, including utility allowance, for the unit size (total bedrooms) and dividing it by the number of units your client or family will be occupying. For example:

1. If a client has two (2) roommates and is residing in a three (3) bedroom rental unit, the rental portion paid by the HOPWA program would be one-third (1/3) of either the (a) actual total rent requested by the landlord, including utility allowance, or (b) the HOPWA program's rent standard for a three-bedroom apartment, whichever is less.
2. If one (1) or more persons in a roommate relationship are eligible for HOPWA assistance, each must apply separately based on individual income and prorated housing costs.
3. In the case where two (2) or more unrelated persons live together as roommates, the individual(s) not eligible for HOPWA assistance will not receive any compensation as a result of the HOPWA assistance awarded to the eligible person.

Additional TBRA Administrative Considerations:

- **Housing Search Guidelines** – It is recommended that project sponsors create guidelines for TBRA clients regarding their housing search under HOPWA assistance. This would include setting a limit on search time (such as 60 days) prior to the assistance terminating; extensions can be made for particular circumstances such as hospitalization or illness, but the exceptions should be spelled out clearly in the policy. Additionally newly enrolled clients should be provided with vacancy resources and the local utility allowance chart, if applicable, with an understanding of how to calculate the utilities for a particular unit they might be interested in renting.
- **Landlord/Tenant Disputes** – Clients should be encouraged to resolve issues with their landlord or neighbor's independently, but in the event that a landlord informs the case manager of concerns or complaints regarding the client's care and/or maintenance of the premises, the case manager should conduct an investigation of the complaint with the client and other parties involved. If warranted, a housing case conference should be called with the client and other relevant parties working with the client to ensure their housing stability success. At that time, the case manager should also determine if the client's ability to maintain their housing would benefit from more frequent home visits, a live-in aide, other home-based assistance, or even an alternative living environment.

SECTION 10 - FACILITY BASED HOUSING ASSISTANCE

In addition to STRMU housing assistance and ongoing tenant-based rental housing assistance, HOPWA funds can also be used in connection with a specific housing project or housing facility. This is usually called project-based or facility -based assistance, such as:

- Facility -based housing rental assistance, including master-leased units and project-based rental assistance;
- Operating cost for housing including maintenance, security, operation, insurance, utilities, furnishing, equipment, supplies, and other incidental cost;
- Capital funds for the acquisition, rehabilitation, conversion, lease, and repair of facilities to provide housing and services; and
- Capital funds for the new construction of single-room occupancy units or community residences.

Many of the program-wide elements are relevant for project-based activities, including eligibility documentation, Faith-Based Final Rule, Fair Housing and ADA requirements, rent calculation, fee prohibition, confidentiality procedures, and termination policies.

There are additional requirements that only apply to facility-based housing assistance. Facility-based supportive housing assistance is one of the HOPWA program's unique elements, providing resources to develop and operate community residences and other supportive housing for a special needs population. The intention of the legislation that created the HOPWA program was to allow for the development of supportive housing that could serve as an alternative to skilled nursing facilities. With facility-based housing, the expectation is that participants will be in need of some level of supportive services in order to maintain stability and receive appropriate levels of care. HOPWA regulations require the sponsor to certify that they will give residents and adequate level of support and work with qualified service providers, accessing such support in an ongoing manner.

One of the primary goals for the HOPWA program is that participants in HOPWA services will increase their access to care and support, especially in relation to their HIV disease. HOPWA program performance outcomes measure the extent to which sponsors are successfully connecting participants to care. In providing an alternative to more intensive care, facility-based housing projects should ensure that participants' needs are assessed and that participants are being connected to medical and supportive care. The sponsor should document the conducting of participant need assessments, the development of housing and service plans, and the provision of supportive services.

HOPWA regulations require that facility-based projects including community residences meet housing quality standards. Each unit supported with HOPWA funds must pass a housing quality inspection to ensure the housing provided is safe and sanitary and in compliance with local and state housing codes, licensing standards, and any other jurisdictional requirements, as well as the HOPWA program habitability standards outlined in 24 CFR 574.310(b). Prior to occupancy, the sponsor must inspect and approve each unit. The sponsor should conduct inspections annually.

