



HUD Housing Programs and Participant Leases

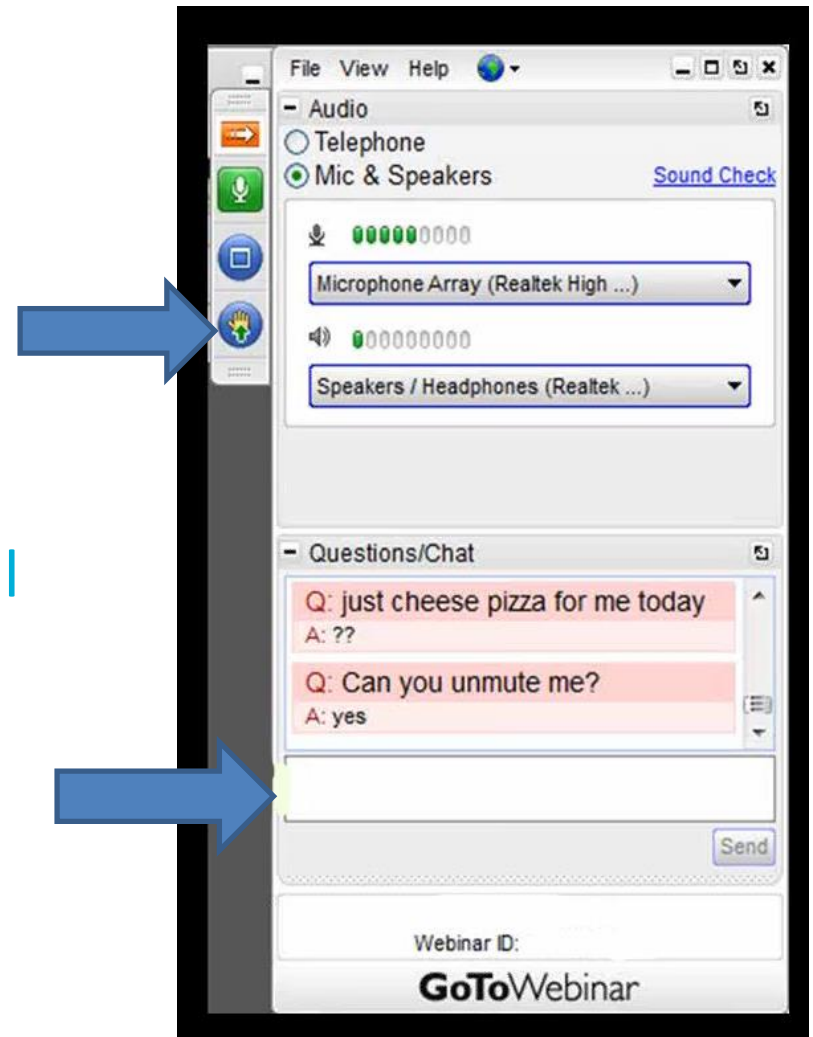
Monday, July 10, 2017

Agenda

- Welcome
- Housekeeping
- HUD Housing Programs and Participant Leases
- Q and A

Housekeeping

- Recording and slides will be sent out after presentation
- Q and A will be at the end of the webinar
- If you have any audio or visual issues click the “raise hand” icon
- Use Question/ Chat Box to submit questions



HUD Housing Programs and Participant Leases

Chicago Continuum of Care
July 10, 2017



Today's Agenda



Introductions

Who we are and information about available technical assistance



Leasing vs. Rental Assistance

Differentiation between leasing and rental assistance programs



Program Participant Leases

Leases and occupancy agreements in homeless housing programs



Housing Inspections

Housing Quality Standards, Lead-Based Paint, and Environmental Review



Determining Rental Amounts

Fair Market Rent and Rent Reasonableness



Introductions

- Who We Are (and What We Do)
- About the Illinois TA Discussion Series
- Other Technical Assistance Available



Who We Are (and What We Do)



- **Piper Ehlen, Patrick Wigmore,** and **Matt Olsson** serve as HUD technical assistance providers for HomeBase, a San Francisco-based nonprofit public interest law firm dedicated to the social problem of homelessness
- We work at the federal, state, and local levels to support communities in implementing responses to homelessness while fostering collaboration in addressing the socioeconomic causes of homelessness



Other Technical Assistance Available

- HomeBase is available to provide ongoing **technical assistance** to the Chicago CoC on this topic or other challenges facing your CoC
- For more information or technical assistance, **please contact:**
 - Piper Ehlen: piper@homebaseccc.org or (415) 788-7961 x304;
 - Patrick Wigmore: patrick@homebaseccc.org or (415) 788-7961 x328; or,
 - Matt Olsson: matt@homebaseccc.org or (415) 788-7961 x314



Leasing vs. Rental Assistance

- HUD Leasing Programs
- HUD Rental Assistance Programs
- Key Differences



Overview of Housing Requirements

- CoC Program housing grants come with special requirements and things to remember
- Related to all housing:
 - Permanent supportive housing (PSH)
 - Rapid rehousing (RRH)
 - Transitional housing (TH)



Definition(s)

Leasing

Leasing of **property**, or portions of property, not owned by the recipient or project sponsor involved, for use in providing:

- Permanent supportive housing
- Transitional housing
- Supportive services

Rental Assistance

Provision of rental assistance to **eligible persons** to provide:

- Permanent supportive housing
- Rapid rehousing
- Transitional housing



Leasing vs. Rental Assistance

	Leasing	Rental Assistance
1 General Structure	<ul style="list-style-type: none">• Lease between CoC recipient or subrecipient and the landowner• Sublease/occupancy agreement between the recipient or subrecipient and the program participant	<ul style="list-style-type: none">• Tenant-, project-, or sponsor-based• Short-, medium-, or long-term• Lease between the program participant and the landowner (except for sponsor-based)• Contract between the recipient and subrecipient and the landowner
2		
3		
4		
5		
6		
7		
8		
9		



