

Tenant Selection and Protection

Tenant Selection and Waitlist

Qualifying Population Tenants:

HOME-ARP projects must follow the preferences, methods of prioritization and referral methods described in the Nebraska HOME-ARP Allocation Plan. HOME-ARP-assisted units designated to HOME-ARP qualifying populations are required to use the All Doors Lead to Home (ADLH) Coordinated Entry System for the project waiting list and referrals. A Coordinated Entry (CE) System is a structured process that the Continuum of Care (CoC) uses to identify persons experiencing homelessness, assess needs and housing solutions in a standard manner, and prioritize housing based on the acuity of need. The All Doors Lead Home Coordinated Entry (ADLH CE) System is the Nebraska Balance of State (BOS) CoC approach to organizing and providing housing services for people experiencing homelessness. All HOME-ARP qualifying populations, regardless of preference status will be assessed, entered into the CE System and will remain in the system until selected for referral to an available unit. HOME-ARP-assisted units that are designated to low-income households are not required to use the ADLH CE. Projects must establish a project-specific waitlist.

Preferences

There are established preferences for the HOME-ARP-assisted units that will have HOME-ARP qualifying population tenants. Preferences are used to prioritize a qualifying population but does not make a qualifying population ineligible. The established are:

- 1) QP1: Homeless as defined in 24 CFR 91.5 (1), (2), or (3), excluding (4)
- 2) QP2: At-risk of Homelessness as defined in 24 CFR 91.5, and
- 3) QP3: Fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking or human trafficking as defined in 24 CFR 5.2003.

Methods of Prioritization:

All potential tenants who are one of the HOME-ARP qualifying populations will be assessed by a CE public access point using the All Doors Lead to Home (ADLH) Common Assessment Tool. This tool is the standardized assessment agreed upon by the Nebraska Balance of State (BOS) for the purpose of housing prioritization and placement within the ADLH CE System.

Preferences will be scored and prioritized with the All Doors Lead Home (ADLH) Common Assessment Tool. The ADLH Common Assessment Tool is the standardized assessment tool agreed upon by the Nebraska BoS for the purposes of housing prioritization and placement within the ADLH Coordinated Entry System. There are three (3) different ADLH Common Assessment Tools: one each for Transition Aged Youth, Families and Singles.

Housing Plan & Placement Priority Order

The ADLH Priority Ranking Formula scoring is as follows:

1. Chronic Status – 10 points

2. ADLH CE Assessment Tool (0 to 30 points) or Prevention Triage Tool (0 to 5 points)
3. Fleeing domestic violence – 1 point
4. Veteran – 1 point (will not be used for HOME-ARP prioritization) *
5. Transition Aged Youth – 1 point (will not be used for HOME-ARP prioritization) *
6. 0-3 months homeless – 0 points
7. 4-6 months homeless – 2 points
8. 7-9 months homeless – 4 points
9. 10-12 months homeless – 6 points

* For HOME-ARP housing opportunities and prioritization, the ADLH CE will modify scoring to remove the 1 point for transition-age youth and veterans.

- All individuals and families shall be updated by the ADLH CE on a weekly basis.
- All individuals and families who score a 12 or greater or meet the definition of Chronic Homelessness shall be prioritized for permanent supportive housing, if available.
- All individuals and families who score a 5-11 on the ADLH CE Assessment Tool shall be prioritized for permanent housing.

When more than one (1) individual or family have identical priority scores, prioritization will be organized by date of referral.

Projects cannot impose their own preferences, prioritizations, limitations that are not described in the HUD-approved Allocation Plan. If NDED approves an exception for a HOME-ARP project, a substantial amendment to the Allocation Plan would have to be made.

Resources: A list of Coordinated Entry Public Access Points: <https://ccfl.unl.edu/community-services-management/docs/bos-hours-public-door.pdf>

HOME-ARP Qualifying Population Referral Method

The ADLH CE System will make direct referrals to HOME-ARP funded projects.

When an available HOME-ARP project housing unit is available, the HOME-ARP project and/or the Coordinated Entry manager will identify, based on preferences and priority order, the next eligible household for the unit. The project connects directly with the household. The priority listing is maintained in the Nebraska BOS HMIS. This process occurs in real-time as a unit becomes available and open without a waiting period. If no preferred populations exist or if they decline the unit then HOME-ARP qualifying population households other than those in the preference population are offered the unit by the HOME-ARP project in order of their application.

Low-income Tenants Waitlist

A project-specific waitlist for HOME-ARP-assisted units designated to low-income households must follow the tenant selection requirements of 24 CFR 92.253(d).

Tenant Selection Policy

HOME-ARP rental projects must establish a written tenant selection policy consistent with requirements in Section VI.B.20 of the HOME-ARP Notice: CPD-21-10. The plan must specify objective selection criteria related solely to program qualifications and the tenant's ability to pay the rent and abide by the terms of the lease (e.g., household income, housing history, credit history, criminal record). Recipients and property managers must apply criteria consistently to all applicants in accordance with fair housing laws and must expressly prohibit bias such as discrimination and favoritism.