Residents living in HOPWA -funded facilities such as community residences are subject to the same rent calculations as those receiving HOPWA tenant-based rental assistance. Residents must be charged rent as a percentage of their adjusted annual income and provide the required documentation to verify

eligibility and calculate the rental payment. The tenant must pay a portion of the rent, and the gross rent being charged must be reasonable in relation to rents currently being charged for comparable units in the private unassisted market.

HOPWA-funded programs cannot charge any fees in addition to rent (calculated as described above) to residents in order to pay for program operations or supportive services related to the care of residents. Some community residences might make arrangements to provide food or other amenities (e.g., cable television, phone services) in common areas. In these cases, residents can be asked to contribute towards these optional non-HOPWA activities. Use of such services should be optional and not a requirement for residency. With the exception of nutritional and direct operational costs (e.g., utilities, facility-leasing, and maintenance), HOPWA monies should not be used for such amenities either. Utilities can be charged to residents as part of their rent or separate from rent (e.g., when units are metered separately). However, if utilities are separated, the calculated rent portions must be adjusted to include a reasonable utility allowance and the utility payment requirement must be a part of their occupancy agreement.

SECTION 11– SUPPORTIVE SERVICES

- Limited health services
- Mental health services
- Drug and alcohol abuse treatment and counseling
- Housing and needs assessment
- Day care
- Personal assistance
- Nutritional services
- Intensive care when required
- Limited transportation costs
- Assistance in gaining access to local, State, and Federal government benefits and services (except that health services may only be provided to individuals with acquired immunodeficiency syndrome or related diseases and not to family members).

HOPWA SUPPORTIVE SERVICES FOCUS AND EXPECTATIONS

Project sponsors must assure that appropriate supportive services to eligible individuals, either directly or through referral to appropriate services providers. Supportive Services may be provided either in conjunction with HOPWA housing assistance or as a stand-alone service (Supportive Services Only). **Although the allowable activities may be expansive, HOPWA Supportive Services should focus on housing stability activities as a rule of thumb.**

KEY DIFFERENCES BETWEEN CASE MANAGEMENT AND HOUSING CASE MANAGEMENT

HOPWA Supportive Services funds may be used to pay for appropriate portions of time for a HOPWA case manager or housing case manager. If a HOPWA client is not in medical care, the case manager must include medical care as part of the comprehensive care plan, or make a referral to obtain appropriate medical care.

Case management models vary across the country depending on the size and availability of housing and service organizations, and the funding sources available. Whether one case manager performs multiple functions, including medical, psychosocial, and housing case management, or multiple case managers are present in a client's care, it is important to remember that the key distinction between housing case management and the other types is the "lens" in which client needs assessments and plans are viewed and acted upon. The primary goal in housing case management is **housing stability** in a decent, affordable situation that may vary depending on each person's unique situation and needs. For instance, housing stability for some clients means primarily securing more cost effective permanent housing or increasing the household income; for others, it may include more intensive or time-limited activities such as securing transitional housing to address underlying needs such as money management, substance use, mental or medical health engagement, or dealing with parole or probation requirements aimed at reducing recidivism. Although some aspects of different case management types overlap, housing case management activities should focus on assessment of barriers to successful housing stability, and providing interventions and creating a housing plan that will assist the client in reaching this goal. Generally, key case management/housing case management expectations include:

- **Comprehensive assessment of the client's needs, barriers, and personal support systems such as:**
  - Public benefits and other sources of income
  - Potential barriers to securing housing
  - Housing needs and preferences
  - Family, friends or service systems support
- **Development of a housing plan that specifically addresses affordable stable housing as HUD's primary goal**
  - Referral to emergency shelter or transitional housing if homeless
  - Application for permanent rental assistance programs (such as Section 8 or HOME-TBA)
  - Referral to and participation in "Ready to Rent" or "Second-chance Renters' Rehab" classes
  - Search for and obtainment of employment
  - Referral/enrollment in education or vocational training programs
  - Referral to and participation in first-time home buyer's programs
  - Budgeting and/or referral to financial advising
  - Search for and obtainment of more suitable, stable rental housing
- **Coincidental development of a care plan identifying needed supports and medical care**
  - Application for and obtainment of SSI/SSDI, unemployment, or other public assistance
  - Referral to Food Stamps, food pantry, meals on wheels or food pantry programs
  - Referral to mental health or chemical dependency services
  - Referral to appropriate HIV care and medical services
- Coordination of the services listed above that are required to implement the comprehensive care and housing plans
- Documentation of referrals made to clients, and services accessed by clients
- Regular monitoring to assess the progress and efficacy of the plans
- Periodic re-evaluation and revisions/updates of the plans, as necessary