Leasing vs. Rental Assistance

	Leasing	Rental Assistance
1 General Structure		
2 Award	<ul style="list-style-type: none">• Apply for leasing amount• Adjusted by HUD in proportion to the change in Fair Market Rent• Many awards are below the total sum of Fair Market Rent per unit	<ul style="list-style-type: none">• Calculated based on the number/type of units multiplied by the current Fair Market Rent
3		
4		
5		
6		
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9		



Leasing vs. Rental Assistance

	Leasing	Rental Assistance
1	General Structure	
2	Award	
3	Eligible Costs	
4		
5		
6		
7		
8		
9		

1

General Structure

2

Award

3

Eligible Costs

4

5

6

7

8

9

- Structure for PSH or TH, or for space to provide supportive services to participants
- Individual units to be used for PSH or TH

- Individual units to be used for PSH, RRH, or TH



Leasing vs. Rental Assistance

	Leasing	Rental Assistance
1	General Structure	
2	Award	
3	Eligible Costs	
4	Other Eligible Costs	
5		
6		
7		
8		
9		

	<ul style="list-style-type: none">• <u>Security Deposits</u>: Up to two months rent• <u>First and/or Last Month's Rent</u>• <u>Staff</u>: Costs for carrying out eligible activities (e.g., processing lease payments)• <u>Utilities</u>: Only if rent includes utilities (leasing funds can be used to pay entire rent up to FMR), must apply utility allowance if participants pay utilities	<ul style="list-style-type: none">• <u>Security Deposits</u>: Up to two months rent• <u>First and/or Last Month's Rent</u>• <u>Staff</u>: Costs for carrying out eligible activities (e.g., contracting for or inspecting units)• <u>Property Damages</u>: Up to one month's rent, once per participant
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Leasing vs. Rental Assistance

	Leasing	Rental Assistance
1	General Structure	
2	Award	
3	Eligible Costs	
4	Other Eligible Costs	
5	Use of Funds	
6		
7		
8		
9		

- Up to Fair Market Rent, but no more than rent reasonableness
- Lease structures: rent reasonableness
- Utilities if part of the lease (otherwise pay with operating funds or other sources)

- May go over Fair Market Rent so long as the project still houses the contractual number of participants
- No more than rent reasonableness



Leasing vs. Rental Assistance

	Leasing	Rental Assistance
1 General Structure		
2 Award	Optional but if charged the recipient or subrecipient must:	
3 Eligible Costs	<ul style="list-style-type: none">• Treat all participants the same• Clearly outline the process for determining the amount	
4 Other Eligible Costs	<ul style="list-style-type: none">• Follow specific calculation procedures to ensure the participant is not overcharged	<ul style="list-style-type: none">• Program participants are required to pay rent (except when receiving rapid rehousing assistance)
5 Use of Funds	<ul style="list-style-type: none">• May charge less than the full HUD-calculated amount	<ul style="list-style-type: none">• Must charge the full HUD-calculated amount
6 Occupancy Charges		
7		
8		
9		



Leasing vs. Rental Assistance

	Leasing	Rental Assistance
1 General Structure		
2 Award		
3 Eligible Costs		
4 Other Eligible Costs		
5 Use of Funds		
6 Occupancy Charges	<ul style="list-style-type: none">Recipients and subrecipients are not allowed to charge program fees (except for occupancy charges)	<ul style="list-style-type: none">Recipients and subrecipients are not allowed to charge program fees (except for rent contribution)
7 Program Fees		
8		
9		



Leasing vs. Rental Assistance

	Leasing	Rental Assistance
1 General Structure		
2 Award		
3 Eligible Costs		
4 Other Eligible Costs		
5 Use of Funds		
6 Occupancy Charges	<ul style="list-style-type: none">• Recipient or subrecipient may pay rent until a new participant moves in as long as the lease is in place	<ul style="list-style-type: none">• May pay rent for a maximum of 30 days from the end of the month in which the unit was vacated
7 Program Fees	<ul style="list-style-type: none">• Must abide by the terms of the lease	
8 Vacancy Payments		
9		



Leasing vs. Rental Assistance

	Leasing	Rental Assistance
1 General Structure		
2 Award		
3 Eligible Costs		
4 Other Eligible Costs		
5 Use of Funds		
6 Occupancy Charges	<ul style="list-style-type: none">Leasing funds <u>cannot</u> be used to lease units or structures owned by the recipient, subrecipient, their parent, subsidiary, or affiliated organization unless HUD explicitly grants an exception for good cause	<ul style="list-style-type: none">Common to have funds remaining (can be used to serve more participants, cover costs of rent over Fair Market Rent, or cover staff costs)
7 Program Fees		
8 Vacancy Payments		
9 Cautions...		



Special Considerations for RRH

- Rental assistance must be:
 - Short-term (up to 3 months) or Medium-term (4-24 months)
 - Tenant-based
- Program participants:
 - Must have an initial lease for at least one year (the lease may not be longer than the rental assistance)
 - May be required to share the costs of rent
 - Are required to meet monthly with a case manager
 - Must be reevaluated at least once annually for eligibility

Funds can be used for:

- Rental assistance payments
- Security deposits
- First and last month's rent
- Vacancy payments

Funds cannot be used for:

- Damage payments

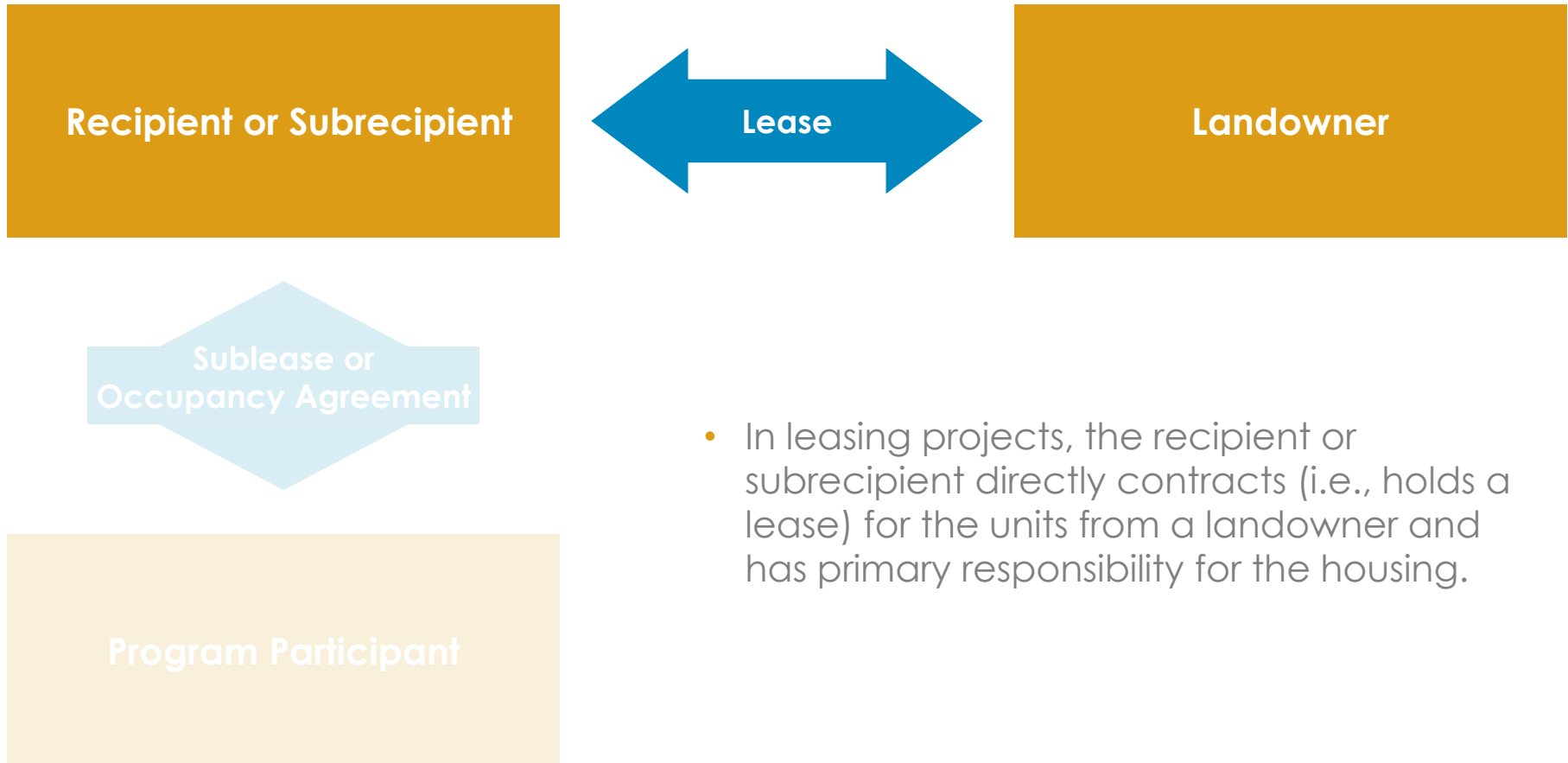


Program Participant Leases

- Leases and Subleases/Occupancy Agreements in Leasing Projects
- Leases and Contracts in Rental Assistance Projects
- What to Include in a Lease/Occupancy Agreement