The owner of a HOME-ARP rental project must adopt and follow written tenant selection policies and criteria for HOME-ARP units that:

- Limits eligibility to households that meet one of the HOME-ARP qualifying populations definitions or low-income households in accordance with HOME-ARP requirements; Preferences for households in one or more of the HOME-ARP qualifying populations must comply with the preferences and the policies and procedures for applying those preferences as laid out in the Nebraska HOME-ARP Allocation Plan.
- Do not exclude an applicant with a voucher under the section 8 Housing Choice Voucher Program ([24 CFR 982](#)), or an applicant participating in HOME, HOME-ARP or other Federal, state or local tenant-based rental assistance program because of the status of the prospective tenant as a holder of such a certificate, voucher, or comparable tenant-based assistance document.
- Limits eligibility to a particular qualifying population as permitted in its written agreement with the NDED.
- If applicable, eligible low-income households must be selected for the occupancy of HOME-ARP units from a written waiting list in the chronological order their application.
- Gives prompt written notification to any rejected applicant of the grounds for any rejection; and,
- Complies with the VAWA requirements as described in [24 CFR 92.359](#).
- Criteria must not violate nondiscrimination requirements in [24 CFR 92.350](#).

Tenant Protection

Tenants who occupy a HOME-ARP-assisted unit must have an executed lease that complies with the tenant protections outlined in the HOME-ARP CPD Notice 21-10.

- There must be a lease between the eligible HOME-ARP household and the owner that is no less than 12 months, unless agreed upon by both parties for a less short time.
 - The lease must comply with VAWA requirements.
- Prohibited lease terms per 24 CFR 92.253(b)
 - **Agreement to be sued.** Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
 - **Treatment of property.** Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law;
 - **Excusing owner from responsibility.** Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
 - **Waiver of notice.** Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
 - **Waiver of legal proceedings.** Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
 - **Waiver of a jury trial.** Agreement by the tenant to waive any right to a trial by jury;
 - **Waiver of right to appeal court decision.** Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease;
 - **Tenant chargeable with cost of legal actions regardless of outcome.** Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court

- proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses; and
- **Mandatory supportive services.** Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

Violence Against Women's Act (VAWA) Occupancy Protections

Projects must comply with the requirements of the Violence Against Women's Act (VAWA) as required by [24 CFR 92.359](#) for HOME ARP. VAWA provides certain additional tenant protections to applicants and tenants who are victims of domestic violence, sexual assault, and/or stalking. In general, among other requirements owners must provide notices to all tenants of the VAWA provisions, may not deny an application or terminate or refuse to renew a lease as a result of a person's status as a victim or on the basis of criminal activity related to such status, and must allow for the bifurcation of a lease in order to evict the perpetrator of such criminal activity while allowing the victim to maintain occupancy.

In general, NDED will provide a standard form lease-addendum for use by owners of HOME-ARP-assisted rental housing that will provide required tenant protections and eliminate any prohibited provisions from uses otherwise used by owners.

Affirmative Marketing Requirements

Recipients must adopt affirmative marketing procedures and requirements for projects containing five (5) or more HOME-ARP-assisted units. Affirmative marketing consists of actions to provide information and attract eligible persons to the available housing without regard to race, color, national origin, sex, religion, familial status, or disability. Affirmative marketing differs from general marketing activities because it specifically targets potential tenants who are least likely to apply for the housing. NDED requires each recipient to develop and submit a project-specific affirmative fair housing marketing plan since the HOME-ARP program serves many local markets throughout the State and affirmative marketing requirements will vary according to the local market being served.

Required elements of the plan include:

- Identification of those persons across the protected classes that are expected to be "least likely to apply" for the housing;
- Description of how the recipient generally will inform potential participants about fair housing and the project's affirmative marketing policy;
- Specific procedures or activities that will be used to inform and solicit applications "who are not likely to apply" without special outreach;
- A description of how efforts will be assessed and what corrective actions will be taken where requirements are not met, and maintenance of records that document an assessment of the effectiveness of the marketing effort; and
- Delineation of the records that will be maintained to document the affirmative efforts.

<https://www.hud.gov/sites/documents/935-2A.PDF>

Termination of a Tenant

An owner may not terminate a lease or refuse to renew the lease of a tenant of a HOME-ARP-assisted unit except for:

- Serious or repeated violation of the terms and conditions of the lease;
- Violation of applicable Federal, State or local laws;
- Other good cause (this does not include increase in income); or

Project with a capitalized operating cost reserve (COCAR) cannot terminate a tenant because of the household's inability to pay rent during the minimum compliance period. A qualifying household's inability to pay rent shall mean the qualifying household cannot pay more than 30 percent of the qualifying household's income toward rent based on the income determination in the last 30 days.

Terminations or refuse to renew lease for any household occupying a HOME-ARP-assisted unit must be notified by the owner in writing, 30 days before the termination of tenancy describing the grounds for the action.