- Client-specific advocacy

HOUSING STABILITY PLANS

The objectives of the HOPWA program are to ensure that clients:

- Maintain housing stability
- Avoid homelessness
- Experience increased access to health care and HIV-related treatment

Housing Plans and Assessments assist in ensuring that participants achieve housing stability by receiving HOPWA assistance. Regulation 24 CFR 574.500(b)(2) that each project agree to "conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program." The housing assessment is the foundation for the development of individualized housing and service plans by gathering participant information about current finances, past rental history, behavioral history, and other service needs, as well as determining barriers to housing stability. The initial housing stability plan established with the client, case manager/housing case managers is considered a "living document," and should be updated, amended, or replaced when necessary or beneficial to assisting the client meet the objectives of the program. Housing plans will be unique to each client and should be structured to address the individual client's strengths and barriers to meeting the goals.

NOTE: All program participant files must contain an individualized housing assessment and housing and service plan with evidence of annual updates and ongoing progress. Examples of Housing Assessments and Client Housing Plans may be found at: https://www.hudexchange.info/hopwa/guides/

In order to maintain their housing assistance, clients are expected to comply with program requirements; however, they must also be afforded full rights under the state and local landlord tenant act. Project Sponsors are required to document referrals and track client's usage of services in the housing stability plan.

Individual housing plans are intended to assist clients, not penalize them; therefore, every attempt must be made to assist the client to be successful in meeting the goals in their plan. Appropriate interventions to assist clients experiencing difficulty should include a case conference with the other applicable service providers working with the client.

When clients' housing needs assessment indicates behaviors that may present barriers to obtaining or maintaining housing, it may be appropriate to specifically highlight applicable program expectations and responsibilities by placing them directly into the housing plan as actionable items.

Examples could include:

- Paying the full amount of the client's portion of the rent and/or utilities on time every month.
- Maintaining the client's rental unit in a safe and sanitary condition and in the condition in which it was initially rented to them, which excludes normal wear and tear.
- Avoiding behavior (their own or that of a household member or guest) that would disturb their neighbors' peaceful enjoyment of their own home (i.e. yelling, loud music or noise, violence, drug use, other illegal activity, damage to or theft of others' property, blocking or cluttering common areas or right-of-ways).

Housing plans should record specific activities meant to assist the client in meeting the program objectives, identification of the person(s) who is to complete each activity, a target date for completion of each activity, and the date that each activity is completed or revised and the outcome of that completion or revision. The client and case manager should agree upon the initial plan and subsequent revisions, with a client signature for maximum buy-in.

Additionally, project sponsors should set a policy for review of housing stability plans for all active clients, such as "at least quarterly." This includes updating client progress toward meeting stated goals, revising the plan as necessary and documenting client progress toward meeting stated goals in the progress notes section. Anytime a housing plan is created or updated and signed by the client, other service providers working with that client, when applicable, should receive a copy of the initial plan and any revisions thereafter in an effort to support the client's success. Additionally, a copy of the housing plan and subsequent revisions will be kept in the client's locked file.

LINKAGE WITH OTHER AFFORDABLE HOUSING AND SUPPORT RESOURCES

It is the desired outcome that clients provided housing assistance with HOPWA funds will experience improved access to health care and HIV-related treatment as a result of their own housing stability and effective coordination with other systems of care and treatment. A strong working partnership with the client's HIV case manager is critical to effective housing stability assessment and planning for the client. Communication between housing and HIV case managers (if different entities) is essential to developing a full understanding of issues that may be causing risk to the client's ability to maintain their housing and the efforts being taken to assist the client in overcoming such issues through counseling, treatment or services.