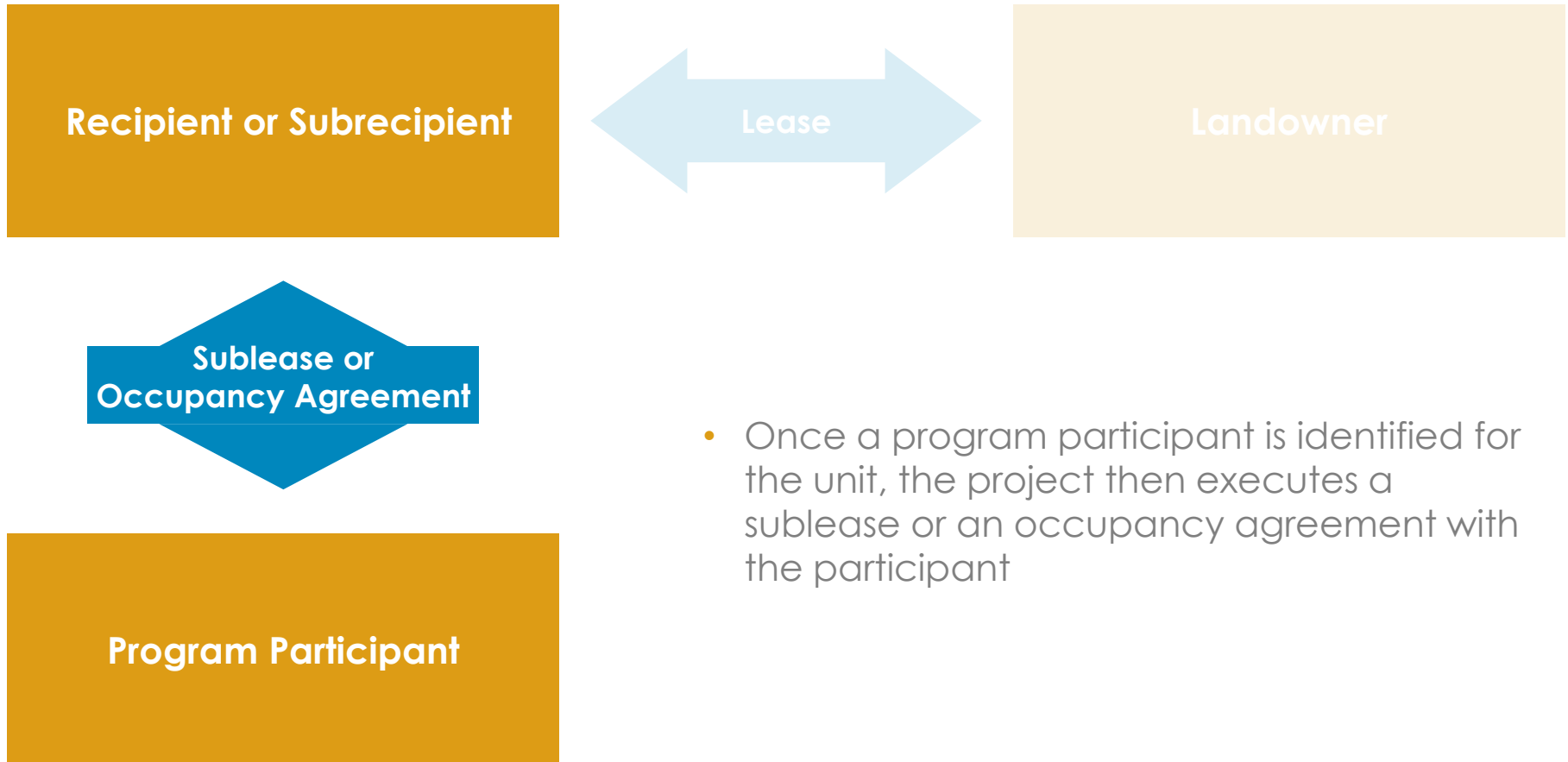


Structure of Leasing Projects



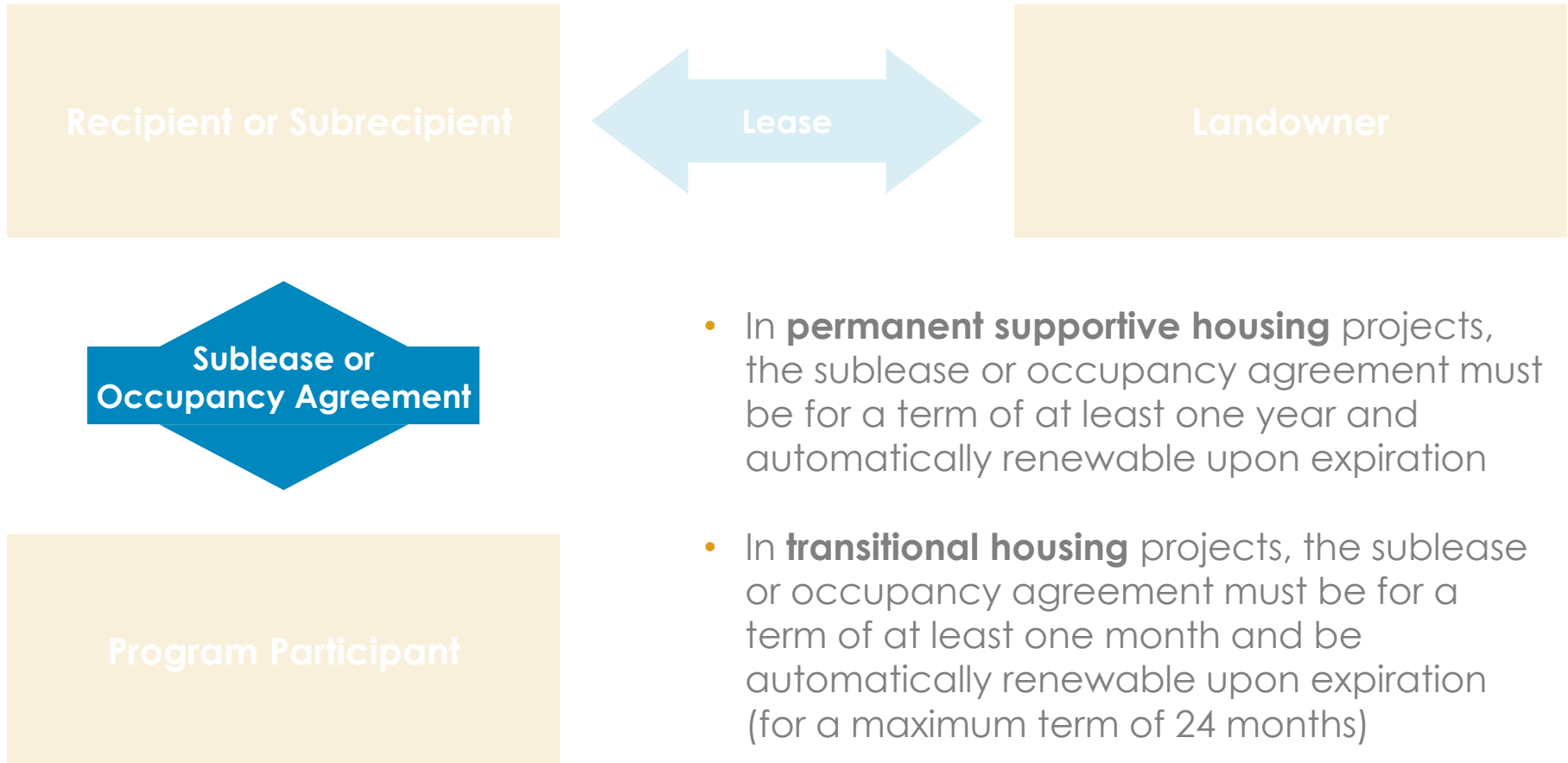
- In leasing projects, the recipient or subrecipient directly contracts (i.e., holds a lease) for the units from a landowner and has primary responsibility for the housing.