To the extent possible, to prevent duplication of services paid for by multiple sources, case management for HOPWA clients should be also sought by another source (e.g. Ryan White Part A or B, State or other federal sources, or local funds). HOPWA is not a stand-alone program; HUD expects communities to work together and collaborate with other local partners to strengthen community supports and leverage other funding as much as possible. In addition to Ryan White, some important potential partners might be agencies providing:

- Homeless Continuum of Care Services (Shelter Plus Care, Supportive Housing Program (SHP))
- Emergency Solutions Grant (ESG)
- Homeless Prevention and Rapid Re-housing (HPRP)
- HUD Section 8 housing programs and Public Housing Authorities (Project-based and tenant-based)
- HUD multifamily funded housing programs (811/202)
- State Low-income Tax Credit properties
- State and local Bond and/or Housing Trust Funds properties
- Behavioral health entities for mental illness and chemical addiction

HOME VISIT SAFETY PROTOCOL

Home visits for habitability standards inspections are required by HOPWA, and many programs are structured in such a way that home visits are a regular part of the case management protocol. Employees conducting such visits have a duty to ensure reasonable care for their own health and safety during any client home visit. **Every project sponsor should have written policies and procedures governing home visits.** Some elements of a home visit safety policy might include:

- Employees should note in their email calendar the home visit appointment time, date, and client unique (confidential) identifier code. The expected return time should also be noted.
- Employees might consider selecting a code word that staff at the host agency knows. In the case of an emergency call by the home visiting employee the use of the code word would indicate the employee needed assistance.
- All home visits should be scheduled during daylight hours.
- Unless a risk assessment has been completed which indicates otherwise, initial home visits should be done in pairs. All members of the staff doing home visits should carry a mobile phone, pager and/or personal alarm.
- Home visiting employees should assess if the neighborhood or house appear unsafe. If uncomfortable with the situation, the appointment should be rescheduled, and two or more service providers return together at a later date/time. The client should be notified of the delay.
- Home visiting employees should not enter a residence unless invited to do so.

  In addition to a project sponsor's policy, it is the responsibility of each employee to ensure their own safety, inform people of their whereabouts, and withdraw from situations where they feel an unacceptable level of risk.

SECTION 12– HOUSING SEARCH AND PLACEMENT/PERMANENT HOUSING PLACEMENT

- **Housing information Services** including, but not limited to, counseling, information, and referral services to assist an eligible person to locate, acquire, finance and maintain housing, including fair housing counseling for eligible persons who may encounter discrimination on the basis of race, color, religion, sex, age, national origin, familial status, or handicap.
- **Resource Identification** to establish, coordinate and develop housing assistance resources for eligible persons ,including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives.
- **Permanent Housing Placement** services for reasonable costs to move persons to permanent housing, not to exceed 2 months of rent costs, including security deposits and fees for credit; one-time utility hookup and processing costs; support and help to complete permanent housing applications, and eligibility screenings for tenancy or utilities for these units; skills and housing counseling on unit cleaning, maintenance and household budgeting.

PERMANENT HOUSING PLACEMENT

Permanent housing placement (PHP) services may be used to help eligible persons establish a new permanent housing residence where ongoing occupancy is expected to continue. Most frequently project sponsors use this activity for application fees, related credit checks, and reasonable security deposits to move people into permanent housing, ***provided such deposits do not to exceed two months of rent*** value in the new unit. PHP may be used for moving into market rate housing or subsidized housing from HOPWA or other HUD programs such as the Section 8/Housing Choice Voucher program. Also, one-time reasonable hook-up fees or deposits are eligible payments to utility companies for new service.

In addition to move-in costs, PHP funds may be used to complement other forms of HOPWA housing assistance. For example, it can be used to adjust to changes in care needs by assisting persons transitioning from more supportive settings to more independent alternatives. Costs may include fees for housing search services or activities designed to assist household in locating suitable housing. This may also include tenant counseling, understanding leases, securing utilities, making moving arrangements, paying for representative payee services for persons who use such services to better manage their own finances, and mediation services related to neighbor/landlord issues that may arise. As with all HOPWA assistance, the sponsor should use individual housing service plans that assess the participant's resources, establish long-term goals, and link the participant to other support resources.

It is recommended that project sponsors maintain policies describing the conditions for use of the funds, and indicating any local limitations imposed such as frequency of access to PHP funds (ex. one time per calendar year, or one time per lifetime on the program).

Based on the classification of eligible activities in the HOPWA regulations, PHP is considered a supportive service rather than a housing cost; however, in the Consolidated Annual Performance and Evaluation Report (CAPER) it is tracked and reported separately to HUD for the purpose of calling attention to its importance as a housing activity.