Structure of Leasing Projects

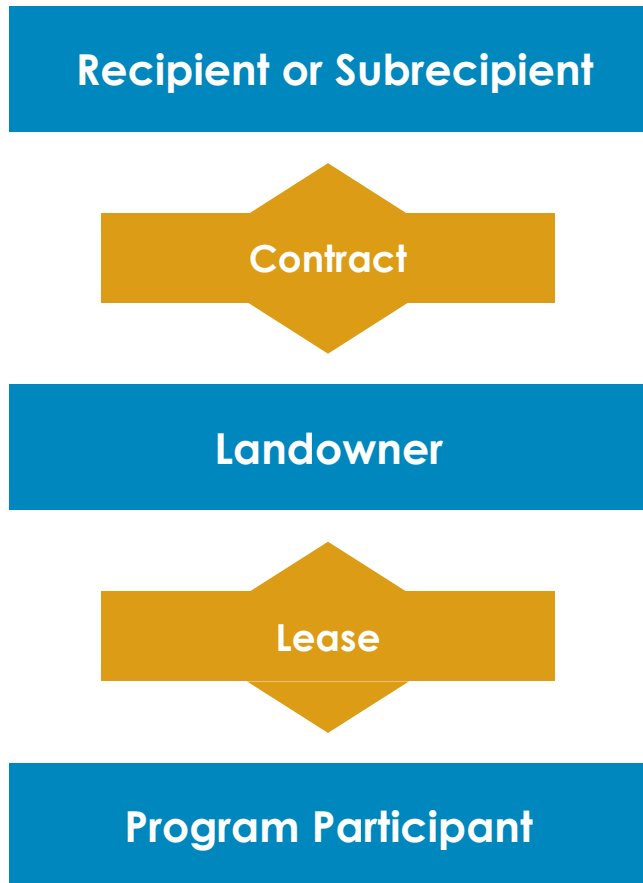


- Once a program participant is identified for the unit, the project then executes a sublease or an occupancy agreement with the participant

Structure of Leasing Projects



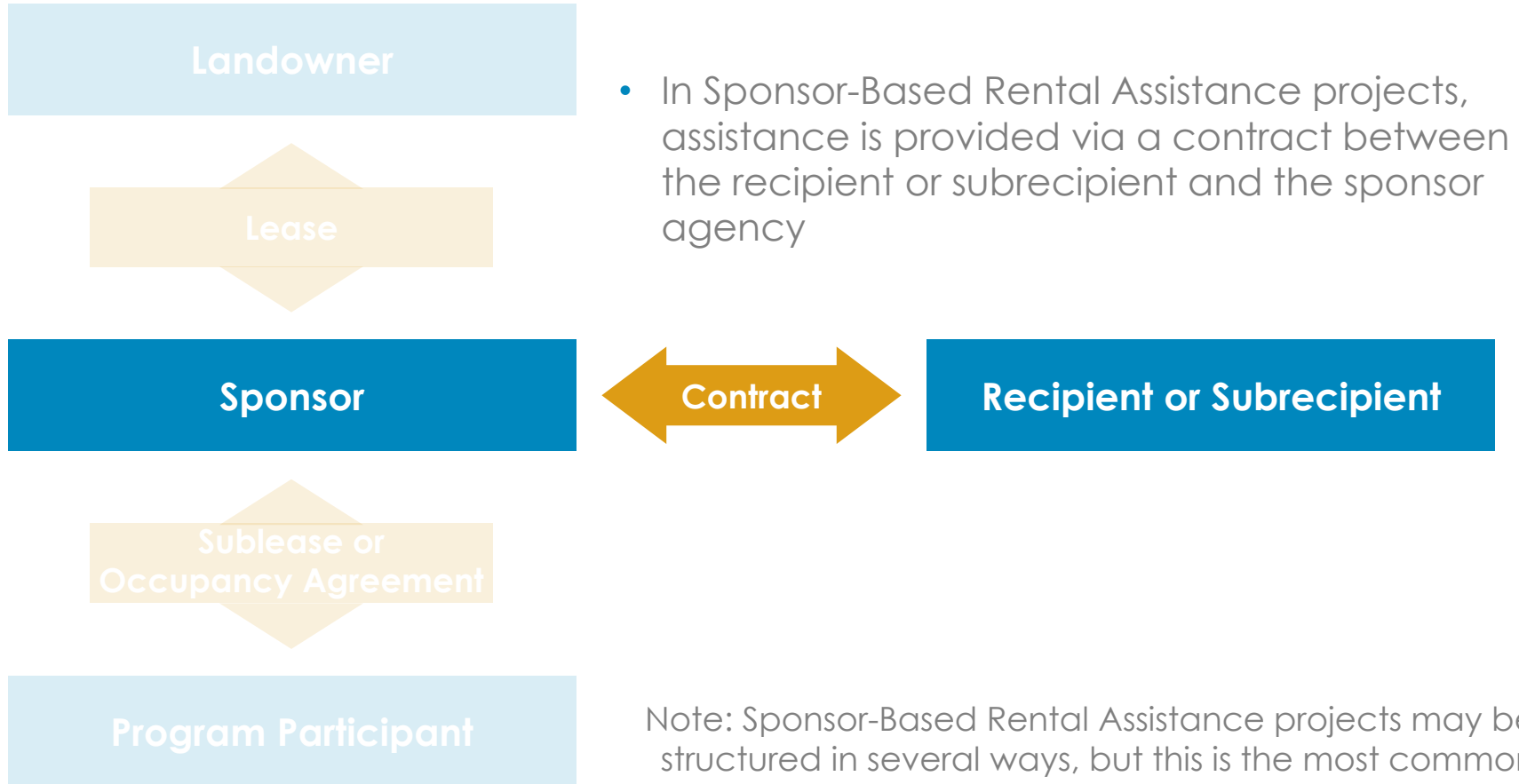
Structure of Tenant- and Project-Based Rental Assistance Projects