NOTE: Some items are not eligible as HOPWA permanent housing placement costs, such as costs for housing supplies, smoke alarms, standard furnishings, minor repairs to the unit associated with the move-in, and other incidental costs for occupancy of the housing unit

SECTION 13 – PROVISION OF ASSISTANCE TO SURVIVORS AND TERMINATION OF ASSISTANCE

SURVIVORSHIP RIGHTS: TERMINATION RESULTING FROM CLIENT DEATH

HOPWA rental assistance terminates immediately upon the death of a client, unless survived by member(s) of the family who are listed on the housing application and lease agreement, and residing with the client in the assisted unit at the time of their death. HOPWA regulations 24 CFR Part 574.310(e) allows up to 1 year of rental assistance to such surviving family members as a grace period. Most communities allow 60-90 days. Assistance terminates upon the exhaustion of the grace period unless the household becomes eligible for HOPWA housing assistance prior to expiration of the grace period. Surviving family members may not accept payment of refunded amounts of any deposits paid by HOPWA, instead, instruct the landlord to pay such amounts directly to the project sponsor agency. Project sponsors are required to provide housing resource lists and service referrals to the surviving members in order to ease their transition.

Surviving Family Member with HIV/AIDS Diagnosis:

In the event that surviving family members include a person with an HIV/AIDS diagnosis who can prove residency in the unit prior to the death of the client and who was identified during the HOPWA certification (or re-certification) process, such person will be deemed the eligible person of the household and, therefore, client of the program, permitting HOPWA assistance to continue as long as eligibility is maintained for the client and

their household members. Such households must be re-certified within thirty (30) days of the death in the family.

GROUNDS FOR TERMINATION

HOPWA project sponsors should terminate a participant's assistance only **in 'the most severe cases'** as the regulation states. It should be every project sponsor's policy to diligently respond to concerns and complaints voiced by clients, landlords, case managers and other interested parties about the administration of the HOPWA program or policy issues regarding the program. Termination policies should detail the actions that could result in termination, depending on the severity. These may include, but are not limited to:

- **Non-compliance with housing conditions of lease or landlord-tenant laws:**
  - Abandonment of assisted unit, defined as a failure to reside on the assisted premises for a period exceeding thirty (30) days, except in authorized cases where the client is hospitalized or placed into residential substance abuse or mental health treatment
  - Commission by client, any member of the household, guests or any person under the client's control of any acts that threaten the health, safety or right to peaceful enjoyment of the premises by other residents
  - Excessive damage, beyond normal wear and tear, caused to the HOPWA-funded unit by the client, a client's guest, or a member of his or her household. Extreme or excessive damage is characterized by deliberate destruction of property including vandalism, arson, and breaking or soiling fixtures, floors, walls, windows, doors, or appliances
  - Moving into a new apartment unit without program authorization
- **Program violations:**
  - Commission of fraud, bribery or any other corrupt or criminal acts in connection with any federal housing program. Such acts include failure by false statement, misrepresentation, impersonation, or other fraudulent means to disclose a material fact used in making a determination as to the client's eligibility to receive services
  - Threatening or abusive behavior toward agency personnel, neighbor(s) or the landlord. Threats of violence may be verbal or non-verbal and can occur explicitly or implicitly. When the behavior constitutes a legitimate threat of violence to themselves or others, immediate termination is warranted
  - Income ineligibility when total household income is over 50% AMI, or withholding income or verification
  - Failure to notify the Housing Coordinator of a change in income within fifteen (15) days of the event
  - Failure to notify the Housing Coordinator of any changes in circumstances in order to obtain or continue to receive benefits within fifteen (15) days of the event.
  - Failure to cooperate in submitting required documentation/information within fifteen (15) days of program's request
  - Failure to cooperate with Housing Stability Plan reassessments
  - Failure to locate suitable housing within required time or failure to actively apply for and/or accept long-term stable housing assistance from other sources (i.e. Section 8).

- Failure to attend project sponsor appointments, except in the case of illness or other extenuating circumstances
- Repeated failure to make timely payment of the client's required portion of the rent

VIOLATION, GRIEVANCE AND TERMINATION POLICIES

HOPWA regulations 24 CFR 574.310(e), outline the minimum requirements for the contents of a participant grievance and termination policy for all grantees and project sponsors. This includes policies for handling surviving family members in the event of the death of a HOPWA-eligible person. Well written termination and grievance procedures protect the rights to due process of law for the recipients of all HOPWA services. The key point is ensuring the right to 'due process.' Any person should be free to raise concerns or complaints and do so without fear of retribution. Persons lodging complaints are entitled to the complaint being handled in an expedient, confidential, sensitive and non-judgmental manner. It is important that grievance policies be in place for all project sponsors that clearly provides information on the manner in which grievances may be filed and how they will be reviewed and acted upon (as in chain of decision making power).Whenever possible, verbal complaints should be resolved in the least formal manner using a variety of approaches, including in writing, meetings and/or telephone conversations. Project sponsors must also document in the client's case file the supportive services that were offered and provided to the client, as well as efforts to avoid or prevent terminations. Clients should receive a copy of the grievance and termination policy at the time of program enrollment, and a signed copy should be placed in their file for verification that they were well informed of the policy.

THE GRIEVANCE PROCESS

The Grievance Process applies to any decision by the HOPWA program, which may adversely affect the client's eligibility for assistance, including denial of re-certification, or program termination. Grievances must regard decisions, which affect a client's eligibility, amount, or length of time of assistance, and/or termination of assistance for program violations. Grievances must be in writing and must be directed to the program supervisor. HOPWA regulations require that the client be provided with access to a formal process that recognizes the client's right to appeal and the client's right to due process of law. Federal regulations further specify that this process, at a minimum, must consist of:

a) Serving the client with a written notice containing a clear statement of the reasons for the determination.

b) Allowing the client to examine the case file, and all accompanying documentation and evidence upon request.

c) Permitting the client to have a review of the decision, with the opportunity to present written objections before a person, other than the person (or a subordinate of that person) who made or approved the termination decision.

d) Providing prompt written notification of the final decision to the client.

Sample Grievance Procedure:

Grievance policies vary across communities; however, an example might include the following points and stipulations: ***"In order to initiate a grievance, the client must complete a grievance form. A completed form should be delivered (time/date received by project sponsor) or be postmarked within thirty (30) days of the date of the decision being grieved. If filed after that time, the grievance must be accompanied by a written explanation for the delay. The program, at its sole discretion, will decide whether the client had good cause for filing the grievance late. Good cause consists of hospitalization, serious illness, or other circumstances beyond the client's control, which significantly impaired their ability to file the grievance in a timely manner.***

During the period of time in which the client is involved in a grievance of a termination decision, his/her assistance shall not be discontinued or reduced. However, if the client no longer resides in a HOPWA assisted rental unit (e.g. the client was terminated for abandonment of the unit, moved without authorization or has been evicted concurrent to the program termination), the HOPWA program will not provide rental assistance at the client's new residence during the grievance period."

Evidence Examination:
Based on the policy established by the project sponsor, the grievance is examined. If it is determined to have merit and no decision can be made based on the documentation alone, the program should schedule a meeting date and time to hear the grievance directly from the client. The grievance examination meeting should be scheduled no later than fifteen (15) days after the determination of merit.

In the event that the client has been served with eviction papers, the program will make reasonable attempts to accommodate the client at the earliest possible date. Written notification of the time and place of meeting, accompanied by a copy of the grievance, should be sent to the client's primary case manager if outside the project sponsor agency, and a copy sent by certified mail to the complainant and the complainant's representative, if any identified.

Meeting and Due Process:
Grievance meetings should be conducted in an orderly fashion, based on the policies of the agency. Failure to comply with the directives of the policy, by any participant in the meeting, may result in an exclusion from the meeting. The outcome of the meeting should not affect any rights the client may have to a trial or other review in any judicial proceedings, which may be brought in the matter.

Clients have the right to withdraw their complaint at any time. The withdrawal should be presented in writing to the project sponsor. The client must be notified in writing, via return receipt US Mail, of the date that the withdrawal was received by the agency. A copy of the withdrawal will be kept in the client's file. The parties may at any time, before, during or after the grievance meeting, enter into a written stipulation, which resolves the issues being grieved.