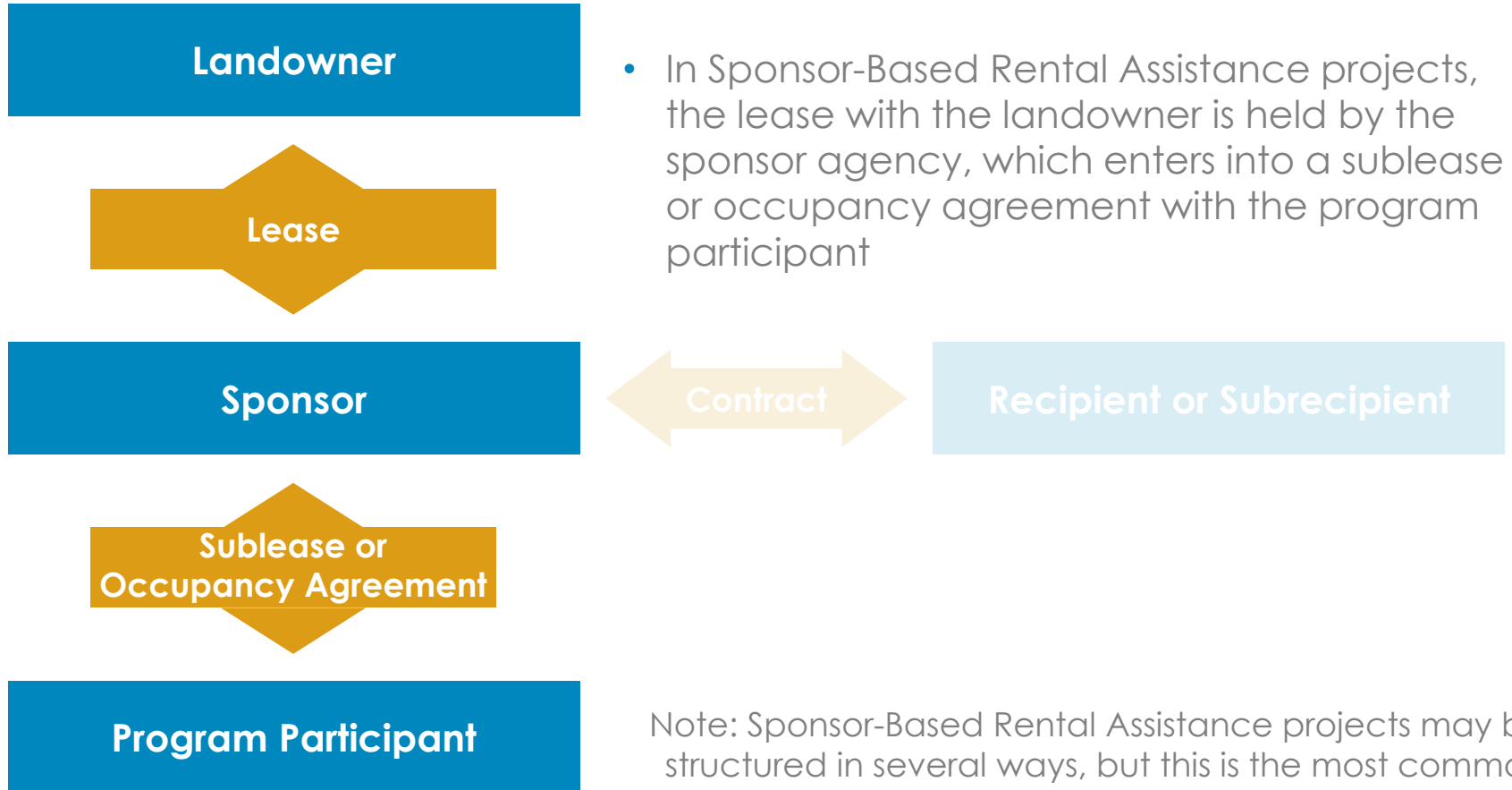
All program participants in Tenant- and Project-Based Rental Assistance projects are required to have leases with landowners:

- In **permanent housing** projects, the lease must be for a term of at least one year and automatically renewable upon expiration
- In **transitional housing** projects, the lease must be for a term of at least one month and automatically renewable upon expiration (for a maximum term of 24 months)

Structure of Sponsor-Based Rental Assistance Projects



Structure of Sponsor-Based Rental Assistance Projects



Overview of Housing Requirements

- Leases, Subleases, and Occupancy Agreements are generally required to include a number of components, including but not limited to:
 - Dates
 - Description of premises
 - Rent
 - Security deposit
 - Other legal notices, conditions, and disclosures
- Samples may be found at: <https://www.hudexchange.info/resource/2894/coc-program-leasing-rental-assistance-examples-of-lease-agreements/>



Summary

Component	Line Item	Lease Between Project and Landowner	Lease Between Participant and Landowner	Sublease or Occupancy Agreement Between Project and Participant
Permanent Supportive Housing	Rental Assistance	Not Allowed	Required	Not Allowed
	Leasing	Required	Not Allowed	Sublease Required
Rapid Rehousing	Rental Assistance	Not Allowed	Required	Not Allowed
Transitional Housing	Rental Assistance	Not Allowed	Required	Not Allowed
	Leasing	Required	Not Allowed	Required



Quiz: Question 1

A nonprofit organization receives a CoC Program grant to lease individual units to use as permanent supportive housing. What agreement(s) does the nonprofit organization have with the landowner/landlord?

Lease

Sublease

Occupancy Agreement



Quiz: Answer 1

A nonprofit organization receives a CoC Program grant to lease individual units to use as permanent supportive housing. What agreement(s) does the nonprofit organization have with the landowner/landlord?

Lease



Quiz: Question 2

A public housing authority has a CoC Program rapid rehousing grant and uses funds to assist homeless families in private units in the community. What agreement(s) does the program participant have with the landowner/landlord?

Lease

Sublease

Occupancy Agreement



Quiz: Answer 2

A public housing authority has a CoC Program rapid rehousing grant and uses funds to assist homeless families in private units in the community. What agreement(s) does the program participant have with the landowner/landlord?

Lease



Quiz: Question 3

A substance use provider uses CoC funds to operate a transitional housing project for homeless individuals. What agreement(s) can the provider have with the program participant?

Lease

Sublease

Occupancy Agreement



Quiz: Answer 3

A substance use provider uses CoC funds to operate a transitional housing project for homeless individuals. What agreement(s) can the provider have with the program participant?

Sublease

Occupancy Agreement



Quiz: Question 4

A sponsor agency is involved in operating a CoC Program sponsor-based rental assistance program. What agreement(s) does the sponsor have with the program participant?

Lease

Sublease

Occupancy Agreement



Quiz: Answer 4

A sponsor agency is involved in operating a CoC Program sponsor-based rental assistance program. What agreement(s) does the sponsor have with the program participant?