The client should always be afforded due process, with a fair and impartial examination of the information, which provides the basic safeguards of due process. Satisfactory due process procedures would include:

- **a)** The opportunity to examine, before the meeting all of the documents, records, and HOPWA program rules relevant to the grievance
- **b)** The right to present evidence and arguments in support of the grievance
- **c)** The right to dispute evidence presented in support of the determination of eligibility, assistance, or termination under appeal
- **d)** The right to reasonable accommodations for persons with disabilities to participate in the hearing
- **e)** The right to language translation if necessary
- **f)** The right to request the support of an independent advocate who may be a friend, family member, or other supporter, to assist the client in the grievance process and attend the meeting with the client
- **g)** The right to a decision within ten (10) business days based only on the evidence presented at the grievance meeting, unless additional information is requested by the panel (such requests shall be made in writing and copied to all parties unless such request is made during the grievance meeting)
- **h)** Written notification to the client of the final decision by the decision makers defined in the grievance policy should be sent certified mail, return receipt requested within ten business days. A copy of the

decision should be maintained in the client's case file. The written communication should clearly include the reasons for the decision cited.

- **Failure to Appear**: Should the client fail to appear for the scheduled grievance meeting they will be in automatic default, leaving the challenged program termination or action to stand.

- **Request for Reasonable Accommodation:** Any special accommodations required by the client, including translators, should be designated on the grievance form or submitted in writing and received by the program no less than three (3) business days prior to the meeting.

DOCUMENTING VIOLATIONS

Any program violation should be documented in the client's case notes in detail, including efforts to resolve the matter with the client. Documentation of efforts will include records of verbal interactions with client about the violation, documentation of diligent search for the client, copies of written warnings, including the warning of the possibility of termination, and other material as may be relevant. Documentation in the client's file of the client's efforts to make corrective action, or lack thereof should also be included.

Independent evidence and/or documentation that should be obtained for the file regarding violations may include but is not limited to:

a) Copies of landlord-tenant notices to comply with Lease/Rental Agreement and Housing Rules.
b) Police reports indicating behavior by any household member, guest or anyone within the client's control, which threatens the health, safety or right to peaceful enjoyment of the premises by other residents.
c) Police reports, arrests or convictions for drug-related criminal activity of any household member, guest or anyone within the client's control.
d) Documentation of a failed diligent search for a client who has abandoned a HOPWA-assisted unit.
e) Witnesses, including but not limited to the landlord, who are willing to attest to the behavior of the client, any household member, guest or anyone within the client's control or facts evidencing fraud on the part of the client.

NOTE: The landlord's word alone may not constitute sufficient evidence of a program violation (except in the case of apartment abandonment or unauthorized moves). When using a witness such as the landlord to terminate assistance, the provider should include additional witnesses and documentation.

TERMINATION NOTICES

Remember, HOPWA project sponsors should terminate a participant's assistance only **in 'the most severe cases'**; however, if all efforts at correcting program violations have been exhausted, termination notices must be in provided to the client in writing and contain the following elements:

1. The notice should inform the client that their assistance under the HOPWA program is being terminated, the effective date of termination and a statement that the HOPWA program will provide thirty (30) additional days of rental assistance (if applicable) from the effective date of termination if the client remains in his/her currently assisted rental unit. If the client no longer resides in the currently assisted rental unit (e.g. the client has abandoned the unit, moved without authorization or has been evicted

concurrent to the OHOP program termination), the HOPWA program will provide no additional rental assistance at the client's new residence.

2. The notice should specify that a grievance may be initiated with the sponsor within thirty (30) business days of the date of the termination notice.
3. The notice should provide a detailed explanation of the reason for termination. The explanation must include the reason for termination, i.e. the incident(s) which led to the decision to terminate, the time and date of the incident(s) and the type of supporting evidence the landlord or provider has with regard to the incident(s) (witnesses, case file documentation, police/incident report, etc.).
4. The notice should include a copy of the grievance policy.
5. The notice should clearly state the deadline for submitting a grievance.
6. The notice should state that the client has the right to review his/her file, as well as any documentation supporting the provider's decision to terminate the client's HOPWA assistance.
7. The notice should be faxed to the client's HIV case manager and sent by first class and certified mail to the client, return receipt requested.

ELIGIBILITY FOR FURTHER HOPWA PROGRAM ASSISTANCE

Sponsors should create a policy for reinstating clients previously terminated from HOPWA. Wherever possible, care should be taken by agencies to ensure that clients evicted from housing do not lose their linkage(s) to medical care. Policies for re-instatement generally range from six months to two years for serious violations; however, clients terminated for documented fraud, a lifetime registration for sex offenses, or convictions of manufacturing or producing methamphetamine on the premises of federally assisted housing are prohibited for life to federally subsidized housing assistance.

Following an exclusionary period, reconsideration for admission to HOPWA services should include the following elements:

- A reassessment of the client's living situation acuity
- A written statement from the client explaining the situation that gave rise to the previous termination from the program, the steps that the client has taken since termination to address any individual behaviors giving rise to the termination, and the client's current plan to secure and maintain stable housing
- If the client has an HIV case manager in the community, the case manager should work with the client to develop a new care and housing plan form that outlines how the client will be assisted in securing and maintaining stable housing. The plan should include specific information regarding the frequency of client contact with the HIV case manager, volunteers, or other care providers in the community who will assist the client in their new housing. The plan should also clearly outline the specific duties of the client, HIV case manager, and volunteers or other care providers who will assist the client.

EVICTION BY THE LANDLORD AND LANDLORD-TENANT LAW

Termination from HOPWA services is separate and distinct from eviction from housing by a landlord. A landlord may have reasons for evicting a client, justifiable or otherwise, which differ substantially from termination of HOPWA assistance due to breach of other program requirements. In the administration of HOPWA services, it is important that termination and eviction be carefully differentiated.

If an eviction by a landlord might result in a client's loss of occupancy rights, then Landlord-tenant law would come into play. Tenant-landlord law is a matter of state and local laws that would apply to recipients of HOPWA tenant-based rental assistance (TBRA); however, the application of these laws to supportive housing and especially to community residences or congregate housing can vary greatly from state to state depending on local statutes and their application in court. The HOPWA regulations describe a framework of due process that must be met, regardless of local laws and HOPWA project sponsors should consult fair housing counseling agencies or legal counsel as to how prevailing tenant-landlord laws might affect their program.

A client may be evicted by the landlord, in accordance with state and local landlord-tenant laws governing evictions, for violating a provision of the lease agreement. However, HOPWA support services should not necessarily be terminated unless HOPWA program rules are violated and no resolution with the client can be reached. It would be hoped that the landlord or client would contact the case manager or housing case manager well in advance of a situation reaching the eviction stage in order to support the client, where possible, in resolving the issue. If a landlord chooses to initiate eviction proceedings, in spite of case management intervention, the client should be referred to legal services, and it may be necessary to make arrangements for the client to move and continue the assistance elsewhere.

PROGRAM INCOME

Sponsors are responsible for tracking and reporting program income to HCDD. Program income, as defined in 2 CFR 200.80, shall be recorded as part of the financial transaction of the grant program. The main generator of HOPWA program income is a HOPWA funded transitional or permanent housing program that collects client/tenant rent which is reported as program income. Examples of additional possible program income include, but not limited to: laundry machines, vending machines, PHP deposit repayments and client repayments for back-due rent or damages to the unit beyond normal wear and tear.

1. All program income received may be added to any budget line item approved in the current annual contract budget with HCDD, except administrative costs.
2. All program income is to be treated as additional HOPWA funds subject to all applicable requirements governing the use of HOPWA funds.
3. Project Sponsors must track and maintain records for all sources and amounts of program income each and report this information with the monthly request for reimbursement, as well as indicating the contract budget line item to which the program income will be attributed.
4. At program year-end with the final reimbursement and performance report the project sponsors will provide HCDD with a summary of the annual total sources and amount of program income received, and indicate which contract budget line items that were increased with the additional funds. This information is required by HOPWA/HUD for financial accounting and reporting in the Consolidated Annual Performance and Evaluation Report (CAPER).

NOTE: This HOPWA manual is an evolving document. Comments and suggestions from project sponsors and case managers will be welcomed on how to improve it, so that the City of Houston Housing and Community Development and project sponsors may work together to have a better understanding of the program. This will help ensure that those in our EMSA who are experiencing a housing crisis and who have also been diagnosed with HIV/AIDS have access to safe, clean, affordable housing, and can take steps to achieve housing stability. For more information or questions, please contact Melody Barr, Deputy Assistant Director at 832-394-6124 or melody.barr@houstontx.gov.

Melody Barr

Melody Barr, Deputy Assistant Director

3-22-16

Date