Sublease



Quiz: Question 5

A County Department of Human Services uses CoC Program leasing funds to house homeless youth in a building for 12 months. What agreement(s) can the County have with the program participant?

Lease

Sublease

Occupancy Agreement



Quiz: Answer 5

A County Department of Human Services uses CoC Program leasing funds to house homeless youth in a building for 12 months. What agreement(s) can the County have with the program participant?

Sublease

Occupancy Agreement



Quiz: Question 6

A victim services provider receives a CoC Program grant to provide medium-term tenant-based rental assistance to families fleeing domestic violence. What agreement(s) does the program participant have with the landowner/landlord?

Lease

Sublease

Occupancy Agreement



Quiz: Answer 6

A victim services provider receives a CoC Program grant to provide medium-term tenant-based rental assistance to families fleeing domestic violence. What agreement(s) does the program participant have with the landowner/landlord?

Lease



Quiz: Question 7

An affordable housing provider receives CoC Program project-based rental assistance to house chronically homeless individuals. What agreement(s) does the program participant have with the landowner/landlord?

Lease

Sublease

Occupancy Agreement



Quiz: Answer 7

An affordable housing provider receives CoC Program project-based rental assistance to house chronically homeless individuals. What agreement(s) does the program participant have with the landowner/landlord?

Lease



Quiz: Question 8

A mental health agency receives CoC Program leasing funds to rent a building to provide transitional housing. What agreement(s) does the mental health agency have with the program participant?

Lease

Sublease

Occupancy Agreement



Quiz: Answer 8

A mental health agency receives CoC Program leasing funds to rent a building to provide transitional housing. What agreement(s) does the mental health agency have with the program participant?

Sublease

Occupancy Agreement



Housing Inspections

- Housing Quality Standards
- Lead-Based Paint
- Environmental Review



Housing Quality Standards

- All units paid for with CoC leasing or rental assistance funds must meet certain basic housing quality standards (HQS) **prior to expending CoC funds** on that unit
- All units must additionally meet state and local codes

1

Timing

2

Inspector

3

Addressing Deficiencies

4

Documentation



Housing Quality Standards

- All units paid for with CoC leasing or rental assistance funds must meet certain basic housing quality standards (HQS) **prior to expending CoC funds** on that unit
- All units must additionally meet state and local codes

1

Timing

- The recipient or subrecipient must physically inspect all units prior to expending CoC funds and must continue to do so annually throughout the grant period

2

3

4



Housing Quality Standards

- All units paid for with CoC leasing or rental assistance funds must meet certain basic housing quality standards (HQS) **prior to expending CoC funds** on that unit
- All units must additionally meet state and local codes

1

Timing

2

Inspector

- Inspectors do not need to be certified

3

4



Housing Quality Standards

- All units paid for with CoC leasing or rental assistance funds must meet certain basic housing quality standards (HQS) **prior to expending CoC funds** on that unit
- All units must additionally meet state and local codes

1

Timing

2

Inspector

3

Addressing Deficiencies

- The owner of the unit has 30 days to address and correct any deficiencies in the unit

4



Housing Quality Standards

- All units paid for with CoC leasing or rental assistance funds must meet certain basic housing quality standards (HQS) **prior to expending CoC funds** on that unit
- All units must additionally meet state and local codes

1

Timing

2

Inspector

3

Addressing Deficiencies

4

Documentation

- The recipient or subrecipient must maintain documentation of compliance with HQS, including inspection reports



Lead-Based Paint

- Generally, recipients and subrecipients are expected to (A) screen for, (B) disclose the existence of, and (C) take reasonable precautions regarding the presence of lead-based paint in leased or assisted units constructed prior to 1978

	Leasing	Rental Assistance
Applicable Regulation(s)	24 CFR Part 35: <ul style="list-style-type: none">• Subpart A• Subpart B• Subpart H• Subpart R	24 CFR Part 35: <ul style="list-style-type: none">• Subpart A• Subpart B• Subpart K• Subpart R



Environmental Review

- Certain grant types are required to ensure that the project site is free from any hazardous materials that could adversely affect the health and safety of occupants

1

Applicability and Timing

2

Eligible Cost

3

Responsible Entity

4

HUD Environmental Review



Housing Quality Standards

- Certain grant types are required to ensure that the project site is free from any hazardous materials that could adversely affect the health and safety of occupants

1

Applicability and Timing

- Grants used for any of the following purposes must perform an environmental review **prior to expending CoC funds**:
 - Acquisition
 - Rehabilitation
 - Conversion
 - Leasing
 - Repair
 - Disposal
 - Demolition
 - Construction

2

3

4



Housing Quality Standards

- All units paid for with CoC leasing or rental assistance funds must meet certain basic housing quality standards (HQS) **prior to expending CoC funds** on that unit
- All units must additionally meet state and local codes

1

Applicability and Timing

2

Eligible Cost

- Costs associated with performing an environmental review are an **eligible use of CoC administrative funds**

3

4



Housing Quality Standards

- All units paid for with CoC leasing or rental assistance funds must meet certain basic housing quality standards (HQS) **prior to expending CoC funds** on that unit
- All units must additionally meet state and local codes

1

Applicability and Timing

2

Eligible Cost

3

Responsible Entity

- Environmental reviews must be conducted by a “**responsible entity**” (a unit of state or local government)

4



Housing Quality Standards

- All units paid for with CoC leasing or rental assistance funds must meet certain basic housing quality standards (HQS) **prior to expending CoC funds** on that unit
- All units must additionally meet state and local codes

1

Applicability and Timing

2

Eligible Cost

3

Responsible Entity

4

HUD Environmental Review

- Where a state or local government confirms that it refuses to conduct an environmental review, HUD will do so in its stead



Determining Rental Amounts

- Fair Market Rent
- Rent Reasonableness



Fair Market Rent

1

Definition

- Fair Market Rents (FMRs) are an **estimate of gross rent**, taking into account both rent and the cost of necessary utilities (except telephone service)
- Based upon a standard calculation and updated annually (on October 1)
- FMRs are calculated for 530 metropolitan areas and 2,045 non-metropolitan areas nationwide

2

3

4



Fair Market Rent

1

Definition

2

Purpose

- Applied to ensure that a reasonable supply of adequate but modest rental housing is accessible to program participants
- Must be high enough to permit a selection of units and neighborhoods, but low enough to maximize the number of low-income individuals and families that can be served

3

4



Fair Market Rent

1

Definition

2

Purpose

3

Determining FMR

- FMR amounts are published online and no single geographic area has more than one FMR amount
- The FMR amount must be **applicable to the geographic area in which the housing unit is located**

4



Fair Market Rent

1

Definition

2

Purpose

3

Determining FMR

4

Leasing vs. Rental Assistance

Leasing

- The amount of CoC Program funds used for leasing an individual unit **may not exceed** the current FMR for that unit size and location
- FMRs do not impact the amount of funding used to lease a **structure**

Rental Assistance

- The amount of CoC Program funds used for rental assistance **may exceed** the current FMR for that unit size and location, as long as the contract rent is reasonable



Rent Reasonableness

1

Definition

- Recipients and subrecipients of federal funds must offer reasonable rent in comparison to that paid for private units:
 - In a similar location
 - Of a similar size, quality, and age
 - Offering similar amenities and utilities

2

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6



Rent Reasonableness

1

Definition

2

Purpose

- Rent reasonableness is designed to:
 - **Ensure Fairness:** Rents being paid are reasonable in relation to rents being charged for comparable unassisted units in the same market
 - **Prevent Inflation:** Rents being paid do not contribute to market inflation

3

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6



Rent Reasonableness

1

Definition

2

Purpose

3

Determining Rent Reasonableness

- Recipients and subrecipients are responsible for determining what documentation is required in order to ensure that the rent reasonableness standard is met for a particular unit
- Recipients and subrecipients should determine rent reasonableness by considering the gross rent of the unit and the location, quality, size, type, and age of the unit, as well as any amenities, maintenance, and utilities provided by the owner

4

5

6



Rent Reasonableness

1

Definition

2

Purpose

3

Determining Rent Reasonableness

4

Methods to Determine Rent Reasonableness

- A project can determine rent reasonableness via:
 - A market study of rents charged
 - A review of advertisements for comparable units
 - Written verification from a property owner or management company on letterhead affirming that the rent is comparable to that charged for similar unassisted units managed by the same owner
- Comparable rents vary over time, so ensure that the comparison is up-to-date and appropriate for each unit

5

6



Rent Reasonableness

1

Definition

2

Purpose

3

Determining Rent Reasonableness

4

Methods to Determine Rent Reasonableness

5

Policies and Procedures

- Recipients and subrecipients must establish their own written policies and procedures for documenting comparable rents, including:
 - A methodology for documenting comparable rents
 - Case file checklists and forms
 - Standards for certifying comparable rents as reasonable
 - Staffing assignments
 - Strategies for addressing special circumstances
- Determination must be supported documentation in the case file

6

Rent Reasonableness

1

Definition

2

Purpose

3

Determining Rent Reasonableness

4

Methods to Determine Rent Reasonableness

5

Policies and Procedures

6

Leasing vs. Rental Assistance

- Rent reasonableness impacts programs differently depending on whether they are leasing or rental assistance projects (see next slide)



Rent Reasonableness and Leasing vs. Rental Assistance

Leasing

- In communities where the FMR exceeds the reasonable rent, the reasonable rent is the ceiling for the amount of CoC leasing funds that can be used on a single unit
- Thus, use of CoC Program leasing funds is **capped at the lower of rent reasonableness or FMR amounts**

Rental Assistance

- The amount of CoC Program funds used for rental assistance may not exceed rent reasonableness
- In communities where the reasonable rent is higher than the FMR, projects may use rental assistance funds to pay **up to reasonable rent** (so long as the project continues to serve the contracted number of participants for the remainder of the grant term)



Rent Limits in Leasing Projects

	1-Bedroom Unit	2-Bedroom Unit	3-Bedroom Unit
Reasonable Rent	\$850	\$1,325	\$1,700
Fair Market Rent	\$775	\$1,400	\$1,700
Allowable Rent Payment			



Rent Limits in Leasing Projects

	1-Bedroom Unit	2-Bedroom Unit	3-Bedroom Unit
Reasonable Rent	\$850	\$1,325	\$1,700
Fair Market Rent	\$775	\$1,400	\$1,700
Allowable Rent Payment	\$775	\$1,325	\$1,700



Rent Limits in Rental Assistance Projects

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Reasonable Rent	\$850	\$1,325	\$1,700
Fair Market Rent	\$775	\$1,400	\$1,700
Allowable Rent Payment			



Rent Limits in Rental Assistance Projects

	1-Bedroom Unit	2-Bedroom Unit	3-Bedroom Unit
Reasonable Rent	\$850	\$1,325	\$1,700
Fair Market Rent	\$775	\$1,400	\$1,700
Allowable Rent Payment	\$850	\$1,325	\$1,700



Utilities

- The FMR in each community assumes the provision of necessary utilities (except telephone service)
- Eligible utilities include: (1) gas/oil, (2) electricity, (3) water, and (4) sewage
- Ineligible utilities include: (1) telephone, (2) internet, and (3) cable television

If rent includes utilities...

- CoC leasing funds can be used to pay the entire rent up to the FMR
- A utility allowance must be applied to the occupancy charge calculation if participants are expected to pay for utilities

If rent does not include utilities...

- Operating funds or occupancy charges can be used to pay for utilities
- Participants can be required to pay for utilities
- A utility allowance may be applied to the occupancy charge calculation



Discussion and Next Steps

- Q&A
- Thank You!



Questions?



Thank You!



For More Information



Twitter: @allchicago_mhh

Facebook: facebook.com/AllChicago.MHH

Website: <http://www.allchicago.org/>

